

District Judge Jamal N. Whitehead

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSE NAVARRO MARTINEZ,

Petitioner,

v.

ICE FIELD OFFICE DIRECTOR,

Respondent.

Case No. 2:26-cv-00032-JNW

RESPONDENT'S RETURN  
MEMORANDUM

Noted for consideration on:  
January 26, 2026

**I. INTRODUCTION**

U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Petitioner Jose Navarro Martinez pursuant to 8 U.S.C. § 1225(b)(2) as an applicant for admission. Petitioner claims that his prolonged detention is unlawful and violates due process. Petitioner seeks his release or a court-ordered bond hearing. Petitioner is not entitled to release because he has not demonstrated that his detention is unconstitutionally indefinite as defined in *Zadvydas v. Davis*, 533 U.S. 678 (2001). *Hong v. Mayorkas*, No. 2:20-cv-1784, 2021 WL 8016749, at \*6 (W.D. Wash. June 8, 2021), *report and recommendation*

1 *adopted*, 2022 WL 1078627 (W.D. Wash. Apr. 11, 2022). Because he is detained pursuant  
2 to mandatory detention, Petitioner is also not entitled to a bond hearing.

3 The Supreme Court has considered whether 8 U.S.C. § 1225(b) imposes a time-limit  
4 on the length of detention and whether such noncitizens detained under this statutory  
5 authority have a statutory right to a bond hearing. *See Jennings v. Rodriguez*, 583 U.S.  
6 281, 297-303 (2018). The Supreme Court held that “nothing in the statutory text [of 8  
7 U.S.C. § 1225(b)] imposes any limit on the length of detention” nor “says anything  
8 whatsoever about bond hearings.” *Id.*, at 297. While Petitioner’s detention has become  
9 prolonged, as demonstrated below, due process does not require a court-ordered bond  
10 hearing.  
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12 Accordingly, this Court should deny the Petition.  
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## 14 II. BACKGROUND

15 Petitioner is a native and citizen of Cuba. Reed Decl., ¶ 4. On July 6, 2022, Border  
16 Patrol apprehended Petitioner approximately one mile west of Eagle Pass, Texas. *Id.*, ¶ 5;  
17 Lambert Decl., Ex. A, Form I-213. The following day, Petitioner was paroled into the  
18 United States pursuant to 8 U.S.C. § 1182(d)(5) due to detention capacity. Reed Decl., ¶ 6.  
19 His parole’s expiration date was September 6, 2022.<sup>1</sup> *Id.* Border Patrol released Petitioner  
20 from custody and instructed him to report to ICE in August for his enrollment into  
21 Alternatives to Detention (“ATD”). *Id.*; Lambert Decl., Ex. B, ATD Enrollment.  
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<sup>1</sup> Undersigned counsel does not have information as to whether the expiration date was extended at a later date.

1 However, when Petitioner reported to ICE, he was removed from the ATD program as he  
2 was no longer required to participate. Reed Decl., ¶ 7.

3 On April 30, 2024, Petitioner was arrested in Florida for two prostitution-related  
4 charges, which remain pending. Reed Decl., ¶ 9. The next day, ICE lodged an immigration  
5 detainer with the jail holding Petitioner and issued an arrest warrant and a notice to appear  
6 charging Petitioner with inadmissibility pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). *Id.*, ¶ 10;  
7 Lambert Decl., Ex. C, Notice to Appear; Ex. D, Warrant for Arrest; Ex. E, Form I-213.  
8 Upon the issuance of the notice to appear, Petitioner's parole – to the extent that it had not  
9 expired – automatically terminated. 8 C.F.R. §§ 212.5(e)(1); (2)(i).  
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11 On May 7, 2024, ICE personally served Petitioner with the notice to appear and took  
12 him into custody. Reed Decl., ¶ 11. He was later transferred to, and remains in custody  
13 at, the Northwest ICE Processing Center. *Id.*, ¶ 15  
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15 At his immigration hearing on July 15, 2024, Petitioner conceded the charge of  
16 removability with Cuba as the designated country of removal. *Id.*, ¶ 13. In November  
17 2024, he applied for asylum and to adjust status pursuant to the Cuban Adjustment Act.  
18 *Id.*, ¶ 14. On November 3, 2025, the immigration judge denied Petitioner's applications  
19 and ordered him be removed to Cuba. *Id.*, ¶ 16; Lambert Decl., Ex. F, Order of the  
20 Immigration Judge. Petitioner's administrative appeal of this order is pending before the  
21 Board of Immigration Appeals ("BIA"). Reed Decl., ¶ 17.  
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### 23 III. LEGAL STANDARD

24 "The district courts of the United States ... are courts of limited jurisdiction. They  
25 possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v.*

1 *Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he scope  
2 of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present  
3 day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 125 n.20 (2020). Title 28  
4 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. To  
5 warrant a grant of habeas corpus, the burden is on the petitioner to prove that his or her  
6 custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28  
7 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

#### 9 IV. ARGUMENT

##### 10 A. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b).<sup>2</sup>

11 ICE detains Petitioner pursuant to 8 U.S.C. § 1225(b)(2). Section 1225 applies to  
12 “applicants for admission” to the United States, who are defined as “alien[s] present in the  
13 United States who [have] not been admitted” or noncitizens “who arrive[ ] in the United  
14 States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants  
15 for admission fall into one of two categories. Section 1225(b)(1) covers noncitizens  
16 initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid  
17 documentation, and certain other noncitizens designated by the Attorney General in her  
18 discretion. Separately, Section 1225(b)(2) serves as a catchall provision that applies to all  
19 applicants for admission not covered by Section 1225(b)(1) (with specific exceptions not  
20 relevant here). *See Jennings*, 583 U.S. at 283. Congress has determined that all noncitizens  
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25 <sup>2</sup> Respondent acknowledges that courts have disagreed with the government’s interpretation of Section 1225(b) and found that mandatory detention for certain individuals to be unlawful as interpreted. *See, e.g., Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).

