

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 25-26084-CV-WILLIAMS

JAVIER ALFREDO BANEGAS-BOQUEDANO,

Petitioner,

v.

PAM BONDI, *et al.*,

Respondents.

ORDER

THIS MATTER is before the Court on Petitioner Javier Alfredo Banegas-Boquedano's ("**Petitioner**" or "**Mr. Banegas-Boquedano**") Petition for Writ of Habeas Corpus (DE 1) ("**Petition**"). Respondents filed a Return in Opposition (DE 6) ("**Response**"). For the reasons discussed below, Mr. Banegas-Boquedano's Petition (DE 1) is **GRANTED IN PART**.

I. FACTUAL BACKGROUND

Mr. Banegas-Boquedano is a Honduran national who has lived in Key West, Florida for almost twenty years. (DE 1 at 2). On or around January 3, 2024, Mr. Banegas-Boquedano's I-765 Application for Employment Authorization was approved. (DE 6-1 at 3). On November 18, 2025, while on his way to work, Homeland Security Investigations ("**HSI**") detained Mr. Banegas-Boquedano. The Form I-831 attached to the Response as Exhibit 1 details how HSI observed Mr. Banegas-Boquedano leave his residence in a "white utility/work pick up truck" and then followed the vehicle to conduct an "immigration inspection stop." (*Id.* at 2). During the inspection stop, HSI determined that Petitioner entered the United States illegally and took him into custody for further processing. (DE

6 at 2). On that same date, HSI issued Mr. Banegas-Boquedano a Notice to Appear (“**NTA**”), charging him with inadmissibility under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (“**INA**”), and a Notice of Custody Determination, detaining Mr. Banegas-Boquedano pursuant to “section 236 of the INA and part 236 of title 8, Code of Federal Regulations.” (*Id.*; DE 6-6).

On November 19, 2025, Mr. Banegas-Boquedano was transported to the Florida Soft-Sided Facility South and later transferred to Broward Transitional Center on December 1, 2025. (*Id.*). On December 2, 2025, HSI initiated removal proceedings. (*Id.*). Mr. Banegas-Boquedano appeared at his first master calendar hearing on December 17, 2025, and his next master calendar hearing is set for February 4, 2026. (*Id.*). Mr. Banegas-Boquedano seeks habeas relief, arguing that “the mandatory detention provision of § 1225(b)(2) does not apply to [him],” and therefore, classifying him as a noncitizen subject to § 1225(b)(2) “unlawfully mandates his continued detention” in violation of “8 C.F.R §§ 236.1, 1236.1, and 1003.19.” (DE 1 ¶¶ 53, 57).

II. LEGAL STANDARD

District courts have the authority to grant writs of habeas corpus. See 28 U.S.C. § 2241(a). Habeas corpus is fundamentally “a remedy for unlawful executive detention.” *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citation omitted). A writ may be issued to a petitioner who shows that he is being held in custody in violation of the Constitution or federal law. See § 2241(c)(3). The Court’s jurisdiction extends to challenges involving immigration detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

III. DISCUSSION

The Court first considers Respondents’ argument that Mr. Banegas-Boquedano

failed to exhaust his administrative remedies; then addresses the legality of Mr. Banegas-Boquedano's detention under the statutory framework of 8 U.S.C. §§ 1225 and 1226.

A. Administrative exhaustion is not required.

Respondents argue that this Court should dismiss the Petition for failure to exhaust administrative remedies. (DE 6 at 16). However, courts do not require litigants to exhaust administrative remedies "where no genuine opportunity for adequate relief exists." *Linsford v. U.S.*, 673 F.2d 332, 334 (11th Cir. 1982). As noted by several other courts in this District, exhaustion is not required where immigration judges, through their reliance on *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025),¹ are improperly subjecting noncitizens present in the United States without admittance or parole, to mandatory detention without the possibility of bond. See, e.g., *Puga v. Assistant Field Off. Dir., Krome N. Serv. Processing Ctr.*, No. 25-24535-CIV, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025) (Altonaga, J.) ("Since the result of Petitioner's custody redetermination and any subsequent bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential exhaustion requirements are excused for futility."); see also *Ardon-Quiroz v. Asst. Field Dir.*, No. 25-cv-25290-JB, 2025 WL 3451645, at *5 (S.D. Fla. Dec. 1, 2025) (Becerra, J.) (finding exhaustion not required where, "considering *In re Yajure Hurtado*, it appear[ed] evident that a noncitizen like Petitioner, who has resided in the United States for years but has not been admitted or paroled, will be subject to mandatory detention without bond under section 1225(b)(2)"). Mr. Banegas-Boquedano

