

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**ALEX CANAS QUINTANILLA,**

A# 

**PETITIONER**

v.

**CIVIL ACTION NO. 5:25-cv-115-DCB-BWR**

**RAFAEL VERGARA,**

**RESPONDENT**

---

**PETITIONER’S REPLY TO RESPONDENTS’ RESPONSE**

---

Petitioner, by and through Counsel, respectfully files this Reply to Respondents’ Response in opposition to Petitioner’s Habeas petition.

**INTRODUCTION**

Petitioner Canas has been detained since March 12, 2025. The Immigration judge granted relief in the form of Cancellation of Removal to Petitioner on October 17, 2025. The government filed an appeal to this judgment on November 3, 2025. On November 20, 2025, Petitioner amended the Habeas petition to advise this Court of the granted application and the appeal. Counsel for Petitioner argued that there was a final order in place and made arguments relating to that posture. Petitioner concedes those arguments were premature as the appeal does mean the order is not yet final. Petitioner will therefore focus on arguments relating to the need for a new bond hearing in this matter.

**I. EXHAUSTION OF REMEDIES**

No statutory requirement of administrative exhaustion applies to Petitioner’s case. Moreover, the judicially created “general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts” does not apply to Petitioner’s present challenge, as there are

no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

The Respondents have inadvertently conflated removal proceedings with bond/custody proceedings. In Bond or Custody proceedings, DHS has taken the position that a noncitizen like Petitioner, who entered without inspection, is subject to mandatory detention under 8 U.S.C. § 1225, and the Executive Office for Immigration Review has affirmed that view. In a published decision, the Board of Immigration Appeals recently held that “Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA’s interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. *See Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219, at \*3 (W.D. Ky. Sept. 22, 2025) (“[t]he United States has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review”); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at \*4 (E.D. Mich. Aug. 29, 2025) (“Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition.”).

Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner’s constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or

regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *see also Gonzalez v. O’Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that “the BIA has no jurisdiction to adjudicate constitutional issues”).

Petitioner is therefore properly before this Court.

## II. PETITIONER IS ENTITLED TO RELEASE OR A BOND HEARING

Petitioner is only asking this Court to consider that he should be released from detention or given a bond hearing. Before this new policy was put into place, Petitioner would have been able to file a new bond request based on changed circumstances after he was granted relief. However, a bond request filed today would not be considered, due to a purported lack of jurisdiction.

### *A. Petitioner is detained pursuant to 8 U.S.C. § 1226(a) and should be entitled to release or a bond hearing*

The bulk of Petitioner’s initial habeas petition addresses this issue. Petitioner will seek to address the developments in the law since this Petitioner was initially filed in October. At its heart, this issue comes down to statutory interpretation.

#### *i. Statutory Interpretation*

Section 1225(b) provides that: “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding.” 8 U.S.C. § 1225(b)(2)(A) (*emphasis added*). Detention is mandatory in those circumstances. *See Jennings*, 583 U.S. at 300.

Section 1226(a) provides that: “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Aliens detained under § 1226(a) may appeal an “initial custody determination”—including the setting of bond—to an IJ. 8 C.F.R. § 1236.1(d)(1). *See also Jennings*, 583 U.S. at 288–89 (the AG “may release” noncitizens on “bond” or “conditional parole,” “except as provided in subsection (c)”) (quoting §§ 1226(a) and (c)).

Petitioner has never applied for admission to the United States. He entered the country without inspection or admission in 1995. He did not enter through a port of entry. Petitioner was detained on March 12, 2025, without ever having been in removal proceedings. The Supreme Court has explained that “aliens already in the country pending the outcome of removal proceedings” may be detained pursuant to § 1226(a). *Jennings*, 583 U.S. at 289.

If, as the Government argues, § 1225(b) applies to all “applicant[s] for admission,” then there was no need for Congress to limit the statute’s application to “alien[s] seeking admission.” This Court should avoid reading this part of § 1225(b) out of existence. *See United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (“[E]very clause and word of a statute should have meaning.”)

