

District Judge Thomas S. Zilly

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LUIS ALBERTO SARAS CATANO,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,

Respondent.

Case No. 2:25-cv-02630-TSZ

RESPONDENT’S RETURN  
MEMORANDUM

Noted for consideration on:  
January 20, 2026

Pursuant to this Court’s Order (Dkt. No. 3), Respondent submits the following factual background as contained in the records of Petitioner Luis Alberto Saras Catano’s immigration case, as well as the relevant detention authority.

**I. DETENTION AUTHORITY**

U.S. Immigration and Customs Enforcement (“ICE”) detains Petitioner pursuant to 8 U.S.C. § 1225(b)(2). Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.” *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently

1 meritless claims and expeditiously removing the aliens making such claims from the country.”).  
2 Section 1225 applies to “applicants for admission” to the United States, who are defined as  
3 “alien[s] present in the United States who [have] not been admitted” or noncitizens “who arrive[ ]  
4 in the United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1).  
5 Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those  
6 covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings v.*  
7 *Rodriguez*, 583 U.S. 281, 287 (2018).

8 Relevant here, Section 1225(b)(2) is “broader” and “serves as a catchall provision.”  
9 *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).”  
10 *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to  
11 mandatory detention pending full removal proceedings “if the examining immigration officer  
12 determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be  
13 admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens “be detained for a proceeding  
14 under section 1229a of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (explaining  
15 that proceedings under section 1229a are “full removal proceedings under section 240 of the  
16 INA”); *see also id.* (“[F]or aliens arriving in and seeking admission into the United States who are  
17 placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. §  
18 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing  
19 *Jennings*, 583 U.S. at 299); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

20 The sole means of release from detention pursuant to Section 1225(b) is temporary parole  
21 ‘for urgent humanitarian reasons or significant public benefit,’ § 1182(d)(5)(A).” *Jennings*, 583  
22 U.S. at 283. This parole terminates automatically at the expiration of the time for which parole  
23 was authorized, or upon service of a charging document for either expedited removal proceedings  
24

1 under Section 1225(b) or removal proceedings under Section 1229a. 8 C.F.R. §§ 212.5(e)(1);  
2 (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at the time  
3 of parole. *See id.*

4 Respondent acknowledges that courts in this District have considered whether noncitizens  
5 similar to Petitioner are detained pursuant to Section 1225(b) or Section 1226(a) and ruled against  
6 the Government's position that Section 1225(b) applies. *See, e.g., Rodriguez Vazquez v. Bostock*,  
7 No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (the Government is  
8 appealing this decision). Respectfully, Respondents disagrees with these decisions. However, if  
9 this Court were to find that Petitioner's detention is non-mandatory pursuant to 8 U.S.C. § 1226(a),  
10 the appropriate remedy would for this Court to order a bond hearing with the immigration court –  
11 not release. *Galvan v. Hermosillo*, No. 2:25-cv-02349-TMC, 2025 WL 3484755, at \*2-3 (W.D.  
12 Wash. Dec. 4, 2025) (“Section 1226 requires only consideration of release on bond, and a bond  
13 hearing is therefore sufficient to correct Respondents’ ongoing violation of the INA.”)

## 14 II. CONDITIONAL PAROLE

15 When a noncitizen is apprehended, an immigration officer makes an initial custody  
16 determination.<sup>1</sup> *See* 8 C.F.R. § 1236.1(c)(8).

17 Any officer authorized to issue a warrant of arrest may, in the officer's discretion,  
18 release an alien not described in section 236(c)(1) of the Act, under the conditions  
19 at section 236(a)(2) and (3) of the Act; *provided that the alien must demonstrate to*  
20 *the satisfaction of the officer that such release would not pose a danger to property*  
21 *or persons, and that the alien is likely to appear for any future proceeding.* Such an  
22 officer may also, in the exercise of discretion, release an alien in deportation

23 <sup>1</sup> Petitioner may incorrectly argue that U.S. Department of Homeland Security's (“DHS”) initial release and his  
24 placement on an OREC in 2020 shows that his detention is discretionary under 8 U.S.C. § 1226(a). However, DHS  
revisited its legal position on detention and release authorities in July 2025 and determined that Section 1225(b), not  
Section 1226(a), is the applicable immigration detention authority for all applicants for admission. *See Rodriguez v.*  
*Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at \*5 (W.D. Wash. Sept. 30, 2025). Petitioner is an applicant  
for admission. 8 U.S.C. § 1225(b)(2).

1 proceedings pursuant to the authority in section 242 of the Act (as designated prior  
2 to April 1, 1997), except as otherwise provided by law.

