

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:25-cv-62474-LEIBOWITZ

HENRRY WALDIMIR  
BELTRAND LANDAVERDE,

*Petitioner,*

*v.*

GARRETT RIPA,

*Respondent.*

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**ORDER**

**THIS CAUSE** comes before the Court on Petitioner Henry Waldimir Beltrand Landaverde's ("Beltrand Landaverde" or "Petitioner") Emergency Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and for Immediate Release (the "Motion") [ECF No. 1], filed on December 3, 2025. Respondent Garrett Ripa ("the Government" or "Respondent") has filed a response [ECF No. 9], and Petitioner has filed a reply. [ECF No. 10].

**BACKGROUND**

Beltrand Landaverde entered the United States on or about December 2, 2023. [ECF No. 1 ¶ 28]. Upon entry, immigration officers encountered and detained Petitioner for several days. [*Id.* ¶ 29]. The officers then issued a Warrant for Arrest of an Alien and served Petitioner with a Notice to Appear ordering Petitioner to appear before an immigration judge. [*Id.*]. On December 7, 2023, Petitioner was issued a Form I-286, Notice of Custody Determination indicating that he was being released on his own recognizance pursuant to INA § 236, after having established to the "satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." [*Id.* ¶ 30]. On January 24, 2024, ICE filed the NTA with the Immigration Court, placing Beltrand Landaverde in full removal proceedings under 8 U.S.C. §

1229. [*Id.* ¶ 33]. Within a year of entry, Petitioner filed an Asylum Application. [*Id.* ¶ 34]. Mr. Beltrand Landaverde obtained employment authorization, and, at the time of his detention, he was employed with Solar Specialist. [*Id.* ¶ 35]. Petitioner represents that he has no criminal history and that he has complied with the conditions of his release. [*Id.* ¶¶ 36–37].

While attending a scheduled ICE check-in appointment on or around October 29, 2025, officers detained Petitioner and placed him in ICE custody. [*Id.* ¶ 39]. Petitioner asserts, and Respondent does not dispute, that at the time of his detention there had been no change in Petitioner’s circumstances since he was released on his own recognizance in December of 2023. [*Id.* ¶ 40]. Beltrand Landaverde filed the instant Petition on December 3, 2025. [ECF No. 1]. In the habeas petition, Petitioner seeks immediate release from ICE custody, arguing that his detention violates his rights to due process under the Fifth Amendment and the Administrative Procedures Act (“APA”). [*Id.* ¶¶ 44–59].

## DISCUSSION

### I. 8 U.S.C. § 1226 governs Petitioner’s detention.

The parties dispute whether Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a), or whether he is subject to mandatory detention pending removal under 8 U.S.C. § 1225(b)(2)(A). Respondent urges this Court to adopt the novel position, only recently introduced in proceedings like these, that the government is not only permitted but required to detain aliens who have entered the United States without admission. That position is troubling. As this Court has previously explained:

[Respondent’s] interpretation of Section 1225 is dangerously broad. This view calls for all aliens who have entered the United States without admission “regardless of where or when they arrived in the United States” to be subjected to mandatory detention under Section 1225. This would capture *all* noncitizens present in the United States who have not yet been admitted. That cannot be right.

*Ocampo Fernandez v. Ripa*, 1:25-cv-24981-DSL (S.D. Fla. Nov. 25, 2025), ECF No. 17 at 12 (cleaned up). To date, the vast majority of courts have sided against Respondent on this issue. *See Perez v.*

*Parra*, Case No. 1:25-cv-24820-KMW (S.D. Fla. Oct. 27, 2025), ECF No. 6–10 (collecting “countless” cases). To be sure, Respondent’s position presents a colorable question, but here Respondent has not presented any new argument or limiting principle that would change the above analysis. Pending the Eleventh Circuit’s resolution of this issue, the Court continues to side with the clear weight of existing authority in finding that Petitioner’s detention is governed by Section 1226(a).

**II. Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a).**

Having determined that Petitioner’s detention is governed by 8 U.S.C. § 1226(a), the Court must next determine what, if any, procedural relief Petitioner must be afforded. Notably, the Government offers no argument on this point, instead hanging its hat entirely on its assertion that Petitioner’s detention is mandatory under 8 U.S.C. § 1225. By contrast, Petitioner asserts that the Fifth Amendment mandates his immediate release.

