

Kenia Garcia, Esq.
Florida Bar No. 102561
Garcia & Qayum Law Group, P.A.
3475 West Flagler Street
Miami, FL 33135
(305) 230-4020 Tel
(786) 502-1120 Cell
(305) 503-7370 Fax
Kenia@GQLawGroup.com
Counsel for Petitioner

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Benigno Chali Ben)

Petitioner,)

v.)

Luis Rocha, in his official capacity as)
Warden of the Florence Correctional Center;)
John Cantu, in his official capacity as Phoenix)
Field Office Director, Immigration and Customs)
Enforcement's Enforcement and Removal)
Operations; Todd Lyons, in his official capacity)
as Acting Director of Immigration and Customs)
Enforcement; Kristi Noem, in her official)
capacity as Secretary of the Department of)
Homeland Security; and Pamela Bondi, in her)
official capacity as Attorney General;)
Executive Office For Immigration Review.)

Respondents.)
_____)

No. 2:25-cv-04238-DJH--MTM

PETITIONER'S REPLY

INTRODUCTION

Petitioner filed a Petition for Writ of Habeas Corpus and Request for Order to Show Cause on November 13, 2025. Doc. 1. This Court issued an Order to Show Cause on November 24, 2025, which required Respondents to respond by December 1, 2025, Doc. 4. Respondents filed a Response on December 1, 2025. Doc 6. Petitioner is replying to Respondent's Response *See* Doc. 4; Doc. 6.

ARGUMENT

I. Petitioner is Being Detained Pursuant to 8 USC § 1226, Which Affords Him the Right to Bond.

There are three relevant statutes to authorize detention. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2). Third, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

In the present case, Petitioner has not been ordered removed and is not in expedited removal proceedings, as evidenced by the pending §1229a proceedings against

him. Furthermore, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute is built around the idea that these individuals are subject to border inspections because they are “seeking admission” to the United States. For that reason, it makes little sense to apply § 1225 to someone who has been living inside the United States for nearly 24 years, as Petitioner has, because such an individual is no longer in the posture of an arriving applicant for admission.

Petitioner has been present in the United States for nearly 24 years before his apprehension by ICE, which makes “his detention is governed by 8 U.S.C. § 1226(a), which allows for the release of noncitizens on bond,” *Puga*, 2025 WL 2938369, at *3, not § 1225(b)(2), applicable to noncitizen “applicant[s] for admission” to the United States. § 1225(b)(2)(A). Furthermore, Respondents did not distinguish the present case from *Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282, at *9 (D. Ariz. October 3, 2025), where another Judge in this Court decided that someone in Petitioner’s position is detained pursuant to §1226(a). *See also Hector Rodriguez Plascencia v. Pamela Bondi, et al.*, CV-25-04140-PHX-DWL (ASB), 2025 WL 3250914 at *2 (D. Ariz. Nov. 21, 2025); *Juan De Dios Armenta Soto v. Kristi Noem, et al.*, CV-25-04178-PHX-MTL (MTM), 2025 WL 3294755 at *2 (D. Ariz. Nov. 26, 2025); *Vargas-Murillo v. Bondi*, No. CV-25-03396-PHX-MTL (CDB), 2025 WL 3280904 at *3 (D. Ariz. Nov. 25, 2025).

It has been found by courts throughout the country, including this Court, that Respondents’ interpretation of the INA to expand the scope of 8 USC §1225 detention, “directly contravenes the statute, disregards decades of settled precedent,” and is

erroneous. *Hernandez Alvarez v. Morris*, 25-24806 (S.D. Fla. Oct. 27, 2025), ECF 6 at 5; *Gil-Paulino v. Sec’y of the U.S. Dep’t of Homeland Sec.*, 25-cv-24292 (S.D. Fla. Oct. 10, 2025), ECF 41 at 10; *see also Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sep. 9, 2025); *see also Puga*, 2025 WL 2938369, at *3–6; *Merino v. Ripa*, No. 25-23845, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Lopez v. Hardin*, No. 25-cv830, 2025 WL 2732717, at *2 (M.D. Fla. Sep. 25, 2025); *Guerra v. Joyce*, No. 25-cv-00534, 2025 WL 2986316, at *3 (D. Me. Oct. 23, 2025); *Lomeu v. Soto*, 25-cv-16589, 2025 WL 2981296, at *7–8 (D.N.J. Oct. 23, 2025); *Maldonado v. Cabezas*, No. 25-13004, 2025 WL 2985256, at *4 (D.N.J. Oct. 23, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120, 2025 WL 2977650, at *5–6 (D. Colo. Oct. 22, 2025); *Aguiar v. Moniz*, No. 25-cv-12706, 2025 WL 2987656, at *3 (D. Mass. Oct. 22, 2025); *Rivera v. Moniz*, 25-cv-12833, 2025 WL 2977900, at *1–2 (D. Mass. Oct. 22, 2025); *Avila v. Bondi*, No. 25-3741, 2025 WL 2976539, at *5–7 (D. Minn. Oct. 21, 2025); *Maldonado de Leon v. Baker*, No. 25-3084, 2025 WL 2968042, at *7 (D. Md. Oct. 21, 2025); *Miguel v. Noem*, 25-11137, 2025 WL 2976480, at *6 (N.D. Ill. Oct. 21, 2025); *Pineda v. Simon*, No. 25-cv-01616, 2025 WL 2980729, at *2 (E.D. Va. Oct. 21, 2025); *Matheus Araujo DA Silva v. Bondi*, No. 25-cv-12672, 2025 WL 2969163, at *2 (D. Mass. Oct. 21, 2025); *H.G.V.U. v. Smith*, No. 25-cv-10931, 2025 WL 2962610, at *4–6 (N.D. Ill. Oct. 20, 2025); *Polo v. Chestnut*, No. 25-cv01342, 2025 WL 2959346, at *11 (E.D. Cal. Oct. 17, 2025); *Sanchez v. Minga Wofford, Warden, Mesa Verde Immigr. Processing Ctr.*, No. 25-cv-01187, 2025 WL 2959274, at *3 (E.D. Cal. Oct. 17, 2025); *Alvarez v. Noem*, No. 25-cv-1090, 2025 WL 2942648, at *4–6 (W.D. Mich. Oct. 17, 2025); *Zamora*

