UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SAUL ALEJANDRO AMADOR ACEVEDO, Petitioner	§	
v.	§	No. 5:25-cv-1619-FB-(HJB)
Pamela Bondi, *et. al.*, Respondents	§	

REPLY OF PETITIONER TO RESPONDENT'S RESPONSE

Petitioner, SAUL ALEJANDRO AMADOR ACEVEDO, timely submits his reply to *Federal Respondents' Response to Petitioner for Writ of Habeas Corpus* no later than 7 days as ordered by this Court's ORDER FOR SERVICE AND ANSWER/RESPONSE, dated December 4, 2025.

Respondents allege in their response that Petitioner is being detained on a mandatory basis under § 1225(b)(2)(A) "under the catchall provision". (citing *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)).

Petitioner also raised as a second cause of action violations of the Immigration and Nationality Act. Petitioner brings to the Court's attention (2) recent decisions in cases out of the Texas Western District similar to Petitioner's where the petition for writ of habeas corpus was granted and ordered those petitioners be released from custody. *Martinez Orellana v. Noem, et al.*, No. 5:25-CV-1028-JKP (W.D. Tex. Nov. 24, 2025); *Miralrio Gonzalez v. Ortega, et al.*, No. 5:25-CV-1156-JKP (W.D. Tex. Nov. 24, 2025). The Court's analysis as to the

violations of the INA ultimately rested on the Court's interpretation of 8 U.S.C. § 1225(b)(2)(A) not applying to applicants for admission as the petitioners there were not *presently seeking admission* as they were noncitizens "already in the country". *See* Martinez Orellana v. Noem, et al., Slip Op. at *7-10; Miralrio Gonzalez v. Ortega, et al., Slip op. at *9-11. As in the Respondents' Response in the instant case, the Respondents did not assert that petitioners there were being detained under any other basis of law such as 8 U.S.C. §. 1226. *See id.*

Petitioner seeks declaratory and injunctive relief to remedy his unlawful detention by Respondents. Petitioner here believes that the remedy provided there is the more appropriate one: release from custody as Petitioner's detention is unlawful because Respondents only assert detention pursuant to 8 U.S.C. § 1225(b)(2)(A). *See id.* Petitioner is entitled to the relief he seeks, and the Court should grant this habeas petitioner without the need for an evidentiary hearing.

A. JURISDICTION

Petitioner is not challenging the Respondent's authority or decision to commence removal proceedings, adjudicate a removal case against him, or the execution of a removal order to trigger the jurisdictional bar under 8 U.S.C. § 1252(g). *See* Reno v. Am.-Arab Anti-Discrimination Comm., 525 U.S. 471, 482 (1999); *see also* Martinez Orellana v. Noem, et al., No. 5:25-CV-1028-JKP, Slip. Op. at *4-5 (W.D. Tex. Nov. 24, 2025); Miralrio Gonzalez v. Ortega, et al., No. 5:25-CV-1156-JKP, Slip Op. at *4-5 (W.D. Tex. Nov. 24, 2025). Petitioner's challenge

in this writ of habeas corpus is the statutory basis and decision of his detention, which does not deprive the Court of jurisdiction.

Nor is the Petitioner asking this Court to review an order of removal against him, the discretion to seek removal of Petitioner, or the legal process to determine whether Petitioner may be removed. *See* 8 U.S.C. § 1252(b)(9); *Dept. of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020); *see also Martinez Orellana v. Noem, et al.*, No. 5:25-CV-1028-JKP, Slip. Op. at *5-7 (W.D. Tex. Nov. 24, 2025); *Miralrio Gonzalez v. Ortega, et al.*, No. 5:25-CV-1156-JKP, Slip Op. at *6-8 (W.D. Tex. Nov. 24, 2025). The Petitioner is not seeking judicial review of any order of removal against him to trigger this Court being deprived of jurisdiction under 8 U.S.C. § 1252(a)(5).

