UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Julio Cesar PAREDES ALVAREZ, *Petitioner*, v. Jason STREEVAL, Warden of Stewart Detention Center, in his official capacity, et al. *Respondents*.	4:25-cv-00296-CDL-AGH

PETITIONER'S REPLY TO THE RESPONDENTS' OPPOSITION TO 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[.]").

ARGUMENT

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

Respondents first 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 Respondents' "*determination*[] under section 1225(b) . . . and its *implementation*." *See* Resp'ts' Response at 7 (quoting 8 U.S.C. § 1252(e)(3)) (emphasis added). Petitioner does not challenge determinations made once the statute is applied nor its implementation, but rather he challenges Respondents' *application* of § 1225(b) to him in the first instance. And that application is arbitrary and capricious such that it is a violation of the Administrative Procedure Act ("APA") and it results in a violation of Petitioner's procedural and substantive due process rights.

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

Respondents' fundamental misunderstanding of the statutes governing mandatory and 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 contend that "Petitioner is an 'applicant for admission' under § 1225(a)(1)" based on the plain text of the statute because "applicants for admission" and those "seeking admission" are synonymous and both phrases include individuals arriving at the United States border and those present in the United States for years without admission. Resp'ts' Response at 8. Respondents further contend that § 1225(b)(1) applies to "arriving" aliens while § 1225(b)(2) applies to all other applicants for

admission not referenced in (b)(1), without acknowledging that § 1225(b)(2) applies to "other aliens" "seeking admission." Respondents' statutory analysis is wrong.

The plain text of the title of § 1225(b) shows that § 1225(b) applies to "applicants for admission," which includes "arriving" aliens, § 1225(b)(1), and aliens "seeking admission, § 1225(b)(2)(A). The term "admission" is statutorily defined to require the "entry" of an alien "into" the United States. 8 U.S.C. § 1101(a)(13)(A). Thus, by its terms, the statute applies only to noncitizens who present themselves at a port of entry, or, at most, to those who are apprehended before having effected an entry (as that concept has historically been understood). The government's contrary interpretation in *Matter of Yajure Hurtado* renders superfluous multiple provisions of 8 U.S.C. § 1226.

In *Matter of Yajure Hurtado*, the government ignored the definition of "admission," which applies only to aliens seeking to enter the United States. *See generally* 29 I&N Dec. 216 (BIA 2025). The Board first determined that § 1225(a)(1) deems any noncitizen who is present without being admitted to be an "applicant for admission." 29 I&N Dec. at 218. Then the Board determined that § 1225(b)(2)(A) makes any "applicant for admission" subject to mandatory detention while in removal proceedings. *Id.* at 218-19. The Board then concluded that any noncitizen who is present without being admitted is an "applicant for admission" subject to mandatory detention. *Id.* at 220-21. *Matter of Yajure Hurtado* may be the most consequential decision in the history of the Board, and it may also be the most widely refuted.

Respondents and the Board are mistaken in their statutory analysis of § 1225(b) because being an "applicant for admission" is a necessary but not sufficient condition to be subject to mandatory detention under § 1225(b)(2)(A). Under the statute, a noncitizen is subject to mandatory detention if he is (1) an "applicant for admission," (2) "seeking admission," *and* (3) not

"clearly and beyond a doubt entitled to be admitted." § 1225(b)(2)(A). While all noncitizens who enter the country without admission may satisfy the first condition (*i.e.*, being an "applicant for admission"), they do not necessarily satisfy the second condition (*i.e.*, "seeking admission").

Meanwhile, Congress defined "admission" as "the lawful *entry* of the alien *into* the United States after inspection and authorization by an immigration officer." 8 U.S.C. 1101(a)(13)(A). "[A] definition which declares what a term 'means' excludes any meaning that is not stated." *Colautti v Franklin*, 439 U.S. 379, 392 n. 10 (1979). Because § 1225(b)(2)(A) applies to noncitizens who are seeking "admission," the provision only applies to noncitizens seeking to *enter* the country. *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (stating that § 1225(b) applies to "aliens seeking admission into the country").

Section 1226(a), the statutory provision providing for the discretionary detention of aliens, applies to individuals charged as inadmissible after entry without inspection. But rather than acknowledge that their interpretation of § 1225(b) renders § 1226 superfluous, Respondents apply a different canon of statutory construction to argue that the more specific provision--§ 1225(b)—governs the general provision encompassing the same matter. Resp'ts' Response at 9-10. But that simply makes no sense because under Respondents' analysis, everyone unlawfully present is an applicant for admission and subject to mandatory detention rendering superfluous § 1226's discretionary authority to apprehend and detain an alien "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226. This Court need not defer to Respondents' misinterpretation of the detention statutes. *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[.]").

