UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANA MARIA PEREZ ESTIU, Petitioner, v. WARDEN, Montogomery Processing Center, *et. al.*, Respondents.	§ § § § § § § § § §	CIVIL NO. 4:25-cv-5976

RESPONSE TO SHOW CAUSE ORDER

Federal Respondents file this response to the Court's Order to Show Cause why Petitioner should not be released from custody. Dkt. 4.

Petitioner is an immigration detainee in the custody of the Department of Homeland Security/U.S. Immigration and Customs Enforcement ("DHS/ICE"). Petitioner brought this habeas corpus petition against various federal officials seeking release from immigration detention. As discussed below, Petitioner is lawfully detained under INA § 235(b), 8 U.S.C. § 1225(b)(2), which subjects Petitioner to mandatory detention.

BACKGROUND

Petitioner is a citizen and native of Cuba. Dkt. 1 at ¶ 19. Petitioner does not have lawful status in the United States of America. She entered the United States without inspection on December 30, 2021. Dkt. 1 at ¶ 5. After full consideration of her case, an immigration judge ordered Petitioner removed on October 16, 2025. Dkt. 1 at ¶ 6. Petitioner appealed and it is still pending before the Board of Immigration Appeals.

THE BASIS OF PETITIONER'S DETENTION

The Petitioner is detained under 8 U.S.C. § 1225(b)(2), which allows for the mandatory detention of aliens who are applicants for admission. When it comes to detention of an alien without status to remain in the United States, it is well-taken that the authority to detain is elemental to the authority to deport, as "[d]etention is necessarily a part of th[e] deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952). As the Supreme Court has stated, "[d]etention during removal proceedings is a constitutionally permissible part of that process." *Demore v. Kim*, 538 U.S. 510, 531 (2003). Here, Petitioner is detained so that ICE can conduct removal proceedings and effectuate her removal.

The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). Under § 1225(b)(2), an alien "who is an applicant for admission" shall be detained for a removal proceeding "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A); *see also Fla. v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023). Under the plain language of INA § 235, 8 U.S.C. § 1225, Petitioner—who is present in the United States without being admitted—is subject to detention under § 1225(b)(2). *Jennings v. Rodriguez*, 583 U.S. at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants of admission until certain proceedings have concluded.").

Here, in an attempt to sidestep the plain language of § 1225(b)(2), Petitioner argues that she is a member of the *Maldonado Bautista* class of plaintiffs. Dkt. 1 at ¶ 5. The Central District of California recently certified a class of aliens who are being detained under §

1225(b)(2). *Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). The *Bautista* court initially granted class certification and partial summary judgment for the plaintiffs in that case, but did not issue a class-wide declaratory judgment. A declaratory judgment was issued on December 18, 2025. The Department of Justice has appealed the December 18, 2025 Order. As such, the *Bautista* court's decision does not have preclusive effect with respect to this case.

The foregoing responds to the Court's show cause order. Federal Respondents reserve the right to separately file a dispositive motion.

Dated: December 19, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 19, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

/s/ Christina Cullom
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