

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Nicolas Lopez Arzate,	§	
	§	
Petitioner,	§	
	§	
V.	§	
	§	
KRISTI NOEM, Secretary of the United States	§	
Department of Homeland Security;	§	
PAMELA BONDI, United States Attorney	§	
General;	§	Civil Case No. 1:25-CV-02008-ADA-ML
MIGUEL VERGARA, San Antonio Field Office	§	
Director for Enforcement and Removal, U.S.	§	
Immigration and Customs Enforcement,	§	
Department of Homeland Security;	§	
CHARLOTTE COLLINS, Warden, T. Don Hutto	§	
Detention Center, Taylor, Texas;	§	
UNITED STATES DEPARTMENT OF	§	
HOMELAND SECURITY;	§	
UNITED STATES IMMIGRATION AND	§	
CUSTOMS ENFORCEMENT;	§	
EXECUTIVE OFFICE FOR IMMIGRATION	§	
REVIEW;	§	
	§	

Respondents.

REPLY TO GOVERNMENT'S RESPONSE TO THE PETITIONER'S
PETITION FOR HABEAS CORPUS

Petitioner Nicolas Lopez Arzate respectfully submits this reply to Federal Respondents' Response (ECF No. 5) ("Response"). Respondents' arguments rest on a flawed interpretation of the Immigration and Nationality Act ("INA") that contradicts nearly three decades of post-IIRIRA practice, Supreme Court precedent, and recent federal court rulings—including a nationwide class certification declaring Respondents' policy unlawful. This Court should reject Respondents' position, grant the Petition, and order Petitioner's immediate release on reasonable bond or conditions of supervision. No evidentiary hearing is necessary, as the issues are pure questions of law, and Petitioner submits attached evidence supporting his eligibility for release.

I. Introduction

Petitioner, a long-term U.S. resident with deep family ties, and no criminal history, has been detained without bond eligibility since November 22, 2025. The Petition challenges Respondents' refusal to provide a bond hearing under 8 U.S.C. § 1226(a), based on their novel reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which misapplies § 1225(b)'s mandatory detention to individuals like Petitioner apprehended in the interior years after entry without inspection ("EWI"). ECF No. 1 ¶¶ 1–9.

Respondents' Response doubles down on this erroneous interpretation, claiming Petitioner is an "applicant for admission" subject to mandatory detention under § 1225(b)(2)(A)'s "catchall" provision. Resp. at 2–4. This ignores the statutory text, structure, and history, as well as binding precedent. Moreover, on December 18, 2025, the U.S. District Court for the Central District of California certified a nationwide class in *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025), extending declaratory relief that

Respondents' policy is unlawful to all class members, including Petitioner. Respondents' continued defiance of this order violates due process and warrants habeas relief.

II. Argument

A. Petitioner Is Detainable Under § 1226(a), Not § 1225(b), and Is Entitled to a Bond

Respondents' core argument—that Petitioner is mandatorily detained under § 1225(b) as an “applicant for admission”—fails under the plain text and structure of the INA. See *Jennings v. Rodriguez*, 583 U.S. 281, 287–88 (2018) (interpreting detention provisions based on statutory context).

1. The Plain Text of § 1225(a)(1) Does Not Apply to Long-Term Interior Residents Like Petitioner

Section 1225(a)(1) deems “[a]n alien present in the United States who has not been admitted” an “applicant for admission.” 8 U.S.C. § 1225(a)(1). Respondents read this expansively to cover any EWI, regardless of time in the U.S. or location of apprehension. Resp. at 3. This ignores the provision’s context: It applies to aliens actively “seeking admission” at or near ports of entry, not long-term residents like Petitioner, who entered in 1989 and was arrested in Texas after 36 years. ECF No. 1 6.

Respondents' “seeking admission” gloss—that Petitioner is implicitly “seeking” to remain by contesting removal—is circular and unsupported. Resp. at 3. If adopted, it would render § 1226(a) superfluous for all inadmissible aliens, contrary to canon against surplusage.

