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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTHERN DISTRICT OF GEORGIA
PHOENIX DIVISION

Bessy Cordova,	)	Case No. 2:25-CV-04264-PHX-GMS (MTM)
	)	
Plaintiff(s)/Petitioner(s), v.	)	
	)	
David Rivas, et. al.	)	
Defendant(s)/Respondent(s).	)	
	)	

REPLY TO RESPONSE IN OPPOSITION

INTRODUCTION

Petitioner respectfully submits this Reply to Respondents' Opposition (Doc. 9) as ordered by the Court's November 21, 2025, Order to Show Cause (Doc. 4). Respondents were directed to show cause why the Petition should not be granted based on the Petition's allegations and the Court's preliminary determination that this matter is "virtually indistinguishable" from *Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025). Nothing in Respondents' filing cures the statutory and constitutional defects in Petitioner's detention.

Respondents rely on a single legal position: arguing that Petitioner is an "applicant for admission" and must therefore be detained under 8 U.S.C. § 1225(b)(2)(A). The Petition, and the Order to Show Cause, demonstrate the opposite. Based on the facts in the Petition and the

governing law, including the Court's own OSC analysis, Petitioner is detained under § 1226(a) and is entitled to an individualized bond hearing or release.

ARGUMENT

I. The Order to Show Cause Properly Found That § 1225(b) Does Not Apply to Petitioner

The OSC concluded: "Petitioner entered this country over a decade ago and was not classified as an arriving alien in her NTA. The Court's review of the Petition suggests this case is virtually indistinguishable from *Echevarria*, and Petitioner is likely entitled to a bond hearing."OSC at 1–2 (Doc. 4). Respondents do not contest any of the facts underlying this conclusion.

A. The Petition establishes that Petitioner is not an arriving alien

The Petition alleges that the Petitioner entered the United States without inspection in February 2013 as a minor. (Pet. ¶¶ 35–36). DHS immediately placed her into § 1229a removal proceedings, not expedited removal. (Pet. ¶¶ 36, 45–52). Petitioner's Notice to Appear did not classify her as an arriving alien. Petitioner has resided in the United States for over twelve years prior to her October 2025 arrest. ICE arrested Petitioner in Florida, far from any port of entry, during a warrantless vehicle stop. (Pet. ¶¶ 2, 6, 48). Respondents do not dispute these facts in their Opposition (Doc. 9).

These facts foreclose application of § 1225(b)(2)(A), which applies only when a person is "seeking admission" and is subject to an examination by an immigration officer.

B. Respondents' Opposition ignores the INA's structure and governing precedent

The INA creates two distinct detention regimes, § 1225 applies to individuals seeking admission, i.e., at the border or presenting themselves for inspection. Section 1226(a) applies to individuals already in the United States and in § 1229a removal proceedings. See *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018). Petitioner plainly falls within § 1226(a). Respondents

identify no authority holding that someone arrested in the interior twelve years after entry is "seeking admission."

II. Respondents' § 1225(b)(2)(A) Argument Is Foreclosed by the Order to Show Cause and National Precedent

Respondents' position, that any noncitizen who originally entered without inspection is forever an "applicant for admission", has been rejected repeatedly throughout 2024–2025 in various district courts, as mentioned in the OSC, including by this Court in *Echevarria* and in more than three dozen similar cases.

A. Respondents cite no case applying § 1225(b)(2)(A) to someone in Petitioner's posture

Courts consistently hold that interior arrests of long-time residents are governed by § 1226(a), not § 1225(b), even when the person originally EWI'd. See *Echevarria v. Bondi*, 2025 WL 2821282, at *7–12* (D. Ariz. 2025); *Aguiriano Romero v. Hyde*, 2025 WL 2403827, at *8–11* (D. Mass. Aug. 19, 2025); *Diaz Martinez v. Hyde*, 792 F. Supp. 3d 211, 222–23 (D. Mass. 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025). Respondents' reading would collapse the statutory distinction between §§ 1225 and 1226, effectively "nullifying" § 1226(a). Courts have rejected that outcome consistently.

B. Many other persuasive decisions reinforce the same conclusion as in *Echevarria*

Although not binding in this District, the reasoning in *Villa v. Normand*, a consolidated case with multiple petitioners in a similar position, is highly persuasive and directly on point. There, the Southern District of Georgia held, "An individual apprehended in the interior, long after any entry, is not 'seeking admission.' Section 1225(b)(2)(A) does not apply." *Villa v. Normand*, No. 5:25-cv-89, slip op. at 13–16 (S.D. Ga. Nov. 4, 2025) (R&R). The District Judge adopted the R&R, "Respondents' interpretation would render § 1226(a) meaningless. Petitioner is detained under §

1226(a) and is entitled to release or a bond determination." *Villa v. Normand*, No. 5:25-cv-89, slip op. at 21–24 (S.D. Ga. Nov. 14, 2025) (Order Adopting R&R). Petitioner's situation mirrors *Villa*: longtime presence in the United States; placement into § 1229a proceedings; interior arrest; DHS retroactively claiming § 1225(b)(2)(A). *Villa* and *Echevarria* thus confirm that Petitioner is not detained under § 1225 and is therefore not subject to mandatory detention.

III. Respondents Fail to Rebut the Petition's APA and Due Process Claims

A. APA Challenge - Unexplained change in detention rationale

The Petition alleges DHS changed Petitioner's custody classification without reasoned explanation, violating the Administrative Procedure Act. See 5 U.S.C. § 706(2)(A); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). Respondents do not rebut this.

B. Due Process – Indefinite, mandatory detention without a hearing

Petitioner alleges she has lived in the U.S. since childhood, has no criminal history, has a pending asylum hearing, and has a one-year-old infant that she was breastfeeding at the time of arrest. Respondents do not address these allegations or the due-process standard. Detention without access to an individualized hearing raises serious constitutional concerns. See *Zadvydas v. Davis*, 533 U.S. 678, 690–92 (2001).

However, the Respondents presented arguments regarding the *Bautista* Class Action in the Central District Court for the United States District of California in *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal.) (Nov. 25, 2025) and argue that although the court granted a partial summary judgment for the plaintiffs in that class, the court has not issued a class-wide declaratory judgment or injunction. Therefore, according to the Respondents, it should have no preclusive effect with respect to other class at this time. (Doc. 9).

Presumably, Respondents are arguing that the Petitioner does not have a right to bond or that an immigration judge does not have jurisdiction to determine whether she is eligible for bond. Therefore, due to the risk that the immigration judge may find that they do not have jurisdiction to review the Petitioner's Motion for Custody Redetermination and set a bond, and due to the risk that the Petitioner may seek further unlawful detention at the conclusion of this matter, the Petitioner respectfully requests that this Honorable Court order her immediate release instead.

CONCLUSION

Respondents' Opposition does not rebut the facts or law in the Petition or the Court's OSC. Petitioner is not an arriving alien. Her detention is governed by 8 U.S.C. § 1226(a). She is entitled to immediate release or, alternatively, an individualized bond hearing; and Respondents have not shown cause why relief should be denied.

WHEREFORE, Petitioner respectfully requests that the Court:

A. Grant the Petition for Writ of Habeas Corpus, and
B. Order Petitioner's immediate release or, at minimum,
C. Order a prompt bond hearing before an Immigration Judge under § 1226(a).

Dated: December 9, 2025

Respectfully submitted,

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