


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

CARLOS ESTEBAN SEVERINO,)
(A ))
)
Petitioner,)
)
v.)
)
MIKE LEWIS, Jailer, HOPKINS County Jail;)
and SAMUEL OLSON, Field Office)
Director, Chicago Field Office, Immigration and)
Customs Enforcement,)
)
Respondents.)

Case No. 4:25-cv-00124-DJH

**Petitioner’s Reply to Respondent’s Motion to Dismiss and
Response to Order to Show Cause**

Petitioner’s continued detention is unlawful. Despite Respondent’s claims, this Court has jurisdiction over this petition. Respondent has put forth a number of arguments as to why this Court should accept a brand-new interpretation of 8 U.S.C. §1225, but none of those arguments hold water. Analysis of the language of the statute and review of the section within the greater statutory scheme also reveal that section 1225(b)(2) does not and cannot apply to Petitioner, as courts across the nation (including this Court in a recent decision) have held in similar cases.

1. This Court has jurisdiction to determine whether Petitioner is unlawfully detained.

This Court is not deprived of jurisdiction by any of the sections of law cited by Respondent. Petitioner does not challenge any decision to commence proceedings, adjudicate cases, or execute removal orders, and he is not challenging a final order of removal.

8 U.S.C. § 1252(b)(9) provides:

Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, *arising from any action taken or proceeding*

brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9) (emphasis added).

The Supreme Court squarely held that § 1252(b)(9) does not deprive federal courts of jurisdiction over cases challenging whether or when bond hearings are required in removal proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 292-95 (2018); *see also Nielsen v. Preap*, 586 U.S. 392, 402 (2019) (holding that § 1252(b)(9) did not prohibit judicial review of claims against federal officials for detaining aliens without bond). The Court determined that the “arising from” language of Section 1252(b)(9) should not be interpreted so expansively as to include any action that technically follows the commencement of removal proceedings, because that would bar judicial review of questions of law and fact that are unrelated to the removal proceedings until a final order of removal was issued. *Jennings v. Rodriguez*, 583 U.S. 281, 292-95 (2018). Holding otherwise would run the risk of “mak[ing] claims of prolonged detention [in removal proceedings] effectively unreviewable.” *Jennings*, 583 U.S. at 293; *Helbrum v. Williams*, No. 4:25-cv-00349-SHL-SBJ, 2025 WL 2840273 (S.D. Iowa, Sept. 30, 2025). Petitioner, like the class in *Jennings*, “[is] not asking for review of an order of removal, they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined.” *Id.* at 294-95. Rather, Petitioner is challenging the government authority to *keep* him detained. *Helbrum*, 2025 WL 2840273, at *2-3.

Similarly, 8 U.S.C. § 1252(g) provides:

Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien *arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.*

8 U.S.C. § 1252(g) (emphasis added).

The Supreme Court has explained that this provision is narrow—it applies “only to three discrete actions that the [DHS Secretary] may take: her ‘decision or action’ to *commence proceedings, adjudicate cases, or execute removal orders.*” *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *see also Jennings*, 583 U.S. at 293; *Aditya W.H. v. Trump*, 782 F. Supp. 3d 691, 705–06 (D. Minn. 2025).

A request to review a bond hearing is not one of these three acts, but rather is “independent of, and collateral to, the removal process.” *Helbrum v. Williams*, 2025 WL 2840273 (Sept. 30, 2025) quoting *Hasan v. Crawford*, --- F. Supp. 3d ----, 2025 WL 2682255, at *3–4 (E.D. Va. Sept. 19, 2025) (internal citations omitted). *See also Alonso v. Tindall*, 3:25-cv-652-DJH, at 3(W.D. Ky. November 4, 2025) (quoting *Reno* for the idea that it is implausible that the mention of the three acts is a shorthand way of referring to all claims arising from deportation proceedings and finding jurisdiction).