¹ In *Matter of Yajure Hurtado*, the Board of Immigration Appeal concluded that "[t]he Immigration Judge properly held that he lacked authority to hear the respondent's request for a bond as the respondent is an applicant for admission and is subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and the regulation at 8 C.F.R. § 235.3(b)(1)(ii)."

has resided in the United States for almost twenty years but has not been admitted or paroled. (DE 1 ¶ 21; DE 6-2). In light of *Matter of Yajure Hurtado*, it appears evident that Mr. Banegas-Boquedano is, and will continue to be, subject to mandatory detention without a bond hearing. For this reason, administrative exhaustion by Mr. Banegas-Boquedano is not required “where no genuine opportunity for adequate relief exists” within the immigration courts. *Linsford*, 673 F.2d at 334.

B. The statutory framework governing the detention of noncitizens.

Two statutes govern the detention of noncitizens—8 U.S.C. §§ 1225 and 1226—and, of those two statutes, bond is only available to noncitizens under 8 U.S.C. § 1226. The Court addresses the two statutes; then determines Mr. Banegas-Boquedano’s entitlement to an individualized bond hearing.

i. 8 U.S.C. § 1225

Section 1225 governs the inspection, detention, and removal of applicants for admission. See 8 U.S.C. § 1225 *et seq.* Applicants for admission are defined as noncitizens “present in the United States who ha[ve] not been admitted” or those “arriv[ing] in the United States.” *Id.* All applicants for admission “must be inspected by immigration officers to ensure that they may be admitted into the country consistent with U.S. immigration law.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).² To that end, “U.S. immigration law authorizes the Government to detain certain aliens *seeking admission* into the country under §§ 1225(b)(1) and (b)(2).” *Id.* at 289 (emphasis added).

² Indeed, *Jennings* began its analysis by emphasizing the temporal and categorical distinction between the detention statutes. Section 1225 applies to noncitizens who are “seeking admission into the country” at the border or a port of entry, whereas § 1226 governs those “already in the country pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 285–89.

Moreover, “Section 1225(b)(1) applies to all aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.* Such non-citizens are generally subject to expedited removal “without further hearing or review.” 8 U.S.C. § 1225(b)(1).

On the other hand, “Section 1225(b)(2) is broader” and “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Jennings*, 583 U.S. at 287. Non-citizens covered under § 1225(b)(2) are detained for removal proceedings “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted” into the country. 8 U.S.C. § 1225(b)(2)(A). Importantly, detention under § 1225(b)(2) is mandatory. See *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025).

ii. **8 U.S.C. § 1226**

Federal immigration law “also authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289 (emphasis added). Section 1226(a) provides that when a noncitizen has been “arrested and detained pending a decision on whether the alien is to be removed from the United States,” the Attorney General may either continue to detain the individual or release them on bond or conditional release. See 8 U.S.C. § 1226(a). The statute thus “establishes a discretionary detention framework.” *Gomes*, 2025 WL 1869299, at *2. With this background in mind, the Court now analyzes which statute applies to Mr. Banegas-Boquedano.

