UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

Gustavo RAMOS CAMPOS,

Petitioner,

v.

WARDEN of Folkston ICE Processing Center in their official capacity, et al.

Respondents.

Case No. 5:25-cv-00100-LGW-BWC

PETITIONER'S REPLY TO THE RESPONDENTS' OPPOSITION TO PETITIONER'S MOTION FOR EMERGENCY TEMPORARY RESTRAINING ORDER

INTRODUCTION

Petitioner is not an alien seeking admission to the United States. However, based on a fundamental misinterpretation of at least 30 years of immigration law, including U.S. Supreme Court precedent, Respondents have incorrectly deemed him as such. *See Make the Road New York v. Noem*, No. 25-cv-190 (JMC), 2025 WL 2494908, at *1 (D.D.C. Aug. 29, 2025) (discussing the government's "untenable" reading of *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) and concluding that aliens who have effected an entry to the United States are entitled to due process). Respondents continue to deny Petitioner the process he is due by refusing to consider him eligible for bond. Thus, the Court should grant Petitioner's habeas petition and motion for a temporary restraining order because he is unquestionably eligible for bond and the government's misreading of decades—if not a century—of precedent is extraordinary, requiring drastic remedy.

See Make the Road, 2025 WL 2494908, at *11 ("To adopt [the government's] view would be to undermine more than a century of precedent[.]").

A. This Court Has Jurisdiction to Adjudicate Petitioner's Habeas Petition

Respondents first attempt to argue that this Court lacks jurisdiction to adjudicate Petitioner's habeas petition by mischaracterizing his petition in the first instance. Incorrectly, Respondents claim that Petitioner is challenging the decision to "[s]ecure him during removal proceedings" under 8 U.S.C. § 1252(g). *See* Resp'ts' Opp. at 5-7.

The Supreme Court has emphasized that § 1252(g) should be given a "narrow reading" and does not cover "all claims arising from deportation proceedings." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 487 (1999). Petitioner does not challenge the Respondents' decision to commence removal proceedings against him, and he will continue to be in removal proceedings whether or not he is detained. Instead, he challenges the lawfulness of his detention while his removal proceedings are in process. The Supreme Court has consistently reaffirmed that 28 U.S.C. § 2241 confers jurisdiction upon the federal courts to review challenges as to the lawfulness of detention while immigration proceedings are pending. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 292-96; *see also Grigorian v. Bondi*, Civ. No. 25-cv-22914, 2025 WL 2604573, at *4 (S.D. Fla. Sept. 9, 2025) ("[T]he Court does not believe that § 1252(g) bars review of this case to the extent Grigorian seeks only 'substantive review of the underlying legal bases' of his detention."). This Court thus has jurisdiction over Petitioner's claims challenging the unlawfulness of his detention.

B. Petitioner Is Detained Under 8 U.S.C. § 1226 And Is Therefore Eligible for Bond

Respondents' fundamental misunderstanding of the statutes governing discretionary bond determinations further supports Petitioner's position that he is eligible for release on bond. *See generally Make the Road*, 2025 WL 2494908. Respondents principally—and circularly—rely on their own guidance in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to argue that Petitioner is detained under § 1225 and therefore ineligible for bond, essentially copying and pasting that decision into their Opposition. *See* Resp'ts' Opp. at 11-15. Then, they cherry-pick the one district court decision that has so far agreed with them in *Chavez v. Noem*, No. 3:25-cv-02324, 2025 WL 2730228 (S.D. Cal., Sept. 24, 2025), while failing to address the over 70 district court opinions that disagree with their position. *See* ECF No. 9, Pet'r's Mot. For Temp. Restraining Order at 4-5 (citing cases). The decision in *Chavez*, much like Respondents in their Opposition, essentially regurgitates the Board of Immigration Appeals' opinion in *Yajure Hurtado*, to which this Court owes no deference. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024) (holding that "Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority[.]"). The *Chavez* decision, like *Yajure Hurtado*, is an anomaly and is legally flawed for the same reasons that Petitioner establishes in his Petition and Motion for Restraining Order, and as laid out in the 70 and growing decisions that ruled against Respondents. Pet'r's Mot. For Temp. Restraining Order at 4-5. Further, other courts have rejected the decision in *Chavez* and its inability to grapple with the issues in that case. *See Cordero Pelico v. Kaiser*, No. 25-cv-07286, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025).

