UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:25-26007-DPG

ARGENIS ULISES TERAN TORO,

Petitioner,

v.

WARDEN, KROME NORTH SERVICE PROCESSING CENTER, GARRETT J. RIPA, Miami Field Office Director, Immigration and Customs Enforcement and Removal Operations; TODD M. LYONS, Acting Director of Immigration Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

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PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, by and through the undersigned counsel, respectfully submits this Reply in further support of the Petition for Writ of Habeas Corpus and in response to Respondents' Response in Opposition to the Petition for Writ of Habeas Corpus.

INTRODUCTION

Respondents contend that Petitioner's present detention is mandated by 8 U.S.C. § 1225(b)(2)(A) because he is an "applicant for admission," rendering him categorically ineligible for a bond hearing. They rely principally on the Board's recent decision in *Matter of Yajure Hurtado* and urge dismissal of all respondents except the immediate custodian. 29 I&N Dec. 216 (B.I.A. 2025). That position misconstrues the statutory framework, overreads nonbinding administrative precedent, overlooks existing opinions by this Court rejecting their

statutory interpretation, and, if adopted, would sanction prolonged civil confinement in the interior without the procedural protections Congress afforded under 8 U.S.C. § 1226(a).

Petitioner's custody status has been governed by 8 U.S.C. § 1226(a) for over four years. Respondents do not dispute that Petitioner was released on conditional parole under 8 U.S.C. § 1226(a)(2)(B). In fact, Respondents have presented the evidence demonstrating this to be the case. *See* Resp. Ex. D, ECF No. 7-4. Respondents do not allege that Petitioner has violated the terms of his release. Rather, Respondents' decision to re-detain Petitioner was arbitrary and in violation of § 1226(a) and related regulation. To justify Petitioner's unlawful arrest and detention, Respondents applied a new statutory scheme that they have never applied before in Petitioner's case and argue that he is subject to mandatory detention. Respondents contend that this Honorable Court should not rely on their prior practices, even though they are permissibly informative. Respondents prior conduct coupled with Petitioner's lengthy presence prior to his apprehension in the interior of the United States makes clear that his custody status is governed by 8 U.S.C. § 1226(a).

Habeas relief is warranted to (i) declare that Petitioner's custody is governed by § 1226(a) and (ii) order Petitioner's immediate release or, in the alternative, a prompt individualized bond hearing.

ARGUMENT

Section 1226(a), Not Section 1225(b)(2)(A), Governs Petitioner's Present, Interior Detention.

A. Statutory structure and context.

Respondents contend that Petitioner is an "applicant for admission" and his detention is governed by 8 U.S.C. § 1225(b)(2)(A). *See* Resp. 6. Congress enacted complementary detention authorities. 8 U.S.C. § 1226(a) authorizes arrest and detention of "any alien" "pending a decision on whether the alien is to be removed," while 8 U.S.C. § 1225(b) governs

inspection-stage processing of applicants for admission, including expedited removal and certain subject to mandatory detention. Specifically, section 1225(b)(2)(A) states in relevant part that: "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." (emphasis added). Section 1225(b)(2)(A) makes clear that it is applicable only to a noncitizen "seeking admission[.]"

In January 2025, Congress enacted the Laken Riley Act ("LRA"), Pub. L. No. 119-1, 139 Stat. 3 (2025) added section 1226(c)(1)(E), creating a subcategory of noncitizens subject to mandatory detention who (i) "are inadmissible under [section] 1182(a)(6)(A) (noncitizens present in the United States without being admitted or paroled, like Petitioner), [section] 1182(a)(6)(C) ([obtaining a visa, documents, or admission through] misrepresentation [or fraud]), or [section] 1182(a)(7) (lacking valid documentation)" and (ii) "have been arrested for, charged with, or convicted of certain crimes." Pizarro Reyes v. Raycraft, No. 25-cv-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025) (alterations added; citing 8 U.S.C. § 1226(c)(1)(E)(i)–(ii)).

B. Petitioner is Not Subject to Mandatory Detention Under Section 1225(b)(2).

Respondents contend that section 1225(b)(2) applies to all "applicants for admission" and that "seeking admission" is essentially an analogous term. *See* Resp. 6-7. However, unlike section 1225, section 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings[.]" *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis and alteration added).