C. *Mr. Banegas-Boquedano is entitled to an individualized bond determination under 8 U.S.C. § 1226.*

The primary issue is whether § 1225 or § 1226 governs Mr. Banegas-Boquedano’s

detention. As a threshold matter, this is a question of statutory interpretation squarely within the Court's jurisdiction. See *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sep. 9, 2025) (“[This case] requires the Court to decide whether § 1226(a) or § 1225(b)(2)(A) applies to [Petitioner]. To answer the question, the Court must determine how the two sections interplay with one another. . . . Ultimately, the issue boils down to a matter of statutory interpretation. And matters of statutory interpretation belong historically within the province of the courts.”) (citing *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)); *Barrios v. Shepley*, No. 25-cv-00406, 2025 WL 2772579, at *5 (D. Me. Sep. 25, 2025) (district court had jurisdiction to review petitioner's challenge to the “statutory framework” regarding his detention); See *Gomes*, 2025 WL 1869299, at *8 n.9 (“[T]o the extent . . . the BIA would conclude that Gomes is subject to mandatory detention under Section 1225(b)(2), this Court respectfully disagrees with that conclusion. Courts must exercise independent judgment in determining the meaning of statutory provisions”); *Mosqueda v. Noem*, No. 5:25-cv-02304, 2025 WL 2591530, at *7 (C.D. Cal. Sept 8, 2025) (district court had jurisdiction to decide whether § 1225 or § 1226 applied as “[t]hese are purely legal questions of statutory interpretation.”).

From the outset, the Department of Homeland Security (“*DHS*”) proceeded under § 1226. Mr. Banegas-Boquedano's operative NTA did not classify him as an “arriving alien.” Instead, it charged him as “present in the United States without admission or parole.” (DE 6-2). This classification places Mr. Banegas-Boquedano squarely within § 1226. See e.g., *Pizarro Reyes*, 2025 WL 2609425, at *8 (emphasizing ICE's selection of “present” rather than “arriving” on the notice to appear as evidence that § 1226 applied);

see also *Hyppolite v. Noem*, No. 25-4304, 2025 WL 2829511, *8 (E.D.N.Y. Oct. 6, 2025) (respondent's initial classification of petitioner "certainly is relevant to the Court's assessment of the credibility and good faith of 'Respondents' new position as to the basis for [Hyppolite's] detention, which was adopted post hoc and raised for the first time in this litigation.") (citation omitted); *Perez v. Berg*, No. 25-cv-494, 2025 WL 2531566, at *2 (D. Neb. July 24, 2025) ("The Court notes that the government itself charged Petitioner as an alien present in the United States who has not been admitted or paroled rather than an arriving alien.") (quotations omitted).

This Court and countless others have uniformly rejected the Government's expansive interpretation of § 1225.³ See e.g., *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-cv-24292, DE 41, (S.D. Fla. Oct. 10, 2025) (respondent's interpretation of the INA "directly contravenes the statute" and "disregards decades of settled precedent"); see also *Pizarro Reyes*, 2025 WL 2609425, at *7 ("Finally, the BIA's decision to pivot from three decades of consistent statutory interpretation and call for Pizarro Reyes' detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation."); *Puga*, No. 25-24535, 2025 WL 2938369, at *3–6; *Merino v. Ripa*, No. 25-23845, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sep. 25, 2025); *Harsh Patel v. Crowley*, No. 25-11180, 2025 U.S. Dist. LEXIS 209958, at *9–12 (N.D. Ill. Oct. 24, 2024); *Esquivel-Ipina v. Larose*, No. 25-cv-2672, 2025 U.S. Dist. LEXIS 210275, at *9–12 (C.D. Cal. Oct. 24, 2025); *Carmona v. Noem*, No. 25-

³ The Court is unable to remain current on all new case authority supporting the Court's conclusion, given the continued onslaught of litigation being generated by Respondents' widespread illegal detention practices. Consequently, this string citation is not exhaustive.

