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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA

10	JOSE CASTRO MARTINEZ,)	Case No. 3:25-cv-3449-DMS-MMP
11)	
12	<i>Petitioner,</i>)	REPLY TO ANSWER TO
13)	PETITION FOR WRIT
14	v.)	OF HABEAS CORPUS AND
15)	MOTION FOR TEMPORARY
16	CHRISTOPHER J. LA ROSE, et al.,)	RESTRAINING ORDER
17)	
18)	Honorable Dana M. Sabraw
19	<i>Respondents.</i>)	United States District Judge
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I. INTRODUCTION

Petitioner Jose Castro Martinez (“Petitioner”) respectfully submits this Reply to the Respondents Response in Opposition to Petitioner’s Habeas Petition and Motion for Temporary Restraining Order.

This Reply addresses each of Respondents’ asserted defenses and demonstrates that Petitioner’s ongoing confinement is unlawful under both the Immigration and Nationality Act (“INA”) and the U.S. Constitution.

II. RESPONSE TO ARGUMENT ONE: JURISDICTION IS PROPER: NEITHER SECTION 1252(B)(9) NOR SECTION 1252(G) DEPRIVE THIS COURT OF JURISDICTION OVER PETITIONER’S DUE PROCESS CLAIM

Respondents contend that this court lacks jurisdiction under 8 U.S.C. § 1252 (g) and § 1252(b). However, their argument fails as a matter of law. Habeas jurisdiction under 28 U.S.C. § 2241 extends to anyone “in custody in violation of the Constitution or law or treaties of the United States.” Petitioners claim challenges only the lawfulness and duration of his detention, not the initiation, adjudication, or execution of a removal order.

In Petitioners case no final removal order has been entered. Section § 1252 (g) and § 1252(b) apply only to discrete executive actions related to removal itself. Courts have repeatedly held that detention challenges remain reviewable through habeas corpus, even while proceedings are pending. *See Jennings v Rodriguez*, 538 U.S. 281, 291-92 (2018) (finding that 8 U.S.C. § 1252(b)(9) does not bar challenges to the lawfulness of detention itself) *see also Denmore v Kim*, 538 U.S. 510, 517 (2003) (finding that the District Court has habeas jurisdiction to challenge immigration detention pending removal proceedings).

Petitioner seeks only release pending resolution of his immigration case. Although Petitioner is in removal proceedings, this habeas action does not seek to review, delay, or invalidate those proceedings. Rather, it challenges the independent legality and

1 constitutional of his ongoing detention. His detention is civil, not punitive, and its
2 legality is properly reviewable by this Court.

3 The removal process determines whether a noncitizen may remain in the United
4 States; the detention authority governs where and under what conditions that
5 individual is held while those proceedings unfold. *See Jennings v Rodriguez*, 538 U.S.
6 281, 291-92 (2018). These are separate statutory and constitutional inquiries. A
7 challenge to the former implicates the Executive’s power to remove; a challenge to the
8 latter concerns only the Government’s power to restrain liberty prior to removal. *See*
9 *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001) (recognizing that habeas corpus
10 remains available to test the legality of executive detention and that freedom from
11 physical restraint lies at the core of liberty protected by the Due Process Clause).

12 Here, Respondents mischaracterize Petitioner’s claims. Petitioner does not
13 challenge his removal case, its initiation or its adjudication. He challenges only the
14 lawfulness of his continued detention under 8 U.S.C. § 1226(a). The relief sought is
15 release from unlawful custody, which is entirely consistent with the habeas statute’s
16 purpose of testing the legality of present physical restraint. The Court retains
17 jurisdiction under 28 U.S.C. § 2241 to review the legality of his custody.

18 Accordingly, Respondents’ jurisdictional argument fails. Petitioner’s habeas claims
19 do not “arise from” any action taken to remove him but instead challenges the
20 separate, ongoing exercise of detention authority by the Attorney General. Habeas
21 jurisdiction under 28 U.S.C. § 2241 therefore lies with this Court.

22 **III. RESPONSE TO ARGUMENT TWO: PETITIONER IS NOT**
23 **LAWFULLY DETAINED BECAUSE DETENTION FALLS UNDER 8**
24 **U.S.C. § 1226(a) NOT § 1225**

25 The Government’s reliance on INA § 1225(b)(2) is misplaced. Petitioner is not an
26 “arriving alien.” He was arrested inside the United States after over thirty-eight years
27 of continuous residence, not at or near a port of entry. ICE served a Notice to Appear,
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1 placing him in removal proceedings under § 239 of the INA. Ordinary § 1229a
2 removal proceedings were initiated, not expedited proceedings under § 1225(b).