Similarly, sections 1252(a)(2)(B) and (a)(5) limit review of “an order of removal,” and provide that the process outlined in that section is the sole means of review. Petitioner is not seeking review of an order of removal; indeed, no such order has been entered in his case. *See, e.g., Ozturk v. Trump*, 779 F. Supp. 3d 462, 483-84 (D. Vt. 2025)

Federal courts in recent months have reviewed the same jurisdictional arguments and have roundly rejected them. *See, e.g., Alonso v. Tindall*, 3:25-cv-652-DJH, at 3(W.D. Ky. November 4, 2025); *Helbrum v. Williams*, 2025 WL 2840273 (S.D. Iowa, Sept. 30, 2025);

Hasan v. Crawford, --- F. Supp. 3d ----, 2025 WL 2682255, at *3–4 (E.D. Va. Sept. 19, 2025); *Maldonado v. Olson*, --- F. Supp. 3d ----, 2025 WL 2374411, at *5–8 (D. Minn. Aug. 15, 2025); *Aditya W.H. v. Trump*, 782 F. Supp. 3d 691, 705–06 (D. Minn. 2025).

2. Petitioner was detained pursuant to section 8 U.S.C. §1226 and not 8 U.S.C. § 1225.

8 U.S.C. § 1225(b)(2), INA § 235(b)(2), requires mandatory detention of “Applicants for Admission.” Conversely, noncitizens detained under 8 U.S.C. § 1226(a), INA § 236(a), are not subject to mandatory detention and may be released on bond or on their own recognizance. The Board of Immigration Appeals’ decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), determined for the first time that any person who crossed the border unlawfully and is later taken into immigration detention is subject to detention under 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention and no longer eligible for release on bond. The decision strips the immigration judge’s authority to hear a bond request for any noncitizen present in the United States without having been inspected and admitted and who are later apprehended by DHS.

Respondents argue in their response that Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) and not under 8 U.S.C. § 1226. This Court is not required, and should not, give deference to *Matter of Yajure Hurtado*. In *Loper Bright*, the Supreme Court was clear that “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority,” and indeed “may not defer to an agency interpretation of the law simply because a statute is ambiguous.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Rather, this Court can simply look to the Supreme Court’s own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens “seeking admission into the

country”—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens “already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

District Courts in ten of the eleven circuits have issued decisions agreeing with Petitioner’s arguments. It is Counsel’s understanding that now over 100 district court judges – including this Court - have agreed with Petitioner’s arguments finding these detentions unlawful, and that bond hearings are merited.¹

First Circuit

- *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025)
- *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025)
- *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025)
- *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025)
- *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025)
- *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025)
- *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025)

Second Circuit

- *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025)
- *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025)

Fourth Circuit

- *S.D.B.B. v. Johnson*, 2025 WL 2845170 (M.D. N. Caro. Oct. 7, 2025)
- *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025)
- *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025)

Fifth Circuit

- *Erazo Rojas v. Noem*, 2025 WL 3038262 (W.D. Texas, October 30, 2025)
- *Lopez-Areveloa v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025)
- *Lopez Santos v. Noem*, 2025 WL 2642278, (W.D. La. Sept. 11, 2025)
- *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025)

Sixth Circuit

- *Alonso v. Tindall*, 3:25-cv-652-DJH, at 3 (W.D. Ky. November 4, 2025)
- *Cervantes Rodriguez v. Noem*, 2025 WL 3022212 (W.D. Mich., Oct. 29, 2025)

¹ Kyle Cheney, *More than 100 judges have ruled against the Trump admin’s mandatory detention policy*. Politico (Oct. 31, 2025), [More than 100 judges have ruled against the Trump admin’s mandatory detention policy - POLITICO](#)

- *Martinez-Elvir v. Olson*, 2025 WL 3006772 (W.D. Ky. Oct. 27, 2025)
- *Sanchez Ballestros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025)
- *Patel v. Tindall*, 2025 WL 2823607 (W.D. Ky. Oct. 3, 2025)
- *Singh v. Lewis*, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025)
- *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025)
- *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025)
- *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025)

Seventh Circuit

- *Padilla v. Noem*, 2025 WL 2977742 (N.D. Ill. Oct. 22, 2025)
- *Miguel v. Noem*, 2025 WL 23976480 (N.D. Ill. Oct. 21, 2025)
- *H.G.V.U. v. Smith*, 2025 WL 2962610 (N.D. Ill. Oct. 20, 2025)
- *Ochoa Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025)
- *B.D.V.S. v. Forestal*, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025)
- *Campos Leon v. Forestal*, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025)
- *Alejandro v. Olson*, 2025 WL 2896348 (S.D. Ind. Oct. 11, 2025)

