IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

RAUL ANGEL LOPEZ GALVAN, Petitioner, v. MARCELLO VILLEGAS, et al., Respondents.	Case No. 1:25-cv-259-H

PETITIONER'S REPLY

The Court should hold that Petitioner should be granted a bond hearing, or in the alternative, be immediately released from detention. Petitioner incorporates by reference all arguments made in his Petition for Habeas Corpus and adds the following in reply.

I. PETITIONER'S DETENTION IS GOVERNED BY SECTION 1226, NOT 1225, PURSUANT TO THE PLAIN LANGAUGE OF THE STATUTE.

Courts across the nation have interpreted the plain language of the mandatory detention statute in question, 8 U.S.C. § 1225(b)(2)(A), to attach only when the noncitizen is *both* an "applicant for admission" who is *also* "seeking admission." *See Escarcega v. Olson*, No. CIV-25-1129-J. 2025 U.S. Dist. LEXIS 228528, at * 3 (W.D. Okla. Nov. 20, 2025); *See also Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 LX 441269 (D. Colo. Oct. 22, 2025). In doing so, these courts have patently rejected the notion that "application for admission" and "seeking admission" mean the same thing, as such a reading of the wording of the statute would violate the canon of statutory interpretation

against rendering any parts of a statute superfluous, rather than having an "operative effect." *See United States v. Lawrence*, 727 F.3d 386, 393 (5th Cir. 2013); *United States v. Nordic Vill. Inc.*, 503 U.S. 30, 36, 112 S. Ct. 1011, 1015 (1992).

In the case of a noncitizen habeas petitioner who entered the country without permission and only *later* applied for lawful status, the Southern District of New York helpfully explained why such a person is not "seeking admission":

> For example, someone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as "seeking admission" to the theater. Rather, that person would be described as already present there. Even if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as "seeking admission" (or "seeking" "lawful entry") at that point—one would say that they had entered unlawfully but now seek a lawful means of remaining there. As § 1225(b)(2)(A) applies only to those noncitizens who are actively "seeking admission" to the United States, it cannot, according to its ordinary meaning, apply to Mr. Lopez Benitez, because he has already been residing in the United States for several years.

Benitez v. Francis, No. 5:25-civ-5937 (DEH), 2025 U.S. Dist. LEXIS 157214, at *21 (S.D.N.Y. Aug. 8, 2025).

Both the clear language of the Immigration and Nationality Act and the weight of authority of courts across the nation support a holding that section 1225(b) is inapplicable to noncitizens like Petitioner who entered the country years ago and did not apply for lawful admission to enter the United States. As a result, section 1226(a) governs, rendering Petitioner eligible for a bond hearing pursuant to that section.

II. THE FIFTH AMENDMENT REQUIRES A GRANT OF HABEAS CORPUS IN PETITIONER'S SITUATION, AS HIS PROCEDURAL DUE PROCESS RIGHTS HAVE BEEN VIOLATED.

Denial of an individualized bond hearing is violation of Petitioner's procedural due process rights, which are guaranteed him under the Fifth Amendment. This Court has held that Fifth Amendment due process applies to noncitizens similarly situated to the Petitioner who were similarly denied the right to a bond hearing. *Parada-Hernandez v. Johnson*, No. 3:25-cv-2729-K-BN, 2025 U.S. Dist. LEXIS 249952, at *9 (N.D. Tex. Oct. 29, 2025) ("The undersigned finds that, even if Parada-Hernandez was properly classified under Section 1225, detaining him without a bond hearing violates his Fifth Amendment rights."); *Parada-Hernandez v. Johnson*, No. 3:25-cv-2729-K-BN, 2025 LX 541105 (N.D. Tex. Dec. 2, 2025) (adopting Magistrate's Recommendation).

As this Court noted in *Parada-Hernandez*, the three-factor balancing test of *Mathews v. Eldridge* is employed to determine whether civil detention indeed violates procedural due process. *Parada-Hernandez*, No. 3:25-cv-2729-K-BN, at *10.

The first *Mathews* factor, the private interest affected by the action, weighs quite heavily in favor of Petitioner. *Id.* Petitioner's key interest at stake in this habeas claim is his liberty. As Petitioner has resided in this country for upwards of fifteen years and built a life and family here, the gravity of his liberty interest cannot be overstated. Petitioner suffers from the total removal of his physical freedom each day that Respondents keep him behind bars without being afforded a bond hearing. The first factor tilts the scale in favor of Petitioner.

The second *Mathews* factor is the risk of erroneous deprivation of the interest in question along with the value of any other safeguards used. *Id.* As this Court has found, "Without a bond hearing, [the petitioner] will likely remain in custody. And the risk of an arbitrary deprivation is greater given the BIA's new interpretation of Section 1225(b)(2)." *Id.* at *12. A bond hearing would provide Petitioner the opportunity to present his case for an individualized determination of whether he merits release on bond, satisfying procedural due process. Respondents assert no other procedural safeguards that would reduce the risk of erroneously depriving the Petitioner of his liberty risk. Accordingly, the second factor weighs in favor of the Petitioner.

Finally, the government's interest must be considered as the third *Mathews* factor. *Id.* at *10. To be sure, the governmental Respondents have an interest in continuing to prosecute removal proceedings against the Petitioner and ensure his presence at these removal hearings. However, a bond hearing would allow an immigration judge to weigh the likelihood of Petitioner's attendance at future hearings against any risks of absconding. Accordingly, because the government's interest can be protected by the same measure that would afford Petitioner procedural due process – that is, a bond hearing – all the *Mathews* factor weigh heavily on the side of Petitioner.

CONCLUSION

This Court should order Petitioner's immediate release, or in the alternative, find that Respondents must provide him with a prompt bond hearing within five days of the order.

Respectfully submitted this 22nd day of December, 2025.

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CERTIFICATE OF SERVICE

On December 22, 2025, I electronically submitted the foregoing document, Petitioner's Reply, to the Court Clerk for the U.S. District Court for the Northern District of Texas, using the Court's electronic filing system. I hereby certify that I have served all parties electronically.

/s/ Elissa Stiles
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