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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

REYNA CRUZ VEGA,  
Petitioner,

vs.

CHRISTOPHER LAROSE, WARDEN,  
OTAY MESA DETENTION CENTER,  
CORECIVIC;

GREGORY J. ARCHAMBEAULT, FIELD  
OFFICE DIRECTOR, U.S. IMMIGRATION  
AND CUSTOMS ENFORCEMENT,  
ENFORCEMENT AND REMOVAL  
OPERATIONS, SAN DIEGO FIELD OFFICE;

KRISTI NOEM, SECRETARY OF THE U.S.  
DEPARTMENT OF HOMELAND SECURITY;  
AND

PAM BONDI, ATTORNEY GENERAL OF  
THE UNITED STATES,  
IN THEIR OFFICIAL CAPACITIES  
Respondents.

PETITION FOR WRIT OF HABEAS  
CORPUS

Case No. 3:25-cv-02725-CAB-MSB

REPLY TO RESPONSE TO PETITION  
FOR WRIT OF HABEAS CORPUS

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

## INTRODUCTION

Respondent is detained and in custody for not having lawful status in the United States. The respondent is questioning the governments motives to keep her detained when she was granted a bond for \$8,000.00 on September 4, 2005, by one judge and then on September 22, 2025, a different judge working with a government attorney rescinds the order of the judge who granted the bond in the first place, and invoked *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), an unprecedented decision that purports to treat every noncitizen who entered without inspection as an “arriving alien” perpetually “seeking admission” under 8 U.S.C. § 1225(b)(2)(A).

Habeas exists for exactly this scenario. The injury is ongoing, not hypothetical. Respondents' detention is arbitrary and capricious because petitioner had a bond for \$8,000.00, ordered by an immigration judge for her release. However, for the government attorney not accepting the judge's order did everything in the attorney's power to keep Ms. Cruz Vega detained when she could have continued her case out of custody with San Diego Immigration Court because she is not a flight risk, nor is she a danger to society. Courts confronting the same posture have ordered immediate release or, at minimum, a prompt § 1226(a) bond hearing on a fixed timeline. The same relief is warranted here.

I. Petitioner's Claim is not Barred, and this Court has Jurisdiction

As the Ninth Circuit has held, “the district court may consider a purely legal question that does not challenge the Attorney General’s discretionary authority, even if the answer to that legal question—a description of the relevant law—forms the backdrop against which the Attorney General later will exercise discretionary authority.” *U.S. v. Hovsepian*, 359 F.3d 1144, 1155 (9th Cir. 2004).

Here, Petitioner raises a question of law as to whether their mandatory detention during the pendency of their removal proceedings falls under § 1226(a) or § 1225(b)(2), and whether her continued detention violates the due process clause of the fifth amendment. Petitioners do not challenge the Attorney General's discretionary authority to commence,

1 adjudicate, or execute removal proceedings. Therefore, neither §§ 1252(b)(9) or 1252(g)  
2 bars this Court's review of Petitioners' TRO. *GOMEZ GARCIA et al., v. KRISTI NOEM et*  
3 *al.*, No. 5:25-CV-02771-ODW (PDX), 2025 WL 2986672, at \*3–4 (C.D. Cal. Oct. 22,  
4 2025); *Rico-Tapia v. Smith*, No. CV 25-00379 SASP-KJM, 2025 WL 2950089, at \*4 (D.  
5 Haw. Oct. 10, 2025)

6 In retrospect, the basic federal habeas corpus statute grants this Court authority to  
7 resolve Petitioner's challenge to the lawfulness of his detention under the INA, APA, and  
8 Constitution, and none of the jurisdictional stripping provisions of the INA apply to  
9 Petitioner's challenge to Respondents' detention policy before this Court. See *Zadvydas*,  
10 533 U.S. at 699 (citing 28 U.S.C. § 2241(c)(3) (granting courts authority to determine  
11 whether detention is “in violation of the ... laws ... of the United States”); *Vazquez v.*  
12 *Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at \*9 (D. Nev. Sept. 17, 2025).

