UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LORENA TORRES MENDEZ, Petitioner, v. FIELD OFFICE DIRECTOR, *et al.*, Respondents.	§ § § § § § § § § § §	CASE NO. 4:25-cv-5752

FEDERAL RESPONDENTS' RESPONSE TO HABEAS PETITION, MOTION TO DISMISS, AND ALTERNATIVELY, FOR SUMMARY JUDGMENT

Federal Respondents[1] move to dismiss the pending petition for writ of habeas corpus for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1), and alternatively, for summary judgment under Rule 56.

I. Background

The Petitioner alleges that she has been detained in the custody of the U.S. Immigration and Customs Enforcement ("ICE") since March 7, 2025. (Dkt. 1 at 2). The petition for writ of habeas corpus was filed on December 1, 2025. (Dkt. 1). The Court ordered Respondents to answer (Dkt. 5), and the Federal Respondents have a pending unopposed motion for extension of time to file a response (Dkt. 9). The Petitioner's criminal history includes a conviction earlier this year for assault-family member for which the Petitioner was sentenced to 90 days in county jail. Govt. Ex. 1.

[1] The proper respondent in a habeas petition is generally the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2004). However, it is the named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

II. Argument

A. No Legal Authority Appears in the Record to Establish Qualifications for a Filing by Next of Kin

Prior to considering the merits of the pending habeas petition, as a threshold matter, the Court should consider whether it has jurisdiction to hear the Petitioner's claims. Although the docket indicates that the petition was filed by "Next of Kin Y D Mendez," the record does not establish that "Y D Mendez" meets the legal qualifications to represent the Petitioner as a next of kin. *See Romanov v. Frink*, No. 4:25-cv-3133 (S.D. Tex. July 30, 2025) (J. Rosenthal) (*citing Weber v. Garza*, 570 F. 2d 511, 514 (5th Cir. 1978) (explaining that "the court is without jurisdiction to consider the (habeas] petition" "when the application for habeas corpus filed by a would be 'next friend' does not set forth an adequate reason or explanation of the necessity for resort to the 'next friend' device"). "To qualify for "next friend" status, the filer first "must provide an adequate explanation - such as inaccessibility, mental incompetence, or other disability - why the real party in interest cannot appear on his own behalf to prosecute the action, and that explanation must be supported by relevant proof." *Id.* (*citing Whitmore* v. Arkansas, 110 S. Ct. 1717, 1727 (1990) (citations omitted).

No evidence appears in the record to prove that "Y D Mendez" meets the legal qualifications to represent the Petitioner as next of kin. Therefore, the Court's jurisdiction has not been established, and the habeas petition should be dismissed for lack of subject matter jurisdiction.

B. The Petitioner Failed to Exhaust Administrative Remedies

The Petitioner has failed to exhaust administrative remedies, as admittedly, she has an appeal pending before the Board of Immigration Appeals ("BIA"). (Dkt. 1 at 3). *See, e.g.*,

Gallegos-Hernandez v. United States, 688 F.3d 190, 194 (5th Cir. 2012) (holding that a federal prisoner seeking habeas relief under § 2241 must first exhaust all available administrative remedies); *see also Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (requiring an appeal in order to satisfy exhaustion requirement); *Abdoulaye Ba v. Director of Detroit Field Office, ICE*, No. 4:25-CV-02208, 2025 WL 2977712, at *2 (N.D. Ohio Oct. 22, 2025) (dismissing for failure to exhaust where petitioner sought "review of the application and interpretation of *Matter of Yajure Hurtado*" but had yet to appeal to the BIA). . Further, the Petitioner has already received a bond hearing before an immigration judge, and her request for bond was denied due to the Petitioner failing to establish that she is not a danger to the community. Govt. Ex. 2.

C. The Petitioner is Legally Detained Pursuant to 8 U.S.C. § 1225(b)

Prior to addressing the merits, the Government acknowledges that this Court has previously rejected its arguments concerning the applicability of § 1225(b)(2). However, the Government, with this motion, requests a reconsideration of that prior ruling. *See Camreta v. Greene*, 563 U.S. 692, 701 n. 7 (2011)("A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case."). For the reasons discussed below, including recent decisions from other courts in the Fifth Circuit and the Southern District of Texas, this Court should reconsider its interpretation of § 1225(b)(2) and find that Petitioner is subject to mandatory detention.

The Petitioner is subject to mandatory detention under § 1225(b)(2), based on the statute's plain language and structure, the history of the Immigration and Nationality Act

(INA), the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and persuasive decisions from other district courts, including the recent decision in *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) and *Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025).

Petitioner's habeas petition should be denied because she falls under the plain language of the mandatory detention provisions in 8 U.S.C. § 1225. Here, Petitioner is an alien present in the United States who entered unlawfully without being admitted or paroled. As an alien "present in the United States who has not been admitted," Petitioner is by definition "an applicant for admission." 8 U.S.C. § 1225(a)(1). Therefore, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that "the alien *shall* be detained" in the case of "an alien seeking admission" who "is not clearly and beyond a doubt entitled to be admitted" (emphasis added)).