3 The NTA confirms that Department of Homeland Security (“DHS”), alleged that
4 the Petitioner is “an alien present in the United States who has not been admitted or
5 paroled” not “an arriving alien.” That act triggers the detention framework of §
6 1226(a), not § 1225(b). Section 1225(b) applies only to “arriving aliens” encountered
7 at or near the border and is legally incompatible with the commencement of § 240
8 proceedings. Having elected to proceed under § 240, the Government cannot now
9 recast Petitioner as an “applicant for admission” to avoid the individualized bond
10 procedures Congress mandated under § 1226(a).

11 Because Petitioner has long since effected entry, his custody is governed by 8
12 U.S.C. § 1226(a). In contrast, Section 1225(b) governs pre-admission detention of
13 individuals stopped at the border and provides no such bond authority. Once a
14 noncitizen is physically present in the country, whether lawfully admitted or not, the
15 detention authority shifts to § 1226(a).

16 Section 1225 begins with a definitional provision: “An alien present in the United
17 States who has not been admitted or who arrives in the United States (whether or not
18 at a designated port of arrival and including an alien who is brought to the United
19 States after having been interdicted in international or United States waters) shall be
20 deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. §
21 1225(a)(1) (emphasis added). This clause is limited to the use within this chapter. This
22 definition does not confer detention authority, nor does it collapse the carefully
23 separated detention schemes that Congress established in §§ 1225(b) and 1226. The
24 fact that a noncitizen is deemed an applicant for admission “for purposes of this
25 chapter” does not mean he is subject to the mandatory detention provisions of §
26 1225(b). Those provisions apply only to the specific categories of applicants described
27 in § 1225(b)(1) and (b)(2), which consist primarily of “arriving aliens” inspected at
28 the border or individuals whom DHS affirmatively places into expedited removal.

1 Here, Petitioner does not fall into either category. He was arrested in the interior,
2 placed directly into § 240 proceedings, and was never processed through the
3 inspection or expedited removal procedures that trigger § 1225(b)'s mandatory-
4 detention scheme.

5 By contrast, § 1226 “generally governs the process of arresting and detaining”
6 noncitizens “present in the country” who are placed into full removal proceedings
7 under 8 U.S.C. § 1229a. *Jennings*, 583 U.S. at 288. The Supreme Court has been
8 explicit: “§ 1225(b) applies primarily to aliens seeking entry into the United States
9 (‘applicants for admission’ in the language of the statute).” *Id.* at 297. “Section 1226
10 applies to aliens already present in the United States.” *Id.* at 303. Section 1226(a) then
11 “sets out the default rule,” permitting, but not requiring, the Attorney General to
12 detain such individuals and expressly authorizing their release on bond. *Id.* at 288.

13 District courts have consistently held that long-term residents arrested in the
14 interior and placed directly into § 240 proceedings are detained under § 1226(a), not §
15 1225(b)(2)(A). *Mosqueda*, 2025 WL 2591530, at *6 (holding that § 1226(a), not §
16 1225(b)(2), applies “to individuals who, like petitioners, have been residing in the
17 United States and did not apply for admission or a change of status”); *Salazar v.*
18 *Noem*, 2025 WL 2676729, at *4 (D.N.M. 2025) (finding that petitioner who had lived
19 in the United States since the 1980s was not “seeking admission” and was detained
20 under § 1226(a)); *Garcia Domingo v. Noem*, 2025 WL 2941217, at *4 (D.N.M. 2025);
21 *Pastrana-Saigado v. Noem*, No. 2:25-cv-00950-MLG-LF, Doc. 17, Doc. 24; *Cortez-*
22 *Gonzalez v. Noem*, No. 2:25-cv-00985-MLG-KK, Doc. 2, Doc. 16; *Buenrostro-*
23 *Mendez v. Bondi*, 2025 WL 2886346, at *3 (S.D. Tex. 2025); *Sampiao v. Hyde*, 2025
24 WL 2607924, at *8 (D. Mass. 2025); *Kostak v. Trump*, 2025 WL 2472136, at *3
25 (W.D. La. 2025); *Martinez-Elvir v. Bondi*, 2025 WL 3006772, at *8 (D. Minn. 2025);
26 *Caballero v. Baltazar*, 2025 WL 2977650, at *7 (D. Colo. 2025). Respondents offer
27 no persuasive basis to distinguish these decisions.
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1 In this case, Petitioner is squarely within that § 1226 category. Petitioner is a
2 Mexican national who has lived in the United States for roughly thirty-eight years. He
3 was detained in Lawndale, California and DHS served him with a Notice to Appear.
4 He was placed in in extensive removal proceedings under § 1229a. He was not
5 arrested at a port of entry, was not processed as an “arriving alien” at the border and
6 was not ordered removed under § 1225(b)(1). DHS deliberately chose to place him in
7 the regular § 240 removal proceedings. Because Petitioner has long since effected
8 entry, his custody is governed by 8 U.S.C. § 1226(a). In contrast, Section 1225(b)
9 governs pre-admission detention of individuals stopped at the border and provides no
10 such bond authority. Once a noncitizen is physically present in the country, whether
11 lawfully admitted or not, the detention authority shifts to § 1226(a).