13 **II. Petitioner's claim §1226(a) governs is likely to succeed on the Merits**

14 It has been argued time and time again that Petitioners claims are not likely to succeed on  
15 the merits. However, the courts have found the government's argument that  
16 §1225(b)(2)(A) applies to all noncitizens present in the United States without admission is  
17 not persuasive. The Court further found that the government's interpretation of the statute  
18 disregards the plain meaning of §1225(b)(2)(A); it also disregards the relationship between  
19 §1225 and §1226; would render a recent amendment to §1226(c) superfluous; and is  
20 inconsistent with decades of priority statutory interpretation and practice. Other district  
21 courts have reached a similar conclusion. See, *Lepe v. Andrews*; No. 1:25-cv-01163-KES-  
22 SKO (HC), 2025 WL 2716910 at 4. See, e.g. *Lopez Benitez v. Francis*, No. 25-Civ-5937,  
23 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM,—  
24 —F.Supp.3d —, 2025 WL 2084238, at \*9 (D. Mass. July 24, 2025); *Gomes v. Hyde*,  
25 No. 1:25-cv-11571-JEK, 2025 WL 1869299, at \*8 (D. Mass. July 7, 2025); *Vasquez*  
26 *Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*,  
27 No. 2:25-cv-12486,—F.Supp.3d —, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);

1 Kostak v. Trump, No. 3:25-cv-01093-JE, Doc. 20, 2025 WL 2472136 (W.D. La. Aug. 27,  
2 2025); Doc. 11, Benitez v. Noem, No. 5:25-cv-02190 (C.D. Cal. Aug. 26, 2025); Leal-  
3 Hernandez v. Noem, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D.Md. Aug. 24, 2025);  
4 Romero v. Hyde, No. 25-11631-BEM, — F.Supp.3d —, 2025 WL 2403827 (D. Mass.  
5 Aug. 19, 2025); Arrazola-Gonzalez v. Noem, No. 5:25-cv-01789-ODW, 2025 WL 2379285  
6 (C.D. Cal. Aug. 15, 2025); AguilarMaldonado v. Olson, No. 25-cv-3142, — F.Supp.3d —  
7 —, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); Dos Santos v. Noem, No. 1:25-cv-12052-  
8 JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); Rocha Rosado v. Figueroa, No. CV25-  
9 02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted  
10 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)

11 **III. Petitioner Has Experienced Irreparable Harm**

12 The petitioner's arrest and prolonged detention have caused her psychological and  
13 physical harm because she has nightmares, anxiety, and medical issues that she cannot  
14 get treatment because of lack of medical attention since the detention facilities are over  
15 capacity.

16 Ms. Cruz Vega is suffering irreparable harm each day she is detained and subjected to  
17 unlawful incarceration by immigration authorities. Detainees in ICE custody are held in  
18 "prison-like conditions." Preap v. Johnson, 831 F.3d 1193, 1195 (9th Cir. 2016). As the  
19 Supreme Court has explained, "[t]he time spent in jail awaiting trial has a detrimental  
20 impact on the individual. It often means loss of a job; it disrupts family life; and it  
21 enforces idleness." Barker v. Wingo, 407 U.S. 514, 532-33 (1972); accord Nat'l Ctr. for  
22 Immigrants Rights, Inc. v. I.N.S., 743 F.2d 1365, 1369 (9th Cir. 1984).

23 As immigration detention is civil, it can have no punitive purpose. The government's  
24 only interest in holding an individual in immigration detention can be to prevent danger  
25 to the community or to ensure a noncitizen's appearance at immigration proceedings. See  
26 Zadvydas, 533 U.S. at 690.

#### IV. Conclusion

Courts faced with this posture have ordered immediate release or, at minimum, a prompt § 1226(a) bond hearing on a fixed timetable. In *Romero v. Hyde*, 2025 WL 2403827, at 13 (D. Mass. Aug. 19, 2025), the court rejected the very course Respondents propose here—another bond hearing on the same record—and instead ordered immediate release once it recognized the petitioner was properly detained under § 1226(a). That reasoning applies with full force here. See also *Lopez Benitez v. Francis*, 2025 WL 2371588, at 15 (S.D.N.Y. Aug. 13, 2025) (granting habeas; ordering immediate release); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at 10 (E.D. Mich. Aug. 29, 2025) (granting habeas; ordering immediate release or a § 1226(a) bond hearing within seven days and enjoining reliance on § 1225(b)(2)(A)); *Diaz Martinez v. Hyde*, 2025 WL 2084238, at 8 (D. Mass. July 24, 2025) (requiring § 1226(a) bond hearing within seven days); *Gomes v. Hyde*, 2025 WL 1869299, at \*9 (D. Mass. July 7, 2025) (ordering expedited bond hearing under § 1226(a), precluding denial based on § 1225 classification); *Rodriguez v. Bostock*, No. 25-cv-524, 2025 WL 1193850, at 12–16 (W.D. Wash. Apr. 24, 2025) (same) Consistent with this authority, Petitioner respectfully requests that the Court order his immediate release, or, in the alternative, require a § 1226(a) bond hearing within seven days, with the Government bearing the burden to prove by clear and convincing evidence that continued detention is necessary.

DATED: October 27, 2025

Respectfully Submitted,

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