Eighth Circuit

- *Aditya W.H. v. Trump*, 782 F. Supp. 3d 691 (D. Minn. 2025).
- *Helbrum v. Williams*, 2025 WL 2840273 (S.D. Iowa, Sept. 30, 2025).
- *Duenas Arce v. Trump*, 2025 WL 2675934 (D. Neb. Sept. 18, 2025)
- *Lorenzo Perez v. Kramer*, 2025 WL 2624387 (D. Neb. Sept. 11, 2025)
- *Ozuna Carlon v. Kramer*, 2025 WL 2624386 (D. Neb. Sept. 11, 2025)
- *Genchi Palma v. Trump*, 2025 WL 2624385 (D. Neb. Sept. 11, 2025)
- *Hernandez Marcelo v. Trump*, 3:25-cv-0000934 (S.D. Iowa Sept. 10, 2025)
- *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025)
- *Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025)
- *Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept 3, 2025)
- *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025)
- *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025)
- *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025)
- *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025)
- *Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025)

Ninth Circuit

- *N.A. v. LaRose*, 2025 WL 2841989 (S.D. Cal. Oct. 7, 2025)
- *E.C. v. Noem*, 2025 WL 2916364 (D. Nev. Oct 14, 2025)
- *Guerrero Lepe v. Andrews et al*, No. 1:2025cv01163 (E.D. Cal. 2025)
- *Sanchez Roman v. Noem* 2025 WL 2710211 (D. Nev. Sep. 23, 2025)
- *Maldonado Vazquez v. Feeley*, 2025 WL 2676082 (D. Nev. Sept. 17, 2025)
- *Salcedo Aceros v. Kaiser*, 2025 WL 2637503 (N.D. Cal Sept. 12, 2025)

- *Cuevas Guzman v. Andrews*, 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025)
- *Caicedo Hinestroza v. Kaiser*, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025)
- *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025)
- *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025)
- *Vasquez Garcia et al. v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025)
- *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025)
- *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025)
- *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025)

Tenth Circuit

- *Caballero v. Baltazar*, 25 WL 2977650 (D. Colo. Oct. 22, 2025)
- *Salazar v. Dedos* 2025 WL 2676729 (D. NM. Sept. 17, 2025)
- *Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025)

Eleventh Circuit

- *J.A.M. v. Streeval*, 2025 WL 3050094 (M.D. Ga. November 1, 2025)

Courts have overwhelmingly held in favor of Petitioner's reading of the statute.

As stated by this Court, in construing a statute, the court must give each and every word meaning, including the title. *See Alonso v. Tindall*, 3:25-cv-652-DJH, at 11, (W.D. Ky. November 4, 2025); *see also Barrera*, 2025 WL 2690565, at *3-4, citing *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. *Barrera*, 2025 WL 2690565, at *3-4, citing *Pizarro Reyes* 2025 WL 2609425, at *5. Indeed, all of section 1225 concerns inspections of aliens arriving to the United States. Courts are meant to "construe statutes, not isolated provisions." *King v. Burwell*, 576 U.S. 473, 486 (2015).. Section 1225(c) concerns "arriving" aliens who should be removed on security grounds; section 1225(d) concerns officers authority to conduct inspections of arriving vessels or conveyances. Read as a whole, then, section 1225 concerns those noncitizens *arriving* to the

United States, not those already here for thirty years, like Petitioner, who are not “seeking” admission. *See Alonso v. Tindall*, 3:25-cv-652-DJH, at 12 (W.D. Ky. November 4, 2025)

According to ICE’s own documentation, the agency does not consider Petitioner an “arriving alien.” On the Notice to Appear, the immigration official is given a choice of three boxes to check:

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

See DN 11-2 at PageID #76. The agency checked the second box, and not the first. By the agency’s own admission, it does not consider Petitioner an “arriving alien.” *See Cordero Pelico v. Kaiser*, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025).

