IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MIGUEL AZCUY RUIZ, et al.,

Petitioners,

v.

KRISTI NOEM, et al.,

Respondents.

Case No. 1:25-cv-203-H

REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioners had lived in the United States for three years when they were arrested and detained by the Department of Homeland Security. *See* Pet., ECF No. 5 ¶¶ 2-3. Because they were already present within the United States at the time of their arrest, their detention falls squarely under 8 U.S.C. § 1226, not § 1225. Respondents' arguments to the contrary rely on an incorrect reading of 8 U.S.C. § 1225 and § 1226. Although Petitioners may be considered "applicants for admission" as persons present without being admitted or paroled, § 1225 also requires that the non-citizen be "seeking admission." As numerous federal courts have found, the term "seeking admission" applies to noncitizens at the border, not individuals like Petitioners who have been present in the United States for over three years. Moreover, Petitioners were released into the United States on their own recognizance under Form I-220A. These forms explicitly state that their release was "[i]n accordance with section 236 of the Immigration and Nationality Act," or § 1226. Exh. A. And Respondents' own documents classify Petitioners as "present in the United States."

ECF No. 15, App. pp. 11, 15, 19. Because Petitioners' detention without bond violates the Immigration and Nationality Act ("INA") and Fifth Amendment, the Court should require Respondents to provide them with a prompt bond hearing pursuant to 8 U.S.C. § 1226.

ARGUMENT

I. Petitioners are not subject to mandatory detention.

Federal courts, including the Supreme Court, have long held that detention under 8 U.S.C. § 1225 applies to those at the border while § 1226 applies to those already present in the United States. In *Jennings v. Rodriguez*, the Supreme Court held that § 1225 authorizes the Government "to detain certain [non-citizens] seeking admission into the country," while § 1226 "authorizes the Government to detain certain [non-citizens] already in the country." 583 U.S. 281, 289 (2018). *Jennings* therefore forecloses Respondents' position. *See, e.g.*, *Lopez Benitez*, --- F. Supp. 3d ---, 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025) ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.'") (cleaned up) (citing *Jennings*, 583 U.S. at 288-89); *Martinez v. Hyde*, 792 F. Supp. 3d 211, 222 (D. Mass. 2025) ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system ") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

Respondents do not dispute the facts of Petitioners' entry. They do not dispute that Petitioners entered the United States on or about September 20. 2022, and were released on their own recognizance under Form I-220A. *See* ECF. No. 14, at 1. Nor do Respondents dispute the fact that Petitioners have resided in the United States for three years. Respondents also do not contest that Petitioners were arrested by the Department of Homeland Security ("DHS") at an ICE check-in in Dallas, Texas, hundreds of miles from any border or port of entry. In fact, DHS charged Petitioners as being "*present* in the United States without being admitted or paroled." *See* ECF No. 15, App. pp. 11, 15, 19 (emphasis added), while Form I-220A explicitly states that there were released in accordance with § 1226. Exh. A. Many courts have already explained that individuals released on their own recognizance are detained under § 1226. *Rosado v. Figueroa*, No. 25-cv-02157, 2025 WL 2337099, at *7 (D. Ariz. Aug. 11, 2025) ("holding that 'a non-citizen released on an Order of Release on Recognizance must necessarily have been detained and released under § 1226, *inter alia* because they were not an "arriving alien" under the regulations governing § 1225'") (quoting *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115-16 (9th Cir. 2007)). *See also Lopez-Arevelo v. Ripa*, --- F. Supp. 3d ----, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Gomez Mejia v. Woosley*, No. 4:25-cv-82, 2025 WL 2933852 (W.D. Ky. Oct. 15, 2025); *J.S.H.M. v. Wofford*, No. 1:25-cv-01309, 2025 WL 2938808 (E.D. Cal. Oct. 16, 2025); *Rico-Tapia v. Smith*, --- F. Supp. 3d ----, 2025 WL 2950089 (D. Haw. Oct. 10, 2025); *Mena Torres v. Wamsley*, No. 25-cv-5772, 2025 WL 2855379 (W.D. Wash. Oct. 8, 2025).

