

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Juan Carlos MONDRAGON VILLEGAS)	Case No. 3:25-cv-567-LS
)	
Petitioner,)	Judge Leon Schydlower
)	
v.)	
)	
KRISTI NOEM, et. al.,)	
)	
Respondents.)	

**PETITIONER’S REPLY TO RESPONDENTS’ OPPOSITION TO WRIT OF
HABEAS CORPUS AND REQUEST FOR INJUNCTIVE RELIEF**

Petitioner Juan Carlos Mondragon Villegas (“Mr. Mondragon”) respectfully submits this brief in reply to Respondents’ Response in Opposition, filed December 10, 2025 (ECF 5), to the writ of habeas corpus and request for a declaratory and injunctive relief, filed with the Court on November 18, 2025 (ECF No. 1), as specifically directed by the Court in its Order, dated November 20, 2025 (ECF No. 2). Pursuant to the Local Rules, this Reply is due on or before December 24, 2025.

I. INTRODUCTION

Respondents’ opposition confirms the need for immediate judicial intervention and confirms the central defect in this case: the Government seeks to detain a long-time “§ 240 respondent”—one who has resided within the United States for every twenty years, and is pursuing concurrent relief in immigration hearing —under a detention statute that applies *only* to individuals seeking admission at the border. By recasting Mr. Mondragon, retroactively and without explanation, as an “applicant for admission” subject to 8 U.S.C. § 1225(b)(2), Respondents attempt to bypass the procedural safeguards Congress built into 8 U.S.C. § 1226, in a boldfaced attempt to strip the immigration judges of bond jurisdiction, and to insulate their unlawful detention decision from any neutral review.

That position cannot be squared with the statutory structure that governs removal proceedings, with the Government’s own litigation posture over the last decades, and in consideration of Mr. Mondragon’s over twenty years of residence within the United States.

On November 6, 2025, Mr. Mondragon was completing the most quotidian of activities: fall yard work at his family residence in the greater Chicago area, cleaning

leaves, and old branches. Suddenly, immigration officers – presumably ICE or CBP – encountered him, asked him for his documentation. He was arrested on the spot and transferred through different facilities to end up in El Paso East Montana detention center. There, Mr. Mondragon was served with a Notice to Appear, and advised that – after almost twenty years in this country – he was considered to be in essentially the same position as an “arriving alien” whose custody is governed not by § 1226 but by § 1225(b)(2), thereby placing him in mandatory detention with no bond jurisdiction and no neutral forum for review. *See* ECF No. 5 at 4 (arguing that the term “applicant for admission” includes two categories: arriving aliens and those present without admission).

The Government’s theory fails for two independent reasons. First, *Lopez-Arevelo v. Ripa* is directly on point and rejects the same maneuver DHS attempts here: reclassifying a long-standing § 240 respondent as an applicant for admission to deny access to § 1226 custody hearings. Allowing DHS to toggle between statutory regimes, at will, would collapse the INA’s careful distinction between border-processing statutes and interior-removal statutes, undermining Congress’s design and authorizing precisely the kind of unchecked detention of which the Supreme Court has consistently been wary. *See Jennings v. Rodriguez*, 583 U.S. 281, 289–90 (2018).

Second, DHS’s position contradicts its own record and fails to grapple with Mr. Mondragon’s protected liberty interest. A noncitizen cannot simultaneously be (1) in active § 240 proceedings, charged as removable under § 212(a)(6)(a)(i), while also being deemed (2) an “arriving alien” subject to § 1225(b)(2). The Government cannot retroactively convert interior-arrest custody into border-processing detention simply because it prefers the harsher statutory framework.

In sum, Respondents' opposition does not undermine Petitioner's entitlement to relief—it reinforces it. DHS's abrupt and unexplained shift to § 1225(b)(2) detention is legally unsustainable, factually inconsistent with the record, and constitutionally fraught. The Court should reject that position and order the Government to provide Mr. Mondragon the custody process Congress prescribed: a bond hearing under § 1226(a) before a neutral arbiter, without further delay.

II. FACTUAL BACKGROUND

The material facts in this case are straightforward and largely uncontested. The Government's own document confirms that DHS served a Notice to Appear (“NTA”) on Mr. Mondragon on or about November 7, 2025, after his arrest. *See*, Exh. 1. DHS did not provide Mr. Mondragon a release on recognizance or parole without providing him with a credible fear interview. The NTA that DHS served on him alleges inadmissibility under INA § 212(a)(6)(A)(i), for being present in the country without being admitted or paroled.