v. Noem, No. 25-12750, 2025 WL 2958879, at *1 (D. Mass. Oct. 17, 2025); *Pacheco Mayen v. Raycraft*, 25-cv-13056, 2025 WL 2978529, at *6–9 (E.D. Mich. Oct. 17, 2025); *Diaz Sandoval v. Raycraft*, No. 25-cv-12987, 2025 WL 2977517, at *6–9 (E.D. Mich. Oct. 17, 2025); *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796, at *6–8 (E.D. Mich. Oct. 17, 2025); *Ochoa v. Noem*, No. 25-10865, 2025 WL 2938779, at *4–6 (N.D. Ill. Oct. 16, 2025); *Hernandez v. Crawford*, No. 25-cv-01565, 2025 WL 2940702, at *2 (E.D. Va. Oct. 16, 2025); *Piña v. Stamper*, No. 25-cv-00509, 2025 WL 2939298, at *3 (D. Me. Oct. 16, 2025); *Sequen v. Albarran*, No. 25-cv-06487, 2025 WL 2935630, at *8 (N.D. Cal. Oct. 15, 2025); *Teyim v. Perry*, No. 25-cv-01615, 2025 WL 2950184, at *2–3 (E.D. Va. Oct. 15, 2025); *Singh v. Lyons*, 25-cv-01606, 2025 WL 2932635, at *2–3 (E.D. Va. Oct. 14, 2025); *Alejandro v. Olson*, 25-cv-02027, 2025 WL 2896348, at *7–9 (S.D. Ind. Oct. 11, 2025); *Chavez v. Kaiser*, No. 25-cv-06984, 2025 WL 2909526, at *5 (N.D. Cal. Oct. 9, 2025); *Donis v. Chestnut*, No. 25-01228, 2025 WL 287514, at *11 (E.D. Cal. Oct. 9, 2025); *Eliseo A.A. v. Olson*, No. 25-3381, 2025 WL 2886729, at *2–4 (D. Minn. Oct. 8, 2025); *Covarrubias v. Vergara*, No. 25-cv-112, 2025 WL 2950097, at *3 (S.D. Tex. Oct. 8, 2025); *Buenrostro-Mendez v. Bondi*, No. 25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025); *S.D.B.B. v. Johnson*, No. 25-cv-882, 2025 WL 2845170, at *5 (M.D.N.C. Oct. 7, 2025); *Gonzalez v. Bostock*, 25-cv-01404, 2025 WL 2841574, at *3–4 (W.D. Wash. Oct. 7, 2025); *Hyppolite v. Noem*, No. 25-4304, 2025 WL 2829511, *12 (E.D.N.Y. Oct. 6, 2025); *Artiga v. Genalo*, No. 25-5208, 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025); *Cordero Pelico v. Kaiser*, No. 25-cv-07826, 2025 WL 2822876, at *15 (N.D. Cal. Oct. 3, 2025); *Orellana v. Moniz*, 25-cv-12664,

2025 WL 2809996, at *5 (D. Mass. Oct. 3, 2025); *Elias Escobar v. Hyde*, No. 25-cv-12620, 2025 WL 2823324, at *3 (D. Mass. Oct. 3, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *5–6 (D. Minn. Oct. 1, 2025); *see also Hector Rodriguez Plascencia v. Pamela Bondi, et al.*, CV-25-04140-PHX-DWL (ASB), 2025 WL 3250914 at *2 (D. Ariz. Nov. 21, 2025); *Juan De Dios Armenta Soto v. Kristi Noem, et al.*, CV-25-04178-PHX-MTL (MTM), 2025 WL 3294755 at *2 (D. Ariz. Nov. 26, 2025); *Vargas-Murillo v. Bondi*, No. CV-25-03396-PHX-MTL (CDB), 2025 WL 3280904 at *3 (D. Ariz. Nov. 25, 2025).

CONCLUSION

For the foregoing reasons and those expressed in the Petition for Habeas Corpus and Request for Order to Show Cause, this Court should grant the petition.

Respectfully submitted this 3rd day of December,

/s/ Kenia Garcia
Kenia Garcia, Esq.
Florida Bar No. 102561
Garcia & Qayum Law Group, P.A.
3475 West Flagler Street
Miami, FL 33135
(305) 230-4020 Tel
(786) 502-1120 Cell
(305) 503-7370 Fax
Kenia@GQLawGroup.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Respectfully submitted,

/s/ Kenia Garcia

Kenia Garcia, Esq.

Florida Bar No. 102561

Garcia & Qayum Law Group, P.A.

3475 West Flagler Street

Miami, FL 33135

(305) 230-4020 Tel

(786) 502-1120 Cell

(305) 503-7370 Fax

Kenia@GQLawGroup.com

Counsel for Petitioner

Dated: December 3, 2025