Petitioner's challenge relates to the legality and statutory authority to detain him without the ability to request a bond under 8 U.S.C. § 1225(b), instead of § 1226 which allows for a bond hearing under § 1226(a). *See Nielsen v. Preap*, 586 U.S. 392, 402 (2019); *Jennings v. Rodriguez*, 583 U.S. 281, 295 n.3 (2018). Without the ability to present this challenge to the Court, Petitioner is left with no recourse to seek judicial review of his detention given the Respondents drastic change in the interpretation and application of 8 U.S.C. § 1225(b)(2)(A) with the BIA's September 5th decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner has already sought a bond hearing where the IJ issued a written order after the hearing asserting he lacked jurisdiction based on the BIA's precedential decision in *Yajure-Hurtado*. Any appeal to the BIA, who recently issued the decision, would be

futile, given that BIA bond denial appeals take over six months to be adjudicated. *See* Rodriguez v. Bostock, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025); *see also* Hernandez-Fernandez v. Lyons, et al., No. 5:25-CV-00773-JKP-ESC, Slip Op. at *12, 17 (W.D. Tex. Oct. 21, 2025).

B. PROCEDURAL DUE PROCESS

In regard to the violation of due process question, Federal Respondents allege that the Supreme Court's decision in Thuraissigiam controls and his detention comports with due process as applied to Petitioner. (citing Dep't of Homeland Sec. v. Thuraissigiam, 591 U.S. 103, 140). Similar to Hernandez-Fernandez, Petitioner only seeks an opportunity to be released on bond pending the adjudication of his Cancellation of Removal and Adjustment of Status for Certain Non-Permanent Residents application in his 8 U.S.C. § 1229a removal proceedings. In other words, Petitioner only challenges his detention, not his removability from the United States. Nor was Petitioner's apprehension and arrest like that of Thuraissigiam who was detained within twenty-five yards from the border and never released from custody. *See id.* at *14 (citing *Thuraissigiam*, 591 U.S. at 114). Here, it is undisputed Petitioner has been in the United States for more than 10 years before he was placed in removal proceedings.

The IJ here, an inferior officer of the Respondent Attorney General, cited the BIA's decision in Matter of Yajure-Hurtado as the basis for hIS lack of jurisdiction. *See* IJ BOND DENIAL ORDER.

Petitioner submits that *Mathews v. Eldridge* when applied: to the first element, Petitioner has a protected liberty interest in being free from detention because Federal Respondents' recent BIA decision in *Yajure-Hurtado* would subject him to mandatory detention despite his eleven years at liberty in the United States. As to the second element, the IJ's written order declining jurisdiction after the scheduled bond hearing deprived Petitioner of an opportunity for an individualized assessment as to his continued detention and any appeal to the BIA would be futile given the holding in *Yajure-Hurtado*. As such, there is a high risk that Petitioner has been and will continue to be deprived of his liberty erroneously both by a violation of his due process and the Federal Respondents novel interpretation of § 1225(b)(2)(A). *Id.* As to the final element, the government's interest, the scales should tip in Petitioner's favor. It is understandable the Government has an interest in ensuring Petitioner appears for his removal proceedings and does not pose a danger to the community. Additionally, there is a governmental interest in avoiding an incremental cost resulting from additional custody hearings. But here, Petitioner has been in the United States for over 10 years, with no evidence of any danger to the community or flight risk. Had the IJ found jurisdiction for the bond hearing, it would have addressed the danger to the community and flight risk. Any additional custody hearings that would be conducted for Petitioner would not be burdensome given that IJs historically have held bond hearings for noncitizens who entered the United States without inspection. *Id.*

Should the Court ultimately grant this petition for writ of habeas corpus due to a due process violation, Petitioner requests he be afforded an individualized bond hearing where Respondents bear the burden as to danger to the community or flight risk, by clear and convincing evidence, to justify his continued detention as has been the consensus of many courts dealing with similar challenges.