3 8 C.F.R. § 1236.1(c)(8) (emphasis added). DHS “may continue to detain the arrested alien.” 8  
4 U.S.C. § 1226(a)(1). “To secure release, the alien must show that he does not pose a danger to the  
5 community and that he is likely to appear for future proceedings.” *Johnson v. Guzman Chavez*,  
6 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 1236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*, 22 I.  
7 & N. Dec. 1102, 1113 (BIA 1999)). If DHS decides to release the alien, it may set a bond or place  
8 other conditions on release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 1236.1(c)(8).

9 ICE also has clear discretionary authority to revoke conditional parole. 8 C.F.R.  
10 § 1236.1(c)(9).

11 When an alien who, having been arrested and taken into custody, has been  
12 released, *such release may be revoked at any time* in the discretion of the district  
13 director, acting district director, deputy district director, assistant district director  
14 for investigations, assistant district director for detention and deportation, or  
15 officer in charge (except foreign), in which event the alien may be taken into  
16 physical custody and detained. If detained, unless a breach has occurred, any  
17 outstanding bond shall be revoked and canceled.

18 8 C.F.R. § 1236.1(c)(9) (emphasis added).

### 19 III. FACTUAL BACKGROUND

20 Petitioner is a Venezuelan citizen and a Colombian national who unlawfully entered the  
21 United States with his parents and siblings in 2020. Bloom Decl., ¶¶ 3-4. Border Patrol detained  
22 Petitioner and served him with a warrant of arrest and a notice to appear.<sup>2</sup> Lambert Decl., Ex. A,  
23 Form I-213; Ex. B, Notice of Custody Determination; Ex. C, Warrant for Arrest. The following  
24 day, Petitioner was released on an Order of Release on Recognizance (“OREC”), which provided

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<sup>2</sup> In Petitioner’s alien file, there is a notice to appear dated February 9, 2020 (the date of his apprehension). However, the notice to appear that was filed with the immigration court is the March 20, 2020 version. Lambert Decl., Ex. E. Undersigned counsel does not have knowledge as to why the first notice was not filed in immigration court.

1 various requirements. Lambert Decl., Ex. D, OREC. On March 5, 2020, DHS issued a notice to  
2 appear, charging him with removability pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). Lambert Decl.,  
3 Ex. E, Notice to Appear. In October 2020, an immigration judge sustained the charge and  
4 designated Venezuela as the country of removal. Bloom Decl., ¶ 7.

5 In 2022, an immigration judge denied all applications for relief and ordered Petitioner  
6 removed to Venezuela, with Colombia designated in the alternative. Bloom Decl., ¶ 9. Petitioner  
7 has appealed this order and the appeal is currently pending before the Board of Immigration  
8 Appeals (“BIA”). Bloom Decl., ¶ 10.

9 Multiple times in 2024 and 2025, ICE lodged an immigration detainer at jails where  
10 Petitioner was being held for criminal charges. Bloom Decl., ¶¶ 11-14.

11 On October 3, 2025, ICE arrested Petitioner. Bloom Decl., ¶ 15; Lambert Decl., Ex. F,  
12 Warrant for Arrest; Ex. G, Form I-213. No records have been located demonstrating whether  
13 Petitioner’s OREC was revoked at that time. Petitioner was transferred to the Northwest ICE  
14 Processing Center approximately a week later. Bloom Decl., ¶ 16. Because Petitioner’s appeal is  
15 still pending before the BIA, he is not subject to a final order of removal.

16 **IV. CONCLUSION**

17 In further response to Dkt. 3, Respondent does not believe that an evidentiary hearing is  
18 necessary.

19 DATED this 14th day of January, 2026.

20 Respectfully submitted,

21 CHARLES NEIL FLOYD  
22 United States Attorney

23 s/ Michelle R. Lambert  
24 MICHELLE R. LAMBERT, NYS#4666657  
Assistant United States Attorney

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*Attorneys for Federal Respondents*

*I certify that this memorandum contains 1,391 words, in compliance with the Local Civil Rules.*

**CERTIFICATE OF SERVICE**


I hereby certify that I am an employee in the Office of the United States Attorney for the Western District of Washington and of such age and discretion as to be competent to serve papers;

I further certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following CM/ECF participant(s):

- 0 -

I further certify that on this date, I arranged for service of the foregoing on the following non-CM/ECF participant, via Certified Mail, return receipt requested, postage prepaid, addressed as follows:

Luis Alberto Saras Catano, *Pro Se* Petitioner

  
Northwest Detention Center  
1623 E. J Street, Suite 5  
Tacoma, WA 98421-1615

DATED this 14th day of January, 2026.

*s/ Joseph A. Fonseca*

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