cv-1131, 2025 U.S. Dist. LEXIS 209629, at *14–17 (W.D. Mich. Oct. 24, 2025); *Lopez v. Hyde*, 25-12680, 2025 U.S. Dist. LEXIS 209916, at *4–5 (D. Mass. Oct. 24, 2025); *Guerra v. Joyce*, No. 25-cv-00534, 2025 WL 2986316, at *3 (D. Me. Oct. 23, 2025); *Lomeu v. Soto*, 25-cv-16589, 2025 WL 2981296, at *7–8 (D.N.J. Oct. 23, 2025); *Maldonado v. Cabezas*, No. 25-13004, 2025 WL 2985256, at *4 (D.N.J. Oct. 23, 2025); *Aparicio v. Noem*, 2025 U.S. Dist. LEXIS 208898, at *12–13 (D. Nev. Oct. 23, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120, 2025 WL 2977650, at *5–6 (D. Colo. Oct. 22, 2025); *Soto v. Soto*, No. 25-cv-16200, 2025 U.S. Dist. LEXIS 207818, at *16–19 (D.N.J. Oct. 22, 2025); *Garcia v. Noem*, 25-cv-02771, 2025 U.S. Dist. LEXIS 209286, at *10–15 (C.D. Cal. Oct. 22, 2025); *Aguiar v. Moniz*, No. 25-cv-12706, 2025 WL 2987656, at *3 (D. Mass. Oct. 22, 2025); *Rivera v. Moniz*, 25-cv-12833, 2025 WL 2977900, at *1–2 (D. Mass. Oct. 22, 2025); *Avila v. Bondi*, No. 25-3741, 2025 WL 2976539, at *5–7 (D. Minn. Oct. 21, 2025); *Contreras-Lomeli v. Raycraft*, No. 25-cv-12826, 2025 U.S. Dist. LEXIS 207162, at *22 (E.D. Mich. Oct. 21, 2025); *Maldonado de Leon v. Baker*, No. 25-3084, 2025 WL 2968042, at *7 (D. Md. Oct. 21, 2025); *Casio-Mejia v. Raycraft*, No. 25-cv-13032, 2025 U.S. Dist. LEXIS 207165, at *12, 16–17 (E.D. Mich. Oct. 21, 2025); *Miguel v. Noem*, 25-11137, 2025 WL 2976480, at *6 (N.D. Ill. Oct. 21, 2025); *Pineda v. Simon*, No. 25-cv-01616, 2025 WL 2980729, at *2 (E.D. Va. Oct. 21, 2025); *Matheus Araujo DA Silva v. Bondi*, No. 25-cv-12672, 2025 WL 2969163, at *2 (D. Mass. Oct. 21, 2025); *Barahona v. Hyde*, No. 25-cv-12551, 2025 U.S. Dist. LEXIS 205964, at *4–5 (D. Mass. Oct. 20, 2025); *H.G.V.U. v. Smith*, No. 25-cv-10931, 2025 WL 2962610, at *4–6 (N.D. Ill. Oct. 20, 2025); *Gonzalez v. Hyde*, No. 25-8250, 2025 U.S. Dist. LEXIS 208578, at *10–11 (S.D.N.Y. Oct. 19, 2025); *Polo v. Chestnut*, No. 25-cv-01342, 2025 WL 2959346, at *11 (E.D. Cal. Oct. 17, 2025);

Sanchez v. Minga Wofford, Warden, Mesa Verde Immigr. Processing Ctr., No. 25-cv-01187, 2025 WL 2959274, at *3 (E.D. Cal. Oct. 17, 2025); *Gutierrez v. Juan Baltasar, Warden, Denver Cont. Det. Facility*, No. 25-cv-2720, 2025 U.S. Dist. LEXIS 208448, at *12–27 (D. Colo. Oct. 17, 2025); *Alvarez v. Noem*, No. 25-cv-1090, 2025 WL 2942648, at *4–6 (W.D. Mich. Oct. 17, 2025); *Zamora v. Noem*, No. 25-12750, 2025 WL 2958879, at *1 (D. Mass. Oct. 17, 2025); *Pacheco Mayen v. Raycraft*, 25-cv-13056, 2025 WL 2978529, at *6–9 (E.D. Mich. Oct. 17, 2025); *Diaz Sandoval v. Raycraft*, No. 25-cv-12987, 2025 WL 2977517, at *6–9 (E.D. Mich. Oct. 17, 2025); *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796, at *6–8 (E.D. Mich. Oct. 17, 2025); *Ochoa v. Noem*, No. 25-10865, 2025 WL 2938779, at *4–6 (N.D. Ill. Oct. 16, 2025); *Hernandez v. Crawford*, No. 25-cv-01565, 2025 WL 2940702, at *2 (E.D. Va. Oct. 16, 2025); *Piña v. Stamper*, No. 25-cv-00509, 2025 WL 2939298, at *3 (D. Me. Oct. 16, 2025); *Tut v. Noem*, No. 25-cv-02701, 2025 U.S. Dist. LEXIS 204616, at *9 (C.D. Cal. Oct. 16, 2025); *Sequen v. Albarran*, No. 25-cv-06487, 2025 WL 2935630, at *8 (N.D. Cal. Oct. 15, 2025); *Teyim v. Perry*, No. 25-cv-01615, 2025 WL 2950184, at *2–3 (E.D. Va. Oct. 15, 2025); *Singh v. Lyons*, 25-cv-01606, 2025 WL 2932635, at *2–3 (E.D. Va. Oct. 14, 2025); *Alejandro v. Olson*, 25-cv-02027, 2025 WL 2896348, at *7–9 (S.D. Ind. Oct. 11, 2025); *Rico-Tapia v. Smith*, No. 25-00379, 2025 U.S. Dist. LEXIS 206547, at *21 (D. Haw. Oct. 10, 2025); *Chavez v. Kaiser*, No. 25-cv-06984, 2025 WL 2909526, at *5 (N.D. Cal. Oct. 9, 2025); *Donis v. Chestnut*, No. 25-01228, 2025 WL 287514, at *11 (E.D. Cal. Oct. 9, 2025); *Eliseo A.A. v. Olson*, No. 25-3381, 2025 WL 2886729, at *2–4 (D. Minn. Oct. 8, 2025); *Covarrubias v. Vergara*, No. 25-cv-112, 2025 WL 2950097, at *3 (S.D. Tex. Oct. 8, 2025); *Buenrostro-Mendez v. Bondi*, No. 25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7,

