

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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DEIVI ORLANDO PEREZ HERNANDEZ,)	
A )	
Petitioner,)	Civil Action No.
)	2:25-cv-01099-JB-LF
v.)	
)	
PAMELA BONDI, et al.,)	
Respondents.)	
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PETITIONER'S REPLY
TO RESPONDENTS' ANSWER TO
PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner hereby submits his Reply brief to the Respondents' Answer in this matter. *See* ECF 1, 17. Respondents raise no new issues in the Answer not addressed in Petitioner's original Brief. Petitioner will also address some of the issues raised in Respondents' Second Motion for Extension of Time, and a jurisdictional argument Respondents raised during a phone conference earlier today. ECF 20.

Respondents continue to incorrectly argue Petitioner is detained as an applicant for admission, misreading relevant Supreme Court rulings, and failing to understand the relevant statutory authorities. They were also properly served by Petitioner on 12/01/2025, despite claims to the contrary. While Petitioner is now detained in El Paso, Texas, he was physically present at the Otero County Processing Center in New Mexico on 11/05/2025 when this Petition was filed, and remained here until 11/11/2025 according to Respondents' own records. As such, the Court retains jurisdiction to grant this Petition.

Petitioner asks this Court to issue a Writ of Habeas Corpus and order his immediate release or alternatively order the immigration court to conduct a bond hearing as soon as possible. Petitioner's removal proceedings remain pending, and his next hearing is scheduled for 01/21/2026. Ex 1, EOIR Notice of Hearing. Federal Judges across the nation have found Respondents' new interpretation of established law to be deficient; this Court should do the same and grant the instant Petition, or issue a report and recommendation stating the same.

LEGAL ARGUMENT

I. PETITIONER'S DETENTION IS CLEARLY UNLAWFUL.

Respondents incorrectly argue Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), claiming he is an applicant for admission. Res.

Answer at 1-2. Petitioner's detention is unlawful because he could only properly be detained under 8 U.S.C. § 1226(a).

Should the Court find Petitioner's detention unlawful, the Court should order Petitioner's immediate release because he is not lawfully detained under any statutory authority according to Respondents. Alternatively, the Court should order Respondents to conduct a bond hearing 8 U.S.C. § 1226(a) as expeditiously as possible.

Petitioner was detained by ICE here in Philadelphia and placed in removal proceedings approximately four years after entry. ECF No. 1-1, ICE Form I-213. Section § 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a[] [noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (*quoting* INA § 236(a)). Individuals detained under 8 U.S.C. § 1226(a) have the right to seek release pursuant to bond.

Meanwhile, 8 U.S.C. § 1225(b) "applies primarily to [noncitizens] seeking entry into the United States ('applicants for admission' in the language of the statute)." *Jennings* at 297; *see* 8 U.S.C. § 1225(b) (*entitled* "Inspection of applicants for admission"). Again, Petitioner was detained in Pennsylvania approximately four years after entry.

Federal District Courts are routinely finding the Executive’s new arguments regarding expanded detention rather lacking. “Indeed, for nearly 30 years, § 1225 has applied to noncitizens who are either seeking entry to the United States or have a close nexus to the border, and § 1226 has applied to those aliens arrested within the interior of the United States.” *Rivera Zumba v. Bondi*, 2025 D. NJ 2:25-cv-14626. Courts all across the country have rejected this “novel interpretation of the immigration detention statutes.” *Martinez v. Hyde*, F. Supp. 3d --, 2025 WL 2084238 at 4-5; *see also Maldonado Vazquez v. Feeley*, 2025 D. Nev. WL 2676082; *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025) (“There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border.”); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025) (holding that § 1226(a), not § 1225(b)(2), governs detention of a noncitizen who had resided in the United States for many years). At least another dozen other Federal District Courts have reached the same conclusion. *See, e.g., Ayala v. Bondi*, No. 1:25-cv-16428 (D.N.J. Oct. 30, 2025); *Penuela v. Bondi*, No. 9:25-cv-00249 (E.D.Tex. Nov. 11, 2025); *Soto v. Soto, et al.*, No. 25-cv-16200, 2025 WL 2976572, at *5 (D.N.J. Oct. 22, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-03682,

