

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Romel Felipe Campoverde Chacon,	§	
Petitioner	§	
	§	
v.	§	No. SA-25-CA-01764-XR
	§	
Pamela Bondi, <i>et. al.</i> ,	§	
Respondents	§	

REPLY OF PETITIONER TO RESPONDENT’S RESPONSE

Petitioner, Romel Felipe Campoverde Chaco, timely submits his reply to *Federal Respondents’ Response to Petitioner for Writ of Habeas Corpus* no later than 7 days as ordered by this Court’s Order for Service and to Show Cause, dated December 17, 2025.

The Court’s order required Respondents “must consider the Court’s prior orders addressing this question and note any material factual differences between those cases and this one”. ECF No. 2 at 2. The Court noted its prior decisions in *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025). *Id.* Respondents’ Response makes no citation to the above cases, nor does it factually distinguish those cases from Petitioner’s. *See generally* ECF No 4.

Factually, like Petitioner here, both *Granados and Tinoco-Pineda* entered the United States without inspection and were charged with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i) and were placed in 8 U.S.C. § 1229a “full” removal proceedings. *See* ECF No. 4-1, *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL

3296314, Slip Op. at *1 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, Slip Op. at *1-2 (W.D. Tex. Dec. 2, 2025). However, both petitioners there were arrested shortly after entry by Respondents, whereas Petitioner has been in the United States for 25 years before his only apprehension by DHS. *Cf.* ECF No. 1 at 3 with *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, Slip Op. at *1 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, Slip Op. at *1-2 (W.D. Tex. Dec. 2, 2025).

This Court ultimately held in *Granados*, that at the time of his detention, he was not “seeking admission” or lawful entry when he was detained by ICE and therefore, he was not detained under 8 U.S.C. § 1225(b)(2). *See Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, Slip Op. at *11-12 (W.D. Tex. Nov. 26, 2025). In *Tinoco-Pineda*, the Court again held that 8 U.S.C. § 1225(b)(2) did not apply because when ICE detained her in 2025 she was not seeking entry. *See Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, Slip Op. at *9 (W.D. Tex. Dec. 2, 2025). In both *Granados* and *Tinoco-Pineda*, the Court ultimately granted relief by ordering immediately release from custody as the Respondents did not claim detention under 8 U.S.C. § 1226 after the Court determined 8 U.S.C. § 1225(b) did not apply to petitioners. *See Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, Slip Op. at *12-13 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, Slip Op. at *10-11 (W.D. Tex. Dec. 2, 2025). In both cases, the Court agreed with petitioners’ statutory arguments, and did not

address the constitutional due processes arguments. *See Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, Slip Op. at *7 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, Slip Op. at *3 (W.D. Tex. Dec. 2, 2025).

Respondents allege that this Court lacks jurisdiction to review Petitioner's challenge to Respondents' decision to detain him pursuant to 8 U.S.C. §§ 1225(b)(4), 1252(g), 1252(b)(9). ECF No. 4 at 6-7. But this Court has already considered these arguments and ruled that it has jurisdiction in similar matters in its prior orders on the same issue. *See Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, Slip Op. at *3-6 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, Slip Op. at *1-2 (W.D. Tex. Dec. 2, 2025).

Respondents further allege in their response that Petitioner is being detained on a mandatory basis under § 1225(b)(2)(A) under the "catchall" provision. ECF No. 4 at 2-6. As indicated *supra*, this Court ordered Respondents should consider and factually distinguish the instant petition from its previous orders in similar cases as "this case appears to turn on whether 8 U.S.C. § 1225 authorizes Petitioner's detention []". ECF No. 2 at 2. Yet Respondents make no citation or provide a meaningful response to the Court's holding in the cited cases. *See generally* ECF No. 4. Nor are there any material factual differences identified by the Respondents between Petitioner and the Court's prior orders. In fact, the only substantial factual difference weighs in Petitioner's favor as he was detained by DHS 25 years after entry into the United States and he was not "seeking admission" or "lawful entry" when he

was encountered in Hauppauge, New York. *Cf.* ECF No. 1 at 2-3 with *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, Slip Op. at *1 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, Slip Op. at *1-2 (W.D. Tex. Dec. 2, 2025).

Petitioner seeks declaratory and injunctive relief to remedy his unlawful detention by Respondents. Given the Court's more recent holdings regarding the violations of the Immigration and Nationality Act, Petitioner here believes that the remedy provided there is the more appropriate one: release from custody as Petitioner's detention is unlawful because Respondents only assert detention pursuant to 8 U.S.C. § 1225(b)(2)(A). *See id.* Petitioner is entitled to the relief he seeks, and the Court should grant this habeas petitioner without the need for an evidentiary hearing.