Mr. Mondragon entered the United States in approximately July 2000. He has lived without incident in the greater Chicago area. He has two adult daughters. With the Government's characterization of Mr. Mondragon being present without being admitted or paroled, this places Mr. Mondragon squarely into the statutory framework of § 240 proceedings, which governs the vast majority of interior removability cases. As of the filing of this reply brief, EOIR has docketed his case and scheduled him for a “master calendar” hearing for January 13, 2026, before Immigration Judge Tuckman. *See* Exh. 2, Hearing Notice.¹

III. ARGUMENT

¹ A prior “master calendar” was scheduled; however, the respondent did not have a hearing due to the judge's rescheduling of his case, *sua sponte*.

A. The Statutory Scheme Makes Clear that Detention of a Noncitizen in § 240 Proceedings Is Governed by 8 U.S.C. § 1226, Not § 1225(b)(2).

Respondents’ core argument—that Mr. Mondragon is detained under § 1225(b)(2) because he is an “applicant for admission”—collapses once the relevant statutory framework is accurately applied. *See* Gov’t Opp., ECF No. 7 at 3-7. Congress constructed two distinct detention regimes, each tied to a specific procedural posture. Which statute governs is not a matter of agency preference or post hoc recharacterization, but of statutory command. And the statute that governs the detention of a long-term § 240 respondent like Mr. Mondragon is 8 U.S.C. § 1226, not § 1225(b)(2). Respondents’ contention to the contrary ignores the text, structure, and purpose of the Immigration and Nationality Act (“INA”), as well as decades of consistent interpretation distinguishing the two detention regimes.

1. Congress reserved § 1225(b)(2) for initial processing during inspection at the border—not for respondents in ongoing § 240 removal proceedings.

Congress drew a bright line between the detention of “applicants for admission” at or near the border, governed by § 1225(b), and the detention of noncitizens already present in the United States and placed in removal proceedings, governed by § 1226. *See Jennings v. Rodriguez*, 583 U.S. 281, 288–90 (2018) (observed that § 1225(b) applies to aliens seeking admission into the United States, while § 1226 governs detention of aliens already in the country pending their removal proceedings). The distinction is not a matter of discretion; rather, it reflects fundamentally different statutory purposes.

Section 1225(b)(2) applies to “applicants for admission” who are encountered at or near the border, or in the context of initial inspection and processing. As the Supreme Court has repeatedly emphasized, § 1225(b) governs the inspection of aliens seeking

admission and delineates what DHS must do at the threshold of entry. *See Jennings v. Rodriguez*, 583 U.S. 281, 287–89 (2018) (held § 1225(b)(1)&(2) authorized brief detention of noncitizens immediately upon entering the country).

By contrast, § 1226(a) provides discretionary detention authority pending a decision on whether the alien is to be removed, expressly encompassing respondents in § 240 proceedings. *See Jennings*, 583 U.S. at 288 (“Section 1226 generally governs the process of arresting and detaining aliens . . . pending their removal” where such aliens “were inadmissible at [their] time of entry”). Once DHS files a Notice to Appear under § 239 and initiates § 240 removal proceedings, the detention authority shifts to § 1226—the statute Congress expressly designed to govern custody during ongoing removal litigation. *Jennings* draws this line sharply:

- § 1225 regulates *pre-admission* processing;
- § 1226 governs detention “pending a decision on whether the alien is to be removed,” i.e., during § 240 proceedings.

See Jennings, 583 U.S. at 288-89.

Here, there is no dispute DHS served Mr. Mondragon with a Notice to Appear on November 7, 2025, charging him under § 212(a)(6)(a)(i), when it initially apprehended him. *See* Exh. 1. Mr. Mondragon, who lived and resided in the United States for over twenty years, is now seemingly reclassified by the government under an expedited or border-processing provision. The idea that Mr. Mondragon, who was encountered in the greater Chicago-land area outside residence, is now characterized with this border-processing provision, is nonsensical. Respondents cannot now invoke a statute

that presupposes an uncompleted inspection process simply because they prefer the detention consequences of § 1225(b)(2).

2. The distinction between “seeking admission” and being an “applicant for admission” reinforces that § 1226 governs Petitioner’s detention.

Additionally, Petitioner would argue that § 1225 generally does not govern detention once DHS initiates § 240 proceedings.

As observed by Judge Pulliam of the San Antonio Division of the United States District Court for the Western District of Texas, under facts substantially similar to those in Mr. Mondragon’s case, the petitioner there “was not seeking ‘admission,’ as that term is defined by [8 U.S.C.] § 1101(a)(13)(A), in that he was not seeking entry, much less ‘lawful entry . . . after inspection’ and authorization. *See Aguinaga Trujillo v. Noem*, 5:25-cv-01266-JKP, *8 (W.D. Tex. Nov. 24, 2025) (slip op.) (citing *Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008)).

