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6 **UNITED STATES DISTRICT COURT**  
7 **EASTERN DISTRICT OF CALIFORNIA**

8  
9 NARCISA DE JESUS YUGLA ALOMALIZA

10 *Petitioner,*

11 v.

12 Timothy S. ROBBINS, Field Office Director of the  
13 Los Angeles Field Office of U.S. Immigration and  
14 Customs enforcement; Todd M. LYONS, Acting  
15 Director of U.S. Immigration and Customs  
16 Enforcement; U.S. DEPARTMENT OF  
17 HOMELAND SECURITY, Kristi NOEM,  
18 Secretary of the U.S. Department of Homeland  
Security, Christopher CHESTNUT, Warden,  
California City Corrections Center, and Pamela  
BONDI, Attorney General of the United States<sup>1</sup>

19 *Respondents,*  
20

**Case No. 1:25-CV-01735-WBS-CKD**

**PETITIONER'S RESPONSE TO  
MOTION TO DISMISS; REPLY IN  
SUPPORT OF MOTION FOR PETITION  
FOR WRIT OF HABEAS CORPUS**

21 <sup>1</sup> The court should not dismiss any Respondents in this matter. The cases cited by Respondents relate to issues relating to the  
22 lack of jurisdiction by a district court due to the party's failure to name a facility warden as a respondent, not as to whether  
23 DHS officials and/or the Attorney General were improperly named as respondents. In addition, the cases cited by  
24 Respondent are limited to challenges to a detainee's present physical confinement. Here, Petitioner is attacking both her  
25 present confinement as well as the risk of a future detention by DHS without a hearing before a neutral factfinder. (See e.g.  
26 *Dunn v. Hennan*, 875 F.2d 244, 249 (9th Cir. 1989); also see *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024)  
27 (explaining that *Dunn* was not applicable because petitioner was not attacking a future sentence; rather, he was only attacking  
28 his present physical confinement.) In addition, in order for the warden to authorize the release of a detainee, the court order  
must be provided to an DHS official, who will then contact the detention facility and request for a detainee to be released.)  
The decision to detain Petitioner was made by DHS and arguably by the Attorney General of the United States. Lastly, it is  
doubtful that Respondent Christopher Chestnut would have the authority to order the release of Petitioner without DHS and  
its officers instructing him to do so. Lastly, the motion and the Petition for a Writ of Habeas Corpus is also requesting for the  
court to enjoin DHS from re-detaining Petitioner without a pre-detention hearing by a neutral decisionmaker.

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**REPLY**

In its opposition to the Petition for Writ of Habeas Corpus, Respondents claim that Petitioner’s motion for a Temporary Restraining Order should be denied because under 8 U.S.C. § 1225(b)(2)(A), Petitioner must remain detained pending the outcome of her removal proceedings, which may take months or even years to be concluded. (Doc. 11 at 5.) In addition, Respondents also argue that in regards to an alien who was subject to section 1225(b)(2) when apprehended, DHS has the absolute authority under the “entry fiction” doctrine, to re-detain her without any the need for any procedural safeguards which would protect her Fifth Amendment Rights under the United States Constitution. (Id. at 5.) However this case is indistinguishable from this court’s decision in *Labrador-Prato*, where this Court rejected the new interpretation of section 1225 as the applicable immigration detention authority for all inadmissible non-citizens. (*Labrador-Prato v. Noem, et al.*, 1:25-cv-01598-DC-SCR, 2025 WL 3458802, at \*10 (E.D. Cal. Dec. 2, 2025).)

In regards to Respondents’ argument that the “entry fiction” doctrine is applicable in this matter, numerous courts have rejected that argument. This doctrine arises from the distinction made by our immigration laws “between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality. In the latter instance, the [Supreme] Court has recognized additional rights and privileges not extended to those in the former category who are merely ‘on the threshold of initial entry.’” (*Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).) For those on the threshold, they have only those rights provided by statute. (*See U.S. ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950).) But “once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” (*Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (“[I]t is well-established that the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority.”).)

In some instances, however, one may be physically present in the United States but still treated as if stopped at the border. (*Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).) That is

