

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JESUS NAVARRO RODRIGUEZ,
A# 203-826-917
Petitioner,

v.

Case No.: 25-1149 JB/JFR.

**Ms. Dora Castro, Warden of Otero County
Detention Facility; Mary De Anda-Ybarra, ICE
District Director, Otero, New Mexico; The
Honorable Ms. Kristi Noem, In Her Capacity
as Secretary of Homeland Security; The
Honorable Ms. Pam Bondi, In Her Capacity as
Attorney General of the United States,**

Respondents.

_____ /

PETITIONER'S REPLY TO RESPONDENTS' MOTION TO DISMISS

INTRODUCTION

Petitioner, (hereinafter "JESUS") hereby files this his Reply to Respondents' Motion to Dismiss and provides the following in support thereof. Respondents move to dismiss this habeas action on the grounds that this Court lacks jurisdiction, that Petitioner's due process rights have been satisfied, and that the Petition fails to state a claim. Respondents' motion rests on an outdated factual premise and an overbroad reading of 8 U.S.C. § 1225(b). Petitioner does not seek review of an expedited removal order. He challenges his prolonged detention without an individualized bond hearing in violation of the Fifth Amendment.

FACTUAL AND PROCEDURAL BACKGROUND

JESUS is the husband and father of two lawful permanent residents. His wife, Juliana Mercedes Lozada and daughter, Maria Nela Navarro Lozada are both lawful permanent residents of the United States and petitioned for JESUS in an I-130 petition. *See Ex. "A" I-130 Petition Receipt attached hereto and incorporated herein; Ex. "B" Marriage Certificate; See Ex. "C" Lawful Permanent Resident Documentation (Permanent Resident Card of Wife; Permanent Resident Card of Daughter; Residence Approval Notices).* That I-130 was approved. *See Ex. "D" I-130 Approval Notice attached hereto and incorporated herein.* On October 22, 2025, Petitioner filed an application to Register Permanent Residence or Adjust Status (Form I-485) based on the approved I-130. Moreover, JESUS applied for the Cuban Adjustment Act and is prima facie eligible because of his entry as an arriving alien. *See Memorandum dated ... Secretary of DHS Mayorkas attached hereto and incorporated herein.* Agreeing with the Petitioner, the Immigration Judge terminated removal proceedings on January 29, 2026, in light of his eligibility to adjust pursuant to Cuban Adjustment Act of 1966. *See Ex. "E" Court Order Terminating Proceedings attached hereto and incorporated herein.* Accordingly, there are no pending removal proceedings justifying continued detention under 8 U.S.C. § 1225(b).

I. THIS COURT HAS JURISDICTION OVER PETITIONER'S DETENTION CLAIM

Respondents incorrectly argue that 8 U.S.C. § 1252(e) strips this Court of jurisdiction. Petitioner does not challenge the underlying expedited removal order or inadmissibility determination. He challenges the constitutionality of his prolonged civil detention without an individualized bond hearing. Federal courts retain habeas jurisdiction under 28 U.S.C. § 2241 to review constitutional challenges to detention. *Jennings v. Rodriguez* held that § 1225(b) does not contain an implicit statutory bond hearing requirement, but the *United States Supreme Court* expressly declined to decide the constitutional question. Thus, constitutional review remains

available. *See Jennings v. Rodriguez*, 583 U.S. ____ (2018) (declining to address the underlying constitutional question of whether prolonged detention violates due process rights).

II. PETITIONER'S CLAIM IS RIPE

Petitioner's injury is ongoing detention without a bond hearing. The constitutional harm is present and concrete. Ripeness does not require completion of immigration proceedings.

III. TERMINATION OF PROCEEDINGS ELIMINATES § 1225 AUTHORITY

Respondents' motion assumes Petitioner remains detained under § 1225(b) pending removal proceedings. That assumption is no longer accurate. On January 29, 2026, the Immigration Judge terminated proceedings. Without pending removal proceedings, detention under § 1225(b) lacks statutory basis. If the Government now contends detention is governed by 8 U.S.C. § 1226, then Petitioner is entitled to a bond hearing or in the alternative immediate release. The Government cannot simultaneously rely on expedited removal authority while proceedings are terminated.

IV. PROLONGED DETENTION WITHOUT BOND VIOLATES DUE PROCESS

Civil immigration detention is subject to constitutional limits. As detention becomes prolonged, due process requires an individualized determination of flight risk and danger. *See id.* Petitioner has significant ties to the United States, including a lawful permanent resident wife and daughter, and a pending adjustment of status application both through I-130 approved petition (LPR Wife) and pursuant to Cuban Adjustment Act of 1966. *See supra.*

The cases relied upon by Respondents, including *Thuraissigiam*¹ and *Mezei*,² involved individuals with no substantial ties to the United States. Petitioner's circumstances are materially different.

V. PETITIONER HAS STATED A VALID CLAIM

Petitioner has plausibly alleged that DHS's continued detention is arbitrary and capricious and violates the Fifth Amendment. At the motion to dismiss stage, the Court must accept factual allegations as true. *See Ashcroft v. Iqbal*, 556 U.S. 662 (2009). The Petition states a plausible claim for relief.

CONCLUSION

For the foregoing reasons, Respondents' Motion to Dismiss should be denied. Petitioner respectfully requests that this Court order an individualized bond hearing at which the Government bears the burden of proving danger to the community or flight risk or grant such other relief as the Court deems just and proper such as immediate release of Petitioner that his over one-year unjust detention may come to an end.

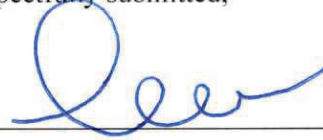
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 18th, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record pro se parties identified on the attached service list in the manner specified, either via transmission of Notices of Electronic filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically notices of Electronic Filing.

¹ *Department of Homeland Security v. Thuraissigiam*, 591 U.S. ___ (2020)

² *Shaughnessy v. United States ex. Rel. Mezei*, 345 U.S. 206 (1953)

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Greg', is written above a horizontal line.

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