

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**WILLIAN ALBERTO GIMENEZ
GONZALEZ,**

Case No. 25-13094

Petitioner,

Hon. Shalina D. Kumar
Magistrate Judge Kimberly G. Altman

Kevin RAYCRAFT, Field Office
Director of Enforcement and Removal
Operations, Detroit Field Office,
IMMIGRATION AND CUSTOMS
ENFORCEMENT; Kristi NOEM,
Secretary, U.S. Department of
Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S.
Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION
REVIEW.

Respondents.

**REPLY BRIEF IN SUPPORT OF PETITION FOR HABEAS CORPUS BY
PETITIONER WILLIAN ALBERTO GIMENEZ GONZALEZ**

Respondents have no legal basis for their continued mandatory detention of
Petitioner Willian Alberto Gimenez Gonzalez. Respondents admit that even if Mr.
Gimenez were to exhaust his administrative remedies, Respondents would
continue to subject him to mandatory detention based on their erroneous
application of 8 U.S.C. § 1225(b). *See* ECF No. 7, PageID.52. Respondents'
arguments for subjecting Mr. Gimenez to mandatory detention have been

repeatedly rejected by courts across the country, including this Court. This Court should reject Respondents' continual misapplication of the 8 U.S.C. § 1225(b)(2)(A) and order Respondents to immediately release Mr. Gimenez.

I. Respondents Misapply 8 U.S.C. 1225(b)(2)(A) to Mr. Gimenez

Respondents admit that their only reason for detaining Mr. Gimenez is because of their newfound interpretation of 8 U.S.C § 1225(b)(2)(A), a mandatory detention provision that Respondents now wish to apply to noncitizens such as Mr. Gimenez. ECF No. 7, PageID.68. Respondents' new interpretation of who should be subjected to mandatory detention under 8 U.S.C. 1225(b) has been squarely rejected by this Court and district courts across the country. *See Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767, at *19-20 (E.D. Mich. Sep. 9, 2025) (“...[T]he BIA’s decision to pivot from three decades of consistent statutory interpretation and call for [petitioner’s] detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation. At least a dozen federal courts concur generally with this Court’s interpretation of the statutory language as applied in this context.”) (internal citations omitted); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *23, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (holding that “[t]here can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for

over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border.”); *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 LX 472568, at *31 (E.D.N.Y. Oct. 6, 2025) (rejecting government’s interpretation of § 1225(b)(2)(A) to noncitizens who already reside within the U.S. and noting that “well over a dozen federal courts around the country have rejected Respondents’ novel and illogical interpretation of the INA.”); *Belsai D.S. v. Bondi*, No. 25-cv-3682 (KMM/EMB), 2025 U.S. Dist. LEXIS 194262, at *15-16 (D. Minn. Oct. 1, 2025) (agreeing with courts that have found the government’s proposed interpretation of § 1225(b) is at odds with the context and structure of the provisions governing detention of noncitizens who are arriving at the border and those who are already present in the country).

Respondents do not dispute that the government, for decades, has interpreted INA Section 1226 as applying to immigrants like Mr. Gimenez, who are living in the U.S. when they are apprehended and detained. Respondents now invite this Court to read § 1225 in isolation, ignoring not just § 1226, but the INA’s overall structure. Section 1226 “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings,” while § 1225 authorizes detention of “certain aliens seeking admission into the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). As their titles state, § 1226 relates to “[a]pprehension and detention” of noncitizens living in the U.S., while §

1225 covers procedures at the border, including “[i]nspection by immigration officers” and “expedited removal of inadmissible arriving aliens.” Respondents now ask this court to adopt their strained interpretation of the INA provisions and ignore the INA’s statutory structure. Moreover, Respondents’ arguments entirely ignore § 1225(b)(2)’s requirement for a determination by an “examining immigration officer.”

Respondents focus on whether Mr. Gimenez is an “applicant for admission” who is “seeking admission” is incongruent with other provisions of the INA that define “admission.” *See* 8 U.S.C. § 1101(a)(13)(A) (defining admission as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” (emphasis added). “Construing section 1225(b)(2) to apply to noncitizens already residing in the country would read the word ‘entry’ out of the definition[.]” *Chogllo Chafra v. Scott*, No. 2:25-cv-00437-SDN, 2025 U.S. Dist. LEXIS 184909, at *19 (D. Me. Sep. 21, 2025) (holding that section 1226(a)’s discretionary detention scheme was the proper framework for noncitizens already present in the country without admission).

The circumstances of Mr. Gimenez’s arrest and detention further support that 8 U.S.C. 1226(a) applies and not Section 1225(b)(2)(A). At the time of his arrest, Mr. Gimenez was not “seeking admission” as Respondents try to claim. Respondents issued Mr. Gimenez a Notice to Appear on October 1, 2023, after his

entry into the United States, that stated he was present in the U.S. without being admitted or paroled and cited to 212(a)(6)(A)(i) of the INA. Exhibit A, Declaration of Willian Alberto Gimenez Gonzalez, ¶¶ 2-4, (hereinafter “*Gimenez Decl.*”), Attachment 1. Respondents then released Mr. Gimenez on his own recognizance, and he subsequently lived in Chicago, Illinois working and providing for his family. *Id.* ¶ 70. At the time of Mr. Gimenez’s arrest, he was not at a border or port of entry. He had parked his car in a street in Chicago on his way to a barbershop to get a haircut in Chicago, Illinois. *Id.* 9-10. Mr. Gimenez was ordered by unidentified agents to get out of his car and was arrested without a warrant.¹ *Id.* ¶¶ 9-22. Mr. Gimenez has a pending asylum application, and ultimately seeks adjustment of status from an immigration judge. *Id.* ¶ 7. If Mr. Gimenez’s asylum application were granted, it would result in his adjustment of legal status, not an entry into the U.S. These facts belie the Respondents’ assertion that Mr. Gimenez Gonzalez is seeking entry into the United States. *See Chafla*, 2025 U.S. Dist.

