

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

Lina K. Herrera Maldonado,

Petitioner,

v.

Warden, El Paso Processing Center, et al.,

Respondents.

Case No. 3:25-CV-00685-LS

PETITIONER'S REPLY TO RESPONDENTS'

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Lina K. Herrera Maldonado, through the undersigned counsel submits this reply brief to the Respondents' response to her petition for writ of habeas corpus.

I. INTRODUCTION

Respondents continue to detain Petitioner without a bond due to their misinterpretation of the detention authorities of sections 1225 and 1226 of the Immigration and Nationality Act, and in violation of her Due Process Rights. Contrary to Respondents' arguments in their response, (1) this Court does have jurisdiction to hear Petitioner's petition for writ of habeas corpus; (2) Petitioner's detention without bond violates her due process rights; and (3) Petitioner is eligible for release on bond under § 1226(a) and pursuant to the *Maldonado Bautista* class-wide declaratory judgement.

II. ARGUMENT

A. This Court Does Have Jurisdiction to Review Petitioner's Continued Detention Without Bond.

Respondents argue that this Court lacks jurisdiction to hear Petitioner's request under 8 U.S.C. § 1252(g) and § 1252(b)(9). *See* ECF No. 3 at 6. These sections limit judicial review of decisions and actions to commence removal proceedings or to execute final removal orders. Respondents' jurisdictional arguments fail because Petitioner is only challenging her detention without bond, and not her removal proceedings or a final order of removal.

Courts in this District have dismissed similar arguments in cases similar to Petitioner's, where noncitizens were being subjected to mandatory detention without the possibility of release on bond. *See Granados v. Noem*, SA-25-CA-01464-XR (W.D. Tex. Nov 26, 2025); *Erazo Rojas v. Noem*, No. EP-25-CV-443 (W.D. Tex. Oct. 30, 2025); *Martinez v. Noem*, No. 3:25-cv-430, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, --- F. Supp. 3d ----, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025).

B. Petitioner's Detention Without Bond is a Violation of her Due Process Rights.

Respondents argue that Petitioner's detention without bond does not violate due process, because 8 U.S.C. § 1225(b) comports with due process and she can continue to seek relief from removal during her removal proceedings. *See* ECF No. 3 at 8. However, "whatever constitutional procedures are required for [her] removal are separate and apart from the procedures required for [her] detention under the Fifth Amendment." *Rodriguez Cortina v. De Anda-Ybarra*, No. EP-25-CV-00523-DB, 2025 WL 3218682, at *3 (W.D. Tex. Nov. 18, 2025). Petitioner's

detention without bond, after she was previously granted parole on May 15, 2023 under 8 U.S.C. §1182(d)(5) (*see* ECF No. 1, Exh. 2) is a violation of her due process rights, satisfying “the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).” *Erazo Rojas*, 2025 WL 3038262, at *3 (W.D. Tex. Oct. 30, 2025) (citing *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025)); *see also Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).

Petitioner has a significant private interest in being free from detention, which is “the most elemental of liberty interests.” *Martinez*, 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). This interest also extends to parolees, as “the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a ‘grievous loss’ on the parolee.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *see also Trejo v. Warden of ERO El Paso E. Montana*, No. EP-25-CV-401-KC, 2025 WL 2992187 (W.D. Tex. Oct. 24, 2025). A growing number of “district courts have extended this reasoning to the immigration context and held that once released from immigration custody, noncitizens acquire a protectable liberty interest in remaining out of custody on bond.” *Hernandez-Fernandez*, 2025 WL 2976923, at *7-8 (W.D. Tex. Oct. 21, 2025) (citing *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *11-12 (E.D. Cal. Sept. 5, 2025)).

A bond hearing would allow for a further assessment of Petitioner’s dangerousness or flight risk and would greatly reduce the risk of erroneous deprivation of her liberty. *Id.* Respondents’ decision to grant Petitioner humanitarian parole in 2023 and release her on her own recognizance “in and of itself, ‘reflects a determination by the government that [Petitioner] is not a danger to the community or a flight risk.’” *Id.* (quoting *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1176 (N.D. Cal. 2017), *aff’d* 905 F.3d 1137 (9th Cir. 2018)). Therefore,

Petitioner's private interest in being free from detention would not impede on the government's "interest in ensuring that [Petitioner] appear for [her] removal hearings and [does] not pose a danger to the community." *Id.*

Moreover, a substantial "risk lies in the automatic continued deprivation of liberty for a noncitizen who has already been determined to not be a flight risk nor a danger to the community, and has lived in the United States for a prolonged period of time, especially where there are no facts in the record to reflect material changes in Petitioner's dangerousness or flight risk." *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *7 (W.D. Tex. Oct. 16, 2025).