For context, the INA defines an “applicant for admission” to include any noncitizen “present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). A noncitizen is “admitted” only if he has effected a “lawful entry . . . into the United States after inspection and authorization by an immigration officer.” *Id.* § 1101(a)(13)(A). Petitioner, though physically present in the United States, does not fall within § 1101(a)(13)(A)’s definition of someone who has been lawfully admitted. As the Fifth Circuit has made clear, “admission” under the statute means lawful entry following inspection—“something quite different, obviously, from post-entry adjustment of status.” *Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008).

Crucially, however, on the facts of this case Petitioner was not “seeking admission” at the time of his encounter by ICE, at least not as that term is used in §

1101(a)(13)(A). At that time, Mr. Mondragon was not attempting to enter the United States at all, let alone to accomplish a “lawful entry ... after inspection.” *Martinez*, 519 F.3d at 544. Accepting Respondents’ position would collapse the distinction between being an “applicant for admission” and “seeking admission,” thereby rendering the latter phrase in § 1225(b)(2)(A) meaningless and mere surplusage. *See Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588, at *6 (S.D.N.Y. Aug. 13, 2025). Because Mr. Mondragon was not “seeking admission” when he was arrested in October 2025, ICE lacks authority to detain him under § 1225(b)(2), even though they can detain him under § 1226.

Accepting Respondents’ argument would virtually erase the structure of the INA entirely. If DHS could recast any § 240 respondent as an “applicant for admission” subject to § 1225(b)(2), then practically no respondent in removal proceedings—no matter how long they may have been in the United States—would be entitled to a bond hearing. DHS could simply wait until an opportune moment, arrest the individual, and announce that § 1225(b)(2) applies. Immigration Judges would be stripped of jurisdiction, habeas review would be hindered, and noncitizens would be locked into potentially indefinite detention until removal litigation concluded.

Thus, because Mr. Mondragon is not “seeking admission,” Respondents here must not detain him under § 1225(b)(2), and the Court should determine that § 1226 properly governs Petitioner’s detention.

3. The Government’s reliance on *Yajure Hurtado* and *Jennings* is misplaced.

The Government cites *Matter of Yajure Hurtado*, 28 I. & N. Dec. 389 (BIA 2024), for the proposition that DHS may treat noncitizen aliens as “applicants for admission

until and unless they are lawfully inspected and admitted by an immigration officer” subject to § 1225(b)(2). *See* Gov’t Opp., ECF No. 7 at 8. But *Yajure Hurtado* reflects a recent policy shift. As even Respondents concede, this departure from long-standing agency interpretation conflicts with how immigration agencies had always before interpreted this statute. *See* Gov’t Opp., ECF No. 7 at 7 n.1 (“Previously . . . § 1226(a) had been interpreted as an available detention authority for aliens who were present without admission and placed in § 1229a removal proceedings. *See, e.g., Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 747–48 (BIA 2023).”). Moreover, *Yajure Hurtado* conflicts with *Jennings* by collapsing the statutory distinction between border inspection and domestic removal proceedings.

Nor does *Jennings* support the Government. *Jennings* held only that § 1225(b) does not imply a six-month time limit on detention; it did not address, let alone approve, DHS’s ability to shift an interior detainee between § 1225(b) and § 1226 regimes. *Jennings*, 583 U.S. at 313–14. The Court expressly remanded the constitutional question of prolonged detention without bond. *Id.* at 314. DHS’s reliance on *Jennings* to justify Mr. Mondragon’s indefinite, unreviewable detention therefore misses the mark.

B. DHS’s Reliance on § 1225(b) and *Thuraissigiam* Is Misplaced; Under *Hernandez-Fernandez*, Petitioner Possesses a Protected Liberty Interest and Is Entitled to Procedural Due Process.

Even if Respondents’ statutory interpretation were correct, it would not end the inquiry. As *Hernandez-Fernandez* held, constitutional constraints apply even where the statute purports to mandate detention. 2025 U.S. Dist. LEXIS 206751, at 19. The Due Process Clause does not permit the Government to remove someone from the community and place him in civil confinement based solely on a categorical statutory label, without any opportunity to contest his confinement.

Although Respondents' opposition rests on the premise that Petitioner may be detained without recourse to due process because he is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b), that argument cannot withstand scrutiny for two independently dispositive reasons. Firstly, *DHS v. Thuraissigiam* does not apply to the kind of detention-based procedural due process claim Petitioner raises. Secondly, under *Hernandez-Fernandez v. Lyons*, DHS's own decision to release a noncitizen into the interior creates a constitutionally protected liberty interest that may not be extinguished without an individualized custody hearing.

1. *Thuraissigiam* Does Not Apply Because Petitioner Challenges His Detention, Not the Admission Process.

Respondents argue as though Petitioner were challenging the legality of his admission, the validity of an expedited-removal process, or asserting a right to enter or remain in the United States. He is not. The only question before the Court is whether DHS may detain Petitioner without providing any individualized custody determination, notwithstanding his substantial period of physical presence and DHS's prior determination that he was safe to release.