In other words, the government has already stated that Petitioners are not detained under § 1225 and has already acknowledged that they were not "arriving" at a border when they were arrested. These facts render Petitioners eligible for bond. Indeed, legacy Immigration and Naturalization Service (now DHS) has explicitly stated that "[d]espite being applicants for admission, [non-citizens] who are present without having been admitted or paroled (formerly referred to as [non-citizens] who entered without inspection) *will be eligible for bond and bond redetermination*." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (emphasis added).

In the face of this settled law, Respondents repeat the novel interpretation, rejected by numerous federal courts, that § 1225 governs applicants for admission while § 1226 governs those inside and admitted to the United States. ECF No. 14, 3-7. But that is not the dividing line. As argued in their habeas petition, ECF No. 5, 10-11, § 1226 applies to non-citizens inside the country, including those who entered without inspection, while § 1225 is limited to arriving non-citizens seeking admission at a border or port of entry. Respondents' reading is contrary to the plain language of the INA and nullifies various provisions of § 1226—including amendments made earlier this year in the Laken Riley Act—that allow individuals who entered the United States outside of a port of entry to be considered for release on bond. Respondents' reading ignores congressional intent and decades of agency practice.

Although Petitioners may be considered "applicants for admission" under § 1225(a)(1) because they are present without being admitted or paroled, they are not "seeking admission" as required to be subject to mandatory detention under §

1225(b)(2). Respondents attempt to circumvent the "seeking admission" requirement by claiming that it is synonymous with "applicant for admission." ECF No. 14, at 5. This position, however, "completely ignore[s] or even read[s] out the term 'seeking' from 'seeking admission.'" *Beltran Barrera v. Tindall*, No. 3:25-cv-541, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025). The court in *Beltran Barrera* noted that "'seeking' implies action and that those who have been present in the country for years are not actively 'seeking admission.'" *Id.* (cleaned up). If, as Respondents contend, *see* ECF No. 14, at 3-5, admission can only mean a lawful entry, then those who already entered the United States unlawfully cannot be said to be seeking a lawful entry. *See id.; see also Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *7 (E.D. Mich. Aug. 29, 2025) ("There is nothing in the record to suggest that he ever attempted to gain lawful entry (e.g. lawful status in this country) until he was apprehended and detained. Therefore, the Court finds that 1225(b)(2)(A) applies when people are being inspected, which usually occurs at the border, when they are seeking lawful entry into this country. . . . There is no logical interpretation that would find that [petitioner] was actively "seeking admission" after having resided here, albeit unlawfully, for twenty-six years."). Because Petitioners had lived in the country for three years before being apprehended far from any border or port of entry, they were not "seeking admission" and are not subject to mandatory detention under § 1225. Instead, as persons arrested inside the United States, Petitioners are detained under § 1226 and are eligible for release on bond.

Indeed, dozens of courts across the country and from a majority of the geographic Circuits, have overwhelmingly rejected the government's novel interpretation of § 1225 as incompatible with the statutory text, statutory framework, congressional intent, longstanding agency practice, the Constitution, and controlling precedent. *See, e.g., Beltran Barrera,* 2025 WL 2690565 (holding that the title of § 1225 which references "arriving" noncitizens, Supreme Court precedent in *Jennings* that § 1226 is the default rule and applies to noncitizens already present in the United States, and the recent amendments to § 1226 in the Laken Riley Act, all support petitioner's argument that he is detained under § 1226); *Singh v. Lewis*, No. 4:25-cv-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025) (following *Beltran Barrera); Lopez Benitez*, 2025 WL 2371588 at *5–8 (analyzing "the plain text of the statute" and holding that it applied at the borders of America, not within); *Samb v. Joyce*, No. 25-cv-6373, 2025 WL 2398831, at *3 (S.D.N.Y. Aug. 19, 2025) (following *Lopez Benitez*); *Doe v. Moniz*, --- F. Supp. 3d ----, 2025 WL 2576819 at *4-5 (D. Mass. Sept. 5, 2025) ("Respondents' argument that Section 1225's detention provisions apply is a nonstarter[.]"); *Romero v. Hyde*, --- F. Supp. 3d ----, 2025 WL 2403827, at *1 (D. Mass. Aug. 19, 2025) ("the interpretation [of § 1225] being advanced by the Government, which would require the mandatory detention of hundreds of thousands, if not millions, of individuals currently residing within the United States, is contrary to the plain text of the statute") (gathering 13 cases from District Courts in Washington, Massachusetts, Arizona, New York, Minnesota, California, Nebraska, and Maine); *Leal-Hernandez v. Noem,* No. 1:25-cv-02428, 2025 WL 2430025, at *2 (D. Md. Aug.

