


UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
OWENSBORO DIVISION

SIDAHMED EDAHI (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-00129-RGJ

**REPLY TO RESPONDENT’S RESPONSE TO PETITIONER’S HABEAS PETITION**

Petitioner submits this reply to Respondent’s Response to his Petition for Writ of Habeas Corpus. Petitioner continues to be detained unlawfully during his pending removal proceedings, in violation of his constitutional and statutory rights.

**A. Petitioner Does Not Challenge His Ongoing Removal Proceedings and 8 U.S.C. § 1252 does not deprive this Court of jurisdiction**

This Court is not deprived of jurisdiction by 8 U.S.C. § 1252(b)(9) and (g) as Petitioner’s claims do not challenge any decision to commence proceedings, adjudicate cases, or execute removal orders. Section 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's decision in *Jennings v. Rodriguez* is instructive here and supports Petitioner's position that this Court does have jurisdiction and that Section 1252(b)(9) does not present a jurisdictional bar. The Supreme 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). Petitioner, like the class in *Jennings*, "are 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.

Section 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's decision in *Jennings* is again instructive here related to Section 1252(g). The *Jennings* court writes that "[w]e did not interpret [section 1252(g)] to sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General. Instead, we read the language to refer to just those three specific actions themselves." *Jennings*, 583 U.S. at 294 (citing *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)).

An immigration judge's (IJ) review of a bond determination is a distinct proceeding from an alien's underlying removal proceeding. 8 C.F.R. § 1003.19(d). It is "clear bond hearings are separate and apart from deportation proceedings." *Gornicka v. INS*, 681 F.2d 501, 505 (7th Cir. 1982). Here, Petitioner is seeking review of his unlawful detention, as he is unable to seek a bond hearing in front of the Immigration Court as a result of the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). He is not challenging a removal order or anything else listed in Section 1252(b)(9) and (g) which would strip this court of jurisdiction. This Court has jurisdiction over Petitioner's matter.

**B. Petitioner is detained under 8 U.S.C. § 1226 and not under 8 U.S.C. § 1225.**

Here, Respondents argue that Petitioner is detained pursuant to section 1225(b)(2). However, their argument overlooks what has already occurred in Petitioner's case. Petitioner was previously placed in full removal proceedings under 8 U.S.C. section 1229a and was not detained at the time his removal proceedings were being heard. *See* Exhibits 1-4; *Ramirez v. Calder*, No. 25-cv-06248-BLF, 2025 WL 2419263, at \*6 (N.D. Cal. Aug. 21, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110, at \*4 (N.D. Cal. Sept. 3, 2025). The Immigration Court in Cleveland, Ohio has since refused to transfer Petitioner to the detained docket or schedule a bond hearing. Dkt. 1, at 5.

Now, Respondents contend that the government can pursue mandatory detention under section 1225(b) at any time. But the plain language of the statute demonstrates that section 1225(b) generally involves a decision at the border. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (finding 1225(b)(1) applies to aliens *initially* determined to be inadmissible due to "fraud, misrepresentation, or lack of valid documentation). Expedited removal proceedings under § 1225 only apply if three conditions are met: the applicant (1) is inadmissible because he or she lacks a

valid entry document; (2) has not been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility”; and (3) is among those whom the Secretary of Homeland Security has designated for expedited removal. § 1225(b)(1)(A)(i), (iii)(I)-(II); *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020). Here, Petitioner specifically fails to meet the standards for § 1225 under the second and third conditions. *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at \*4 (W.D. La. Sept. 11, 2025). Respondents’ interpretation of § 1225 would render § 1226 unnecessary. *Id.*

Further, even when ICE has discretion to detain or release a noncitizen pending removal proceedings, after release, Petitioner has protected liberty interest in remaining out of custody. *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at \*5 (W.D. La. Sept. 11, 2025); *Ramirez v. Calder*, No. 25-cv-06248-BLF, 2025 WL 2419263, at \*6 (N.D. Cal. Aug. 21, 2025); *Pinchi v. Noem*, 2025 WL 2084921, at \*3 (N.D. Cal. July 24, 2025). Due process requires a hearing before an immigration judge before re-detention. *Id.* 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.

