

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-03969-DDD-STV

MARIO JOSE TUMAX CANIZ,

Petitioner,

v.

FIELD OFFICE DIRECTOR, Enforcement and Removal Operations,
Denver Field Office, Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security;
U.S. DEPARTMENT OF HOMELAND SECURITY;
PAMELA BONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,
WARDEN, Denver Contract Detention Facility,

Respondents.

REPLY TO RESPONDENT'S RESPONSE TO ORDER TO SHOW CAUSE

I. INTRODUCTION

Petitioner Mario Jose Tumax Caniz, through undersigned counsel, respectfully submits this Reply to Respondents' Response to the Court's Order to Show Cause. The parties' filings make clear that this case presents a single legal question: whether Petitioner's detention is governed by 8 U.S.C. § 1225(b)(2)(A) or 8 U.S.C. § 1226(a). The material facts relevant to that question are not in dispute. Resolution therefore turns on the statutory framework established by Congress and interpreted by the Supreme Court and this Court. As explained below, that framework forecloses Respondents' position. Section 1226(a), not § 1225(b)(2)(A), governs Petitioner's detention, and habeas relief is warranted.

II. THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 2241

Respondents suggest that this Court lacks jurisdiction to consider Petitioner's habeas challenge based on the INA's jurisdiction-channeling provisions. That suggestion is incorrect. Petitioner does not challenge the commencement of removal proceedings, the charges lodged against him, or the ultimate merits of removability. He challenges only the statutory authority under which he is being detained and DHS's refusal to afford him a bond hearing. Such challenges fall squarely within the core of habeas jurisdiction preserved by Congress and recognized by the Supreme Court.

The Supreme Court has repeatedly held that habeas jurisdiction remains available to challenge the fact or duration of immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 289–90 (2018). Nothing in 8 U.S.C. § 1252 strips district courts of jurisdiction to decide whether detention is authorized by statute. To the contrary, § 1252(b)(9) expressly excludes “claims that are independent of or collateral to the removal process,” including challenges to detention authority. *Jennings*, 583 U.S. at 293. Courts in this District have consistently exercised jurisdiction over habeas petitions raising the same statutory detention question presented here. See *Concha-Gonzales v. Noem*, 2026 U.S. Dist. LEXIS 13993, at *5–6 (D. Colo. Jan. 26, 2026) (rejecting § 1252 argument and exercising § 2241 jurisdiction over § 1225/§ 1226 detention dispute); *Hernandez v. Baltazar*, 2026 U.S. Dist. LEXIS 24443, at *3 (D. Colo. Feb. 5, 2026) (same); *Diallo v. Baltazar*, 2026 U.S. Dist. LEXIS 17341, at *3 (D. Colo. Jan. 29, 2026).

Nor is exhaustion required. Immigration judges lack authority to disregard *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), and therefore cannot grant the relief Petitioner seeks. Requiring exhaustion under these circumstances would be futile.

Accordingly, this Court has jurisdiction under 28 U.S.C. § 2241 to determine whether Respondents possess statutory authority to detain Petitioner without bond.

III. THIS CASE PRESENTS A PURE QUESTION OF LAW PROPERLY RESOLVED IN HABEAS

Respondents do not contest that Petitioner was previously released into the United States, placed into standard removal proceedings under 8 U.S.C. § 1229a, and later apprehended in the interior. Nor do Respondents contend that factual development or an evidentiary hearing is necessary. Courts in this District consistently hold that whether detention is governed by § 1225 or § 1226 is a purely legal inquiry appropriate for resolution on the pleadings. See *Abarca v. Baltazar*, 2026 U.S. Dist. LEXIS 24440, at *2–3 (D. Colo. Feb. 5, 2026); *Arenas*, 2026 U.S. Dist. LEXIS 24442, at *4–5.

IV. SECTION 1226(a), NOT § 1225(b)(2)(A), GOVERNS PETITIONER’S DETENTION

The Supreme Court has explained that 8 U.S.C. § 1226 “sets forth the default rule for detention of noncitizens already present in the United States.” *Jennings*, 583 U.S. at 303. Section 1225, by contrast, applies to individuals seeking admission at or near the border. *Id.* at 287, 297. Consistent with *Jennings*, courts in this District have uniformly rejected DHS’s post–July 2025 interpretation that treats all noncitizens charged under 8 U.S.C. § 1182(a)(6)(A)(i) as subject to mandatory detention under § 1225(b)(2)(A), regardless of when or where they are apprehended. See *Armenta v. Noem*, 2026 U.S. Dist. LEXIS 22348, at *3–5 (D. Colo. Feb. 3, 2026); *Arenas*, 2026 U.S. Dist. LEXIS 24442, at *5–7; *Hernandez-Redondo v. Bondi*, 2026 U.S. Dist. LEXIS 23450, at *6–8 (D. Colo. Feb. 4, 2026); *Diallo*, 2026 U.S. Dist. LEXIS 17341, at *3–4.

Petitioner fits squarely within the class of noncitizens governed by § 1226(a). DHS affirmatively invoked § 1226 when it issued Petitioner a Notice of Custody Determination citing § 236 of the INA. DHS then released Petitioner into the United States, placed him into standard §

1229a proceedings, and permitted him to reside in the community for years. Nothing in the INA authorizes DHS to later nullify that determination and impose mandatory detention based on a subsequent change in policy.

Courts have repeatedly rejected such retroactive recharacterization of detention authority. See *Hernandez-Redondo*, 2026 U.S. Dist. LEXIS 23450, at *7; *Diallo*, 2026 U.S. Dist. LEXIS 17341, at *5-7.

This conclusion is not altered by *Doe v. Bondi*, 2025 U.S. Dist. LEXIS 255087(D. Colo. Nov. 4, 2025). *Doe* arose in a materially different posture involving detention at or near the time of arrival and did not address DHS's authority to retroactively convert prior § 1226 detention into mandatory § 1225 detention years later following release into the United States.

V. MATTER OF YAJURE HURTADO DOES NOT BIND THIS COURT

Respondents' reliance on *Matter of Yajure Hurtado* is misplaced. While that decision may bind immigration judges, it does not bind this Court. Courts in this District have repeatedly rejected its interpretation as inconsistent with the INA and *Jennings*. See *Arenas*, 2026 U.S. Dist. LEXIS 24442, at *6-7; *Concha-Gonzales*, 2026 U.S. Dist. LEXIS 13993, at *5-6.

VI. CONCLUSION

Because Petitioner's detention is governed by 8 U.S.C. § 1226(a), Respondents lack authority to detain him without an opportunity for bond. Petitioner respectfully requests that the Court grant the writ of habeas corpus and order Respondents to release Petitioner unless they provide a bond hearing before an immigration judge within seven days.

Respectfully submitted,

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