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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DINORA CASTELLON REYES)
)
 Petitioner,)
)
 v.)
)
 DORA CASTRO, Warden, Otero County)
 Processing Center; MARY DE ANDA-YBARRA,)
 Acting/Director of El Paso, TX Field Office,)
 U.S. Immigration and Customs Enforcement;)
 KRISTI NOEM, Secretary of the U.S.)
 Department of Homeland Security; and)
 PAM BONDI, Attorney General of the)
 United States,)
 in their official capacities,)
)
 Respondents.)
 _____)

Case No. 2:25-cv-00893-MLG-JHR

PETITIONER’S REPLY TO RESPONDENTS MOTION TO DIMISS

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DINORA CASTELLON REYES)	
)	Case No. 2:25-cv-00893-MLG-JHR
Petitioner,)	
)	
v.)	
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DORA CASTRO, Warden, Otero County)	
Processing Center; MARY DE ANDA-YBARRA,)	
Acting/Director of El Paso, TX Field Office,)	
U.S. Immigration and Customs Enforcement;)	
KRISTI NOEM, Secretary of the U.S.)	
Department of Homeland Security; and)	
PAM BONDI, Attorney General of the)	
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)	
Respondents.)	
_____)	

PETITIONER’S REPLY TO RESPONDENTS MOTION TO DIMISS

COMES NOW the Petitioner, DINORA CASTELLON REYES, through counsel, and respectfully submits this Reply Brief in opposition to Respondents Motion to Dismiss, and support thereof, states as follows:

Even a Moment in Chains Can Shatter Justice

At the heart of the Fifth Amendment is the right to be free from deprivation of life, liberty or property without due process of law. U.S. CONST. amend. V; *Lopez-Campos v. Raycraft*, 2025 U.S. Dist. LEXIS 169423, *24 (E.D. Mich. 2025). The Due Process Clause extends to all “persons” regardless of status, including non-citizens (whether here lawfully, unlawfully, temporarily, or permanently). *Id.* (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

Respondents main argument is that Petitioner’s *temporary* detention does not violate due process. The Government relies on its interpretation that 8 U.S.C. § 1225(b) requires all noncitizens who are present in the United States without being “admitted” are subject to mandatory detention.

The Supreme Court of the United States held that “custody” has broadened to include restraints short of physical confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004). For example, prisoners released on his own recognizance subject to restraints is considered a deprivation of liberty. *Hensley v. Mun. Ct.*, 411 U.S. 345, 351 (1973).

Lastly, other district courts have routinely applied this reasoning where a noncitizen was released from custody, under conditions imposed by DHS (via an Order of Release on Own Recognizance, conditional parole, an Order of Supervision, or bond). *See e.g., Jorge M.F. v. Wilkinson*, 2021 U.S. Dist. LEXIS 40823, *3 (N.D. Cal. 2021); *Vargas v. Jennings*, 2020 U.S. Dist. LEXIS 153579, *4 (N.D. Cal. 2020); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 967–68 (N.D. Cal. 2019); *Meza v. Bonnar*, 2018 U.S. Dist. LEXIS 79426, *4 (N.D. Cal. 2018).

Thus, although Petitioner’s detention may be temporary, the Government’s position that she be detained without an opportunity for release violates due process. *See e.g., Jones v. Cunningham*, 371 U.S. 236, 243 (1963) (noting that the Great Writ protects individuals against erosion of their right to be free from wrongful restraints upon their liberty).

The Constitution Does Not Stop at the Border, Neither Does Judicial Review

The Government argues that judicial review of immigration matters, including detention issues, is limited. *INS v. Aguirre-Aguirre*, 525 U.S. 415, 425 (1999). Pursuant to 8 USC § 1226(e):

“The Attorney General’s discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.”

In *Demore v. Kim*, 538 U.S. 510, 517 (2003), the Supreme Court held that 8 USC § 1226(e) does not bar judicial review of constitutional challenges regarding detention. Instead, the Court noted that “where Congress intends to preclude judicial review of constitutional claims its intent to do so must be clear” (quoting *Webster v. Doe*, 486 U.S. 592, 603) (1988)).

Given that 8 USC § 1226(e) contains no explicit provision barring habeas review, its clear text does not bar a person’s constitutional challenge to the legislation authorizing detention without bail. *Demore*, 538 U.S. at 517.

Lastly, just a few weeks ago, the Eastern District Court of California decided the issue as to whether 8 USC § 1225(b) applied to noncitizens who are *already in* the United States. *Lepe v. Andrews*, 2025 U.S. Dist. LEXIS 187233, *9-10 (E.D. Cal. 2025). Specifically, it ruled that the government’s argument that section 1225(b)(2)(A) applies to all noncitizens present in the United States without admission is *unpersuasive*. *Id.* at * 9 (emphasis added). The court noted that the government’s interpretation of the statute:

- (1) disregards the plain meaning of section 1225(b)(2)(A);
- (2) disregards the relationship between sections 1225 and 1226;
- (3) would render a recent amendment to section 1226(c) superfluous; and
- (4) is inconsistent with decades of prior statutory interpretation and practice. Other district courts have reached a similar conclusion. *Id.*(citations omitted).

The court further noted that civil immigration detention, which is “nonpunitive in purpose and effect[,]” is typically justified under the Due Process Clause only when a noncitizen presents a risk of flight or danger to the community. *Lepe*, 2025 U.S. Dist. LEXIS 187233 at * 20 (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)).

Overall, the court ruled that the government has not identified any authority, other than the Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado*¹, finding that noncitizens such as petitioner who have been present in the United States for many years are subject to section 1225(b)(2)(A). *Lepe*, 2025 U.S. Dist. LEXIS 187233 at * 21.

In sum, the court concluded that the petitioner is not subject to mandatory detention, and granted his Petition for Writ of Habeas Corpus. *Id.* at 27.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court DENY Respondent's Motion to Dismiss and GRANT Petitioner's Writ of Habeas Corpus.

Respectfully Submitted



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¹ *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

CERTIFICATE OF SERVICE

I hereby certify that, this 15th day of October, 2025, I filed a copy of the foregoing Reply Brief electronically through the CM/ECF system, which gave service to all counsel of record.

By: /s/ Isai Bonilla
Isai Bonilla