Federal courts have repeatedly rejected this interpretation. See, e.g., *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE (W.D. Tex. Nov. 5, 2025); *Gonzalez Guerrero v. Noem*, No. 1:25-CV-1334-RP (W.D. Tex. Oct. 27, 2025); *Hernandez-Ramiro v. Bondi*, No.

5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-CV-112 (S.D. Tex. Oct. 8, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025). These decisions confirm that § 1226(a) governs, entitling Petitioner to a bond hearing.

2. Respondents' Interpretation Undermines IIRIRA's Reforms and Creates Inequities

Respondents claim IIRIRA replaced “entry” with “admission” to mandate detention for all EWIs, correcting prior inequities where inspected aliens were detained without bond while evaders were not. Resp. at 4 (citing *Chavez v. Noem*, No. 25-CV-23250CAB-SBC, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025); *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)). This misreads history. IIRIRA aimed to streamline border processes, not impose indefinite detention on interior residents.

Under Respondents' view, long-term EWIs like Petitioner—stable, tax-paying residents with U.S. citizen families—would face harsher treatment than visa overstayers (detainable under § 1226(a) with bond eligibility). This revives the very inequities IIRIRA sought to fix. See *Jennings*, 583 U.S. at 287. Moreover, post-*Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), courts owe no deference to the BIA's interpretation in *Matter of Yajure Hurtado*; the statute's plain meaning controls.

3. Section 1226(a) Is Not Superfluous and Applies to Interior Aliens Like Petitioner

Respondents argue § 1226(a) applies only to previously admitted aliens now removable under § 1227(a). Resp. at 4–5. This is incorrect. Section 1226(a) expressly allows DHS to detain “an alien” during removal proceedings, with bond release unless dangerous or a flight risk. 8 U.S.C. § 1226(a). It complements § 1225(b), which is limited to border contexts. See *Jennings*, 583 U.S. at 287–88 (noting § 1226(a) for “deportable” aliens in proceedings).

Adopting Respondents' view would nullify § 1226(a) for inadmissible interior aliens, violating surplusage canon. As the BIA itself noted in *Matter of Yajure Hurtado*, statutes enacted at different times must be read harmoniously, not to "eviscerate" one another.

4. The Laken Riley Act Is Irrelevant and Does Not Render Respondents' Interpretation Necessary

Respondents dismiss surplusage concerns regarding the Laken Riley Act as mere "redundancy." Resp. at 5 (quoting *Barton*, 590 U.S. at 229; Antonin Scalia & Bryan A. Garner, *Reading Law* 176–77 (2012)). But the Act, which mandates detention for certain criminal aliens, does not address EWIs like Petitioner. Its overlap with § 1225(b) highlights Respondents' overreach, not statutory harmony.

B. Petitioner Overcomes Any Jurisdictional Hurdles, and Respondents' Policy Violates Due Process

Respondents suggest jurisdictional bars to challenging the initial removal decision. Resp. at 5. This mischaracterizes the Petition, which challenges detention authority, not removability—a pure legal question reviewable under § 2241.

Moreover, Respondents' policy deprives Petitioner of liberty without due process. ECF No. 1 ¶¶ 7–9. Indefinite detention without a bond hearing for non-criminal, long-term residents violates the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

C. The Nationwide Class Certification in *Maldonado Bautista* Compels Relief

Critically, Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista*. The class includes all noncitizens without lawful status who entered without inspection, were not apprehended upon arrival, and are not subject to other mandatory detention at initial

custody determination. *Maldonado Bautista*. The court extended declaratory relief from its November 20, 2025, partial summary judgment ruling Respondents' § 1225(b) policy unlawful.

As a class member, Petitioner is entitled to this relief. Respondents' continued detention defies the order, warranting habeas enforcement. See *id.* (extending relief "to the Bond Eligible Class as a whole"). Immigration Judges' claims of "no jurisdiction" (ECF No. 1 ¶¶ 4, 8–9) underscore the need for this Court's intervention. This ruling aligns with other federal decisions rejecting *Matter of Yajure Hurtado*.