24, 2025) ("The Government appears willfully blind to the operation of 8 U.S.C. § 1226(a)"); *Kostak v. Trump*, No. 3:25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025) ("Respondents' interpretation of Section 1225 would render Section 1226 unnecessary"); *Lopez-Campos*, 2025 WL 2496379, at *5 ("The plain language of the statutes, the overall structure, the intent of Congress, and over 30 years of agency action make clear that Section 1226(a) is the appropriate statutory framework for determining bond for noncitizens who are already in the country[.]"); *Anicasio v. Kramer*, No. 4:25-cv-3158, 2025 WL 2374224, at *2 (D. Neb. Aug. 14, 2025) ("Courts have repeatedly held that § 1225 applies to arriving aliens, while § 1226 governs detention of 'aliens already in the country.'"); *Mosqueda v. Noem*, No. 5:25-cv-02304, 2025 WL 2591530, at *4-5 (C.D. Cal. Sept. 8, 2025) ("The Court agrees with petitioners that the plain text of section 1226(a) applies to them . . . The Court disagrees with respondents' contention that Congress intended to create a conflict between juxtaposing sections of the same statute."); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025) (collecting 15 cases). Courts have routinely applied the same logic to individuals who were paroled into the United States.

Respondents attempt to support their novel interpretation of § 1225 by citing a single decision from the Northern District of Florida. ECF No. 14, at 6. But the district court there acknowledged that *Jennings* stands for the rule that "§ 1226 applies to 'certain [non-citizens] *already in the country*[.]" *Florida v. United States*, 660 F. Supp. 3d. 1239, 1275 (N.D. Fla. 2023) (emphasis added). Moreover, *Florida*

addressed DHS's policy under the Biden administration of treating individuals crossing at the southern border under § 1226 even after agents processing those non-citizens had already issued documents detaining them under § 1225. The same paragraph of the *Florida* decision quoted by Respondents also states that paroled individuals who are "apprehended within the interior of the United States necessarily must have been paroled under §1226(a) . . . ." *Id.* (quoting *Ortega-Cervantes*, 501 F.3d at 1116). This authority simply does not support Respondents' position.

Respondents fail to meaningfully address the statutory text, statutory framework, congressional intent, and longstanding agency practice that dozens of federal courts around the country have considered in rejecting Respondents' position.

II. Petitioners have shown that their unlawful detention without bond violates their right to Due Process.

Respondents offer no meaningful response to Petitioners' Due Process claim. Contrary to Respondents' conclusory statements, Petitioners have established that they are not subject to mandatory detention under § 1225(b)(2) but instead may only be detained under § 1226's discretionary framework. ECF No. 14, at 7-9. Therefore, Petitioners' current detention runs contrary to the INA, and detention that is contrary to statutory authority violates the due process clause, which applies to "*all 'persons' within* the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (emphasis added). As such, at minimum, they are entitled to—and have been unlawfully denied—a bond hearing at which an immigration judge considers

their individualized facts and circumstances to determine whether they are a danger to the community or a flight risk.

Respondents also insinuate that Petitioners are to blame for any ongoing delay, claiming that their master calendar hearings are scheduled for December and that removal proceedings "are progressing." ECF No. 14, at 8. But the pace of the family's removal proceedings has nothing to do with the legality of their detention under § 1225 rather than § 1226. In any case, Respondents point to no fact that indicates Petitioners are responsible for any delay in their immigration proceedings.

Further, whatever interest Respondents have in detaining Petitioners cannot outweigh the public interest in the faithful application of the constitution and laws that Congress drafted. Those interests are accounted for in the bond process.

CONCLUSION

Petitioners' continued detention without bond violates the INA and their right to due process. Because they are being unlawfully detained, Petitioners respectfully requests that this Court grant her petition for writ of habeas corpus and require Respondents to provide a prompt bond hearing pursuant to Section 1226.

DATED this 25th of November, 2025

Respectfully submitted,

s/Eric Lee

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CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2025, I electronically filed the foregoing on the Court's CM/ECF system, that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Eric Lee
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Attorney for Petitioners