

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

Federico Diaz Garcia,

Petitioner,

Kristi Noem, Secretary of Homeland Security;
Pamela Bondi, U.S. Attorney General, Todd
M. Lyons, Acting Director of Immigration and
Customs Enforcement; Joshua Johnson, Dallas
Field Office Director; Marcello Villegas,
Warden of Bluebonnet Detention Center

Respondents.

Civil Case No 1:25-CV-247

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

Respectfully submitted,

/s/ Lance Curtright

Lance Curtright

Texas Bar No. 24032109

De Mott, Curtright, Armendariz, LLP

8023 Vantage Drive, Ste. 800

San Antonio, Texas 78230

(210) 590-1844 (telephone)

(210) 212-2116 (facsimile)

Lance@dmcausa.com

/s/ Evelyn Galvan

Evelyn Galvan

Michigan Bar No. P87992

De Mott, Curtright, Armendariz, LLP

8023 Vantage Drive, Ste. 800

San Antonio, Texas 78230

(210) 590-1844 (telephone)

(210) 212-2116 (facsimile)

evelyn.galvan@dmcausa.com

In *Maldonado Bautista v. Santacruz*, the U.S. District Court for the Central District of California granted partial summary judgment to the petitioners on November 20, 2025, finding that the government's interpretation of the Immigration and Nationality Act (INA) is inconsistent with the statute's plain language. No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the court certified a nationwide class and extended declaratory relief to all class members. *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The court held that members of the Bond Denial Class are detained under 8 U.S.C. § 1226(a)—not § 1225(b)(2)(A)—and therefore may not be categorically denied consideration for release on bond. *Maldonado Bautista*, 2025 WL 3289861, at *11. Petitioner in this case is clearly a member of the bond class.

However, class counsel reports that “the government appears to have instructed IJs not to abide by the order.”¹ As a result, IJs have continued to deny bond requests on the ground that they are not bound by *Maldonado Bautista*. See Exh. A. In light of the government's refusal to comply with that ruling, Petitioner respectfully asks this Court to grant his habeas petition and order his immediate release. In the alternative, Petitioner requests that the Court direct the Respondents to provide him a bond hearing within five days of the Court's order, at which the Government must prove by clear and convincing evidence that he is a danger or a flight risk. See *Erazo Rojas v. Noem et al.*, No. EP-25-CV-443-KC, --- F. Supp. 3d ----, 2025 WL 3038262, at *4 (W.D. Tex. Oct. 30, 2025) (“The weight of authority also holds that when ordering a bond hearing as a habeas remedy, the burden of proof should be on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.”).

¹ *Practice Advisory: Seeking Bond Hearings for Maldonado Bautista Class Members – Those Who Entered Without Inspection and are Subject to Yajure-Hurtado*, https://www.nwirp.org/our-work/impact-litigation/assets/bautista-noem/2025.12.03%20-20Draft%20Bautista%20Practice%20Advisory_final.pdf (last visited Dec. 3, 2025).

In their response, the Respondents fail to grapple with Petitioner's clear bond eligibility under 8 U.S.C. § 1226(a) by providing a fallacious interpretation of 8 U.S.C. § 1225(b)(2), offering an erroneous account of congressional history, and misapplying the Due Process Clause and *Mathews* factors. The Court should follow the growing avalanche of other district court opinions made on this issue and grant the Petitioner's writ of habeas corpus. *See* ECF Doc. 1 at 2-4.

I. The Respondents' construction of the detention statutes runs contrary to the provisions' plain language, their legislative history, and decades of practice.

The Supreme Court considered 8 U.S.C. §§ 1225(b) and 1226 and the classes of individuals to whom they apply in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). The Court explained that § 1225(b) “applies primarily to aliens seeking entry into the United States (‘applicants for admission’ in the language of the statute).” *Id.* at 297. In contrast, the Court explained that § 1226 “applies to aliens already present in the United States.” *Id.* at 303. The Court further noted that “Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings,” and also “permits the Attorney General to release those aliens on bond.” *Id.* Contrary to the Respondents' claims, § 1225(b) does not require the Petitioner's detention; rather, § 1226(a) plainly allows for his release on bond.

