



U.S. Department of Justice

United States Attorney
District of New Jersey
Civil Division

ALINA HABBA
ACTING UNITED STATES ATTORNEY
SPECIAL ATTORNEY

Kevin J. Maggio
Assistant United States Attorney

401 Market Street, 4th Floor
P.O. Box 2098
Camden, NJ 08101

kevin.maggio@usdoj.gov

Main: (856) 757-5105
Direct: (973) 986-6708

November 19, 2025

Via Electronic Filing

Hon. Susan D. Wigenton, U.S.D.J.
United States District Court, D.N.J.
Martin Luther King Building
& U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

**Re: *Ulloa v. Bondi*, No. 25-cv-17316 (SDW)
Answer to § 2241 Petition**

Dear Judge Wigenton:

This Office represents Respondents in the above-referenced habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement (“ICE”) pursuant to 8 U.S.C. § 1225(b)(2). We write to respectfully request that the Court dismiss or deny the Petition (ECF No. 1) for the reasons set forth below.

This matter raises the same issues the Court recently decided in *Patel v. Almodovar*, No. 25-cv-15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025), and *Guaman Naula v. Noem*, No. 25-cv-16792 (SDW), 2025 WL 3158490 (D.N.J. Nov. 12, 2025). On or about April 16, 2019, Petitioner entered the United States without inspection or parole. Pet. ¶ 4. On November 3, 2025, ICE arrested Petitioner and filed a Notice to Appear with the immigration court, the initiating document for removal proceedings, charging Petitioner with removability under Immigration and Nationality Act (“INA”) § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), for being present in the United States without admission or parole. Ex. 1 at 1 (Notice to Appear); *see also* Pet. ¶ 9.¹ On that same day, ICE detained Petitioner at a holding facility in

¹ Like the notices to appear in *Patel* and *Guaman Naula*, Petitioner’s Notice to Appear specifically identifies him as “an alien present in the United States who has not been

Hon. Susan D. Wigenton, U.S.D.J.

November 19, 2025

Page 2

Brooklyn, New York, before moving him to the Delaney Hall Detention Facility in Newark, New Jersey. Pet. ¶ 9. Petitioner was detained at the Delaney Hall Detention Facility at the time he filed the Petition. *Id.* ¶ 26.²

Accordingly, Petitioner is subject to mandatory detention under § 1225(b)(2) pursuant to ICE’s interpretation of “applicants for admission” under § 1225(a), which is consistent with the Board of Immigration Appeals’ (“BIA”) recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).³ Petitioner argues that his detention under § 1225(b)(2) is unlawful and that he “should be subject to the detention provisions of § 1226(a).” Pet. ¶¶ 80-83.⁴ He seeks, *inter alia*, his release

admitted or paroled.” *Compare* Ex. 1 at 1 (Notice to Appear), *with Patel*, 2025 WL 3012323, at *3, *and Guaman Naula*, 2025 WL 3158490, at *1.

² On November 12, 2025, the Court entered an Order to Answer that, *inter alia*, prohibited Respondents from “mov[ing] Petitioner outside of the District of New Jersey during these proceedings.” ECF No. 2 at 1. ICE has advised this Office that on November 7, 2025, five days prior to entry of the Order to Answer, it transferred Petitioner to the Otay Mesa Detention Center in San Diego, California.

³ *But cf.* Pet. ¶¶ 67-68 (asserting that “the BIA’s reasoning [in *Matter of Yajure Hurtado*] is unpersuasive and [at odds with every District Court that has been confronted with the same question of statutory interpretation”).

⁴ Petitioner is a Special Immigrant Juvenile (“SIJ”), Pet. ¶ 7, a classification available to noncitizen children subject to state juvenile court proceedings related to abuse, neglect, abandonment, or a similar basis under state law. 8 U.S.C. § 1101(a)(27)(J). SIJ classification permits recipients to apply for an adjustment to legal-permanent-resident status if certain other requirements are met, including that an immigrant visa is “immediately available” at the time of applying. 8 U.S.C. § 1255(a), (h). However, “[t]he fact that petitioner has been given [SIJ] status has no effect on ICE’s statutory and regulatory authority to detain him.” *Benito Vasquez v. Moniz*, No. 25-cv-11737, 2025 WL 1737216, at *2 (D. Mass. June 23, 2025) (citing *United States v. Granados-Alvarado*, 350 F. Supp. 3d 355, 357 (D. Md. 2018); *Cruz-Gonzalez ex rel. D.M.S.C. v. Kelly*, No. 16-cv-5727, 2017 WL 3390234, at *5 (E.D. Pa. Aug. 7, 2017); USCIS, *Policy Alert 2022-10* (Mar. 7, 2022)); *see also* USCIS, *Policy Alert 2025-07* (June 6, 2025) (“SIJ classification does not render an alien lawfully present . . .”), *available at* <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf> (last visited Nov. 19, 2025). That is because SIJ classification does not by itself confer lawful status or affect removability. *Matter of Cahuec Tzalam*, 29 I. & N. Dec. 300, 305 n.3 (BIA 2025) (citations omitted); *see also Cortez-Amador v. U.S. Attorney Gen.*, 66 F.4th 429, 432-33 (3d Cir. 2023) (holding that a SIJ recipient may be “subject to removal simply for presence in the United States ‘without being admitted or paroled’”); *Murillo-Chavez v. Bondi*, 128

Hon. Susan D. Wigenton, U.S.D.J.