Courts have rejected the Government's reflexive invocation of *Thuraissigiam* in precisely this posture. Most recently, Judge Pulliam held that *Thuraissigiam* "has no application" where the petitioner "does not challenge the admission process in any way or assert a right to remain" but instead "merely seeks a chance to apply for release on bond." *Hernandez-Fernandez v. Lyons*, 2025 U.S. Dist. LEXIS 206751, at 16–17 (W.D. Tex. Oct. 21, 2025). The distinction is critical: *Thuraissigiam* restricts habeas review of expedited removal determinations—not constitutional challenges to post-release re-detention.

The same distinction governs here. Petitioner seeks no judgment about his removability, admission, or eligibility for relief. He seeks only the process due before the Government may revoke the liberty it previously granted. Respondents' reliance on *Thuraissigiam* ignores this fundamental difference and should be rejected.

2. Under *Mathews v. Eldridge*, Due Process Requires a Hearing at a Minimum, or in the Alternative, that Petitioner Be Ordered Released.

When procedural due process is at issue, courts apply the familiar three-factor test from *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976). As shown below, the factors overwhelmingly favor Petitioner.

The Government cannot revoke a person's liberty—someone who has uneventfully lived and resided in the United States for decades—without providing any opportunity to be heard. Under *Mathews*, the inquiry is straightforward application of the class three-prong test: (1) the weight of Petitioner's liberty interest, (2) the danger of erroneous detention, and (3) the minimal burden on the Government all require a bond hearing. *See Mathews*, 424 U.S. at 335.

Firstly, Petitioner's liberty interest is substantial. The Petitioner has lived peacefully in the United States, and developed the ordinary ties that come with daily life. Detaining someone in that position is an extraordinary intrusion on personal freedom, and due process demands scrutiny before such liberty is withdrawn. Yet, "Respondents fail to contend with the liberty interests created by the fact that the Petitioner[] in this case [was] released on recognizance *prior to the manifestation of this interpretation.*" *See Lopez-Arevelo v. Ripa*, No. 3:25-CV-00337-KC, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828, at *4 (W.D. Tex. Sept. 22, 2025).

Secondly, the risk of error in the Government's approach is acute. Respondents maintain that § 1225(b) categorically eliminates any bond hearing, meaning no decisionmaker has ever evaluated Petitioner's individual circumstances. This is exactly the kind of unreviewed, automatic deprivation that *Mathews* forbids. *See Martinez v. Sec. of Noem*, No. 5:25-CV-01007-JKP, 2025 U.S. Dist. LEXIS 174415, 2025 WL 2598379, at *3 (W.D. Tex. Sept. 8. 2025). A system in which no one asks whether detention is actually necessary practically guarantees erroneous confinement.

Thirdly, and by contrast, the Government's interest in detaining Petitioner without a hearing is negligible. Providing a routine bond hearing imposes no meaningful burden; immigration courts conduct such hearings daily.

For these reasons, courts—including in *Hernandez-Fernandez*—have held that due process requires an individualized custody determination for noncitizens who were previously released into the interior and later re-detained based solely on a statutory reinterpretation. *See Hernandez v. Fernandez*, 2025 U.S. Dist. LEXIS 206751, *18-23. The same constitutional principle applies here: before the Government may revoke Petitioner's liberty, it must afford him a bond hearing before a neutral adjudicator. Thus, the Court should grant the for writ of habeas corpus.

IV. CONCLUSION & PRAYER

For the reasons set forth above, Petitioner Juan Mondragon Villegas respectfully submits that the Department of Homeland Security lacks statutory authority to detain him under 8 U.S.C. § 1225(b)(2) and that his continued confinement without a neutral custody determination violates both the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause.

The Government's own filings demonstrate that it has initiated—and continues to pursue—removal proceedings under § 240, thereby subjecting Petitioner's custody to 8 U.S.C. § 1226. Yet DHS has invoked § 235(b)(2) to deny him access to any bond hearing, trapping him in administrative limbo and depriving this Court of the orderly judicial review that Congress and the Constitution require.

Judicial intervention is thus warranted to prevent further unlawful detention and to preserve Mr. Mondragon's constitutional right to liberty pending resolution of his removal case. Accordingly, Petitioner respectfully prays that the Court grant Petitioner a hearing, and afterward, grant his writ of habeas corpus and the related relief as requested.

Dated: December 23, 2025

Respectfully Submitted,

/s/ Khiabett Osuna

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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this day, I served a true and correct copy of the above and foregoing PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO WRIT OF HABEAS CORPUS AND REQUEST FOR INJUNCTIVE RELIEF, as well as any and all attachments thereto, on Counsel for Respondents by filing the same using the Court's CM/ECF system.

/s/ Khiabett Osuna _____
Khiabett Osuna
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DATE: December 24, 2025.