C. VIOLATIONS OF INA

More recently, the Texas Western District Court has issued at least (2) decisions rejecting Federal Respondents' novel statutory interpretation of 8 U.S.C. § 1225(b)(2)(A) requiring mandatory detention of all noncitizens who entered the United States without inspection even if they are already in the country. *See* Martinez Orellana v. Noem, et al., No. 5:25-CV-1028-JKP (W.D. Tex. Nov. 24, 2025); *Miralrio Gonzalez v. Ortega, et al.*, No. 5:25-CV-1156-JKP, (W.D. Tex. Nov. 24, 2025). In doing so, joined the vast majority of district courts who have rejected the interpretation on various rationales: longstanding agency practice, the plain statutory language of 1225(b)(2)(A), the Supreme Court's interpretation of the relevant statutes, and context to legislative history. *See* Martinez Orellana v. Noem, et al., at *8 (citations omitted). The plain language of 8 U.S.C. § 1225(b)(2)(A) requires an applicant for admission, such as Petitioner, to be *seeking admission*, which does not comport with the definition of admission as found in 8 U.S.C. § 1101(a)(13)(A). *See id.* at 9. But similar to the noncitizen in Martinez v. Mukasey, 519 F.3d 532 (5th Cir. 2008), Petitioner here is not seeking lawful admission after

inspection but instead is seeking Cancellation of Removal and Adjustment of Status post-entry.

As Petitioner is a noncitizen already in the country, and is not "seeking admission", then § 1225(b)(2)(A) cannot apply and this aligns with the Supreme Court's summary of the statutory relationship between §§ 1225 and 1226. *See* *Jennings v. Rodriguez*, 583 U.S. at 289) (holding that Supreme Court dicta is binding in the Fifth Circuit as held in *McRorey v. Garland*, 99 F.4th 831 (5th Cir. 2024)). Federal Respondents contend that Petitioner's detention stems from 8 U.S.C. §. 1225(b)(2)(A) and do not invoke any other statutory authority to authorize his continued detention. Nor could they rely on § 1226 as that would turn their novel statutory interpretation on its end as they contend § 1226(a) only applies to noncitizens who were lawfully admitted and are now deportable pursuant to 8 U.S.C. § 1227(a). Additionally, any reliance on § 1226 as the Respondent's detention authority would give Petitioner the right to an individualized bond hearing before an IJ as authorized by § 1226(a) and the corresponding regulations.

Should this Court reach the same conclusion that Petitioner's detention is unlawful under 8 U.S.C. § 1225(b)(2)(A), then Petitioner agrees with Respondents' that "the only relief available to Petitioner through habeas is release from custody". As such, Petitioner believes: that Petitioner be released from custody immediately to a public place, with sufficient practicable notice to counsel before his release, that he not be removed or transferred under this present detention, and if he is re-detained

pursuant to 8 U.S.C. § 1226, that he be afforded a bond hearing as authorized by statute and regulation.

D. CONCLUSION

The Court should grant Petitioner's application for writ of habeas corpus and order his release from custody as his detention pursuant to 8 U.S.C. § 1225(b)(2)(A) is unlawful. Petitioner, an applicant for admission already in the country, is not presently seeking admission as understood by 8 U.S.C. § 1101(a)(13) and as such § 1225(b)(2)(A) does not apply. Should the Court believe that Petitioner has instead been deprived of procedural due process, then Petitioner requests this Court order Federal Respondents to conduct a bond hearing where they bear the burden to justify, by clear and convincing evidence of dangerousness and flight risk, his continued detention or release him from custody under reasonable conditions of supervision.

Respectfully submitted this 22nd day of December 2025 by:

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CERTIFICATE OF SERVICE

I, DAVID H. SQUARE, hereby certify that the foregoing document was served on Counsel for the Government on December 22nd, 2025 by the ECF electronic filing system.

/s/ David H. Square
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