

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ALFREDO JOSE GIL RAMONES (A244 667 998),)

Petitioner,)

v.)

Case No. 3:25-cv-00582-LS

KRISTI NOEM, Secretary, U.S. Department)
of Homeland Security; MARY DE ANDA-YBARRA)
Field Office Director, El Paso Field Office,)
Immigration and Customs Enforcement,)

Respondents.)

REPLY TO RESPONDENT'S RESPONSE TO PETITIONER'S HABEAS PETITION

Petitioner submits this reply to Respondent's Response to his Petition for Writ of Habeas Corpus. Petitioner continues to be detained unlawfully during his pending removal proceedings, in violation of his constitutional and statutory rights.

I. Petitioner is detained under 8 U.S.C. § 1226 and not under 8 U.S.C. § 1225.

Respondent argue that Petitioner is detained under 8 U.S.C. § 1225(b)(1), not 8 U.S.C. § 1225(b)(2). However, this argument fails for several reasons.

First, when parole is terminated upon written notice, the noncitizen "shall be restored to the status that he or she had at the time of parole." 8 CFR § 212.5(e)(2)(i). In other words, in July 2025, Petitioner's status reverted to his previous immigration status, effectively turning him into a noncitizen present in the United States without being admitted or paroled pursuant to 8 USC § 1182(a)(6)(A)(i), as he had originally entered the U.S. without inspection. Therefore, he cannot be regarded as being detained under 8 U.S.C. § 1225(b)(1).

Defendants concede that Petitioner was previously placed in full removal proceedings under 8 U.S.C. section 1229a and was released under section 1226(a). Doc. 5, at 3. Now,

Respondents contend that the government can pursue mandatory detention under section 1225(b) at any time. Respondent's arguments regarding Petitioner's detention under 1225(b)(1) is also in direct contradiction several district court holdings on this issue that have held that noncitizens who have been paroled "cannot later be designated for expedited removal." *See Mejia v. Woosley*, No. 4:25-CV-82-RGJ, 2025 WL 2933852, at *4 (W.D. Ky. Oct. 15, 2025) *Coal. Humane Immigr. Rights v. Noem*, 2025 WL 2192986, at *23-32 (D.D.C. Aug. 1, 2025). Further, the plain language of the statute demonstrates that section 1225(b) generally involves a decision at the border. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (finding 1225(b)(1) applies to aliens *initially* determined to be inadmissible due to "fraud, misrepresentation, or lack of valid documentation). Expedited removal proceedings under § 1225 only apply if three conditions are met: the applicant (1) is inadmissible because he or she lacks a valid entry document; (2) has not been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility"; and (3) is among those whom the Secretary of Homeland Security has designated for expedited removal. § 1225(b)(1)(A)(i), (iii)(I)-(II); *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020). Here, Petitioner specifically fails to meet the standards for § 1225 under the second and third conditions. *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *4 (W.D. La. Sept. 11, 2025). Respondents' interpretation of § 1225 would render § 1226 unnecessary. *Id.*

Prior to and since the decision in *Matter of Yajure Hurtado*, federal district courts in this Circuit have also disagreed with Respondents' interpretation and have subsequently granted relief to habeas petitioners. *See Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez Santos v. Noem*, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Ventura Martinez v. Trump*, (W.D. La. Oct. 22, 2025); *Lopez-Arevelo v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept.

22, 2025); *Gonzalez Martinez v. Noem*, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025); *Erazo Rojas v. Noem et al.*, No. 3:25-cv-00443 (W.D. Tex. Oct. 30, 2025); *Buenrostro Mendez v. Bondi*, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, 5:25-CV-112 (S.D. Tex. Oct. 8, 2025); *Vasquez Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB, 2025 WL 3268459 (W.D. Tex. Nov. 24, 2025); *Miralrio Gonzalez v. Ortega*, No. 5:25-CV-1156-JKP, 2025 WL 3471571 (W.D. Tex. Nov. 24, 2025); *Martinez Orellana v. Noem*, No. 5:25-CV-1028-JKP, 2025 WL 3471569 (W.D. Tex. Nov. 24, 2025); *Aguinaga Trujillo v. Noem*, No. 5:25-CV-1266-JKP, 2025 WL 3471572 (W.D. Tex. Nov. 24, 2025); *Guzman Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 WL 3471416 (W.D. Tex. Nov. 25, 2025); *Coulibaly v. Thompson*, No. 5:25-CV-1539-JKP, 2025 WL 3471573 (W.D. Tex. Nov. 25, 2025); *Morales Aguilar v. Bondi*, No. 5:25-CV-01453-JKP, 2025 WL 3471417 (W.D. Tex. Nov. 26, 2025); *Galmadez Martinez v. Noem*, No. SA-25-CV-01373-JKP, 2025 WL 3471575 (W.D. Tex. Nov. 26, 2025); *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025); *Davila Mercado v. Lyons*, No. 5:25-CV-1623-JKP, 2025 WL 3654268 (W.D. Tex. Dec. 11, 2025); *Acosta-Balderas v. Bondi*, No. 5:25-CV-1629-JKP, 2025 WL 3654331 (W.D. Tex. Dec. 11, 2025); *Lopez-Neria v. Bondi*, No. 5:25-CV-1650-JKP, 2025 WL 3654329 (W.D. Tex. Dec. 12, 2025); *Cruz Mendoza v. Warden, Dilley Immigration Processing Center*, No. 5:25-CV-1649-JKP, 2025 WL 3654269 (W.D. Tex. Dec. 12, 2025); *Estupinan Reyes v. Thompson*, No. SA-25-CA-01590-XR, 2025 WL 3654265 (W.D. Tex. Dec. 12, 2025); *Murillo-Rodriguez v. Bondi*, No. 5:25-CV-1684-JKP, 2025 WL 3654335 (W.D. Tex. Dec. 12, 2025)