D. In Light of Petitioner's Circumstances, the Court Should Order Immediate Release

Even assuming *arguendo* that a bond hearing is required, Petitioner's detention—now over a month, with a master hearing scheduled for January 8, 2026—warrants immediate release. See *Zadvydas*, 533 U.S. at 701 (detention presumptively unreasonable after six months, but courts may order release earlier for due process violations). Petitioner poses no danger to the community and is not a flight risk, as evidenced by the attached supporting documents.

Petitioner has no criminal record. He has resided in the United States since 1989, maintained 40 years of stable employment, paid federal income taxes, and owns property and pays property taxes. He has six children, four of whom are U.S. citizens, the other two have DACA status and pending adjustment of status application. His pending 42B cancellation of removal application is strong, based on exceptional and extremely unusual hardship to his U.S. citizen child if removed.

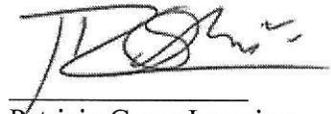
These ties demonstrate Petitioner's incentive to appear for proceedings and lack of risk. Immediate release on his own recognizance or reasonable bond with conditions (e.g., electronic monitoring) is appropriate, especially given Respondents' unlawful detention policy.

Furthermore, immediate release is warranted in this case because noncitizens are not receiving due process and fair proceedings in immigration court. As the attached evidence elucidates, DHS and EOIR are working together under the current administration. Posts from DHS and DOJ reveal that instead of calling immigration judges by such title, they are calling them “Deportation Judges,” which undermines fair proceedings and due process in immigration Court. Moreover, even when a final federal judgment certifying a class from the district court in California has been rendered, EOIR has been refusing to hold bond hearings for EWI, finding lack of jurisdiction because *Matter of Yajure Hurtado* has not been vacated. But they are well aware that the policy of mandatory detention for EWIs was declared unlawful in a nationwide final judgment. Lastly, attorneys admitted in this Western District have provided written letters stating that there is no due process or fair proceedings in EOIR.

III. Conclusion

For these reasons, the Court should reject Respondents’ arguments, grant the Petition, and order Petitioner’s immediate release on reasonable bond and conditions of supervision pending his removal proceedings. Alternatively, order a prompt bond hearing before an IJ.

Respectfully submitted, January 5, 2026.



Patricio Garza Izaguirre
Attorney for the Petitioner
Garza & Narvaez, PLLC
7600 Chevy Chase Dr - STE 118
Austin, TX 78752
TX SBN 24087568

INDEX OF DOCUMENTS

Exhibit	
A	DHS Posts on X
B	DOJ Posts on X
C	Comments from Members of the Texas Bar regarding EOIR in Central Texas
D	Letters from Attorneys Licensed to Practice in the WDTX
E	<p>Not a Flight Risk Evidence and Not a Danger to the Community</p> <ul style="list-style-type: none"> - Passport - Texas IDs - Birth Certificates of Four Children who are U.S. citizens - DACA status approval notice for Mexican citizen child - I-485 receipt notice for Mexican citizen child (pending application) - Employer letter (40 years of stable employment) - Warranty Deed of Property - Federal Income Tax Returns - Texas Property Tax Payments

CERTIFICATE OF SERVICE

I, Patricio Garza Izaguirre, certify that on this date a true and correct copy of this **REPLY TO GOVERNMENT'S RESPONSE TO THE PETITIONER'S PETITION FOR HABEAS CORPUS**, and all the attached documents described in the index above, were served to the following by the CM/ECF system:

1. KRISTI NOEM, Secretary of the United States Department of Homeland Security;
2. PAMELA BONDI, United States Attorney General;
3. MIGUEL VERGARA, San Antonio Field Office Director for Enforcement and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security;
4. CHARLOTTE COLLINS, Warden, T. Don Hutto Detention Center, Taylor, Texas;
5. UNITED STATES DEPARTMENT OF HOMELAND SECURITY;
6. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;
7. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

On January 5, 2026



Patricio Garza Izaguirre
Attorney for the Petitioner
Garza & Narvaez, PLLC
7600 Chevy Chase Dr - STE 118
Austin, TX 78752
TX SBN 24087568