2025); *S.D.B.B. v. Johnson*, No. 25-cv-882, 2025 WL 2845170, at *5 (M.D.N.C. Oct. 7, 2025); *Gonzalez v. Bostock*, 25-cv-01404, 2025 WL 2841574, at *3–4 (W.D. Wash. Oct. 7, 2025); *Hyppolite*, 2025 WL 2829511, at *12; *Artiga v. Genalo*, No. 25-5208, 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025); *Cordero Pelico v. Kaiser*, No. 25-cv-07826, 2025 WL 2822876, at *15 (N.D. Cal. Oct. 3, 2025); *Orellana v. Moniz*, 25-cv-12664, 2025 WL 2809996, at *5 (D. Mass. Oct. 3, 2025); *Elias Escobar v. Hyde*, No. 25-cv-12620, 2025 WL 2823324, at *3 (D. Mass. Oct. 3, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *5–6 (D. Minn. Oct. 1, 2025); *Silva v. United States Immigr. & Customs Enf't*, No. 25-cv-284, 2025 U.S. Dist. LEXIS 191101, at *6–7 (D.N.H. Sep. 29, 2025); *Barrios v. Shepley*, No. 25-cv-00406, 2025 WL 2772579, at *10 (D. Me. Sep. 29, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 WL 2716910, at *4 (E.D. Cal. Sep. 23, 2025); *Chogllo Chafra v. Scott*, Nos. 25-cv-00437, 25-cv-00438, 25-cv-00439, 2025 WL 2688541, at *6–9 (D. Me. Sep. 22, 2025); *Barrera v Tindall*, No. 25-cv-541, 2025 WL 2690565, at *5 (W.D. Ky. Sep. 19, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *6–8 (N.D. Cal. Sep. 16, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-06924, 2025 WL 2637503, at *8–12 (N.D. Cal. Sep. 12, 2025); *Lopez Santos v. Noem*, No. 3:25-cv-01193, 2025 WL 2642278, at *3–5 (W.D. La. Sep. 11, 2025); *Jimenez v. FCI Berlin*, No. 25-cv-326, 2025 WL 2639390, at *5–10 (D.N.H. Sep. 8, 2025); *Doe v. Moniz*, 25-cv-12094, 2025 WL 2576819, at *5 (D. Mass. Sep. 5, 2025); *Garcia v. Noem*, No. 25-cv-01180, 2025 WL 2549431, at *5–7 (S.D. Cal. Sep. 3, 2025); *Francisco v. Bondi*, No. 25-cv-03219, 2025 WL 2629839, at *2–4 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, No. 25-cv-12486, 2025 WL 2496379, at *5–8 (E.D. Mich. Aug. 29, 2025); *Diaz v. Mattivelo*, No. 25-cv-12226, 2025 WL 2457610, at *3 (D. Mass. Aug. 27, 2025); *Kostak*

