

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY

Luis Contreras Orellana

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of  
Homeland Security; Department of  
Homeland Security, in her official capacity;

Todd M. LYONS, Acting Director of  
Immigration and Customs Enforcement;  
Immigration and Customs Enforcement, in  
his official capacity;

Jeremy BACON, Field Office Director of  
Enforcement and Removal Operations,  
Louisville Field Office, Immigration and  
Customs Enforcement, in his official  
capacity;

Samuel J. OLSON, Field Office Director of  
Enforcement and Removal Operations,  
Chicago Field Office, Immigration and  
Customs Enforcement, in his official  
capacity;

Tom WATT, Sheriff of Grayson County,  
Kentucky, custodian of detainees of the  
Grayson County Detention Center,

Respondents.

Civil Action No. 4:25-cv-112-RGJ

**PETITIONER'S REPLY TO THE  
GOVERNMENT'S POST HEARING  
BRIEF**

## I. ARGUMENT

### A. THIS COURT SHOULD FOLLOW ITS OWN PRECEDENT AND THOSE OF OTHER FEDERAL COURTS AROUND THE COUNTRY AND REJECT RESPONDENT'S ARGUMENT THAT 8 USC 1225 APPLIES TO PETITIONER

This Court (like nearly all federal district courts in the nation who have taken up this issue), has squarely rejected, in multiple cases, the Government's argument that 8 U.S.C. § 1225(b)(2) is applicable to noncitizens like Petitioner. *Beltran Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 269056 (W.D. Ky. September 19, 2025); *Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Gomez Mejia v. Woosley et al*, No. 4:25-CV-82-RGJ, 2025 WL 2933852, (W.D. Ky. Oct. 15, 2025). The government's latest brief simply regurgitates the same arguments regarding the applicability of § 1225 to Petitioner that this court, (and nearly all federal courts across the country), has already rejected. For the sake of brevity, Petitioner thus fully incorporates this court's reasoning in *Beltran Barrera* and *Singh*.

The facts in Petitioner's case are nearly identical to those of the petitioners in *Singh* and *Beltran Barrera*, with one notable exception: in this case, the government has **previously explicitly released Petitioner on a bond of \$4,000 under 8 U.S.C. § 1226**. See ECF1-3, Exhibit B<sup>1</sup>. Now, the government claims Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2) as an "applicant for admission." See ECF 10 and 14. The government continues to describe Petitioner's prior release from custody in 2013 when Petitioner first entered the United States as "parole" pursuant to 8 U.S.C. § 1182(d)(5)(A). ECF 10 at PageID # 92. However, Petitioners refuse to acknowledge that the BIA has clarified that, pursuant to *Matter of Cabrera-Ferandez*,

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<sup>1</sup> The government still refuses to address their prior release of Petitioner on bond pursuant to 8 USC § 1226 and makes no mention of it in their reply to the Court's order to show cause, or in their post hearing brief.

28 I.&N. Dec. 747 (BIA 2023) that parole from custody is “legally distinct from release on humanitarian parole under section 212(d)(5)(A) of the INA.” *Id.* at 749.

The inescapable reality that this Court has acknowledged is the detention framework of 8 U.S.C. § 1225 applies at the border to noncitizens seeking admission, not, as the government argues, to every noncitizen present in the United States without admission or parole. *See Beltran-Barrera*, No. 3:25-CV-541-RGJ, 2025 WL 26905, at \*4. The government states that “the term seeking is immaterial to whether or not Petitioner is an arriving alien.” *See* Doc. 10 at PageID # 91. This statement by the government is inaccurate as a matter of the plain language of the relevant regulation. 8 C.F.R. 1.2 defines “arriving alien” as “an applicant for admission **coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry**, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport.” *Id.* While it is true that arriving aliens are a distinct class of applicants for admission, it does not change the reality that “the added word of arriving indicates that [8 U.S.C. 1225] governs arriving noncitizens, not those already present.” *Beltran*, No. 3:25-CV-541-RGJ, 2025 WL 26905, at \*4.

The government’s argument that the Laken Riley Act is not in conflict with their interpretation of sections 1225 and 1226 fares no better. *See* ECF 10 at PageID # 94. The government dismissed the language of the Laken Riley Act - which carves out discrete classes of noncitizens present without admission and parole who are ineligible for release on discretionary bond, as “redundancies [that] are common in statutory drafting.” *Id.* But, as this Court has already found, “if § 1225(b)(2) already mandated detention of any alien who has not been

admitted, regardless of how long they have been here, then adding § 1226(c)(1)(E) to the statutory scheme was pointless and this court too, will not find that Congress passed the Laken Riley Act to perform the same work that was already covered by § 1225(b)(2).” *Beltran*, No. 3:25-CV-541-RGJ, 2025 WL 26905, at \*4 (internal quotations omitted).

## II. CONCLUSION

In conclusion, the government cannot twist the meaning of 8 U.S.C. § 1225 to include every individual who is present in the United States without admission or parole. The government’s position is in conflict with the plain language of § 1225, decades of administrative precedent, the language of the recently enacted Laken Riley Act, and the rulings of nearly every federal court, including this Court.

For the reasons set forth above, the reasons stated in Petitioner’s previous reply to the government’s response, and the reasons stated in the Petition for Habeas Corpus, Petitioner respectfully requests that the Court grant her petition for a writ of habeas corpus and order her immediate release from custody, or, in the alternative, order a bond hearing in accordance with 8 U.S.C. § 1226.

Respectfully submitted,

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Dated: October 22, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that on October 22, 2025, I filed this document via CM/ECF, which will automatically provide service to all counsel of record.

/s/ Evangeline Dhawan-Maloney  
Evangeline Dhawan-Maloney  
Attorney for Petitioner

Dated: October 7, 2025