2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Quispe v. Crawford*, No. 25-cv-01471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Savane v. Francis*, No. 25-cv-06666, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Salazar v. Dedos*, No. 25-cv-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Roman v. Noem*, No. 25-cv-01684, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. 25-cv-04048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-00096, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Barrera v. Tindall*, No. 25-cv-00541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Hasan v. Crawford*, No. 25-cv-01408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Vazquez v. Feeley*, No. 2:25-cv-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Garcia Cortes v. Noem*, No. 25-cv-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Lopez Santos v. Noem*, No. 25-cv-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Perez v. Kramer*, No. 25-cv-03179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Hinestroza v. Kaiser*, No. 25-cv-07559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-00326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *J.O.E. v. Bondi*, No. 25-cv-03051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Leal-Hernandez v.*

Noem, No. 25–cv–02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025);

Lopez-Campos v. Raycroft, No. 25–cv–12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Lopez Benitez*, 2025 WL 2371588.

This Court should follow suit and reach the same conclusion, that Petitioner could only be detained pursuant to 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b). At least three habeas petitions have been granted so far in the District of New Mexico. *Velasquez Salazar v. Dedos*, No. 25-00835, WL 2676729 (D.N.M. Sept. 17, 2025); *Garcia Domingo v. Castro*, No. 25-00979, WL 2941217 (D.N.M. Oct. 15, 2025); *Pu Sacvin v. de Anda-Ybarra*, No. 25-01031, 2025 WL 3187432 (D.N.M. Nov. 14, 2025).

II. PETITIONER MERITS HABEAS RELIEF.

It is clear from the above that Respondents have unlawfully detained Petitioner contrary to the laws and regulations of the United States. Respondents wrongfully claim he is detained without the possibility of bond pursuant to 8 U.S.C. § 1225(b). His detention violates his substantive and procedural due process rights under the Fifth Amendment of the United States Constitution, and also under the Administrative Procedures Act.

This Court should grant Petitioner habeas relief because he “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. §

2241(c)(3). Because Respondents wrongly claim Petitioner is subject to mandatory detention, habeas relief should entail ordering his immediate release. Alternatively, the Court should find Respondents have unlawfully detained him for the past several months pursuant to 8 U.S.C. § 1226(a), and order Respondents to immediately release him or alternatively conduct an individualized bond hearing as soon as possible.

III. RESPONDENTS HAVE BEEN PROPERLY SERVED.

Respondents wrongly claim they “still have not been properly served” pursuant to Fed. R. Civ. P. Rule 4(i). Second Mt. at 1, Dec. 3, 2025. In fact, Respondents were personally served on 12/01/2025. Ex. 2, Summonses Personally Served on United States.

Respondents advised Counsel for Petitioner via a letter sent via electronic mail on the Wednesday before Thanksgiving, 11/26/2025, after 5pm that they believed service was deficient. The letter states “A Summons and Complaint were received by this office on November 24, 2025,” but that service was not properly addressed to the civil process clerk. Petitioner immediately took steps to effectuate proper service on United States. The summonses and complaint were personally served on AUSA Ruth Keegan in compliance with Fed. R. Civ. P. Rule 4(i)(1)(A)(i) on 12/01/2025. Ex. 2.

Respondents argue service is the reason for allowing more time to file another brief, yet fail to note they clearly had the summonses and complaints properly processed at the latest on 11/26/2025, and were in fact properly served on 12/01/2025, two days before they claimed otherwise in the Second Motion. The Court should decline to apply Habeas Rule 4 as requested by Respondents.

IV. THIS COURT RETAINS JURISDICTION OVER PETITIONER.

This Court retains jurisdiction over this matter. Petitioner was physically present in New Mexico on 11/05/2025. Respondents¹ now wish to allege Petitioner was physically located in Texas when the Petition was filed. That argument should be dismissed by the Court for several reasons. First, by Respondents' own admission, Petitioner was physically present in the District of New Mexico on 11/05/2025. Second, ICE continued to claim for almost a full week that Petitioner was still in Otero, NM, and even then advised Counsel on 11/11/2025 that he had been transferred on 11/11/2025. At most, ICE's statements to his whereabouts are dubious and incredible; in the alternative, the Court should find ICE's repeated statements that he remained in New Mexico until 11/11/2025 to be reliable and retain jurisdiction, or that they be estopped.

¹ As alluded to above, the AUSAs for this matter kindly conferenced this matter with Petitioner's Counsel earlier today to advise him of the forthcoming jurisdictional argument.