§ 1225(b)(2) is inapplicable because the plain language of the statute limits its application to noncitizens who are “seeking admission” into the United States. The statute 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.

§ 1225(b)(2) (Emphasis added). For § 1225(b)(2)(A) to apply, “several conditions must be met—in particular, an ‘examining immigration officer’ must determine that the individual is: (1) an ‘applicant for admission’; (2) ‘seeking admission’; and (3) ‘not clearly and beyond a doubt entitled to be admitted.’” *Martinez v. Hyde*, No. 1:25-cv-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238, at *6–7 (D. Mass. July 24, 2025). “One who is ‘seeking admission’ is *presently* attempting to gain admission into the United States.” *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025) (emphasis added). “Admission”, in turn, refers to “lawful entry . . . into the United States after inspection and authorization by an immigration officer.” *Id.* § 1101(a)(13)(A). Thus, the plain language of § 1225(b)(2)(A) limits its application to individuals who are presently seeking lawful entry into the United States.

The statute is inapplicable here because the Petitioner was not “seeking admission” when he was detained, much less seeking “lawful entry . . . after inspection and authorization by an immigration officer.” *See Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008), as amended (June 5, 2008) (“Under th[e] statutory definition, ‘admission’ is the lawful *entry* of an alien after inspection, something quite different, obviously, from post-entry adjustment of status.”) (emphasis in original)). Once an individual has entered the United States, there is no longer any ongoing act of seeking admission; the process is complete. *See Bethancourt Soto v. Soto et al.*, No. 25-CV-16200, 2025 WL 2976572, at *6 (D.N.J. Oct. 22, 2025). By the time the Petitioner was detained, he had been residing in the United States for approximately 15 years and was thus an “alien[] already present in the United States,” rather than an “alien[] seeking entry.” *Jennings*, 583 U.S. at 297. Under *Jennings*, this means that § 1226, rather than § 1225(b) applies.

In their response, Respondents maintain that § 1225(b)(2) applies to all “applicants for admission,” *see* ECF Doc. 10 at 6-10, but that reading ignores the statute’s independent requirement that the applicant for admission also be “seeking admission into the United States.

These terms have distinct meanings, and both should be given effect. “If the provision were intended to apply to all ‘applicant[s] for admission,’ there would be no need to include the phrase ‘seeking admission’ in the statute.” *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996, at *7 (D. Mass. Oct. 3, 2025) (alterations in original).

In their drive to dramatically expand the expansion of § 1225(b)(2), the Respondents do not meaningfully engage with the plain meaning of 8 U.S.C. § 1226(a)(2), which authorizes the IJ to grant bond to noncitizens who entered the country unlawfully. 8 U.S.C. § 1226(a) provides, in pertinent part, as follows:

- (a) Arrest, detention, and release.
On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—
 - (1) may continue to detain the arrested alien; and
 - (2) may release the alien on—
 - (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
 - (B) conditional parole . . .

Section § 1226(a) specifically applies to “an alien” arrested “on a warrant” who is “detained pending a decision on whether the alien is to be removed from the United States.” This statute clearly applies to the Petitioner’s case. As the Supreme Court has stated, § 1226(a) “authorizes the Government to detain certain aliens *already in the country* pending outcome of removal proceedings” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis added).

The Respondents provide the Court with decisions from a minority of courts that ruled in their favor, none of which are binding. The bulk of precedent decisions overwhelmingly support the Petitioner. Moreover, the Seventh Circuit Court of Appeals recently weighed in and also disagreed with the Respondents’ interpretation of the detention statutes. *See Castanon-Nava v. DHS, et al.*, No. 25-3050, slip op. at 19–21 (7th Cir. Dec. 11, 2025). Nevertheless, the Respondents urge this court to follow *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). However, the

issue presented in this case involves statutory construction where the federal courts, not the BIA, hold sway. In *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 391-92 (2024), the Supreme Court explained:

The APA thus codifies for agency cases the unremarkable, yet elemental proposition reflected by judicial practice dating back to *Marbury*: that courts decide legal questions by applying their own judgment. It specifies that courts, not agencies, will decide “*all* relevant questions of law” arising on review of agency action, §706 (emphasis added)—even those involving ambiguous laws—and set aside any such action inconsistent with the law as they interpret it. And it prescribes no deferential standard for courts to employ in answering those legal questions.

