UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BELLARMINO AYALA RODRIGUEZ, an adult, Petitioner, v. SAM OLSON, Chicago Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; KRSITI NOEM, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and PAMELA BONDI, Attorney General of the United States, in their official capacities, Respondents.	Case No. 25 C 13322

REPLY TO RESPONDENTS' RESPONSE TO AMENDED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully submits this Reply to Respondent's Response to the Petition for Writ of Habeas Corpus. Respondents' arguments, many of which have been repeatedly rejected by courts in the Northern District in recent habeas decisions, fail to rebut Petitioner's entitlement to relief.

Courts in this district have consistently held that (1) this Court has jurisdiction to review cases of this nature and (2) 8 U.S.C. § 1225(b)(2) does not apply to the Petitioner.

I. This Court has jurisdiction to review the Petitioner's case.

A. 8 U.S.C. § 1252(g) does not bar this Court's jurisdiction.

Section 1252(g) provides that "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). This section does not bar this Court's jurisdiction in the present case. Petitioner's Habeas Corpus claim is not challenging a decision to "commence [removal] proceedings," the "adjudication" of his immigration case, or the "execut[tion] [of] removal orders" against him. Rather, this present case is meant to challenge the purportedly unlawful nature of his detention. This interpretation of Section 1252(g) is supported and affirmed by recent Northern District of Illinois case law.[1]

B. 8 U.S.C. § 1252(b)(9) does not bar this Court's jurisdiction.

Under 8 U.S.C. § 1252(b)(9), "[j]udicial 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." The Supreme Court has interpreted this statute narrowly. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). If a petitioner does not ask "for review of an order of removal … challenging the decision to detain them in the first place or to seek removal; … [nor] even challenging any part of the process by which their removability will be determined," this section does not bar jurisdiction. *Id.* at 294-95.

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[1] *H.G.V.U. v. Smith, et al.*, No. 25 C 10931 (Coleman, J.), *Corona Diaz v. Olson et al.,* No. 25 CV 12141 (Shah, J.), *Ochoa Ochoa v. Noem, et. al.*, Case No. 25-cv 10865, Dkt. 20 at 6 (Oct. 16, 2025) (Jennings, J.), *Mariano Miguel v. Noem et al*, No. 1:2025cv11137 - Dkt 21 (N.D. Ill. 2025).

Petitioner is not challenging the underlying removal proceedings in the present case. Instead, Petitioner is challenging the unlawful detention under the framework of Section 1225(b). This Court has upheld this distinction numerous times in recent weeks.[2]

C. 8 U.S.C. § 1252(a)(2)(B)(ii) does not bar this Court's jurisdiction.

Under this section, "no court shall have jurisdiction to review …any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this chapter to be in [their] discretion." 8 U.S.C. § 1252(a)(2)(B)(ii). Whether the government has authority to detain someone under a detention statute is "not a matter of discretion." *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). Accordingly, the authority to detain the Petitioner, which is the issue raised by the petition, is not subject to discretion. This section does not, therefore, strip this Court of its jurisdiction.[3]

II. Petitioner's Detention Should be Analyzed under 8 U.S.C. § 1226(a), Rather than 8 U.S.C. § 1225(b)(2).

28 U.S.C. § 1225(b)(2)(A) states: "Subject to subparagraphs (B) and (C), 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 proceeding under section 1229a of this title." By contrast, Section 1226(a) is the default provision governing discretionary detention of noncitizens "already in the United States." *Jennings*, 583 U.S. at 303.

The plain language of the statute draws the distinction between those seeking admission (1225(b)) and those already in the country (1226(a)), a distinction upheld by the Supreme Court in *Jennings*. This interpretation is also supported by historical practice and should be upheld by this

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[2] *H.G.V.U. v. Smith, et al.*, No. 25 C 10931, *Corona Diaz v. Olson et al.,* No. 25 CV 12141, *Ochoa Ochoa v. Noem, et. al.*, Case No. 25-cv 10865.

[3] *Corona Diaz v. Olson et al.,* No. 25 CV 1214, *Ochoa Ochoa v. Noem, et. al.*, Case No. 25-cv 10865.

Court: "Historically, noncitizens who resided in the United States, but who had previously entered without inspection, were not deemed 'arriving aliens' under § 1225(b), but were instead subject to § 1226(a)." *Maldonado v. Olson*, 2025 WL 2374411, at *11 (D. Minn. Aug. 15, 2025).

Petitioner has been in the United States for more than three decades and is not seeking admission into the country. Rather, he is already present in the country, meaning this Court should apply Section 1226(a) to Petitioner. Non-citizens detained under 1226(a) are entitled to "receive bond hearings at the outset of detention." 8 U.S.C. § 1236.1(d)(1). As such, the Court should find that Petitioner is entitled to a 1226(a) bond hearing.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the writ of habeas corpus and order Petitioner's release. Additionally, Petitioner requests this Court order an individualized bond hearing within a reasonable period of time with the proper burden on the Government. The Government has not demonstrated that continued detention is lawful or consistent with due process, and habeas relief is therefore warranted.

Respectfully Submitted,

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