

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JOSE MARIO SILVA CUEVA,

Petitioner,

v.

Warden, Miami Federal Detention Center;

Field Office Director, Enforcement and
Removal Operations, Miami Field Office,
Immigration and Customs Enforcement;

Kristi Noem, *in her official capacity as*
Secretary, U.S. Department of Homeland
Security;

Pamela Bondi, *in her official capacity as* U.S.
Attorney General;

Respondents.

Case No. 25-25589-CIV-Gayles

**PETITIONER'S TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS
CORPUS**

Petitioner respectfully submits this Traverse in reply to Respondents' Return and Reply in Opposition. Respondents' arguments rest on an expansive interpretation of 8 U.S.C. § 1225(b)(2) that has been repeatedly rejected by courts in this District and throughout the country. Despite extensive briefing, Respondents identify no statutory text, binding precedent, or factual distinction that would justify departing from those decisions. Under the Immigration and Nationality Act ("INA") and binding Supreme Court precedent, Petitioner's detention is governed by 8 U.S.C. § 1226(a), and he is entitled to an individualized bond hearing.

**I. RESPONDENTS ATTEMPT TO RELITIGATE A QUESTION ALREADY
RESOLVED IN THIS DISTRICT**

Respondents portray this case as presenting a novel statutory question. It does not. The issue—whether DHS may detain a noncitizen under § 1225(b)(2) after years of interior presence and release into § 240 removal proceedings—has been squarely addressed and rejected by multiple courts in this District.

Courts in the Southern District of Florida have consistently held that § 1225 does not govern detention where DHS arrests a noncitizen from the interior during pending removal proceedings. *See Perez v. Parra*, No. 25-24820-CIV (S.D. Fla. Oct. 27, 2025); *Alvarez Puga v. Assistant Field Office Director*, Case No. 25-24535-CIV (S.D. Fla. Oct. 15, 2025); *Boffill v. Field Office Director*, Case No. 25-cv-25179 (S.D. Fla. Nov. 20, 2025).

Respondents offer no principled basis for disregarding this settled authority. Instead, they ask the Court to adopt a theory that would dramatically expand mandatory detention and eliminate the bond framework Congress preserved in § 1226. The Court should decline that invitation.

II. SECTION 1225(b)(2) CANNOT BE STRETCHED TO AUTHORIZE PETITIONER'S DETENTION

A. Section 1225 Is Limited to Inspection, Not Interior Re-Arrest

Section 1225 governs inspection and processing of applicants for admission at or near the time of entry. It is not a general detention statute for noncitizens long present in the United States. Once DHS releases a noncitizen into § 240 proceedings, subsequent arrests are governed by § 1226.

Respondents' attempt to recharacterize an interior arrest as § 1225 detention ignores both the statutory text and the context in which § 1225 operates. Courts in this District have rejected DHS's effort to revive § 1225 years after entry based solely on the pendency of removal proceedings.

Petitioner was not apprehended at the border, was not undergoing inspection, and was not arriving. Section 1225, therefore, does not apply.

B. Respondents' "Seeking Admission Forever" Theory Is Unsupported by the INA

Respondents contend that Petitioner is perpetually "seeking admission" because he once entered without inspection. That theory has no grounding in the INA and leads to untenable results.

The INA does not define "seeking admission," and courts have declined to construe the phrase as a permanent legal status divorced from present conduct. Accepting Respondents' position would convert § 1225—an inspection statute—into a sweeping interior detention regime and effectively nullify § 1226(a) for a broad category of noncitizens.

As explained in *Boffill v. Field Office Director*, extending § 1225(b)(2) to interior arrests would collapse the statutory scheme Congress enacted and render § 1226 largely superfluous. *Boffill v. Field Office Director*, Case No. 25-cv-25179 (S.D. Fla. Nov. 20, 2025).

C. Jennings v. Rodriguez Confirms Respondents' Interpretation Cannot Stand

Respondents' position is irreconcilable with *Jennings v. Rodriguez*, 583 U.S. 281 (2018). While Respondents invoke *Jennings* to argue that courts may not impose bond hearings where Congress has mandated detention, they overlook the case's central holding: courts may not rewrite detention statutes—either to add authority Congress withheld or to expand authority Congress limited.

Jennings emphasizes that §§ 1225 and 1226 establish distinct detention regimes. Section 1225 governs inspection-stage detention of arriving applicants for admission; § 1226 governs detention of noncitizens already present in the United States pending a decision on removal. Respondents' interpretation collapses that distinction and would permit DHS to expand § 1225

beyond its statutory role to eliminate bond eligibility under § 1226(a). *Jennings* forbids that result.

Where, as here, detention arises from an interior arrest during pending removal proceedings, the governing statute is § 1226(a).

III. RESPONDENTS' ATTACK ON *BAUTISTA* CONFIRMS THE ABSENCE OF LAWFUL DETENTION AUTHORITY

In their Reply, Respondents devote substantial argument to attacking *Maldonado Bautista v. Noem*, despite asserting elsewhere that the decision is irrelevant. See ECF No. 12 at 13, citing *Maldonado Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025). Having placed *Bautista* squarely at issue, Respondents cannot avoid its consequences.

Petitioner does not rely on *Bautista* as persuasive authority. He relies on it as a final judgment that already governs Respondents' conduct toward certified class members. See *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92. Petitioner is a member of the nationwide class certified in *Bautista*. Respondents are therefore barred from relitigating the legality of detaining him under 8 U.S.C. § 1225(b)(2) without a bond hearing.

The arguments Respondents advance here, concerning *Jennings*, *Matter of Yajure Hurtado*, and statutory interpretation, were fully litigated and rejected in *Bautista*. Respondents' contention that *Bautista* conflicts with *Jennings* is misplaced. *Jennings* prohibits courts from rewriting detention statutes; it does not authorize the Executive to expand § 1225 beyond its inspection-stage role to eliminate bond eligibility under § 1226. *Maldonado Bautista* faithfully applied that principle.

Accordingly, Respondents' attack on *Bautista* does not weaken Petitioner's claim, it confirms that Respondents lack any lawful basis to detain him under § 1225(b)(2).

IV. BAUTISTA IS NOT NECESSARY TO GRANT RELIEF, BUT IT INDEPENDENTLY FORECLOSES RESPONDENTS' POSITION

Even apart from *Bautista*, courts in this District have granted habeas relief on independent statutory grounds. *See Perez v. Parra*, No. 25-24820-CIV (S.D. Fla. Oct. 27, 2025); *Alvarez Puga v. Assistant Field Office Director*, Case No. 25-24535-CIV (S.D. Fla. Oct. 15, 2025); *Boffill v. Field Office Director*, Case No. 25-cv-25179 (S.D. Fla. Nov. 20, 2025). *Bautista* simply confirms what the statute already requires and underscores the absence of any lawful basis for Petitioner's continued detention.

V. CONCLUSION

Respondents ask the Court to endorse an interpretation of § 1225 that would dramatically expand mandatory detention and erase the bond framework Congress preserved in § 1226. Courts in this District have rejected that interpretation, *Jennings* forbids it, *Bautista* independently forecloses it as to this Petitioner. Thus, this Court should grant the Petition for Writ of Habeas Corpus

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Respectfully submitted,

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