

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Yansier NODARSE PEREIRA,)	
)	
Petitioner,)	
)	
v.)	
)	
WARDEN, Krome North Service Processing Center, in their official capacity, et al.,)	Case No. 25-cv-26037-DPG
)	
)	
Respondents.)	
)	

**PETITIONER’S REPLY TO RESPONDENTS’ RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

Petitioner, Yansier Nodarse Pereira, by and through undersigned counsel, respectfully submits this Reply to Respondents’ Response to the Petition for Writ of Habeas Corpus and states as follows:

**I. RESPONDENTS’ POSITION MISCONSTRUES THE STATUTORY
FRAMEWORK AND EXTENDS § 1225(b) BEYOND ITS LAWFUL SCOPE**

Respondents argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) because he entered without inspection and therefore remains an “applicant for admission” indefinitely. That position stretches § 1225(b) far beyond its text, structure, and historical application.

Section 1225(b) governs initial admissibility determinations at or near the border. It does not create a perpetual detention category that follows a noncitizen years after release into the interior, after placement into standard § 1229a proceedings, after lawful employment authorization, and after years of full compliance with DHS supervision.

Petitioner is not an “arriving alien.” He is not being inspected at a port of entry. He is not seeking admission at the border. He is a long-term resident of the interior United States who has been in ordinary removal proceedings for nearly three years and was previously released on bond by DHS itself. To treat him as perpetually governed by § 1225(b) transforms a border processing statute into a mechanism for indefinite interior detention, a result Congress never intended.

II. *MATTER OF YAJURE HURTADO* DOES NOT CONTROL THIS COURT’S STATUTORY INTERPRETATION

Respondents rely heavily on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). But that reliance is misplaced.

A. Agency precedent cannot override federal judicial review

After *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), federal courts are not required to defer to agency interpretations of ambiguous statutes. This Court must independently determine whether DHS is lawfully detaining Petitioner under § 1225(b) or § 1226(a).

B. *Yajure Hurtado* conflicts with the statutory structure

Section 1225 governs inspection and admission. Section 1226 governs detention pending removal proceedings. Once DHS places a noncitizen into § 1229a proceedings, the detention authority shifts to § 1226 unless Congress has expressly mandated otherwise (e.g., criminal mandatory detention under § 1226(c)). Nothing in § 1225(b) states that it continues to govern detention after release, years of residence, and interior proceedings.

C. This Court is not bound by BIA detention rulings

The BIA's jurisdiction concerns immigration court custody authority, not the constitutional and statutory legality of detention. Federal habeas courts remain the ultimate arbiters of whether detention complies with the INA and the Fifth Amendment.

III. RESPONDENTS MISSAPPLY *JENNINGS*

Respondents invoke *Jennings v. Rodriguez*, 583 U.S. 281 (2018), to argue that § 1225(b) mandates detention without bond hearings. That argument fails. *Jennings* did not authorize indefinite detention without due process. *Jennings* left constitutional questions open.

A. *Jennings* addressed statutory interpretation, not due process

Jennings held that courts could not read bond hearings into the statute by interpretation. It did not decide whether prolonged detention without process violates the Constitution. Indeed, *Jennings* expressly left constitutional questions open.

IV. EVEN IF § 1225(b) APPLIES, PETITIONER'S DETENTION STILL VIOLATES DUE PROCESS

Even assuming § 1225(b) applies, indefinite civil detention without a meaningful opportunity to seek release violates the Fifth Amendment.

Petitioner has now been detained with no criminal history, no individualized flight-risk finding, no danger determination, no parole review that is judicially reviewable, and no foreseeable end to detention. His merits hearing is scheduled for November 3, 2028.

Civil detention that lacks both procedural safeguards and temporal limits becomes punitive in effect. That is precisely what the Due Process Clause forbids. The government cannot avoid constitutional scrutiny simply by labeling detention “mandatory.”

V. RESPONDENTS’ POSITION PRODUCES AN IRRATIONAL AND UNCONSTITUTIONAL RESULT

Under Respondents’ theory, a person may live lawfully for years and still be re-detained indefinitely without a bond hearing based solely on manner of entry. That interpretation nullifies § 1226(a) and violates due process. Congress did not create such a regime.

VI. HABEAS RELIEF IS PROPER AND NECESSARY

Respondents suggest that parole under 8 U.S.C. § 1182(d)(5) is the only available release mechanism. But parole is discretionary, unreviewable, and not a substitute for constitutionally required process. Where no judicially reviewable custody mechanism exists, habeas relief is indispensable.

VII. CONCLUSION

For all these reasons, Respondents' Response fails to rebut Petitioner's statutory and constitutional claims. Petitioner respectfully requests that this Court grant the relief requested in the Petition.

Dated: January 13, 2026

Respectfully submitted,

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