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Andres Barrera Lopez

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA

Andres Barrera Lopez, Alien # 


Petitioner,
v.

Pamela Bondi, in her official capacity as
Attorney General;
U.S. Department of Justice;
Kristi Noem, in her official capacity as
Secretary of the Department of Homeland
Security;
U.S. Department of Homeland Security;
David Rivas, in his official capacity as Warden
of San Luis Regional Detention Facility;
John Cantu, in his official capacity as ICE Field
Office Director,
Respondents.

Case No. 2:25-cv-03834-
SMB-ASB
**REPLY TO RESPONDENTS'
RESPONSE TO HABEAS
PETITION AND MOTION
FOR TEMPORARY
RESTRAINING ORDER**
HEARING REQUESTED

1
2 **I. INTRODUCTION**

3 On October 15, 2025, Andres Barrera Lopez (Petitioner), filed a petition for
4 a writ of habeas corpus challenging his unlawful detention. The petition was
5 accompanied by a motion for a temporary restraining order. Petitioner argued that
6 he is detained under 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225; that an Immigration
7 Judge had properly granted him bond under 8 U.S.C. § 1226(a); and that
8 Respondents' invocation of the automatic stay provision at 8 C.F.R. § 1003.19(i)(2)
9 had resulted in his unlawful detention.

10 On October 30, 2025, Respondents filed a response to the petition and the
11 motion. They argued that Petitioner is properly detained under 8 U.S.C. § 1225,
12 and thus, the invocation of the auto stay provision did not result in unlawful
13 detention. *See* ECF 9.

14 **II. ARGUMENT**

15 Respondents do not attempt to defend the legality of the automatic stay
16 provision contained in 8 C.F.R. § 1003.19(i)(2), other than to argue that because
17 Petitioner is subject to mandatory detention under 8 U.S.C. § 1225, Respondents'
18 refusal to honor the Immigration Judge's bond order does not result in unlawful
19 detention. *See* ECF 9, p. 9.

20 With respect to their position that Petitioner is detained under 8 U.S.C.
21 § 1225, Respondents point to two District Court cases, one from the Southern

1 District of California and one from the District of Nebraska, that have adopted their
2 interpretation of the statute. But as noted by Petitioner in his petition, at least a
3 dozen districts, including this District and the Southern District of California, had
4 previously rejected Respondents' position on this issue. *See e.g., Rosa v. Figueroa*,
5 2025 WL 2337099, *7 (D. Az. Aug, 11, 2025) (unpub), report and recommendation
6 adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Az. Aug. 13,
7 2025) (unpub); *Hasan v. Crawford*, --- F.Supp.3d ----, 2025 WL 2682255, *8-9
8 (E.D. Va. Sept. 19, 2025) (unpub) (noting that Respondents' interpretation of 8
9 U.S.C. § 1225(b) "would render superfluous those provisions of § 1226 that apply
10 to certain categories of inadmissible aliens, such as § 1226(c)(1)(A), (D), and (E)");
11 *Jimenez v. FCI Berlin*, --- F.Supp.3d ----, 2025 WL 2639390, *8 (D. N.H. Sept. 8,
12 2025) (unpub) ("But if the government's interpretation is correct – that all
13 applicants for admission are subject to mandatory detention under § 1225 – then it
14 is not clear under what circumstances § 1226(a)'s authorization of detention on a
15 discretionary basis would ever apply") (internal citation omitted); *Ramirez Clavijo*
16 *v. Kaiser*, 2025 WL 2419263, *4 (N.D. Ca. Aug. 21, 2025) (unpub) ; *Lopez Benitez*
17 *v. Francis*, --- F.Supp.3d ----, 2025 WL 2371588, *5 (S.D.N.Y. Aug, 13, 2025)
18 (unpub); *Martinez v. Hyde*, --- F.Supp.3d ----, 2025 WL 2084238, *9 (D. Mass.
19 July 24, 2025) (unpub); *Gomes v. Hyde*, 2025 WL 1869299, *8 (D. Mass. July 7,
20 2025)(unpub); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285, *2 (C.D. Ca. Aug.
21

1 15, 2025) (unpub); *Maldonado v. Olson*, 2025 WL 2374411, *13 (D. Minn. Aug.
2 15, 2025) (unpub); *Leal-Hernandez v. Noem*, 2025 WL 2430025, *10 (D. Md. Aug.
3 24, 2025)(unpub); *Kostak v. Trump*, 2025 WL 2472136, *3 (W.D. La. Aug. 27,
4 2025) (unpub); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, *8 (E.D. Mich.
5 Aug. 29, 2025) (unpub); *Vasquez Garcia v. Noem*, 2025 WL 2549431, *6 (S.D.
6 Cal. Sept. 3, 2025) (unpub).