12 Section 1226(a) authorizes the Attorney General, through the DHS, to detain an
13 individual pending completion of removal proceedings, but it also provides the
14 discretion to release the person on bond or conditional parole. 8 U.S.C. § 1226(a)(2).
15 By regulation, an immigration officer “may release” a noncitizen if the individual
16 “would not pose a danger to property or persons” and “is likely to appear for any
17 future proceeding.” 8 C.F.R. § 236.1(c)(8). A person detained under § 1226(a) may
18 also seek a custody redetermination before an Immigration Judge (“IJ”), who must
19 evaluate whether the person presents a flight risk or danger to the community. 8
20 C.F.R. §§ 236.1(d)(1), 1003.19(a); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006).

21 This statutory and regulatory scheme reflects Congress’s intent that detention
22 under § 1226(a) be discretionary and individualized, not automatic or prolonged.
23 “Federal regulations provide that aliens detained under § 1226(a) receive bond
24 hearings at the outset of detention.” *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §
25 1236.1(d)(1)); *Mosqueda*, 2025 WL 2591530, at *3 (same); see also *Rodriguez Diaz*,
26 53 F.4th at 1202 (“Section 1226(a) and its implementing regulations provide extensive
27 procedural protections that are unavailable under other detention provisions, including
28 . . . an initial bond hearing before a neutral decisionmaker.”). Because § 1226(a)

1 detention is discretionary, not mandatory, Respondents' failure to provide the bond
2 procedures required by their own regulations renders Petitioner's confinement
3 unlawful. See *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of
4 individuals are affected, it is incumbent upon agencies to follow their own
5 procedures."). Petitioner's custody is governed by § 1226(a). Petitioner has twice been
6 denied a bond hearing based solely on the Immigration Judge's asserted lack of
7 jurisdiction under *Matter of Yajure Hurtado*. At no point has an Immigration Judge
8 conducted an individualized bond determination on the merits. As a result, Petitioner
9 has not received the bond hearing that § 1226(a) and due process require.

10 Accordingly, Petitioner respectfully requests that the Court order Respondents to
11 provide him with an immediate, individualized bond hearing before a neutral
12 decisionmaker consistent with § 1226(a) and 8 C.F.R. § 236.1, at which the
13 government must demonstrate by clear and convincing evidence that continued
14 detention is necessary to prevent flight or danger to the community. If such a hearing
15 cannot be promptly provided, Petitioner asks that the Court order his release under
16 reasonable conditions of supervision.

17 **IV. RESPONSE TO ARGUMENT FOUR: THIS COURT HAS**
18 **JURISDICTION OVER THE HABEAS PETITION, AND**
19 **PETITIONER'S MEDICAL CONDITION IS RELEVANT ONLY TO**
20 **IRREPARABLE HARM**

21 Respondents argue that this Court lacks jurisdiction because Petitioner allegedly
22 asserts claims regarding "conditions of confinement" and "medical care". That
23 argument mischaracterizes both the nature of the habeas petition and the limited
24 purpose for which Petitioner's medical condition was raised.

25 Petitioner does not bring a "conditions of confinement" claim and does not seek
26 relief related to the adequacy of medical treatment in detention. The habeas petition
27 challenges the lawfulness of Petitioner's continued detention under the Immigration
28 and Nationality Act and the Fifth Amendment and seeks release from custody.

