

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

RIMELCK BERNARDES DE FREITAS,
Petitioner,

v.

PATRICIA HYDE, et. al.,
Respondents.

Civil Action No.: 2:25-cv-17487

**PETITIONER'S REPLY TO RESPONDENTS' ANSWER TO PETITION FOR WRIT OF
HABEAS CORPUS**

Petitioner, Rimeclck Bernardes De Freitas ("Mr. De Freitas"), respectfully submits this Reply to Respondents' Answer to his Petition for a Writ of Habeas Corpus, as follows:

I. INTRODUCTION

1. Respondents contend that Mr. De Freitas's detention without bond is authorized under INA § 1225(b)(2) and that he is therefore ineligible for a bond hearing. However, even accepting Respondents' statutory framework for purposes of argument, continued detention without an individualized hearing violates due process.

2. Importantly, Respondents themselves acknowledge that, in recent and analogous cases in this District, Courts have ordered individualized bond hearings under INA § 1226(a) as the appropriate remedy. Accordingly, Mr. De Freitas respectfully requests that this Court order a prompt bond hearing, which is the minimum relief required to satisfy constitutional due process.

**II. RESPONDENTS' RELIANCE ON INA § 1225(b)(2) DOES NOT FORECLOSE
CONSTITUTIONAL DUE PROCESS REVIEW**

3. Respondents argue that Mr. De Freitas is subject to mandatory detention under INA §

1225(b)(2) as an “applicant for admission,” relying primarily on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li.*, 29 I&N Dec. 66 (BIA 2025). However, statutory classification does not eliminate constitutional protections.

4. Civil immigration detention, even when authorized by statute, is subject to the constraints of the Fifth Amendment’s Due Process Clause. Detention without any opportunity for an individualized assessment of flight risk or danger to the community becomes constitutionally suspect when it is prolonged and automatic.

5. Courts in this District have repeatedly recognized that due process requires, at minimum, an individualized bond hearing, even where the government asserts detention authority under § 1225(b)(2).

**III. EVEN UNDER RESPONDENTS’ THEORY, A BOND HEARING IS THE
APPROPRIATE AND RECOGNIZED REMEDY**

6. Respondents concede that, if this Court determines that § 1225(b)(2) does not apply, the appropriate remedy is a bond hearing under INA § 1226(a), not continued detention without review. Critically, Respondents further acknowledge that courts in this District have recently ordered bond hearings in materially indistinguishable cases, including *Vicens-Marquez v. Soto*, No. 25-16906 (KSH) (D.N.J.)¹; *Moreira Da Silva v. LaForge*, No. 25-17095 (EP) (D.N.J.)²; and *Ortega Alvarez v. Bondi*, No. 25-17401 (MEF) (D.N.J.)³.

¹ *Vicens-Marquez v. Soto*, No. 25-16906 (KSH) (D.N.J. Nov. 6, 2025) (ordering an individualized bond hearing for a petitioner detained without bond under INA § 1225(b)(2), concluding that continued detention without an individualized assessment raised due process concerns).

² *Moreira Da Silva v. LaForge*, No. 25-17095 (EP) (D.N.J. Nov. 13, 2025) (granting habeas relief and ordering a bond hearing under INA § 1226(a) without requiring full briefing, based on due process concerns arising from detention without an individualized hearing).

³ *Ortega Alvarez v. Bondi*, No. 25-17401 (MEF) (D.N.J. Nov. 14, 2025) (ordering a prompt individualized bond hearing in a § 1225(b)(2) detention case, emphasizing judicial efficiency and constitutional due process requirements).

7. Thus, Respondents' own briefing confirms that a bond hearing is a judicially accepted and routine form of relief in § 1225(b)(2) habeas cases in this District.

8. Petitioner does not ask this Court to disregard precedent or to order extraordinary relief. Rather, Petitioner seeks the same constitutionally grounded remedy that courts in this District have repeatedly deemed appropriate: an individualized bond hearing before an Immigration Judge.

IV. CONTINUED DETENTION WITHOUT AN INDIVIDUALIZED HEARING VIOLATES DUE PROCESS

9. Mr. De Freitas has been detained since November 7, 2025, a period now exceeding 40 days, without any opportunity to demonstrate that he is neither a flight risk nor a danger to the community.

10. Mr. De Freitas has substantial equities supporting release, including but not limited to the fact that he is **a single father of a one-year-old U.S. citizen child**, for whom he serves as the primary caregiver and financial provider. Mr. De Freitas has maintained a stable and consistent home for his child, particularly after being the victim of a violent stabbing by his former spouse, the child's mother, who no longer plays any role in Petitioner's or the child's life. Moreover, the child's mother was arrested and removed from the United States – **should Mr. De Freitas not be released, his one-year-old daughter may be placed under "guardianship of the state."**

11. Mr. De Freitas is a well-established and respected member of his community, has consistently resided in a stable household, and has demonstrated a strong commitment to lawful conduct. He has a pending asylum application and has received preliminary approval in his U-Visa application, reflecting both his cooperation with law enforcement and the humanitarian nature of his case. De Freitas has no criminal history that would render him a danger to the community, has fully complied with all immigration obligations to date, and has demonstrated every indication that

he will continue to do so if afforded the opportunity for release.

12. Absent an individualized hearing, continued detention serves no regulatory purpose and instead amounts to impermissible punishment in violation of due process.

V. PRAYER FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge pursuant to INA § 1226(a) within 7 days of the Court's Order;
2. Alternatively, order Petitioner's immediate release should Respondents fail to provide such a hearing within the timeframe ordered by the Court; and
3. Grant any other relief the Court deems just and proper.

Dated: December 17, 2025

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Reply to Respondents' Answer to Petition for Writ Of Habeas Corpus with all attachments using the PACER system.

Dated: December 17, 2025

Respectfully Submitted,

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