Over the past several months, district courts in the Sixth Circuit have all disagreed with Respondents’ interpretation and have subsequently granted relief to habeas petitioners. *Sanchez Alvarez v. Noem et al.*, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025); *Diaz Sandoval v. Raycraft*, 2025 WL 2977517 (E.D. Mich. Oct. 17, 2025); *Pacheco Mayen v. Raycraft*, 2025 WL 2978529 (E.D. Mich. Oct. 17, 2025); *Contreras-Cervantes, et al., v. Raycraft*, 225 WL 952796 (E.D. Mich. Oct. 17, 2025); *Contreras-Lomeli v. Raycraft*, 2025 WL 2976739 (E.D. Mich. Oct. 21, 2025); *Santos Franco v. Raycraft*, 2025 WL 2977118 (E.D. Mich. Oct. 21, 2025); *Casio-Mejia*, 2025 WL 2976737 (E.D. Mich. Oct. 21, 2025); *Rodriguez Carmona v. Noem*, 2025 WL

2992222 (W.D. Mich. Oct. 24, 2025); *Gimenez Gonzalez v. Raycroft*, 2025 WL 3006185 (E.D. Mich. Oct. 27, 2025); *Puerto-Hernandez v. Lynch*, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Marin Garcia v. Noem, et al*, 2025 WL 3017200 (W.D. Mich. Oct. 29, 2025); *Cervantes Rodriguez v. Noem*, 2025 WL 3022212 (W.D. Mich. Oct. 29, 2025); *Escobar Ruiz v. Raycraft et al.*, 2025 WL 3039255 (W.D. Mich. Oct. 31, 2025); *De Jesus Ramirez v. Noem at al.*, 2025 WL 3039266, at \*1 (W.D. Mich. Oct. 31, 2025).

Outside of the Sixth Circuit, courts in every Circuit -the First Circuit, Second Circuit, Fourth Circuit, Fifth Circuit, Seventh Circuit, Eighth Circuit, Ninth Circuit, Tenth Circuit and Eleventh Circuit- have all also confirmed that 8 U.S.C. § 1226 is the proper statute to apply for detention of those already within the U.S..<sup>1</sup> This Court is not required, and should not, give

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<sup>1</sup> *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); *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); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 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); *Corona Diaz v. Olson*, No. 25-cv-12141 (N.D. Ill. Oct. 29, 2025); *Patel v. Noem et al*, No. 25-cv-11180 (N.D. Ill. Oct. 24, 2025); *Perez Padilla v. Noem et al*, No. 25-cv-12462 (N.D. Ill. Oct. 22, 2025); *Miguel v. Noem, et al*, No. 25-cv-11137 (N.D. Ill. Oct. 21, 2025); *H.G.V.U v. Smith et al*, No. 25-cv-10931 (N.D. Ill. Oct. 20, 2025); *Ochoa Ochoa v. Noem et al.*, No. 25-cv-10865 (N.D. Ill. Oct. 16, 2025); *Campos Leon v. Forestal*, 2025 WL 2694763 (S.D. In. Sept. 22, 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); *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); *Salazar v. Dedos* 2025 WL 2676729 (D. NM. Sept. 17, 2025); *Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025)

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).

The text of sections 1225 and 1226, together with binding Supreme Court precedent interpreting those provisions and the numerous district court decisions confirm that he is subject to section 1226(a)’s discretionary detention scheme.

### CONCLUSION

For the foregoing reasons, this Court should order Respondents to release Petitioner, or in the alternative, to schedule a bond hearing for Petitioner’s removal proceedings within 3 days of the order and accept jurisdiction to issue a bond order.

Dated: November 7, 2025

Respectfully Submitted,

/s/ Lauren E. McClure

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