Outside of the Fifth Circuit, courts in every Circuit -the First Circuit, Second Circuit, Fourth Circuit, Fifth Circuit, Seventh Circuit, Eighth Circuit, Ninth Circuit, Tenth Circuit and

Eleventh Circuit- have all also confirmed that 8 U.S.C. § 1226 is the proper statute to apply for detention of those already within the U.S..¹ This Court is not required, and should not, give deference to *Matter of Yajure Hurtado*. In *Loper Bright*, the Supreme Court was clear that “[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority,” and indeed “may not defer to an agency interpretation of the law simply because a statute is ambiguous.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Rather, this Court can simply look to the Supreme Court’s own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens “seeking admission into the country”—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens “already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

¹ *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Areveloa v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez Santos v. Noem*, 2025 WL 2642278, (W.D. La. Sept. 11, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Corona Diaz v. Olson*, No. 25-cv-12141 (N.D. Ill. Oct. 29, 2025); *Patel v. Noem et al*, No. 25-cv-11180 (N.D. Ill. Oct. 24, 2025); *Perez Padilla v. Noem et al*, No. 25-cv-12462 (N.D. Ill. Oct. 22, 2025); *Miguel v. Noem, et al*, No. 25-cv-11137 (N.D. Ill. Oct. 21, 2025); *H.G.V.U v. Smith et al*, No. 25-cv-10931 (N.D. Ill. Oct. 20, 2025); *Ochoa Ochoa v. Noem et al.*, No. 25-cv-10865 (N.D. Ill. Oct. 16, 2025); *Campos Leon v. Forestal*, 2025 WL 2694763 (S.D. In. Sept. 22, 2025); *Duenas Arce v. Trump*, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Lorenzo Perez v. Kramer*, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Ozuna Carlon v. Kramer*, 2025 WL 2624386 (D. Neb. Sept. 11, 2025); *Genchi Palma v. Trump*, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Hernandez Marcelo v. Trump*, 3:25-cv-0000934 (S.D. Iowa Sept. 10, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Cortes Fernandez v. Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Palma Perez v. Berg*, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Jacinto v. Trump*, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Guerrero Lepe v. Andrews et al*, No. 1:2025cv01163 (E.D. Cal. 2025); *Sanchez Roman v. Noem* 2025 WL 2710211 (D. Nev. Sep. 23, 2025); *Maldonado Vazquez v. Feeley*, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Salcedo Aceros v. Kaiser*, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025); *Caicedo Hinestroza v. Kaiser*, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia et al. v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Salazar v. Dedos* 2025 WL 2676729 (D. NM. Sept. 17, 2025); *Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025)

The text of sections 1225 and 1226, together with binding Supreme Court precedent interpreting those provisions and the repeated representations of the government in Petitioner's case before the Court confirm that he is subject to section 1226(a)'s discretionary detention scheme.

II. Petitioner Does Not Challenge His Ongoing Removal Proceedings and 8 U.S.C. § 1252 does not deprive this Court of jurisdiction

This Court is not deprived of jurisdiction by 8 U.S.C. § 1252(b)(9) and (g) as Petitioner's claims do not challenge any decision to commence proceedings, adjudicate cases, or execute removal orders. Section 1252(b)(9) provides:

Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, *arising from any action taken or proceeding brought to remove an alien from the United States* under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9) (emphasis added).

The Supreme Court's decision in *Jennings v. Rodriguez* is instructive here and supports Petitioner's position that this Court has jurisdiction and that Section 1252(b)(9) does not present a jurisdictional bar. The Supreme Court determined that the "arising from" language of Section 1252(b)(9) should not be interpreted so expansively as to include any action that technically follows the commencement of removal proceedings, because that would bar judicial review of questions of law and fact that are unrelated to the removal proceedings until a final order of removal was issued. *Jennings v. Rodriguez*, 583 U.S. 281, 292-95 (2018). Petitioner, like the class in *Jennings*, "are not asking for review of an order of removal, they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging

any part of the process by which their removability will be determined.” *Id.* at 294-95. This Court has jurisdiction over Petitioner’s matter.

CONCLUSION

For the foregoing reasons, this Court should order Respondents to immediately release Petitioner or, in the alternative, schedule a bond hearing for Petitioner’s removal proceedings within 5 days of the order and accept jurisdiction to issue a bond order.

Dated: December 19, 2025

Respectfully Submitted,
Alfredo Gil Ramones

By: s/ Lauren McClure
One of his attorneys

Lauren E. McClure, Esq.
KRIEZELMAN BURTON & ASSOCIATES, LLC
200 West Adams Street, Suite 2211
Chicago, Illinois 60606
(312) 332-2550
lmccclure@krilaw.com