UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

LEYLA REGINA NAVARRETE, PETITIONER

v. CIVIL ACTION NO. 4:25-cv-00157-DJH

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; PAMELA BONDI, Attorney General of the United States; JASON WOOSLEY, Jailer, Grayson County Jail; SAMUEL OLSON, Director of Chicago Field Office, U.S. Immigration and Customs Enforcement; TODD LYONS, Acting Director of Immigration and Customs Enforcement; ROBERT LYNCH, Director of Detroit Field Office, U.S. Immigration and U.S. Immigration and Customs Enforcement; and DAREN K. MARGOLIN, Director, Executive Office for Immigration Review, in their official capacities, RESPONDENTS

REPLY TO SHOW CAUSE

Respondents' claim that the Court lacks jurisdiction pursuant to 8 U.S.C. § 1252(b)(9) must fail because the Petitioner has not asked this Court to review any question arising from a "proceeding brought to remove an alien from the United States." Removal proceedings are entirely separate from custody and bond decisions in Immigration Court. "Consideration by the Immigration Judge of an application or request of respondent regarding custody or bond under this section shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding." 8 CFR § 1003.19(d). Therefore, the Petitioner's claims are properly before the Court under 28 U.S.C. § 2243.

The Respondents have not shown that the Petitioner is an "applicant for admission" or that her detention is governed by 8 U.S.C. § 1225(b)(2)(A). The U.S. District Court for the Central District of California has certified a "Bond Eligible Class" including the Petitioner, who were harmed by the DHS Policy[1] which violates the INA and Due Process, which includes "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr,* 5:25-cv-01873, (C.D. Cal. Nov 25, 2025) ECF No. 82. The Court also rejected the Respondents' arguments that the Class is held under § 1225.

> "When considering the statutory definitions of the INA and the plain text of § 1225, it is unambiguous that 'applicants for admission' do not include noncitizens already in the United States like Petitioners … If the Court were to accept Respondents' position that all noncitizens already in the country (regardless of whether they were inspected and authorized by an immigration officer) were "applicants for admission," then there would be no possible set of noncitizens to which § 1226(a) would apply … Thus, Respondents' expansive interpretation of "applicants for admission" would effectively nullify a portion of the INA through the DHS's legislative or interpretive exercise of power. Neither is appropriate under the separation of powers. See Loper Bright Enterprises v. Raimondo, 603 U.S. 369, 386 (2024) (establishing that "[t]he views of the Executive Branch could inform the judgment of the Judiciary, but [do] not supersede it."). *Lazaro Maldonado Bautista v. Ernesto Santacruz Jr*, 5:25-cv-01873, (C.D. Cal. Nov 20, 2025) ECF No. 81.

Lastly, the Petitioner's objection to the Respondents' attempt to illegally place her in expedited removal proceedings and issue an expedited removal order against her are not moot simply because Respondents have now attempted to place her into full removal proceedings. The Respondents have the sole discretion over whether and when to place the Petitioner into removal

proceedings. 8 CFR § 1003.14(a). The Respondents also have broad discretion over whether and when to dismiss removal proceedings. 8 C.F.R. § 239.2(a). See also 8 C.F.R. § 1239.2(c). In recent months, the Respondents have aggressively pursued expedited removal, including dismissing the cases of non-citizens in full removal proceedings only to immediately arrest them and place them into expedited removal. "When people have appeared in immigration courts for their normally paced immigration proceedings, for instance, the Government has moved to dismiss those proceedings, promptly arrested individuals inside of those courts, and then shuttled them into much faster moving—and much less procedurally robust—expedited removal proceedings. Days later, these people find themselves removed." *Make the Road New York v. Noem,* 1:25-cv-00190 (D.D.C.). As long as the Respondents refuse to rescind the illegal expedited removal order issued against her, they could dismiss her removal proceedings and remove her immediately at any time.

Respectfully submitted,

/s/ gwenn starda

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CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2025, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Respondents.

/s/ gwenn starda

Gwendolyn Starda
Attorney for Petitioner