**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF LOUISIANA**
**MONROE DIVISION**

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| CAROLINA MOLINA CASTRO<br><br>Petitioner,<br><br>v.<br><br>Brian ACUNA, et. al.,<br><br>Respondents. | Case No.: 3:25-CV-01647<br><br>**Judge DOUGHTY**<br><br>**Magistrate Judge MCCLUSKY** |

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner CAROLINA MOLINA CASTRO submits this Reply to Respondents' Opposition. The Government's position is inconsistent with the INA's statutory structure, the plain language of Petitioner's NTA, controlling Supreme Court precedent, and the decisions already issued within this District including *Martinez v. Trump*, *Kostak v. Trump*, and *Lopez-Santos v. Noem*. Petitioner is detained under 8 U.S.C. § 1226(a), not §1225(b)(2), and is entitled to an individualized custody determination.

## I. SUMMARY OF ARGUMENT

The relevant facts are straightforward and undisputed:

1. Petitioner has lived continuously in the United States since approximately 2005 nearly 20 years of continuous presence.

2. She was encountered in the interior of the United States and detained at her biometrics

appointment on October 15, 2025.

3. Petitioner has two U.S. citizen children where she was the caregiver for them and U.S. citizen husband with an approved I 130. In addition, she is facially eligible for cancellation of removal under INA § 240A(b) (42B).

4. DHS initiated full § 240 removal proceedings and not expedited removal.

5. The NTA explicitly designates Petitioner as "an alien present in the United States who has not been admitted or paroled."

6. The Immigration Judge denied custody redetermination solely on the basis of Matter of Yajure Hurtado and did not make any individualized findings.

Under binding law, including Jennings v. Rodriguez and the statutory interpretation adopted by Judge Edwards of this district in *Martinez*, Petitioner falls under 8 U.S.C. § 1226(a), not § 1225(b)(2). She is therefore entitled to a bond hearing.

**II. THE NTA CONFIRMS THAT § 1226(a) GOVERNS PETITIONER'S DETENTION**

The NTA issued by DHS checks the box stating:

**"You are an alien present in the United States who has not been admitted or paroled."**

A number of judges in this district court as well as over 200 in the United States has consistently held that such designation places a noncitizen squarely within § 1226(a). See Kostak v. Trump, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); Lopez-Santos v. Noem, 2025 WL 2642278 (W.D. La. Sept. 11, 2025). Most importantly, in Carlos Ventura Martinez v. Trump, decided October 22, 2025, this Court held:

**"As an alien already present in the United States, he is subject to § 1226, not § 1225."**

Petitioner is exactly the type of interior arrestee governed by § 1226(a), not § 1225(b)(2).

## III. § 240 PROCEEDINGS FURTHER CONFIRM THE APPLICABILITY OF § 1226(a)

Petitioner was placed into full removal proceedings under INA § 240. Courts nationwide, including this District, have consistently held that once DHS elects to proceed under § 240, detention authority falls under § 1226(a). See Jennings v. Rodriguez, 583 U.S. 281 (2018); see also Gomes v. DHS; Doe v. Moniz; Encarnacion v. Moniz. Nothing in the INA authorizes DHS to initiate § 240 proceedings and then retroactively apply § 1225(b)(2). Interior arrests processed under § 240 fall under § 1226(a) as a matter of law.

## IV. RESPONDENTS' THEORY THAT A 20-YEAR RESIDENT IS "SEEKING ADMISSION" IS CONTRARY TO LAW AND COMMON SENSE

Respondents argue that Petitioner, despite having lived in the United States for more than two decades, remains forever an "applicant for admission." This interpretation:

1. Collapses the statutory distinction between §§ 1225 and 1226;

2. Conflicts with the Supreme Court's reading in Jennings;

3. Would treat long-term residents with deep community ties the same as those encountered at the border;

4. Has been rejected by numerous district courts; and

5. Has been rejected by Judge Edwards in this District Court in **Martinez**.

Petitioner is a long-term resident, mother of two U.S. citizen children, and a clear § 240A(b) cancellation candidate. She is not an "arriving alien" and cannot be subjected to § 1225(b)(2) mandatory detention.

## V. BARRIOS, OLIVEIRA, GARIBAY-ROBLEDO, AND KUM ARE FACTUALLY INAPPOSITE

Respondents rely on Barrios Sandoval, Oliveira, Garibay-Robledo, and Kum. Those cases involved petitioners who:

a. Lacked proof of long-term U.S. residence;

b. Were apprehended under circumstances suggesting recent entry; or

c. Were in post-arrival inadmissibility scenarios unlike Petitioner's.

In contrast, Petitioner's situation mirrors Martinez, Kostak, and Lopez-Santos:

a. 20 years of continuous U.S. residence;

b. Arrested in the interior;

c. In § 240 removal proceedings;

d. NTA designates her as present in the United States; and

e. Hurtado was the sole reason for denying bond jurisdiction.

Accordingly, the Government's cited cases do not control.

## VI. EXHAUSTION IS NOT REQUIRED BECAUSE IT IS FUTILE

The Immigration Judge denied custody redetermination solely because Hurtado barred jurisdiction. The agency is therefore incapable of granting relief. Under Fifth Circuit law, exhaustion is unnecessary when the agency cannot provide a remedy. See Montano v. Texas, 867 F.3d 540 (5th Cir. 2017); Robinson v. Wade, 686 F.2d 298 (1982). Because relief is unavailable at the IJ/BIA level, exhaustion would be futile.

## VII. THIS COURT HAS HABEAS JURISDICTION

This Court has repeatedly rejected Respondents' jurisdictional arguments in Martinez, Kostak, and Lopez-Santos. Determining the statutory basis of detention is a pure legal question that falls within the Court's habeas jurisdiction under 28 U.S.C. § 2241. Sections 1252(b)(9) and 1252(g) do not bar this Court's review.

## VIII. DUE PROCESS REQUIRES AN INDIVIDUALIZED CUSTODY DETERMINATION

Petitioner is a 20-year resident, mother of two U.S. citizen children, and a strong candidate for cancellation of removal. She is also the beneficiary of an approved I 130. She has zero criminal history. Detaining her without any opportunity for an individualized hearing violates due process. See Zadvydas v. Davis, 533 U.S. 678 (2001); Demore v. Kim, 538 U.S. 510 (2003); Jennings v. Rodriguez, 583 U.S. 281 (2018).Because § 1226(a) governs Petitioner's detention, she must receive an individualized bond hearing.

## IX. CONCLUSION

For these reasons, and those stated in the Petition, Petitioner respectfully requests that this Court:

1. Declare that Petitioner is detained under 8 U.S.C. §1226(a);
2. Order Respondents to provide Petitioner with a bond hearing before an Immigration Judge within seven (7) days; or, alternatively, order his immediate release under appropriate conditions;
3. Grant such further relief as the Court deems just and proper.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 22, 2025, I presented the foregoing to the Clerk of Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following: Brian ACUNA, et al. I hereby certify that I have mailed by United States Postal Service this filing to the following non-CM/ECF participants: Warden.

/s/ David J. Rozas
Attorney for Petitioner