Further, the warrant authorizing Petitioner’s arrest was issued “pursuant to sections 236 [8 U.S.C. 1226] and 287 of the Immigration and Nationality Act.” *See* DN 11-4 at PageID 81. Respondents would have this court simply ignore the legal authority ICE relied upon to justify Petitioner’s arrest and detention – ignore the sole document provided to Respondent that outlines the authority under which he was arrested and detained. “[W]ords are how the law constrains power.” *Niz-Chavez v. Garland*, 141 S.Ct. 1474, 1486 (2020). We must assume that paperwork issued by the government means what it says. In the words of the Supreme Court, “If men must turn square corners when they deal with the government, it cannot be too much to expect the government to turn square corners when it deals with them.” *Niz-Chavez*, 141 S. Ct. at 1486 (2020). The court should not credit a post hoc justification for Petitioner’s detention. *Cf. Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 22, 24 (2020) (holding that, under

arbitrary and capricious review in the administrative law context, “[t]he basic rule here is clear: An agency must defend its actions based on the reasons it gave when it acted,” not on “impermissible post hoc rationalizations”); *see also* *Alonso v. Tindall*, 3:25-cv-652-DJH, at 1 16 (W.D. Ky. November 4, 2025)(citing to *DHS v. Regents* and rejecting Respondent’s argument that the sections of law cited on the warrant are not relevant and providing post-hoc justification).

The Respondent presents a tortured reading of *Jennings v. Rodriguez*, 583 U.S. 281 (2018) to justify its reading of 8 U.S.C. § 1225(b). In that case, the Supreme Court examined whether periodic bond hearings were required under various mandatory detention statutes. The Court stated, “As noted, §1225(b) applies primarily to aliens *seeking entry* into the United States...” *Jennings*, 583 U.S. at 297 (emphasis added). And conversely, “As noted, §1226 applies to aliens *already present* in the United States.” *Id.* at 303 (emphasis added). The *Jennings* decision does not support Respondents’ new interpretation of section 1225(b)(2). *See also, Barrera*, 2025 WL 2690565, at *4; *Rodriguez v. Bostock*, 779 F.Supp.3d 1239 (W.D. Wash 2025) (further examining *Jennings*); *Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025) (finding that courts have repeatedly held that § 1225 applies to arriving aliens, while § 1226 governs detention of aliens already in the country and relying upon *Jennings*).

Another “fundamental canon of statutory construction” is that “the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *Gundy v. United States*, 588 U.S. 128, 140–41 (2019). Respondent’s proposed interpretation would nullify a recent amendment to the statutory scheme, the Laken Riley Act. Despite Respondent’s claim that “legislation passed in 2025 has little bearing on the meaning of

legislation enacted in 1996,” “[w]hen Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.” *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995); *see also Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386, (2013) (“[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.”). If Congress amended section 1226 to create mandatory detention for certain inadmissible noncitizens, it follows that those noncitizens were not already subject to mandatory detention. *See Alonso v. Tindall*, 3:25-cv-652-DJH, at 13 (W.D. Ky. November 4, 2025); *Cordero Pelico*, 2025 WL 2822876, at *12; *Barrera*, 2025 WL 2690565, at *3.

3. Petitioner’s continued detention violates the Immigration & Nationality Act and his substantive due process rights

Petitioner’s continued detention is in violation of the Immigration & Nationality Act. It also violates substantive due process. Respondents argue that Petitioner’s due process rights are not violated because he is properly detained under 8 U.S.C. § 1225(b)(2). However, Petitioner is not properly detained under 8 U.S.C. § 1225, he is detained under 8 U.S.C. § 1226. Petitioner’s interest in being free from physical detention is “one of the most elemental of liberty interests.” *Romero*, 2025 WL 2403827, at *7, citing *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004). Petitioner’s detention without providing him a bond hearing violates due process. *See Alonso v. Tindall*, 3:25-cv-652-DJH, at 17 (W.D. Ky. November 4, 2025).

Conclusion

For the reasons stated above, Petitioner requests this Honorable Court issue a writ of habeas corpus and order Respondent to immediately release Petitioner from custody or to schedule a bond hearing.

Dated: November 5, 2025

Respectfully Submitted,

/s/ Kevin A. Raica
One of his attorneys

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Certificate of Service

I hereby certify that on November 5, 2025, I filed this document via CM/ECF, which will automatically provide service to all counsel of record.

/s/ Kevin A. Raica
Attorney for Petitioner