While failing to address the over 100 district court decisions that disagree with their position, Respondents cite a decision from the U.S. District Court for the District of Massachusetts for the proposition that an "applicant for admission" can include an alien unlawfully present for approximately 20 years. Resp'ts' Response at 10 (citing *Pena v. Hyde*, Civ. Action No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025)). But that case is distinguishable because the court's analysis turned on the petitioner's argument that his detention was unlawful because he had an approved I-130 Petition for Alien Relative. *See id.* at *1-2. That decision did not even reference, much less construe, § 1226 in conjunction with § 1225. Respondents also unconvincingly cite for support one other unpublished district court decision, which essentially regurgitates *Yajure Hurtado*. *See* Resp'ts' Response at 10 (citing *Chavez v. Noem*, No. 3:25-cv-02324, 2025 WL 2730228 (S.D. Cal., Sept. 24, 2025). The *Pena* and *Chavez* decisions, like *Yajure Hurtado*, are anomalies and are legally flawed for the same reasons that Petitioner establishes in his Petition and Motion for Restraining Order, and as laid out in the over 100 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, e.g.*, *Cordero Pelico v. Kaiser*, No. 25-cv-07286, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025).

Respondents further argue that "Congress did not mean to treat aliens arriving at ports of entry worse than those who successfully entered the nation's interior without inspection" and that "Petitioner's interpretation . . . rewards aliens . . . who crossed the border unlawfully by making them bond-eligible. Resp'ts' Response at 11 (internal quotation marks omitted). Prior to the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. 104-208, Div. C, 110 Stat. 3009-546, noncitizens who entered the country without being admitted were entitled to request release on bond. 29 I&N Dec. at 223 (citing 8 U.S.C. §

1252(a)(1) (1994), 8 C.F.R. § 242.2(c)(1) (1995)). At the time the IIRIRIA was enacted, millions of noncitizens were estimated to be living in the country illegally, many of whom were present without being admitted. If Congress intended to make millions of noncitizens subject to mandatory detention—along with the untold numbers of noncitizens who might enter without admission in the future—it stands to reason that lawmakers would have done so directly. But Congress did not, even as it enacted other provisions that expressly set forth categories of noncitizens subject to mandatory detention. *See, e.g.*, §§ 1225(b)(1)(B)(ii), 1225(b)(1)(B)(iii)(IV), 1226(c).

Lastly, a district court within the Eleventh Circuit recently agreed with Petitioner's position that he is not an alien seeking admission but instead is an alien who was 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 100 courts who have agreed that petitioners like Petitioner here are detained under § 1226 and are therefore eligible for bond. *See also Aguilar Merino v. Ripa*, Civ. No. 25-23845, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *Alvarez Puga v. Assistant Field Office Director*, Civ. No. 25-24535, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025).

C. Respondents' Detention of Petitioner Under 8 U.S.C. § 1225 Violates Due Process

Petitioner's detention under § 1225 violates his due process rights as recognized by the Supreme Court in *Dep't of Homeland Sec. v. Thuraissigiam*. *See* 140 S. Ct. 1959, 1963-64 (2020) ("[A]liens who have established connections in this country have due process rights"). Instead of treating Petitioner as an alien who has entered the country, resided here for decades, and therefore

has established connections entitling him to due process, Respondents are treating Petitioner as though he recently arrived at the border and has not effected an entry. This interpretation deprives Petitioner of eligibility for bond and release, i.e. liberty, and thus violates his due process rights. Indeed, Respondent's attempt to extend expedited removal to every unauthorized alien who has been in the United States under two years has been declared unconstitutional in violation of the Fifth Amendment right to due process. *See Make the Road*, 2025 WL 2494908, at *12-14.

D. Petitioner is Entitled to a Temporary Restraining Order/Preliminary Injunction

The government's misreading of decades of precedent is extraordinary, requiring drastic remedy. The harm Petitioner is suffering by deprivation of his liberty and ability to fully and meaningfully participate in his removal proceedings after residing in this country for 20 years is certainly irreparable. *See Arrazola-Gonzalez v. Noem*, 2025 WL 2379285, at *3 (C.D. Cal. Aug. 15, 2025) ("It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury") (cleaned up); *see also Escalante v. Bondi*, 2025 WL 2212104, at *2 (D. Minn. July 31, 2025) (recognizing the irreparable harm caused by detention practices that impede communication with family and counsel). Each day of patently unlawful ICE detention inflicts irreparable harm and could ultimately lead to unlawful removal from the United States. Respondents, by contrast, face no harm from Petitioner's release under reasonable conditions of supervision while his removal proceedings continue. Continued detention only imposes unnecessary costs on taxpayers and perpetuates an unlawful deprivation of liberty, especially where the government has not shown Petitioner poses a danger to the public or risk of flight. The balance of harms and the public interest thus weigh overwhelmingly in favor of granting emergency relief.

CONCLUSION

For these reasons, and the reasons in Petitioner's Petition and Motion for Temporary Restraining Order, Petitioner asks that the Court grant the Petition and Motion and that Respondents be ordered to give him a bond hearing or release him on bond.

Dated: October 23, 2025

Respectfully submitted,

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