When Petitioner was detained in 10/2025, he was initially detained at the Philadelphia Detention Center. After that, he was moved to Delaney Hall in Newark, New Jersey.

At some point in early 11/2025, he was transferred to the Otero County Processing Center in New Mexico. Counsel for Petitioner received an ICE transfer notice at 3:05am on 11/05/2025 that Petitioner was now in Otero. Ex. 3, ICE Transfer Notice dated 11/05/2025. The same morning around 10:46am, Counsel's office scheduled a videoconference appointment with Petitioner for 11/10/2025, which was accepted by ICE. Ex. 4, ICE Appointment Confirmation dated 11/05/2025.

Counsel for Petitioner prepared the Petition, applied for admission and was accepted to practice before this Court, and filed the Petition on 11/05/2025. *See* ECF 1. The Petition was filed with the Court on or about 10:46pm MST. Upon his knowledge and belief, Counsel checked Petitioner's physical location on the ICE Locator only several minutes before filing the Petition that evening, and attached proof of such with the Petition at ECF 1-6.

Respondents now claim Petitioner was moved to Camp East Montana in El Paso, Texas before the filing of the Petition on 11/05/2025. If true, then ICE hid and/or failed to disclose where Petitioner was being detained for almost a full week. ICE still claimed Petitioner was in Otero until 11/11/2025.

The 11/10/2025 videoconference was cancelled that day by ICE because “Attorney did not provide cell phone number for virtual attorney visit.” Ex. 5, ICE Appointment Cancellation on 11/10/2025. The zoom link for the visit is clearly visible below, as well as being in the initial scheduling confirmation. *Id.*, Ex. 4. The reason given was not an alleged transfer to another facility on 11/05/2025, rather lack of contact information that was clearly provided. Ex. 5.

Undeterred, Counsel scheduled another videoconference for 11/14/2025. Ex. 6, ICE Appointment Cancellation for 11/14/2025. ICE notified Counsel on 11/11/2025 that the appointment was “Auto-Cancelled due to detainee being transferred to a new facility on 2025-11-11 16:21:58.” *Id.* The same day, Counsel received a formal transfer notification from ICE that Petitioner had been transferred to Camp East Montana as of 11/11/2025. Ex. 7, ICE Transfer Notification dated 11/11/2025. Again, nothing in ICE’s communications indicates he was transferred any earlier than 11/11/2025. Exs. 6, 7.

Respondents now seek to claim Petitioner was not in New Mexico at the time of filing the Petition. The Court should dismiss this claim. Respondents maintained Petitioner was in New Mexico until at least 11/11/2025. Exs. 5, 6, and 7. When ICE notified Counsel of Petitioner’s transfer, the transfer date was again 11/11/2025. Exs. 6, 7. The Court should find any claims to the contrary dubious and incredible or estopped. ICE cannot effectively reward itself for hiding

detainees across federal district lines. The Court retains jurisdiction over this matter despite ICE's attempts to hide the Petitioner or fail to know where he is located.

CONCLUSION

For the foregoing reasons, this Court should grant the instant writ and immediately order Petitioner immediately released or alternatively order Respondents grant him an individualized bond hearing as soon as possible.

Respectfully Submitted,

/s/ Jason Scott Camilo, Esq.

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Dated: 12/04/2025

LIST OF EXHIBITS IN SUPPORT OF HABEAS PETITION

Ex. Document

- 1 EOIR Notice of Hearing for 01/21/2025
- 2 Summonses Personally Served on United States on 12/01/2025
- 3 ICE Transfer Notification to Otero, NM on 11/05/2025
- 4 ICE Appointment Confirmation, scheduled on 11/05/2025 for 11/10/2025
- 5 ICE Appointment Cancellation dated 11/10/2025
- 6 ICE Appointment Cancellation dated 11/10/2025
- 7 ICE Transfer Notification to El Paso, TX on 11/11/2025

CERTIFICATE OF SERVICE

I, Jason Scott Camilo, Esq., hereby certify I electronically served this document to all parties via the Court's CM/ECF system. I electronically served a this Reply and attachments on or about 12/04/2025:

/s/ Jason Scott Camilo, Esq.
Jason Scott Camilo, Esq.
Attorney for Petitioner

Dated: 12/04/2025