Section 1225(a)(1) specifically defines the noncitizens that are treated as "applicants for admission" and fails to mention "seeking admission" as a qualifier or in some way

analogous to an "applicant for admission[.]" In fact, section 1225(a)(3) provides the necessary context to show that these terms are legally distinct. ("All aliens (including alien crewman) who are applicants for admission *or otherwise seeking admission* . . ..) (emphasis added) (i.e. a returning lawful permanent resident classified as an arriving alien based on a certain criminal conviction is "seeking admission.") *See Richardson v. Reno*, No. 98-4230 (11th Cir. Dec. 22, 1998). Every mention of "seeking admission" refers to the term in the active tense and not simply a characteristic of being an "applicant for admission[.]" *See* 8 U.S.C. § 1225; *see also Lopez-Campos v. Raycraft,* No. 2:25-cv-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025); *Rosado v. Figueroa, No. 25-cv-02157,* 2025 WL 2337099, at *11 (D. Ariz. Aug. 11, 2025), R&R adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025).

The LRA only provides further context to show that Congress never intended to subject all noncitizens who entered without inspection or did not possess the necessary documents when applying for admission to mandatory detention. If Respondents interpretation of section 1225(b)(2) was correct, it would render the LRA entirely meaningless. *Alvarez Puga v. Assistant Field Office Director, Krome N. Serv. Processing Ctr.*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025).

Recently, this Court and others have routinely rejected Respondents' overbroad interpretation and found that the entry-fiction of "seeking admission" does not extend to noncitizens present in the United States for months or even years. *Id.*; *See Diaz Martinez v. Hyde*, --- F. Supp. 3d ---, No. 1:25-cv-11613-BEM (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 1:25-cv-05937 (S.D.N.Y. Aug. 8, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK (D. Mass. July 7, 2025); *Ceja Gonzalez v. Noem*, No 5:25-cv-02054-ODW (C.D. Cal. Aug. 13, 2025); *Aguilar Maldonado v. Olson*, No. 25-cv-03142- SRN-SGE (D. Minn. Aug. 15, 2025); *Make the Road N.Y. v. Wolf*, 962 F.3d 612 (D.C. Cir. 2020).

Respondents rely heavily on nonbinding administrative precedent to justify their broad reading of section 1225(b)(2)(A) while in the same breath argue that *Loper Bright Enters. v. Raimondo,* 603 U.S. 369, 411 (2024), precludes reliance on prior agency practice. *See* Resp. 12.

Without directly acknowledging that Petitioner was released into the United States on his own recognizance, Respondents essentially urge the Court to ignore the government's previous treatment of Petitioner's custody status as being governed by section 1226(a) and accept that they have inexplicably changed his custody as governed by section 1225(b)(2). Yet, courts have found that § 1226 also applies to someone, like Petitioner, who was released on conditional parole under § 1226 and recently detained while living in the United States in full compliance with the terms of his release. *See, e.g.*, *Ceballo*, 2025 U.S. Dist. LEXIS 250326, at *8; *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344, at *21 (D. Ariz. Aug. 11, 2025) (holding that release under conditional parole and subsequent detention without a bond hearing is "contrary to the laws of the United States."); *Lopez v. Lyons*, Civil Action No. 1:25-cv-01838-AJT-IDD, 2025 U.S. Dist. LEXIS 232158, at *6 (E.D. Va. Nov. 25, 2025) (granting habeas where petitioner was paroled at border in 2016, lived in U.S. for nine years, and was re-arrested in the interior; holding § 1226(a) applies to "aliens already in the country" and § 1225(b) applies only to those "actively seeking admission").

In similar circumstances, courts have analyzed release—whether under conditional or humanitarian parole—and found that sudden re-detention without any procedures or individual determination regarding dangerousness and flight risk violates due process. *See, e.g.*, *Lopez-Arevelo v. Ripa*, No. 1:25-cv-01838-AJT-IDD, 2025 U.S. Dist. LEXIS 188232 (W.D. Tex. Sept. 21, 2025); *Savane v. Francis*, No. 1:25-cv-6666-GHW, 2025 U.S. Dist. LEXIS 194889, (S.D.N.Y. Sept. 28, 2025); *J.S.H.M. v. Wofford*, No. 1:25-CV-01309 JLT SKO, 2025 U.S. Dist.

LEXIS 204422, (E.D. Cal. Oct. 16, 2025); *Omer G.G. v. Kaiser*, No. 1:25-cv-01471-KES-SAB (HC), 2025 U.S. Dist. LEXIS 230551, at *19 (E.D. Cal. Nov. 22, 2025).

Respondents fail to effectively explain why this Court should depart from the interpretation of "seeking admission" held by this Court and others. Further, Respondents fail to show that their decision to arrest and detain Petitioner was anything but an arbitrary and capricious exercise of their discretion. Finally, Respondents' revocation of Petitioner's release on recognizance based on an interpretation that is not supported by the plain text of § 1225(b)(2)(A) violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant his petition for writ of habeas corpus and order his immediate release.

Dated this 21st day of January 2026

By: /s/ *Alexander Martinez*

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