Respondents then seek to differentiate Petitioner's reliance on *Ortiz-Bouchet v. U.S. Att'y Gen.*, 714 F.3d 1353 (11th Cir. 2013), arguing that that case "addressed a separate statutory provision, 8 U.S.C. § 1182(a)(7)(A)(i)(I)" and was issued before the Supreme Court's decision in

Jennings. *See* Resp'ts' Opp. at 14. In Respondents' own Opposition, they admit that Petitioner is charged as removable under that exact provision. *Id.* at 2. Petitioner disputes that this charge of inadmissibility is applicable to his case, and the Respondents' position falls in on itself because the Eleventh Circuit has confirmed that such individuals, like Petitioner, who are seeking to regularize their status inside the country are not "applicants for admission." *Ortiz-Bouchet*, 714 F.3d at 1356.

While Respondents attempt to further distinguish that decision because it predates *Jennings*, *Ortiz-Bouchet* is binding "unless and until it is overruled or undermined to the point of abrogation or by [the Eleventh Circuit] sitting *en banc*." *United States v. Dubois*, 139 F.4th 887, 892 (11th Cir. 2025) (*en banc*) (quotation marks omitted). That is, "the later Supreme Court decision must 'demolish' and 'eviscerate' each of its 'fundamental props.'" *Id.* at 893 (quotation marks omitted). Here, *Jennings* does not abrogate *Ortiz-Bouchet* and in fact bolsters Petitioner's position. In *Jennings*, the Supreme Court affirmed that § 1225 "applies primarily to aliens seeking entry into the United States" while § 1226 "applies to aliens already present in the United States." *Jennings*, 583 U.S. at 297, 303.

Lastly, a district court within the Eleventh Circuit recently agreed with Petitioner's position that he is detained under § 1226 and is therefore eligible for bond. *See Hernandez Lopez v. Hardin*, Civ. No. 2:25-cv-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025). There, the district court recognized that "every court to address the question presented here has found that an alien who is not presently seeking admission and has been in the United States for an extended time, like [the Petitioner], is appropriately classified under § 1226(a) and not § 1225(b)(2)." *Id.* at *2. This Court should thus join the over 70 courts who have agreed that Petitioners like Petitioner are detained under § 1226 and are therefore eligible for bond.

C. The Court May Grant Petitioner Immediate Release

Respondents take issue with Petitioner's request for immediate release noting that 8 U.S.C. § 1226(a) provides for discretionary release only. *See* Resp'ts' Opp. at 16-17. They also contend that only immigration judges can order release and that an IJ's bond determination is not subject to judicial review. *Id.* at 17. Respondents' arguments are unavailing.

First, Respondents fail to explain how a request for immediate release conflicts with the government's discretionary authority to detain and release under § 1226(a). Second, it may be true that § 1226(a) entrusts detention and release authority only to immigration judges. However, the federal courts may release a person from custody if continued custody would result in a constitutional violation or if the government's implementation of a statute is not constitutionally permissible. *See Zadvydas v. Davis*, 533 U.S. 678, 694-96 (2001). Finally, Petitioner does not seek review of the immigration judge's decision.

D. Security Pursuant to Rule 65(c) is Unnecessary

Should this Court agree with Petitioner and grant his Motion for a Temporary Restraining Order, security under Rule 65(c) would not be appropriate. As Respondents concede, such a decision is within the discretion of this Court. *See BellSouth Telecommunications, Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005). "And courts have consistently recognized that the bond or security can be waived 'when complying with the preliminary injunction raises no risk of monetary loss to the defendant.'" *Mama Bears of Forsyth Cnty. v. McCall*, 642 F. Supp. 3d 1338, 1360 (N.D. Ga. 2022) (citation omitted). As the district court in *Hernandez Lopez* recently ruled, "[t]here is no realistic likelihood of harm to the Respondents from the relief ordered." 2025 WL 2732717, at *3. Thus, security under Rule 65(c) is not appropriate in this case and would be arbitrary at best.

CONCLUSION

For these reasons, and the reasons in Petitioner's Petition and Motion for Temporary Restraining Order, Petitioner asks that the Petition and Motion be granted and that Respondents be ordered to release him on bond.

Dated: October 14, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on October 14, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system and all counsel of record were served.

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