The court should give each and every word meaning and this includes the title. A “title is especially valuable [where] it reinforces what the text’s nouns and verbs independently suggest.” *Yates v. United States*, 574 U.S. 528, 552 (Alito, J., concurring in judgment). Section 1225 is titled: “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” The added word of “arriving” indicates that the statute governs “arriving” noncitizens, not those present already. *See Pizarro Reyes v. Raycraft*, 2025 WL 2609425 at \*5 (E.D. Mich. Sep. 9, 2025). This is supported by the text of the statute itself, which is focused on

inspections for noncitizens when they arrive via “crewman” or as “stowaways.” 8 U.S.C. § 1225(b)(2). These limited, and more specific methods of entry suggest that Section 1225 is limited to noncitizens arriving at a border or port of entry and are presently “seeking admission” into the United States. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 at \*5 (citing *Dubin v. United States*, 599 U.S. 110, 118 (2023)). This further supports an interpretation that Section 1225 is much more limited in scope than the Respondents assert. *Id.*

In addition to the title and language of Section 1225, the statutory scheme is also helpful in identifying the intent of Congress when enacting it. Courts are generally tasked with “constru[ing] statutes, not isolated provisions.” *King v. Burwell*, 576 U.S. 473, 486 (2015). The Supreme Court has explained that Section 1226 is the “default rule” and “applies to aliens already present in the United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 288, 301 (2018). The inclusion of the “catchall” provision, after a more specific and detailed Section 1225, is likely no coincidence, but rather a way for Congress to capture noncitizens who fall outside of the specified categories.” *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 at \*5, *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1258 (W.D. Wash. 2025).

Further, if all aliens here illegally are already subject to mandatory detention under § 1225(b), then the Laken Riley Act’s recent expansion of mandatory detention under § 1226(c)(1)(E) would also be beside the point. *See* Pub. L. No. 119-1, 139 Stat. 3 (2025). Respectfully, this Court should not render an Act of Congress superfluous. *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995) (“When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.”).

Respondents cite to *Garibary-Roblero v. Noem* in support of their contention that “applicants for admission” can “encompass both arriving aliens and illegal entrants” *See*

Respondents' Response in opposition at 19; (citing *Garibary-Roblero v. Noem* No. 1:25-CV-177-H, 2025 WL 3264478, at \*2 (N.D. Tex. Oct. 24, 2025)).

**ii. Legal Developments under *Maldonado Bautista***

On November 20, 2025, the district court for the Central District of California granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have largely decided this order does not apply beyond the jurisdiction of the *Maldonado Bautista* Court.

If the declaratory judgment were to be extended to all eligible class members across the United States, Petitioner would be an eligible class member.<sup>1</sup>

---

<sup>1</sup> Petitioner is a member of the Bond Eligible Class, as he:

- a. does not have lawful status in the United States and is currently detained at the Adams County Correctional Center. He was apprehended by immigration authorities on March 12, 2025;
- b. entered the United States without inspection over twenty-five (25) years ago and was not apprehended upon arrival, and
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

### III. PETITIONERS DETENTION DOES VIOLATE DUE PROCESS

The Due Process Clause of the Constitution extends to all persons regardless of status. *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025). This is meant to include noncitizens, even those who entered the country without permission. *Id.* To determine whether a civil detention violates a detainee’s due process right, courts apply a three-part balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). The Court must weigh: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the United States’ interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id.* at 335.

#### ***A. Mathews Analysis Suggests there is a Due Process Violation***

##### ***i. Private Interest***

Petitioner has a significant private interest in not being detained. One of the “most elemental of liberty interests” is to be free from detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Courts can also consider the detainee’s condition of confinement. *Martinez v. Noem*, 2025 WL 2598379, at \*2 (W.D. Tex. Sep. 8, 2025). This is to determine if the conditions are indistinguishable from criminal incarceration. *Id.* In this case, Petitioner is separated from his wife and his eight (8) United States citizen children. One of Petitioner’s sons has been diagnosed with Pediatric Acute Onset Neuropsychiatric Syndrome (PANS). This is a huge burden on the family to deal with alone. The family has been deeply affected by his detention. Petitioner’s appeal has been pending for over two months but given the backlog currently faced by the Board

of Immigration Appeals, it is unclear how long he will have to wait for the Board's decision. Therefore, this first factor strongly favors Petitioner.