¹ Mr. Gimenez Gonzalez’s warrantless arrest was a violation of the *Castañon Nava* consent decree, prohibiting warrantless arrests by immigration agents in most circumstances in states across the Midwest, which the Northern District of Illinois recently extended. *See Nava v. Dep’t of Homeland Sec.*, No. 18-cv-3757, 2025 U.S. Dist. LEXIS 198295 (N.D. Ill. Oct. 7, 2025). Mr. Gimenez Gonzalez is a member of the class of individuals in the settlement and attorneys for the class are requesting his release by the Department of Homeland Security pursuant the *Castañon Nava* court’s order. Mr. Gimenez Gonzalez nonetheless seeks expedient relief from this court based on the separate due process violations of his detention as explained herein.

LEXIS 184909, at *34 (holding that warrantless arrests failed to comply with 1226(a), justifying immediate release pending bond hearing).

Respondents' reliance on *Matter of Yajure Hurtado*, 291 I&N 216 (BIA 2025) to convince this court that the mandatory detention provisions of 8 U.S.C. 1225 should apply to Mr. Gimenez, is unpersuasive as it is an administrative agency decision that is not binding on this Court. *See Reyes*, 2025 U.S. Dist. LEXIS 175767, at *18 ("Court here is not bound by the BIA's interpretation of § 1225(b)(2)(A)") (citing to *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 144 S. Ct. 2244 (2024)). In *Reyes* the Court disagreed with "how the BIA reads §§ 1226(a) and 1225(b)(2)(A) in conjunction with one another." *Id.* at 18-19. The Court went on to explain the difficulty of squaring a noncitizen's continued presence in the U.S. with the term "seeking admission" when a noncitizen does not attempt to obtain lawful status. *Id.* at 19. *See also, Chafila v. Scott*, 2025 WL 2688541, *6 (D. Me., Sept. 22, 2025) ("the active language [of implies that the noncitizen is actively engaged in the exercise of being admitted to the United States, rather than currently residing here and seeking to stay."); *Zapata v. Kaiser*, No. 25-cv-07492-RFL, 2025 U.S. Dist. LEXIS 190934, at *29 (N.D. Cal. Sep. 26, 2025) ("The BIA's reading of section 1225 treats the phrases 'applicant for admission' and 'seeking admission' as synonymous, which renders the phrase 'seeking admission' in section 1225(b)(2) superfluous. It would also render

superfluous the recent Laken Riley Act amendments to section 1226(c).” (internal citations omitted).

Similarly, Respondents’ use of *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), to support its erroneous statutory interpretation should also be rejected by the Court. *See Hyppolite*, 2025 LX 472568, at *27-28 (rejecting the government’s use of *Jennings* and reading *Jennings* to stand for the proposition that the mandatory-detention provisions of 8 U.S.C. §§ 1225(b)(1) and (b)(2) did not entitle noncitizens to periodic bond hearings and did not reach the question of whether noncitizens who have been present in the country for years are subject to mandatory detention under § 1225(b)(2)(A)). Courts have also rejected Respondents reliance on *Thuraissigiam*, which concerns the right to additional due process in admission determinations and “did not address the due process rights of noncitizens to remain free once released.” *Id.* at 28 (citing to *Salcedo Aceros v. Kaiser*, No. 25-cv-6924, 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503, at *6 (N.D. Cal. Sep. 12, 2025)).

Respondents purported reasons for now wanting to apply § 1225(b)(2)(A) to nearly any noncitizen who entered the U.S., whether they are newly arrived or have lived in this country for years, should not supersede the plain reading of the INA, the legislative history of the IIRIRA, and court after court rulings holding that Section 1226(a) (not § 1225(b)(2)(A)) applies to noncitizens such as Mr.

Gimenez. For the foregoing reasons, this Court should grant Mr. Gimenez's requested relief and order him released.

II. There Are Multiple Proper Respondents

The parties agree that the ICE Field Office Director, Kevin Raycraft, is Petitioner's "immediate custodian" and thus a proper respondent. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). Yet, it does not follow that because the ICE director is a proper respondent, that is the only proper respondent. Petitioner is detained under a new ICE directive issued in coordination with DOJ. If Respondents Noem, Bondi, and DHS rescinded the directive, Petitioner could be released, either based on ICE setting bond, 8 C.F.R. § 236.1(8), or through bond hearings. Bond hearings are held in immigration courts, which are under the Executive Office of Immigration Review (EOIR), which is a component agency of DOJ. Respondents EOIR and Bondi could have, but have failed to, ensure that Petitioner received a bond hearing and therefore are properly names Respondents.

CONCLUSION

Petitioner respectfully requests that the Court grant the relief requested in his Petition, order his immediate release, and grant Petitioner's legal fees pursuant to Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

Dated: October 13, 2025,

Respectfully submitted,

/s/ Diana E. Marin

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