November 19, 2025

Page 3

from ICE custody unless he is provided a bond hearing by the immigration court under § 1226(a) within seven days, and a declaration that “the appropriate statutory provision that governs [his] detention and eligibility for bond” is § 1226(a), not § 1225(b)(2). *Id.*, Prayer for Relief (b), (d).

Respondents contend, as they did in *Patel* and *Guaman Naula*, that Petitioner’s detention is governed by 8 U.S.C. § 1225(b)(2) because he is a noncitizen who entered the United States without inspection or parole who was detained by immigration authorities without having been lawfully admitted. Consequently, it is ICE’s position that Petitioner is an “applicant for admission” who is not entitled to a bond hearing. However, if the Court holds that § 1226(a) rather than § 1225(b)(2) applies to Petitioner, ICE respectfully submits that the appropriate remedy is a bond hearing at which Petitioner bears the burden, not immediate release.⁵

In *Patel*, the Court ruled that detention was improper under § 1225(b)(2) and ordered a bond hearing under § 1226(a) within ten days. In doing so, the Court sided with the many courts around the country that have rejected ICE’s “wide-sweeping interpretation of § 1225(b)(2)(A)’s ‘seeking admission’ element” (i.e., “that it is satisfied by the mere fact that Petitioner is present in the United States without admission”). *See Patel*, 2025 WL 3012323, at *3 (collecting cases).⁶ ICE, however,

F.4th 1076, 1085-86 (9th Cir. 2025) (holding that SIJ classification does not constitute an “admission” under the INA); *Granados-Alvarado*, 350 F. Supp. 3d at 357 (“[A] SIJ designation does not strip the U.S. government of all removal powers.”).

⁵ *See Valeriano v. Soto*, No. 25-cv-16100 (MAS) (D.N.J. Oct. 1, 2025), ECF No. 4 at 2 (Order) (“As Petitioner acknowledges, even under his reading of the relevant immigration statutes, he is still subject to detention under 8 U.S.C. § 1226(a), albeit with an entitlement to seek bond from an immigration judge. Should Petitioner prevail in this matter, the proper relief would constitute an order directing the Government to provide Petitioner with the bond hearing to which he contends he is entitled under § 1226(a).”); *cf. Borbot v. Warden Hudson Cnty. Corr. Facility*, 906 F.3d 274, 278-79 (3d Cir. 2018) (holding that Due Process does not require the government to bear the burden of proof in bond hearings under 8 U.S.C. § 1226(a)); *but see, e.g., Rivera Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 WL 2753496, at *10-11 (D.N.J. Sept. 26, 2025) (ordering petitioner’s release and “temporarily enjoin[ing] respondents from re-arresting petitioner under . . . 8 U.S.C. § 1226(a) for 14 days after her release”).

⁶ In at least two other recent habeas actions before courts in this District that had previously decided the § 1225(b)(2) issue, the courts granted the petitions before respondents submitted a written answer because respondents confirmed that the

Hon. Susan D. Wigenton, U.S.D.J.

November 19, 2025

Page 4

respectfully asserts that its detention of Petitioner is lawful while acknowledging that many federal district courts, including this one, have rejected its interpretation of § 1225. *See, e.g., Ayala Amaya v. Bondi*, No. 25-cv-16428-ESK, 2025 WL 3033880, at *2 (D.N.J. Oct. 30, 2025) (collecting cases); *Rivera Zumba*, 2025 WL 2753496, at *4-9; Pet. ¶ 64 (collecting cases). The BIA, the highest administrative body that interprets immigration law in the immigration courts, has held that § 1225(b)(2) does apply to noncitizens like Petitioner. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216. Accordingly, ICE and the immigration judges must follow that decision in litigation relating to a noncitizen's detention in immigration proceedings. ICE continues to respectfully assert that position before this Court in the absence of precedential authority to the contrary from the Third Circuit.

Should Your Honor have any questions or concerns, please do not hesitate to contact this Office. Thank you very much for your consideration of this request.

Respectfully submitted,

TODD BLANCHE

United States Deputy Attorney General

ALINA HABBA

Acting United States Attorney

Special Attorney

By: s/ Kevin J. Maggio
KEVIN J. MAGGIO
Assistant United States Attorney
Attorneys for Respondents

Encls.

relevant detention authority was § 1225(b)(2) and that ICE intended to assert the same arguments it had asserted in the prior habeas actions. *See Vicens-Marquez v. Soto*, No. 25-cv-16906 (KSH), ECF No. 15 (Mem. & Order) (D.N.J. Nov. 6, 2025); *Chiquito Barzola v. Warden*, No. 25-cv-17326 (MEF), ECF No. 10 (Order) (D.N.J. Nov. 12, 2025). Consistent with that procedure, Respondents remain available to discuss the merits of this or any future habeas petition raising similar issues at a conference at the Court's convenience.