The Fifth Amendment’s Due Process Clause prevents the Government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). It is well established that such protection extends to noncitizens, including those who are in removal proceedings. *See id.* at 693 (“[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.”); *Reno v. Flores*, 507 U.S. 292, 306 (1993). “Even noncitizens have a liberty interest in continued freedom from civil immigration confinement.” *Valdez v. Joyce*, No. 25 Civ. 4627, 2025 WL 1707737, at \*2 (S.D.N.Y. June 18, 2025) (citing *Lopez v. Sessions*, No. 18 Civ. 4189, 2018 WL 2932726, at \*12 (S.D.N.Y. June 12, 2018) (“Petitioner’s re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.”)).

Petitioner's request for immediate release is premature. *See Puga v. Assistant Field Off. Dir., Krome N. Serv. Processing Ctr.*, No. 25-24535-CIV, 2025 WL 2938369, at \*6 (S.D. Fla. Oct. 15, 2025) (ordering bond hearing and reserving judgment on "unripe claim" challenging petitioner's detention under the Fifth Amendment, which was "contingent on [p]etitioner not receiving a custody determination hearing under 8 U.S.C. section 1226(a)"). Generally, where an alien detained pursuant to Section 1226 challenges his detention, the proper course is to order a bond hearing, as contemplated under that statute, with leave to move again for immediate release contingent on the outcome of the bond hearing.<sup>1</sup> *See id.*; *see also Enrique Reyes Rodriguez v. Warden, Florida Southside Facility*, No. 2:25-CV-01012-JES-DNF, 2025 WL 3628230, at \*2 (M.D. Fla. Dec. 15, 2025); *Fernando Josue Ardon-Quiroz, Petitioner, v. Assistant Field Director, Krome N. Serv. Processing Ctr., U.S. Immigr. & Customs Enft, et al., Respondents.*, No. 25-CV-25290-JB, 2025 WL 3451645, at \*7 (S.D. Fla. Dec. 1, 2025); *Boffill v. Field Off. Dir.*, No. 25-CV-25179-JB, 2025 WL 3246868, at \*7 (S.D. Fla. Nov. 20, 2025); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at \*5 (M.D. Fla. Oct. 31, 2025).

Nonetheless, the Court finds that due process here requires, at a minimum, a bond hearing in accordance with Section 1226(a) where an alien released on his own recognizance and without any criminal history is subsequently detained without explanation or cause and where the Government itself purported to be invoking removal proceedings against Petitioner under the auspices of Section 1226. [See ECF Nos. 9-3, 9-4, and 9-5].

The Government in its response offers no rationale for Petitioner's detention. The Court need not reach the constitutional issue because the undersigned finds that the Petitioner has made out a violation of Section 1226.

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<sup>1</sup> The same is true where, as here, a petitioner challenges his detention under the APA. *See Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at \*5 (M.D. Fla. Oct. 31, 2025) (declining to reach merits of petitioner's APA challenge where court granted bond hearing).

**CONCLUSION**

For the reasons stated above, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Petition [ECF No. 1] is **GRANTED IN PART**. Respondent shall provide Petitioner an individualized bond hearing, consistent with 8 U.S.C. § 1226(a) within seven (7) days of the entry of this Order or otherwise release Petitioner.<sup>2</sup>
2. Petitioner has leave to move again for immediate release contingent on the outcome of his bond hearing.

**DONE AND ORDERED** in the Southern District of Florida on December 18, 2025.

  
DAVID S. LEIBOWITZ  
UNITED STATES DISTRICT JUDGE

cc: counsel of record

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<sup>2</sup> Other courts that have granted habeas corpus petitions on this precise issue have afforded relief on similar or even more expedited timelines. *See, e.g., Perez*, No. 25-24820-CV, ECF No. 9 at 11 (two days); *Gonzalez*, 2025 WL 3145764, at \*10 (three days); *Lopez-Campos*, 2025 WL 2496379, at \*10 (seven days).