If the Court believes the statutes are ambiguous, then it must “exercise [its] independent judgment in deciding whether an agency has acted within its statutory authority” while according only “due respect” to an agency’s interpretation. *Id.* at 413, 370. The amount of “respect” owed to an agency’s interpretation depends on “the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.” *Skidmore v. Swift*, 323 U.S. 134, 140 (1944). The BIA’s current position is inconsistent with earlier pronouncements, decades of prior practice, and the reasoning adopted by multiple federal district courts. *See, e.g., Choglo Chafra v. Scott*, No. 2:25-CV-00437-SDN, --- F. Supp. 3d ----, 2025 WL 2688541, at *8 (D. Me. Sept. 21, 2025). Accordingly, the BIA’s interpretation should not be granted any deference and given little respect.

Further, the Respondents provide no answer to the Laken Riley Act’s (LRA) effect on the statutes’ interpretation, and nor can they convincingly do so. Applying § 1225(b)(2)(A) to persons like the Petitioner would nullify the portion of the LRA that amends § 1226(a) to require mandatory detention for non-citizens who (1) are deemed inadmissible because they are “present in the United States without being admitted or paroled” and (2) have been arrested for, charged with, or convicted of certain crimes. 8 U.S.C. §§ 1182(a)(6)(A)(i), 1226(c)(1)(E). If, as Respondents claim, § 1225(b)(2)(A) required mandatory detention for all non-citizens deemed inadmissible because

they are present in the United States without being admitted or paroled, then Congress would have had no reason to amend § 1226 to require mandatory detention for non-citizens who not only fall into that category but also have been convicted of enumerated crimes. *See, e.g., Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, --- F. Supp. 3d ----, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025) (D. Mass. Sept. 9, 2025); *Loa Caballero v. Baltazar*, No. 25-CV-03120-NYW, --- F. Supp. 3d ----, 2025 WL 2977650, at *7 (D. Colo. Oct. 22, 2025). Respondents' position runs contrary to the presumption that, when Congress amends a statute, "it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995) (abrogation on other grounds recognized by *Riley v. Bondi*, 606 U.S. 259, 276 (2025)).

II. The Respondents' construction of the detention statutes runs contrary to legislative history and decades of practice.

The Respondents misunderstand the legislative history of §§ 1225(b)(2)(A) and 1226(a). *See* ECF Doc. 10 at 10-14. Contrary to the Respondents' claim, legislative history and decades of immigration law practice heavily favor the Petitioner's argument. It has been common practice in immigration law that aliens within the United States are eligible for a bond hearing under 1226(a). Specifically, before IIRIRA's passage, noncitizens who entered the country without inspection were subject to discretionary release from detention. *See Orellana*, 2025 WL 2809996, at *8. A congressional report issued during IIRIRA's passage confirms that the revised § 1226(a) "restates the current provisions ... regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." *Id.* at *9 (citing H.R. Rep. No. 104-828, at 210 (1996) and H.R. Rep. No. 104-469, pt. I, at 229 (1996)). Thus, rather than eliminating bond eligibility for individuals who entered without inspection, Congress reaffirmed the Attorney General's longstanding authority to arrest and release such individuals under § 1226(a).

The Respondents' understanding of § 1225(b)(2)(A) expands its reach "far beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing [§] 1226(a) such that it would have extremely limited ... application." *Lopez Benitez v. Francis*, No. 1:25-cv-05937-DEH, 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 8, 2025). "[T]he line historically drawn between" §§ 1225(b)(2)(A) and 1226(a)—including by the DHS—and which "mak[es] sense of their text and the overall statutory scheme, is that [S]ection 1225 governs detention of non-citizens 'seeking admission into the country,' whereas [S]ection 1226 governs detention of non-citizens 'already in the country.'" *Id.* Respondents have failed to provide any persuasive reason to justify the radical shift they urge in the interpretation of the two statutes.