1 Success on Petitioner’s claims would necessarily require his release or, at a minimum,
2 a prompt and constitutionally adequate bond hearing provided by Respondents.
3 Accordingly, the petition falls squarely within this Court’s habeas jurisdiction under
4 28 U.S.C. § 2241.

5 The medical facts cited by Respondents appear solely in Petitioner’s motion for
6 temporary restraining order and are offered only to establish irreparable harm pending
7 resolution of the habeas petition. Courts routinely consider a detainee’s health
8 conditions when evaluating irreparable harm in the context of habeas-related
9 injunctive relief. The inclusion of such facts does not transform a challenge to
10 unlawful detention into a “conditions of confinement” claim.

11 Respondents’ reliance on *Pinson v. Carvajal*, *Nettles v. Grounds*, and similar
12 cases is misplaced. Those cases address whether claims challenging conditions of
13 confinement as an independent basis for relief fall within habeas jurisdiction. Here,
14 Petitioner does not seek damages, systemic reform, or medical treatment orders. Nor
15 does he allege that the conditions of confinement themselves constitute a standalone
16 constitutional violation. Rather, Petitioner alleges that his detention is unlawful and
17 that continued detention causes ongoing and irreparable harm, including serious risks
18 to his health. Because success on the habeas claims would require release from
19 custody, jurisdiction is proper. *See Pinson v. Carvajal*, 69 F.4th 1059, 1072 (9th Cir.
20 2023) (the relevant question is whether release is legally required if the petitioner
21 prevails).

22 Respondents further err by invoking *Fraihat v. U.S. Immigration & Customs*
23 *Enforcement* and the deliberate-indifference standard applicable to Fifth Amendment
24 medical-care claims. Petitioner does not assert a claim for deliberate indifference to
25 medical needs and therefore is not required to satisfy the *Fraihat* factors. Those
26 standards apply where detainees seek injunctive relief concerning medical treatment
27 or conditions of confinement. They do not govern the irreparable-harm analysis for a
28 TRO seeking temporary relief from unlawful detention.

1 In addition, Respondents' attempt to argue that Petitioner asserts a claim regarding
2 "conditions of confinement" or "medical care" is incorrect and unsupported by the
3 record. In the TRO motion, Petitioner's showing of likelihood of success on the merits
4 was based on the violation of his statutory and constitutional due process rights arising
5 from continued detention without a bond hearing under 8 U.S.C. § 1226(a). Petitioner
6 did not assert, and does not seek adjudication of, any claim regarding the adequacy of
7 medical care or conditions of confinement. References to Petitioner's medical
8 condition were included solely to demonstrate the irreparable harm caused by
9 continued unlawful detention pending resolution of the habeas petition.

10 Therefore, Petitioner's medical condition is relevant only to the equitable inquiry
11 required for temporary injunctive relief. It does not expand the scope of the habeas
12 petition or deprive this Court of jurisdiction. Respondents' attempt to reframe
13 Petitioner's claims as a "conditions of confinement" claim should be rejected.

14 V. CONCLUSION

15 For the reasons stated in the Petition and herein, the Court should reject
16 Respondents' argument that Petitioner is detained under 8 U.S.C. § 1225 and hold that
17 8 U.S.C. § 1226(a) governs Petitioner's custody. Petitioner's continued detention
18 under § 1226(a) without an individualized bond determination violates both the
19 governing federal regulations and the Fifth Amendment's Due Process Clause.

20 Accordingly, Petitioner respectfully requests that this Court:

- 21 1. Grant the Petition for Writ of Habeas Corpus;
- 22 2. Order Petitioner's immediate release under appropriate conditions of
23 supervision; or, in the alternative,
- 24 3. Direct Respondents to provide Petitioner with a prompt, individualized bond
25 hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a), at which
26 the government bears the burden of proving by clear and convincing evidence
27 that continued detention is necessary to prevent flight or danger to the
28 community;

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- 4. Find that Petitioner satisfies the standard for temporary injunctive relief and grant immediate relief to prevent ongoing irreparable harm pending resolution of the Petition; and
- 5. Grant such other and further relief as the Court deems just and proper.

Dated: December 12, 2025

Respectfully submitted,

/s/ Alfonso Morales
Alfonso Morales, Esq.
Attorney for Jose Castro Martinez

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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which constitutes service on all parties or counsel by electronic means as reflected on the Notice of Electronic Filing.

/s/Alfonso Morales
Alfonso Morales
Attorney for Petitioner