*ii. Risk of Error*

The second factor concerns the risk of erroneous deprivation of Petitioner's liberty interest because he has been unable to seek a bond under the government's new policy. Given the immigration judge's decision to grant relief to Petitioner, it is unlikely, absent the appeal, that Petitioner would still be detained. Petitioner's inability to seek a new bond hearing based on the government's change of policy means he is at a severe risk of his liberty interest being deprived. In other words, but for the government's bond policy, he likely would have been released on bond while the appeal is pending. Petitioner has extensive ties to the United States and little criminal history in this country or any other country for that matter. The criminal history that caused the initial denial of bond is over twenty years old. Given the subsequent grant of relief, a new bond hearing would likely yield different results.

The procedures under § 1226(a), including an individualized bond hearing by an immigration judge substantially mitigate the risk of erroneous deprivation of Petitioner's liberty, because those procedures require the government to analyze whether Petitioner is a flight risk or a danger to the community. Petitioner is neither a flight risk nor a danger to the community and would easily prove both if given an opportunity. Further, if for some reason the immigration judge did find flight risk, Petitioner could appeal that decision to a higher court or refile with proof of a changed circumstances. The outcome of the bond hearing would be subject to "numerous levels of review, each offering [Petitioner] the opportunity to be heard by a neutral decisionmaker." *Rodriguez Diaz v. Garland*, 55 F.4th 1189, 1210 (9th Cir. 2022) (finding the bond hearing procedures available

through the implementing regulations of § 1226(a) would render “the risk of erroneous deprivation . . . relatively small.”)

As such, this factor also weighs heavily in favor of Petitioner.

*iii. United States’ Interest*

The final *Matthews* factor concerns the United States’ interest in the procedure, as well as any financial or administrative burdens associated with permissible alternatives. *Matthews*, 424 U.S. at 335. Petitioner concedes that the United States has a strong interest in ensuring that noncitizens do not present harms to their communities and that they appear for future immigration court proceedings. However, in this case, Petitioner’s criminal history is scant, and he has never missed a court hearing. The only arguable negatives in his case would be his initial illegal entry into the United States more than twenty-five years ago and the drug related charges in 2003. Those were disposed of with no jail time. It is abundantly clear that if the government’s new bond policy, to detain Petitioner without a bond, was no longer in place that, “existing statutory and regulatory safeguards adequately serve the governmental interest in promotion public safety.” *Gunaydin v. Trump*, 2025 WL 1459154, at \*10 (D. Minn. May 21, 2025).

This final factor also weighs heavily in favor of Petitioner.

**IV. THIS COURT HAS JURISDICTION TO GRANT DECLARATORY RELIEF**

As has been argued throughout this Reply, Petitioner does not seek review of his immigration court proceedings. In fact, the immigration judge ruled in favor of his application, granting permanent residency to the Petitioner. **Hundreds** of District Court cases across the country have ended in orders, declaring Petitioners are detained under § 1226(a) **not** § 1225(b)(2), declaring that such a policy is in violation of the plain language of the INA, granting Habeas relief, ordering bond hearings be held, and in many cases ordering the release of the Petitioners straightaway. This

Honorable Court has the same authority and in this particular case, should exercise that authority in favor of Petitioner.

### CONCLUSION

Given the overwhelming support for release from detention or a bond hearing being ordered for Petitioner in this case, we respectfully ask this Court to grant the Habeas Petition.

Dated: January 7, 2026

Respectfully submitted,

/s/Brandon H. Riches

Brandon H. Riches

The Riches Law Firm, PLLC

Mississippi Bar # 105273

P.O. Box 1526

Ocean Springs, MS 39566

Cell/WhatsApp:(228) 800-4178

Email: Brandon@Richeslawfirm.com