As a result, Petitioner's mandatory detention under § 1225(b) violates her Fifth Amendment Due Process rights.

C. Petitioner is Eligible for Release On Bond Under § 1226(a).

1. Petitioner's detention is governed by 1226(a)

Respondents assert that Petitioner is detained under 1225(b)(1). "Section 1225(b)(1) requires detention of two categories of noncitizens who are subject to expedited removal: (a) 'arriving' aliens and (b) aliens who have not 'been physically present in the United States continuously for the 2-year period immediately prior to' being determined inadmissible under subparagraph (b)." *Perez v. Thompson*, 5:25-CV-1664-JKP (W.D. Tex. Dec 15, 2025), ECF No. 7 at 9. Here, Petitioner is not an arriving alien, she was granted parole after entering and has remained in the U.S. continuously for more than 2 years. *See* ECF No. 1, Exh. 2. Respondents issued Petitioner a Notice to Appear (NTA) that classifies her as an "alien present in the United States," having already entered, and not as an "arriving alien." *Id.*

“Section 1226(a) creates a default rule for [non-citizens already present in the U.S.] by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond.” *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Therefore, as an “alien already present in the United States,” Petitioner is subject to Section 1226, and is not subject to mandatory detention under Section 1225. *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *see also Ventura Martinez v. Trump*, No. CV 3:25-01445 (W.D. La. Oct. 22, 2025).

The list of District Courts that have rejected Respondents’ new interpretation of the INA’s detention authorities continues to grow. *See e.g., Suarez-Duarte v. Harper*, 2:25-cv-03142-TLP-tmp (W.D. Tenn. Jan 12, 2026), ECF. No. 8; *Aguilar v. Bondi*, No. 1:25-cv-00996-KWR-KK (D. N.M. Jan 12, 2026), ECF. No. 26; *Flores v. Warden, Fla. Soft Side S., U.S.*, No. 2:25-cv-1162-KCD-NPM (M.D. Fla. Jan 05, 2026), ECF. No. 10; *Vadel v. Lowe*, No. 3:25-CV-02452 (M.D. Pa. Dec 31, 2025), ECF No. 5; *Ramirez-Morales v. Lyons*, No. EP-25-CV-00476-DCG-RFC (W.D. Tex. Dec 30, 2025), ECF. No. 18.

Instead, “almost every district court to consider this issue has concluded, ‘the statutory text, the statute’s history, Congressional intent, and § 1226(a)’s application for the past three decades’ support finding that § 1226 applies to [Petitioner’s] circumstances.” *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *3 (quoting *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *4 (E.D. Mich. Sept. 9, 2025)).

2. Petitioner is Entitled to Relief as a *Maldonado Bautista* Class Member

Respondents concede that Petitioner is a member of the “Bond Eligible Class” certified in *Bautista* and then devote a substantial part of their response to attacking the class-wide

declaratory judgment granted in *Bautista*, despite also asserting elsewhere that the decision is irrelevant. *See* ECF No. 3 at 9. Having placed *Bautista* squarely at issue, Respondents cannot avoid its consequences. *See Maldonado Bautista v. Noem*, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

On December 18, 2025, the Central District of California clarified its prior order and entered a final judgment under Rule 54(b) of the Federal Rules of Civil Procedure, holding that “Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2).” *Id.*

Petitioner does not rely on *Bautista* as persuasive authority. She relies on it as a final judgment that already governs Respondents’ conduct toward certified class members. A final judgment in a class action is binding on all class members in subsequent decisions under the basic principles of res judicata and collateral estoppel. *Cooper v. Fed. Rsrv. Bank of Richmond*, 467 U.S. 867, 874 (1984) (“A judgment in favor of either side is conclusive in a subsequent action between them on any issue actually litigated and determined, if its determination was essential to that judgment”); *see also Palacios v. Bondi*, No. 5:25-cv-283 (S.D. Tex. Dec. 31, 2025), ECF No. 13 at 2.

Petitioner is a member of the nationwide class certified in *Bautista*. Respondents are therefore barred from relitigating the legality of detaining her under 8 U.S.C. § 1225(b) without a bond hearing.

III. CONCLUSION

Respondents ask the Court to endorse an interpretation of § 1225 that would dramatically expand mandatory detention, erase the bond framework Congress preserved in § 1226 and violate Petitioner's Due Process Rights. Courts in this District have rejected that interpretation, *Jennings* forbids it and *Bautista* independently forecloses it as to this Petitioner. Therefore, this Court should grant the Petition for Writ of Habeas Corpus.

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Respectfully submitted,

/s/ Rolando Grillo

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CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing was electronically filed with the CM/ECF e-Filing Portal on January 13, 2026.

By: /s/ Rolando Grillo
Rolando Grillo, Esq.