1. **The Plain Language and Statutory Structure of the INA**

"As usual, we start with the statutory text." *Restaurant Law Center v. U.S. Dep't of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

> in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an "applicant for admission", then they are subject to mandatory detention. The INA defines "applicant for admission" as "an alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). Here, was not previously admitted into the United States, and the Petitioner is therefore subject to

mandatory detention and is not eligible for a bond. *See Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025).

2. Persuasive decisions from other district courts.

Although the Government acknowledges that many district courts have ruled against the Government on the § 1225(b)(2) issue, including this Court,[2] the Court should consider the recent decisions of several district courts that have adopted the Government's and the BIA's interpretation.

Most recently, another court in the Southern District of Texas decided *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025), in the Government's favor. In denying the habeas petition and granting the Government's motion for summary judgment, the *Cabanas* Court held "[t]he text of § 1225(b)(2)(A) supports the Government's position." The *Cabanas* Court reasoned that "[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn't dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies." *Id.* at *4 (emphasis in original). Thus, the *Cabanas* Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government's favor. The court also explained why it was not persuaded by the many other district court decisions deciding to

[2] Other courts in the Southern District of Texas have issued decisions that reject the Government's position. *See, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025)(on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. October 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. October 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. October 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Texas October 8, 2025).

the contrary. *Id.* at * 5; *see also Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025).[3]

The Government urges this Court to reconsider its prior rulings and follow the reasoning of *Cabanas* and the Government's other proffered authorities.

Additionally, the Petitioner presents no evidence to support her claims of alleged denied medical care, and her conclusory claims are insufficient to show entitlement to habeas relief. Therefore, those claims should be dismissed.

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[3] Although many courts originally rejected the Government's interpretation of § 1225(b)(2), including this Court, there is a growing body of case law agreeing with the Government's position. *See Alonzo v. Noem*, -- F. Supp. 3d --, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Andrade v. Patterson*, No. 6:25-cv-01695, 2025 WL 3252707 (W.D. La. Nov. 21, 2025) (Joseph, J.); Ba v. Dir. of Detroit Field Office, No. 4:25-CV-02208, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025) (Calabrese, J.); *Ba v. Dir. of Detroit Field Office*, No. 4:25-CV-02208, 2025 WL 2977712 (N.D. Ohio Oct. 22, 2025) (Calabrese, J.), reconsideration denied, 2025 WL 3264535 (N.D. Ohio Nov. 24, 2025); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) (Sinatra Jr., J.); *Chavez v. Noem*, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (Bencivengo, J.); *Chen v. Almodovar*, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) (Vyskocil, J.); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025) (Blumenfeld Jr., J.); *Garcia v. Immigr. & Customs Enf't Dep't of Homeland Sec.*, No. 2:25-CV-1004-KCD-NPM, 2025 WL 3277163 (M.D. Fla. Nov. 25, 2025) (Dudek, J.); *Garibay-Robledo v. Noem*, No. 1:25-CV-177-H, 2025 WL 3264478 (N.D. Tex. Oct. 24, 2025) (Hendrix, J.); *Kum v. Ross*, No. 6:25-CV-00451, 2025 WL 3113646 (W.D. La. Oct. 22, 2025), (Whitehurst, M.J.), report and recommendation adopted, 2025 WL 3113644 (W.D. La. Nov. 6, 2025) (Joseph, J.); *Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025) (Buescher, J.); *Mursalin v. Dedos, Warden*, No. 1:25-cv-00681, 2025 WL 3140824 (D.N.M. Nov. 10, 2025) (Strickland, M.J.); *Olalde v. Noem*, No. 1:25-cv-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025) (Divine, J.); *Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (Joseph, J.); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913 (D. Mass. July 28, 2025) (Gorton, J.); *Ramos v. Lyons*, No. 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025) (Wilson, J.); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025) (Ludwig, J.); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.); *Suarez v. Noem*, No. 1:25-CV-00202-JMD, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025) (Divine, J.); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (Doughty, J.); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025) (Griesbach, J.); *Valencia v. Chestnut*, -- F. Supp. 3d --, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Vargas Lopez v. Trump*, -- F. Supp. 3d --, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (Buescher, J.).

C. The Petitioner Has Already Been Provided a Bond Hearing under Section 1226(a)

Even if the Court determines that the Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a), the Petitioner has already been provided a bond hearing under 1226(a). (Dkt. 1 at 2, 4); Govt. Ex. 2. Her request for bond was considered on the merits and denied because of Petitioner's failure to establish she is not a danger to the community. *Id.* Because the Petitioner has already received the relief she is requesting, her claims are moot and should be dismissed.

III. Conclusion

For the reasons stated above, Federal Respondents request that the Court grant this motion to dismiss the Petitioner's habeas petition.

Dated: December 22, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on December 22, 2025, the foregoing notice was filed through the Court CM/ECF system and will be served on the Petitioner at the address below:

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