v. Trump, No. 25-1093, 2025 WL 2472136, at *2–3 (W.D. La. Aug. 27, 2025); *Benitez v. Noem*, No. 25-cv-02190, 2025 U.S. Dist. LEXIS 171945, at *8–12 (C.D. Cal. Aug. 25, 2025); *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827, at *11–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411, at *11–12 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, 25-cv-12052, 2025 WL 2370988, at *6–8 (D. Mass. Aug. 14, 2025); *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *4–9 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-12157, 2025 WL 2337099, at *6–11 (D. Ariz. Aug. 11, 2025) *report and recommendation adopted by*, 2025 WL 2349133 (Aug. 13, 2025); *Bautista v. Santacruz*, No. 25-cv-01873, 2025 U.S. Dist. LEXIS 171364, at *13–16 (C.D. Cal. July 28, 2025); *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *5–9 (D. Mass. July 24, 2025); *Gomes*, 2025 WL 1869299, at *5–8; *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256–61 (W.D. Wash. 2025).

The Court adopts the exhaustive analyses conducted by these courts,⁴ and because Mr. Banegas-Boquedano is detained under § 1226, he is entitled to an individualized bond hearing before an immigration judge.⁵

⁴ As noted by Judge Roy B. Dalton, “[j]udges across the country—the vast majority who have considered this question—have told the Government many times in the past few months that its interpretation of the law is wrong.” *See Gimenez Rivero v. Sheriff John Mina, et al.*, No. 6:26-cv-66-RBD-NWH, 2026 WL 199319, at *5 (M.D. Fla. Jan. 26, 2026). “If the Government is going to argue for expanding the interpretation of a law or maintain a widely rejected position to preserve its appellate rights, it may do so. But its lawyers must make those arguments in a way that comports with their professional obligations, as lawyers have done since time immemorial: Cite the contrary binding authority and argue why it’s wrong. Don’t hide the ball. Don’t ignore the overwhelming weight of persuasive authority as if it won’t be found.” *Id.*


⁵ The Court declines to reach the merits of Mr. Banegas-Boquedano’s additional claims “as it is granting the relief he seeks in [another count].” *Puga*, 2025 WL 2938369, at *6 (declining to reach the merits of the petitioner’s due process claim because it granted the requested relief in another count, but allowing the due process claim to be reasserted if the respondent’s do not comply with the court’s order to provide a bond hearing or

IV. CONCLUSION

Accordingly, it is **ORDERED** and **ADJUDGED** as follows:

1. Mr. Banegas-Boquedano's Petition (DE 1) is **GRANTED IN PART**.
2. Respondents shall afford Petitioner an individualized bond hearing consistent with 8 U.S.C. § 1226(a) on or before **February 6, 2026**, or otherwise release Mr. Banegas-Boquedano.
3. Respondents shall file a notice with the Court on or before **February 9, 2026**, confirming and detailing their compliance with this Order.

DONE AND ORDERED in Chambers in Miami, Florida, this 3rd day of February, 2026.


KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

release); see also *Pizarro Reyes*, 2025 WL 2609425, at *8 (same). If Respondents fail to comply with the Court's order, Mr. Banegas-Boquedano may reassert his claims under the Constitution and Administrative Procedure Act. The Court also declines to reach the merits of Respondents' arguments regarding *Lazaro Maldonado Bautista, et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). See *Benitez v. Noem*, No. 25-cv-3298, 2025 WL 3560575, at *3 (S.D. Cal. Dec. 12, 2025) ("The Court need not decide whether Petitioner is a member of the Bond Eligible Class or the effect of the *Bautista* decision on Petitioner because it has already found that Petitioner is entitled to habeas relief under Count One."); *Ramirez v. LaRose*, No. 25-cv-3257, 2025 WL 3493567, at *3 (S.D. Cal. Dec. 5, 2025) (finding it "unnecessary" to "decide whether [p]etitioner is a member of the Bond Eligible Class or the effect the *Bautista* decision has on [p]etitioner" because "the Court has already found that Petitioner is entitled to habeas relief under Count One.").