7 Indeed, in the two weeks since Petitioner’s initial filing, at least 23 additional
8 decisions have rejected Respondents’ position. *See Del Cid Del Cid v. Bondi*, 2025
9 WL 2985150 (W.D. Pa. Oct. 23, 2025)(unpub); *Martinez Lopez v. Noem*, No. 3:25-
10 cv-02734 (S.D. Cal. Oct. 23, 2025) (unpub); *Loa Caballero v. Baltazar*, 2025 WL
11 2977650 (D. Colo. Oct. 22, 2025) (unpub); *Da Silva v. Bondi*, 2025 WL 2969163
12 (D. Mass. Oct. 21, 2025) (unpub); *Macancela Buestan v. Chu*, 2025 WL 2972252
13 (D. N.J. Oct. 21, 2025) (upub); *Maldonado de Leon v. Baker*, 2025 WL 2968042
14 (D. Md. Oct. 21, 2025) (unpub); *Gonzalez Martinez v. Noem*, 2025 WL 2965859
15 (W.D. Tex. Oct. 21, 2025) (unpub); *Casio-Mejia v. Raycraft*, 2025 WL 2976737
16 (E.D. Mich. Oct. 21, 2025) (unpub); *Mariano Miguel v. Noem*, 2025 WL 2976480
17 (N.D. Ill. Oct. 21, 2025) (unpub); *Herrera Avila v. Bondi*, No. 25-cv-03741 (D.
18 Minn. Oct. 21, 2025) (unpub); *Morales Chavez v. Director*, 2025 WL 2959617
19 (N.D. Ohio Oct. 20, 2025) (report and recommendation) (unpub); *H.G.V.U. v.*
20 *Smith*, 2025 WL 2962610 (N.D. Ill. Oct. 20, 2025) (unpub); *Moya Pineda v.*

1 *Baltasar*, No. 1:25-cv-2966 (D. Colo. Oct. 20, 2025) (unpub); *Caraballo Gonzalez*
2 *v. Joyce*, 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025) (unpub); *Lema Zamora v.*
3 *Noem*, 2025 WL 2958879 (D. Mass. Oct. 17, 2025) (unpub); *Contreras-Cervantes*
4 *v. Raycraft*, 2025 WL 952796 (E.D. Mich. Oct. 17, 2025) (unpub); *Sanchez Alvarez*
5 *v. Noem*, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025) (unpub); *Sabi Polo v.*
6 *Chestnut*, 2025 WL 2959346 (E.D. Ca. Oct. 17, 2025) (unpub); *Menjivar Sanchez*
7 *v. Wofford*, 2025 WL 2959274 (C.D. Ca. Oct. 17, 2025) (unpub); *Mendoza*
8 *Gutierrez v. Baltasar*, 2025 WL 2962908 (D. Colo. Oct. 17, 2025) (unpub); *Perez*
9 *Pina v. Stamper*, 2025 WL 2939298 (D. Me. Oct. 16, 2026) (unpub); *Ochoa Ochoa*
10 *v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025) (unpub); *J.S.H.M. v. Wofford*,
11 2025 WL 2938808 (E.D. Ca. Oct. 16, 2025) (unpub). This Court should follow the
12 weight of decisions on this issue and find that Petitioner is detained pursuant to 8
13 U.S.C. § 1226(a).

14 In addition, Respondents do not attempt to reconcile their interpretation of
15 the relevant statutes with the amendments to 8 U.S.C. § 1226 made by the Laken
16 Riley Act, the regulation found at 8 C.F.R. § 1003.19(h)(2), or the legislative
17 history of the regulations governing bond eligibility and the definition of arriving
18 aliens, all of which were addressed in Petitioner's briefing. *See* ECF 1, pp. 5-8;
19 ECF 4, pp. 8-11.

1 Petitioner would only contribute to the growing agreement among federal courts
2 that Respondents' legal position is clearly erroneous.

3 **III. CONCLUSION**

4 For the foregoing reasons, as well as those articulated in Petitioner's prior
5 briefing, the petition for habeas corpus and the motion for a temporary restraining
6 order should be granted.

7 **RESPECTFULLY SUBMITTED this 30th day of October, 2025**

8 **/s/ Sabrina Damast**

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