1 because the distinction between those outside and inside the country “would be meaningless if it became  
2 inoperative as soon as an arriving alien set foot on U. S. soil. When an alien arrives at a port of entry—  
3 for example, an international airport—the alien is on U. S. soil, but the alien is not considered to have  
4 entered the country for the purposes of this rule.” (*Id.*) In *Thuraissigiam*, the Court held that this doctrine  
5 applies when a noncitizen manages to run 25 yards past the border before being apprehended by  
6 immigration officials; the noncitizen there could not be considered to have “effected an entry.” (*See id.*  
7 at 114, 140.) The cases cited by respondents and relied upon by this Court when denying the motion for  
8 TRO, hold that the entry fiction doctrine addresses due process rights regarding *admission* into the  
9 country—not detention. (*Id.* at 140) (“[A]n alien in respondent’s position has only those rights *regarding*  
10 *admission* that Congress has provided by statute.”); *see Landon v. Plasencia*, 459 U.S. 21, 32 (1982)  
11 (“[A]n alien seeking initial admission to the United States requests a privilege and has no constitutional  
12 rights regarding his application . . . .”); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1170–72 (W.D. Wash.  
13 2023) (discussing *Thuraissigiam* and explaining the distinction between a challenge to admission and a  
14 challenge to detention and holding that *Thuraissigiam* does not foreclose a challenge to detention); *see*  
15 *also Wong v. United States*, 373 F.3d 952, 970–75 (9th Cir. 2004), *overruled on other grounds by Wilkie*  
16 *v. Robbins*, 551 U.S. 537 (2007) (“The entry fiction is best seen, instead, as a fairly narrow doctrine that  
17 primarily determines the *procedures* that the executive branch must follow before turning an immigrant  
18 away. Otherwise, the doctrine would allow any number of abuses to be deemed constitutionally  
19 permissible merely by labelling certain ‘persons’ as non-persons.”).)

20 Noncitizens outside the country, as well as noncitizens subject to the entry fiction doctrine, do not  
21 have due process rights to challenge their denial of admission into the country. As the Supreme Court  
22 explained in *Thuraissigiam*, “[t]he power to admit or exclude aliens is a sovereign prerogative; the  
23 Constitution gives the political department of the government plenary authority to decide which aliens to  
24 admit; and a concomitant of that power is the power to set the procedures to be followed in determining  
25 whether an alien should be admitted.” (*Id.* (internal citations and quotation marks omitted).)

26 Respondents ask the Court to apply the “entry fiction” doctrine to petitioner, but the important  
27 distinction between this case and those cited above is that, here, the government did not treat petitioner  
28

1 as if she had been stopped at the border when it detained and released her after her entry. “The  
2 responsibilities of officials with respect to noncitizens at the border” and other ports of entry “are set out  
3 in 8 U.S.C. § 1225.” (*Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 138 F.4th 1102, 1118 (9th Cir.  
4 2025).) When immigration authorities detained petitioner, they did not treat her as subject to 8 U.S.C. §  
5 1225. Instead, they provided her with a notice of custody determination which stated that she was being  
6 released “pursuant to the authority contained in section 236 of the Immigration and Nationality Act[,]”  
7 which is codified at 8 U.S.C. § 1226. (Doc. 2-2, at 16.) They also provided Petitioner with an Order of  
8 Release on Recognizance, which stated that Petitioner was being released pursuant to Section 236.  
9 (Doc. 2-2 at 22 and 24.) Section 1226(a) is the discretionary detention authority for “aliens already  
10 present in the United States.” (*Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018); *see Cardenas v.*  
11 *Alomar*, No. 25-CV-9169 (JMF), 2025 WL 3215573, at \*2 (S.D.N.Y. Nov. 18, 2025) (noting the “scores  
12 of decisions” that have reached this conclusion).) It is significant that immigration officials invoked this  
13 statute when detaining and releasing petitioner because, under 8 U.S.C. § 1226(a), petitioner has the  
14 right to a bond hearing before an immigration judge, *see* 8 C.F.R. § 1236.1(d)(1), and she must be  
15 released on bond if she can “establish to the satisfaction of the Immigration Judge . . . that [] she does  
16 not present a danger to persons or property, is not a threat to the national security, and does not pose a  
17 risk of flight.” (*Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017) (quoting *In re Guerra*, 24 I. &  
18 N. Dec. 37, 38 (BIA 2006)).)

19 Here, the government itself treated petitioner as a person who had entered and was already present  
20 in the country when they detained and released her. This fact undermines respondents’ attempt to apply  
21 the entry fiction doctrine. The government’s actions in releasing petitioner subject to § 1226(a) are  
22 inconsistent with their claim that petitioner is subject to the entry fiction doctrine. While “the line  
23 between when a person is ‘seeking admission’ as opposed to being ‘already in the country’ is not  
24 necessarily obvious” in all cases. (*see Miguel v. Noem*, No. 25 C 11137, 2025 WL 2976480, at \*5 (N.D.  
25 Ill. Oct. 21, 2025).) Here immigration officials implicitly determined that petitioner was “already  
26 present in the country” when they released her pursuant to 8 U.S.C. § 1226(a). Respondents’ argument  
27 that the entry fiction doctrine applies is contradicted by the government’s prior conduct.