Petitioner's challenge relates to the legality and statutory authority to detain him without the ability to request a bond under 8 U.S.C. § 1225(b), instead of § 1226 which allows for a bond hearing under § 1226(a). *See Nielsen v. Preap*, 586 U.S. 392, 402 (2019); *Jennings v. Rodriguez*, 583 U.S. 281, 295 n.3 (2018). Without the ability to present this challenge to the Court, Petitioner is left with no recourse to seek judicial review of his detention given the Respondents drastic change in the interpretation and application of 8 U.S.C. § 1225(b)(2)(A) with the BIA's September 5th decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

More recently, this Court has issued various decisions rejecting Federal Respondents' novel statutory interpretation of 8 U.S.C. § 1225(b)(2)(A) requiring

mandatory detention of all noncitizens who entered the United States without inspection even if they are already in the country. *See e.g. Sandoval-Cadena v. Bondi*, No. SA-25-CA-01801-XR (W.D. Tex. Dec. 30, 2025); *Mariscal-Duarte v. De Leon*, SA-25-CA-01771-XR (W.D. Tex. Dec. 30, 2025); *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025). The Court joined the vast majority of district courts who have rejected the interpretation on various rationales: longstanding agency practice, the plain statutory language of 1225(b)(2)(A), the Supreme Court's interpretation of the relevant statutes, and context to legislative history. *See id.* The plain language of 8 U.S.C. § 1225(b)(2)(A) requires an applicant for admission, such as Petitioner, to be *seeking admission*, which does not comport with the definition of admission as found in 8 U.S.C. § 1101(a)(13)(A).

As Petitioner is a noncitizen already in the country, and is not “seeking admission”, then § 1225(b)(2)(A) cannot apply and this aligns with the Supreme Court's summary of the statutory relationship between §§ 1225 and 1226. *See Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, Slip Op. at *8-9 n.3, *12 (W.D. Tex. Nov. 26, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. at 289) (holding that Supreme Court dicta is binding in the Fifth Circuit as held in *McRorey v. Garland*, 99 F.4th 831 (5th Cir. 2024)). Federal Respondents contend that Petitioner's detention stems from 8 U.S.C. § 1225(b)(2)(A) and do not invoke any other statutory authority to authorize his continued detention. *See generally* ECF No. 4. Nor could they rely on § 1226 as that would turn their novel statutory

interpretation on its end as they contend § 1226(a) only applies to noncitizens who were lawfully admitted and are now deportable pursuant to 8 U.S.C. § 1227(a). See ECF No. 4 at 5. Additionally, any reliance on § 1226 as the Respondent's detention authority would give Petitioner the right to an individualized bond hearing before an IJ as authorized by § 1226(a) and the corresponding regulations.

Should this Court reach the same conclusion that Petitioner's detention is unlawful under 8 U.S.C. § 1225(b)(2)(A), then Petitioner agrees with Respondents' that "the only relief available to Petitioner through habeas is release from custody". ECF No. 4 at 2 (citing 28 U.S.C. § 2241). As such, Petitioner believes an outcome similar to the Court's recent holdings is appropriate: that Petitioner be released from custody immediately to a public place, with sufficient practicable notice to counsel before her release, that he not be removed or transferred under this present detention, and if he is re-detained pursuant to 8 U.S.C. § 1226, that he be afforded a bond hearing as authorized by statute and regulation.

The Court should grant Petitioner's application for writ of habeas corpus and order his release from custody as his detention pursuant to 8 U.S.C. § 1225(b)(2)(A) is unlawful. Petitioner, an applicant for admission already in the country, is not presently seeking admission as understood by 8 U.S.C. § 1101(a)(13) and as such § 1225(b)(2)(A) does not apply. Should the Court believe that Petitioner has instead been deprived of procedural due process, then Petitioner requests this Court order Federal Respondents to conduct a bond hearing where they bear the burden to justify,

by clear and convincing evidence of dangerousness and flight risk, his continued detention or release him from custody under reasonable conditions of supervision.

Respectfully submitted this 5th day of January 2026 by:

/s/ Eric M. Bernal

Eric M. Bernal, Esq.
Counsel for Petitioner
Eric M. Bernal & Associates, LLC
Texas State Bar No. 24073915
8023 Vantage Dr. Ste. 400
San Antonio, Texas 78230
Tel: (210) 314-3700
Fax: (210) 314-8255
eric@ericbernallaw.com