

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VILMA YOLANDA PADILLA
ROMERO,

Petitioner,

v.

GRANT DICKEY, *et al.*,

Respondents.

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CASE NO. 4:25-cv-5545

RESPONSE TO SHOW CAUSE ORDER

The Government¹ hereby responds to the Court’s Show Cause Order regarding Vilma Yolanda Padilla’s habeas petition. The Government is not at this time moving for summary judgment because U.S. Immigration and Customs Enforcement (ICE) has not yet provided the documents supporting the basis for Petitioner’s detention. That said, based on the facts pled in the habeas petition, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225.

I. BACKGROUND

Petitioner, Vilma Yolanda Padilla, is a native and citizen of Honduras. Dkt. 1 at ¶ 11. She entered the United States without inspection. *Id.* at ¶ 12. Petitioner’s detention began in November of 2025, and she remains detained under 8 U.S.C. § 1225 pending the conclusion of her removal proceedings.

¹ The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

II. BASIS FOR DETENTION

PETITIONER IS SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225

Petitioner is detained under the mandatory detention provisions of 8 U.S.C. § 1225. Here, Petitioner admits that she is an alien present in the United States who entered the country unlawfully “without inspection.” Dkt. 1 at ¶ 13. Thus, Petitioner would be an alien “present in the United States who has not been admitted,” who is by definition “an applicant for admission.” 8 U.S.C. § 1225(a)(1). Petitioner is therefore subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that “the alien *shall* be detained” in the case of “an alien seeking admission” who “is not clearly and beyond a doubt entitled to be admitted” (emphasis added)).

The Court recently decided this issue in *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025). In denying the habeas petition and granting the Government’s motion for summary judgment, the Court held “[t]he text of § 1225(b)(2)(A) supports the Government’s position.” The Court reasoned that “[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn’t dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies.” *Id.* at *4 (emphasis in original). Thus, the Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government’s favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at * 5; *see also Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL

3265493, at *1 (S.D. Tex. Nov. 24, 2025).² The facts of this case do not warrant a deviation from the Court's prior rulings.

Petitioner's application for asylum does not prevent her removal proceedings nor her current detention while those proceedings move forward. Before ICE detained her, Petitioner applied to U.S. Citizenship and Immigrations Services for asylum. *See* Dkt. 1 at ¶ 15. The pending request for asylum did not prevent the initiation of removal proceedings. Immigration judges have exclusive jurisdiction over asylum claims once an NTA is issued. *See* 8 CFR

² Although many courts originally rejected the Government's interpretation of § 1225(b)(2), *see, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025) (on appeal), there is a growing body of case law agreeing with the Government's position. *See Alonzo v. Noem*, -- F. Supp. 3d --, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Andrade v. Patterson*, No. 6:25-cv-01695, 2025 WL 3252707 (W.D. La. Nov. 21, 2025) (Joseph, J.); *Ba v. Dir. of Detroit Field Office*, No. 4:25-CV-02208, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025) (Calabrese, J.); *Ba v. Dir. of Detroit Field Office*, No. 4:25-CV-02208, 2025 WL 2977712 (N.D. Ohio Oct. 22, 2025) (Calabrese, J.), reconsideration denied, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) (Sinatra Jr., J.); *Chavez v. Noem*, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (Bencivengo, J.); *Chen v. Almodovar*, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) (Vyskocil, J.); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025) (Blumenfeld Jr., J.); *Garcia v. Immigr. & Customs Enf't Dep't of Homeland Sec.*, No. 2:25-CV-1004-KCD-NPM, 2025 WL 3277163 (M.D. Fla. Nov. 25, 2025) (Dudek, J.); *Garibay-Robledo v. Noem*, No. 1:25-CV-177-H, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025) (Hendrix, J.); *Kum v. Ross*, No. 6:25-CV-00451, 2025 WL 3113646 (W.D. La. Oct. 22, 2025), (Whitehurst, M.J.), report and recommendation adopted, 2025 WL 3113644 (W.D. La. Nov. 6, 2025) (Joseph, J.); *Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025) (Buescher, J.); *Mursalin v. Dedos, Warden*, No. 1:25-cv-00681, 2025 WL 3140824 (D.N.M. Nov. 10, 2025) (Strickland, M.J.); *Olalde v. Noem*, No. 1:25-cv-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025) (Divine, J.); *Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (Joseph, J.); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913 (D. Mass. July 28, 2025) (Gorton, J.); *Ramos v. Lyons*, No. 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025) (Wilson, J.); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025) (Ludwig, J.); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.); *Suarez v. Noem*, No. 1:25-CV-00202-JMD, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025) (Divine, J.); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (Doughty, J.); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025) (Griesbach, J.); *Valencia v. Chestnut*, -- F. Supp. 3d --, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Vargas Lopez v. Trump*, -- F. Supp. 3d --, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (Buescher, J.).

208.2(b). Thus, Petitioner will be able to present her asylum claim to the immigration court. Petitioner's request for asylum does not prevent her current detention.

Lastly, in Count Two, Petitioner incorrectly argues that her detention violates the principles of *Zadvydas v. Davis*. Dkt. 1 at ¶¶ 26-34. As the Court is aware, the *Zadvydas* framework applies to aliens subject to final removal orders, which the Petitioner is not. She is in pre-removal detention. Thus, *Zadvydas* does not apply. Moreover, the length of detention at issue, since of November of 2025, raises no constitutional concerns and is in no way an unconstitutional "indefinite detention."

II. CONCLUSION

For the foregoing reasons, Petitioner is lawfully subject to mandatory detention pursuant to 8 U.S.C. § 1225.

Dated: December 22, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on December 22, 2025, the foregoing was filed and served on all attorneys of record via the District's ECF system.

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