Respondents claim that finding for the Petitioner "would lead to an 'incongruous result' that rewards aliens who unlawfully enter the United States without inspection and subsequently evade apprehension for a number of years. *See* ECF Doc. 10 at 9. Yet, there is no anomaly in treating a recent arrival differently from one who, like the Petitioner, has resided in the United States for years and has substantial family ties in this country. Congress did not act unreasonably by allowing immigration judges to consider these very different classes of nonimmigrants differently—allowing bond for those with demonstrable equities accumulated over years of physical presence in the United States but not for new arrivals. As the Supreme Court explained, "once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

III. The Due Process Clause entitles Petitioner to habeas corpus relief based on unlawful detention.

The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. "[T]he Due Process clause applies to all 'persons' within the United

States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects.” *Id.* at 690. Courts analyze due process claims in two steps. *Ky. Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460 (1989). The first step asks whether the government deprived the claimant of a protected liberty or property interest; and, if so, the second asks whether the procedural safeguards the government provided to the claimant were constitutionally adequate. *See id.* Here, the Petitioner has a weighty liberty interest in his freedom even if the “government wields significant discretion.” *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CBD), --- F. Supp. 3d ----, 2025 WL 2337099, at *11 (D. Ariz. Aug. 11, 2025).

To determine whether the Respondents have deprived him of such interest without a constitutionally adequate procedure, the court should apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), which is the framework for evaluating procedural due process claims in the immigration context. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022); *Hernandez v. Sessions*, 872 F.3d 976, 993 (9th Cir. 2017); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). These factors all favor a determination that the Petitioner is being held without due process of law.

A decision from the Northern District from December 2, 2025, accepted the Magistrate’s decision that favors the Petitioner’s side of this argument. *See Parada-Hernandez v. Johnson*, No. 3:25-cv-2729-K-BN, --- F. Supp. 3d ----, No. 3:25-CV-2729-K-BN, 2025 WL 3463682, at *1 (N.D. Tex. Dec. 2, 2025). The Magistrate stated in the decision affirmed by the District Judge:

The undersigned finds that, even if Parada-Hernandez was properly classified under Section 1225, detaining him without a bond hearing violates his Fifth Amendment rights.

Parada-Hernandez v. Johnson, No. 3:25-CV-2729-K-BN, 2025 WL 3463682, at *3 (N.D. Tex. Dec. 2, 2025). The Court there also applied the *Mathews* factors and recommended Petitioner's petition for habeas corpus be granted.

The Respondents erroneously rely upon *Demore v. Kim* for its claim that the Due Process Clause is not implicated. 538 U.S. 510 (2003). However, *Demore* is not relevant to the analysis because it construed the mandatory detention provisions of 8 U.S.C. § 1226(c)—not § 1225(b)(2). *Demore* made certain that § 1226(c) did not provide for a pre-removal order bond hearing, but it made no ruling on whether the misapplication of § 1225(b)(2) to a noncitizen eligible for bond under paragraph (a) of § 1226 violates due process of law. Further, presuming, without conceding, that § 1225(b) does require mandatory detention, it is still distinguishable from *Demore*. In *Demore*, there was no competing statute allowing for a bond hearing, while in this case § 1226(a) clearly allots for it.

CONCLUSION

Respondents have unlawfully detained the Petitioner for almost two months. That may not seem prolonged to the Respondents, *see* ECF 10 at 14, but it is wreaking havoc on the Petitioner, wife, and three U.S. citizen children. It has gone on for long enough and should end now.

Respectfully submitted,

/s/ Lance Curtright

Lance Curtright

Texas Bar No. 24032109

Lance@dmcausa.com

/s/ Evelyn Galvan

Evelyn Galvan

Michigan Bar No. P87992

evelyn.galvan@dmcausa.com

De Mott, Curtright, Armendariz, LLP

8023 Vantage Drive, Ste. 800

San Antonio, Texas 78230

(210) 590-1844 (telephone)
(210) 212-2116 (facsimile)

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that on today's date, December 17, 2025, I electronically filed the above reply to the Respondents' Response in Opposition by using the Court's CM/ECF system which will automatically send a notice of electronic filing to Respondents' counsel.

/s/ Evelyn Galvan
Evelyn Galvan