

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Marco Vinicio Moreta Duran,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department of
Homeland Security,

Department of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Daren K. Margolin, Director for Executive
Office for Immigration Review,

Executive Office for Immigration Review,

David Easterwood, Acting Director, St. Paul
Field Office, Immigration and Customs
Enforcement;

and,

Ryan Shea, Sheriff of Freeborn County.

Respondents.

0:25-cv-04816-MJD-JFD

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

INTRODUCTION

This Court should rule consistently with its previous determinations in this District and its sister districts. The Court has already decided multiple cases that are nearly identical to Petitioner's. Petitioner was detained in the interior of the United States over four years after entering without inspection. District courts in every corner of the country have validated the Court's previous conclusion. The Court should grant the requested relief and order a bond hearing within seven days or Petitioner's immediate release.¹

Petitioner will not reiterate the well-worn arguments on this issue but, like Respondents, asks to preserve arguments made in materially similar briefs filed by Petitioner's counsel in case of appeal.

REPLY ARGUMENT

As articulated above, countless cases within this circuit have exercised jurisdiction and subsequently found that the detention of individuals in materially identical positions with Petitioner was improper under 8 U.S.C. § 1225(a)(2)(B). Those individuals, like Petitioner, were entitled to bond hearings under 8 U.S.C. §

¹ Petitioner asserts that he does fall within the class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Filed July 23, 2025), as mentioned by Respondents. *See* ECF. No. 5, at 2. However, Counsel is aware of multiple instances in which immigration judges are not recognizing the *Bautista* order. Moreover, the order is still subject to appeal and potentially a stay of its directives. Resolution of this Petition is therefore appropriate.

1226(a). Respondents point to a few contrary decisions. The weight of the authority, consistent with the record, plain text, context, congressional intent, and long held practice all illustrate why this writ must issue.

Respondents point to the increase in the minority position following the decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). However, *Yajure Hurtado* is owed no deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 369 (2024). It mimics the arguments that a multitude of courts have rejected, including this Court.

Furthermore, *Chen v. Almodovar*, 2025 WL 3484855 (S.D.N.Y Dec. 4, 2025), reflects the flaw in the few adverse decisions that exist. *Chen* and others do not engage with what constitutes “seeking,” nor do they acknowledge the administrative record that shows that Respondents apprehended, and sometimes initially released, a person under § 1226. *Chen*, for example, tries to suggest that most courts have contrived a third requirement in which a person has to be seeking admission consistent with the definition of admission set forth in 8 U.S.C. § 1101(a)(13)(A). *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tx. Nov. 13, 2025), merges the actor and the action as if they are one and the same.

Furthermore, *Chen*, *Cabanas*, and similar cases maintain that § 1225(b)(2) becomes meaningless given the majority interpretation. However, this is not true. There is a bevy of case law demonstrating that § 1225(b)(2) applies to numerous

individuals who are not arriving aliens. Most notably, it applies to lawful permanent residents who do not qualify or satisfy the returning resident exemption, individuals seeing *readmission* under automatic revalidation rules after traveling to Canada or Mexico for less than 30 days, and individuals in transit through the United States. Section 1225(b)(2) requires the detention of such individuals until an immigration court determines whether the person is a returning resident or not. This is a very large population of individuals. It includes people who have been abroad for too long, criminality, national security concerns, and other grounds. *Chen* ultimately makes the fatal mistake of making an application for relief, such as asylum, into some form of seeking admission. This is contrary to law and Board of Immigration Appeals precedent. Relief is not admission. *Chen* and others simply fail to recognize that precedent and statute contradict their supposition.

As the Supreme Court has explained, relief from removal does not afford a person “admission”—defined as “the lawful entry . . . after inspection and authorization by an immigration officer,” 8 U.S.C. § 1101(a)(13)(A)—but instead affords them “lawful status,” a “distinct concept[] in immigration law.” *Sanchez v. Mayorkas*, 593 U.S. 409, ___ (2021). Thus, the Court in *Sanchez* concluded that an individual who had entered the country unlawfully and subsequently received Temporary Protected Status (“TPS”)—a form of temporary relief from deportation, *see* 8 U.S.C. § 1254a—was not constructively “admitted,” but instead granted a

“lawful status.” *Id.* at 415–16 (explaining that (“a grant of TPS does not come with a ticket of admission”). Petitioner is seeking relief, not admission.

There is a constant theme in the few negative cases of not engaging with the positive caselaw and maintaining tunnel vision. An applicant for admission must be fulfilling the condition of seeking admission for 8 U.S.C. 1225(b) to apply. None of these negative cases engage in the definition of admission, which is defined in the Act. None of the cases that Respondents cite move the needle. The Court must continue to see that there is a difference from fitting the mold as an applicant for admission and doing something to seek admission. There is no action here that invokes § 1225(b)(2). In fact, the only action is the government apprehending consistent with § 1226.

CONCLUSION

For the reasons set forth, Respondent cannot be detained under 8 U.S.C. § 1225, and the writ of habeas corpus, requiring release or, alternatively, a prompt bond hearing, must issue.

DATED: January 6, 2026

Respectfully submitted,

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