

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

SUMMARY OF ARGUMENT

MARIA JESUS LOPEZ-CHAVEZ

Petitioner,

v.

PAMELA BONDI, ET AL

Respondents.

Case No.: 25-CV-01668

Judge DOUGHTY

Magistrate Judge MCCLUSKY

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

Petitioner, through undersigned counsel, respectfully submits this Reply to Respondents’ Opposition. The Government’s position is inconsistent with the statutory structure of the INA, the plain language of §1225(b)(2), the NTA issued in this case, Supreme Court precedent, and, critically, recent federal district court decisions rejecting Matter of Yajure Hurtado’s expansive interpretation of §1225. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025).

For the reasons outlined below, Petitioner remains detained under 8 U.S.C. §1226(a), not §1225(b)(2), and is entitled to an individualized custody redetermination hearing.

I. SUMMARY OF ARGUMENT

A. The Government's Theory That §1225(b)(2) Applies to All Interior Arrests Is Incorrect as a Matter of Law

Respondents' argument rests entirely on one premise: that any noncitizen "present in the United States who has not been admitted" is automatically an "applicant for admission" subject to mandatory detention. See *Gov't Opp.* at 8–15. But this collapses the statutory distinction between "applicant for admission" and "seeking admission," and ignores the limiting language Congress wrote into §1225(b)(2)(A).

Section 1225(b)(2)(A) mandates detention only when:

"the examining immigration officer determines that *an alien seeking admission* is not clearly and beyond a doubt entitled to admission."

As numerous courts have recognized, "seeking admission" is an operative limitation on the scope of §1225. In addition, on November 20, 2025, the federal Court for the Central District of California granted partial summary judgment for the four petitioners, holding that the government's policy is inconsistent with the plain language of the Immigration and Nationality Act ("INA"), and that petitioners are properly subject to § 1226(a). See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025).

Five days later, on November 25, 2025, the Court certified a **nationwide class of individuals** who are being subject to the government's new no bond policy, the Bond Eligible Class, and expressly "extend[ed] the same declaratory relief granted to Petitioners to the Bond

Eligible Class as a whole.”

The court held that:

“Respondents’ interpretation of the INA cannot be squared with the statutory text or statutory scheme.”

Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d

---, 2025 WL 3288403 at 9.

The certified *Bond Eligible Class* includes:

“all noncitizens...who entered without inspection, **were not apprehended upon arrival**, and are not detainees under §1226(c), §1225(b)(1), or §1231.”

— *Id.* at 2–3 (emphasis added)

Thus, the California Court squarely held that **interior arrestees who entered without inspection are not §1225(b)(2) detainees**. And, as is noted in *Maldonado Bautista*, plaintiff is, in fact, a member of the class contemplated in that case and by virtue of the declaratory judgment, should be entitled to a bond hearing under 8 USC 1226. Petitioner is an interior arrestee encountered in Arkansas after 24 years of continuous residence. Nothing about her present posture fits within Congress’s use of “seeking admission.”

B. Respondents’ Reliance on *Matter of Yajure Hurtado* Has Been Rejected by Federal Courts and Should Be Rejected Here

Respondents rely heavily on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). However, *Hurtado* is not binding on this Court, and courts across the country are still both before and after *Hurtado* rejecting its statutory analysis. See Petition at pp. 18–22 (collecting decisions from at least 25 federal courts). But again, most importantly, *Maldonado Bautista* held that *Hurtado*’s interpretation is inconsistent with:

- the text of the INA,
- the statutory structure distinguishing §§1225 and 1226,
- and the Supreme Court's explanation of the detention scheme in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

Maldonado Bautista found that noncitizens arrested in the interior after long residence are governed by §1226(a), not §1225(b)(2). This directly undermines Respondents' assertion that the plain language of §1225 requires mandatory detention of all unadmitted aliens..

C. *Topal v. Bondi* is factually distinguishable and appears to not contemplate *Maldonado Bautista* Class Certification

This court recently ruled in *Topal v. Bondi* the Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) and therefore is not entitled to a bond hearing. However, this case is factually distinguishable from plaintiff's case. Petitioner in *Topal* was put into proceedings 1 month after entering the United States while plaintiff has been in this country for over 25 years.

Topal involved an individual with **no long-term ties**, no equities, and no years-long presence. This court in *Topal* seemingly did **not** consider the *Maldonado Bautista* decision, which issued **one day before** *Topal* and directly contradicts its analysis. The *Topal* opinion explicitly relies on *Hurtado*'s reasoning. This reasoning is the exact same which *Maldonado* has rejected as structurally inconsistent with the INA while issuing a class wide declaratory judgment.

"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).

The district court certified the following Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista*, 2025 WL 3288403, at *9. Under this class definition, there are two groups of people who have claims to relief. First, there are those who entered the United States, were not apprehended at or near the border or close in time to their entry, and who were later arrested by immigration authorities.(our plaintiff here). Second, there are those who were apprehended at or near the border and close in time to their entry, were released on recognizance, and then were re-detained by immigration authorities after residing in the United States.

D.The Nta Confirms that 1226 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).

E. § 240 Proceedings Further Confirm the Applicability of 1226.

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.

F. Respondents' Theory That a 25-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 25 years, 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 and a clear § 240A(b) cancellation candidate. She has two children who are United States Citizens as well as two children here under DACA deferred action. She is not an “arriving alien” and cannot be subjected to § 1225(b)(2) mandatory detention.

I. G. 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 Maldonado Bautista:

- a. 24 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 is the sole reason for denying bond jurisdiction.

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

H. Exhaustion is Not Required Because it is Futile

The Immigration Judges are denying 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.

I. 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.

J. Due Process Requires an Individualized Custody Determination

Petitioner is a 24-year resident, mother of U.S. citizens and a strong candidate for cancellation of removal. Upon information and belief, she also has no significant 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, he must receive an individualized bond hearing.

K. 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 her immediate release under appropriate conditions;
3. Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ David Joseph Rozas
David Joseph Rozas, Esq.
Local Counsel
Rozas and Associates
7967 Office Park Blvd
Baton Rouge, LA 70809
Telephone: (225) 478-1111
Fax: (225) 246-7005
Email: david@rozaslaw.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 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