1 The fact remains that even if the government was correct that §1225, by its terms, could apply to  
2 Petitioner, the evidence presented by Petitioner shows that Respondents released her under 8 U.S.C. §  
3 1226(a) under her own cognizance. Federal Courts found that this fact creates “an implicit promise”  
4 that one’s release would “be revoked only if [she] fail[ed] to live up to the [release] conditions,” as in  
5 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) and *Johnson v. Willford*, 682 F.2d 868, 873 & n.3 (9th  
6 Cir. 1982) (holding that it would be “inconsistent with fundamental principles of liberty and justice” to  
7 re-incarcerate a mistakenly released prisoner who had readjusted to society and complied with the terms  
8 of release.) Thus, the argument that a “mistakenly released [person] does not have a legitimate claim of  
9 entitlement to freedom [under the Due Process Clause] cannot be squared with established law.” (*Hurd*  
10 *v. Dist. Of Columbia, Gov’t*, 864 F.3d 671, 682 (D.C. Cir. 2017). Even if §1225(b) did apply, Petitioner  
11 has a protected liberty interest based on the government’s prior release of her pursuant to §1226. (*Vilela*  
12 *v. Robbins*, No. 1:25-cv-01393-KES-HBK (HC), 2025 U.S. Dist. LEXIS 219172, 2025 LX 474205 at  
13 11); also see *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at \*4 (N.D. Cal.  
14 Aug. 21, 2025) (once the government “elect[s] to proceed...under §1226, cannot [] reverse course and  
15 institute §1225... proceedings”).) “The liberty interest that arises upon release from immigration  
16 detention is inherent in the Due Process Clause” (See *Guillermo M.r. v. Kaiser*, No. 25-CV-  
17 054360RFL, 2025 WL 1983677, at \*4 (N.D. Cal. July 17, 2025); *Ortega v. Kaiser* (No. 25-CV-  
18 052590JST, 2025 WL 1771438, at \*3 (N.D. Cal. June 26, 2025)(collecting cases finding that noncitizens  
19 who have been released have a strong liberty interest.)

20 Furthermore, the *Mathews* test clearly compels Petitioner’s release. Respondents’ argument that  
21 Petitioner does not have a liberty interest because 8 U.S.C. §1225 mandates that she be detained should  
22 be rejected because the government treated her as subject to 8 U.S.C. §1226(a), which does not mandate  
23 detention after it released her. The evidence presented by Petitioner shows that Petitioner was released  
24 on her own recognizance and placed on an Alternative to Detention program. This means that he was  
25 released pursuant to §1226(a). (See *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007)  
26 (It is apparent that the INS used the phrase ‘release on recognizance’ as another name for ‘conditional  
27 parole’ under §1226(a)”)  
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1 Respondents also claim that Respondent is not entitled to a pre-deprivation bond hearing because  
2 section 1225 does not provide for one in its text. (Doc. 11 at 8.) However, courts have found that pre-  
3 deprivation bond hearings are required under these circumstances when one’s private liberty interest is  
4 involved. (See *A.E. v. Andrews*, No. 1:25-CV-00107-KES-SKO, 2025 WL 1424382, at \*5 (E.D. Cal.  
5 May 16, 2025) (“the risk of an erroneous deprivation [of liberty] is high” where [the petitioner] has not  
6 received any bond or custody redetermination hearing); also see *Vilela*, 2025 LX 474205 at 15).)  
7 Petitioner’s immediate release is required in order to return him to the status quo ante—“the last  
8 uncontested status which preceded the pending controversy.” (See *Kuzmenko v. Phillips*, No. 2:25-CV-  
9 00663-DJC-AC, 2025 WL 779743, at \*2 (E.D. Cal. Mar. 10, 2025); see also *Valdez v. Joyce*, 25 Civ.  
10 4627, 2025 WL 1707737, at \*5 (S.D.N.Y. June 18, 2025) (ordering immediate release of unlawfully  
11 detained noncitizens); *Ercelik v. Hyde*, No. 1:25-CV-11007-AK, 2025 WL 1361543, at \*15-16 (D.  
12 Mass. May 8, 2025).) Due to the importance of the private interest in liberty involved in this matter and  
13 the very high risk of deprivation of this liberty interest, this Court should order Petitioner’s immediate  
14 release and require a pre-deprivation hearing before Petitioner is re-detained by Respondents.

15 **CONCLUSION**

16 In view of the arguments and case law included in Petitioner’s motion and Reply, Petitioner  
17 respectfully asks for this Court to find that he should be released immediately and undergo a pre-  
18 deprivation hearing before re-detention or a custody redetermination hearing by an Immigration Court.  
19 In addition, this court should not dismiss the matter.

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21 Respectfully submitted,

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23 DATE: 01/04/2026

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**WORD COUNT CERTIFICATION**

I certify that this memorandum contains 2113 words, in compliance with the Local Civil Rules.

/S/ Jose F. Vergara

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