1 subject to Section 1225(b) are subject to mandatory detention. *Jennings*, 583 U.S. at 287;  
2 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

3 Relevant here, Section 1225(b)(2) is “broader” and “serves as a catchall provision.”  
4 *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by §  
5 1225(b)(1).” *Id.* Under Section 1225(b)(2), a noncitizen “who is an applicant for  
6 admission” is subject to mandatory detention pending full removal proceedings “if the  
7 examining immigration officer determines that [the] alien seeking admission is not clearly  
8 and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such  
9 noncitizens “be detained for a proceeding under section 1229a of this title”); *Matter of Q.*  
10 *Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (explaining that proceedings under section 1229a  
11 are “full removal proceedings under section 240 of the INA”); *see also id.* (“[F]or aliens  
12 arriving in and seeking admission into the United States who are placed directly in full  
13 removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates  
14 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

17 U.S. Department of Homeland Security (“DHS”) has the sole discretionary  
18 authority to temporarily release on parole “any alien applying for admission to the United  
19 States” on a “case-by-case basis for urgent humanitarian reasons or significant public  
20 benefit.” *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022). This parole  
21 terminates automatically at the expiration of the time for which parole was authorized, or  
22 upon service of a charging document for either expedited removal proceedings under  
23 Section 1225(b) or removal proceedings under Section 1229a. 8 C.F.R. § 212.5(e)(1);  
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1 (2)(i). Upon termination of parole, the applicant reverts to the status that he or she had at  
2 the time of parole. *See id.*

3 **B. Petitioner's continued detention without a court-ordered bond hearing is**  
4 **constitutional.**

5 Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(2). The Supreme Court  
6 in *Jennings* rejected the Ninth Circuit's rule that mandatory detention becomes  
7 unconstitutional after a presumptive six-month period. Accordingly, individuals detained  
8 under Section 1225(b) are not entitled to an individualized bond hearing simply due to the  
9 passage of time. Instead, courts assess whether the detention has become unreasonably  
10 prolonged under due process balancing factors. *See Banda v. McAleenan*, 385 F. Supp. 3d  
11 1099, 1117-118 (W.D. Wash. 2019).  
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13 Petitioner's continued detention without a court-ordered bond hearing does not  
14 violate his Fifth Amendment due process rights. In *Banda*, the district court found that the  
15 petitioner's 17-month immigration detention pursuant to 8 U.S.C. § 1225(b) had become  
16 unreasonable. *Id.*, at 1117-121. To conduct this analysis, the court analyzed six factors:  
17 (1) length of detention; (2) how long detention is likely to continue absent judicial  
18 intervention; (3) conditions of detention; (4) the nature and extent of any delays in the  
19 removal caused by the petitioner; (5) the nature and extent of any delays caused by the  
20 government; and (6) the likelihood that the final proceedings will culminate in a final order  
21 of removal. *See id.* Analysis of these factors demonstrates that Petitioner's detention,  
22 while prolonged, has not become unreasonable.  
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1 The first *Banda* factor looks at the length of the petitioner's immigration detention.  
2 Petitioner has been detained since May 7, 2024. Thus, this factor likely favors Petitioner.

3 The second *Banda* factor assesses the length of future detention. An immigration  
4 judge has recently ordered Petitioner removed from the United States; however, Petitioner  
5 has a pending appeal of this order before the BIA. Any assessment of the length of his  
6 future detention would be speculative at best because it is unclear how the BIA will rule  
7 and whether further proceedings will be needed. Once Petitioner is subject to a final order  
8 of removal, his removal to Cuba will likely occur as Cuba has agreed to accept him. Reed  
9 Decl., ¶ 18. Thus, this factor should be neutral.

11 As for the third *Banda* factor – conditions of detention, Petitioner is detained at the  
12 NWIPC, and he presents no evidence towards the conditions of his detention. Thus, this  
13 factor should favor Respondent.

15 The fourth and fifth *Banda* factors assess delays caused by the petitioner and the  
16 government. These factors should be neutral. There is no evidence that either party has  
17 caused delay.

18 The last *Banda* factor weighs the likelihood that removal proceedings will result in  
19 a final order of removal. As Petitioner has conceded his charge of removability and the  
20 only issue left on appeal is potential relief from removal, this factor weighs in favor of  
21 Respondent.

23 In total, Petitioner has not demonstrated that his continued detention without a court-  
24 ordered bond hearing violates due process.

**V. CONCLUSION**

Accordingly, this Court should deny the Petition.

DATED this 21st day of January, 2026.

Respectfully submitted,

CHARLES NEIL FLOYD  
United States Attorney

s/ Michelle R. Lambert  
MICHELLE R. LAMBERT, NYS#4666657  
Assistant United States Attorney  
Western District of Washington  
United States Attorney's Office  
1201 Pacific Avenue, Suite 700  
Tacoma, Washington 98402  
Phone: 253-428-3824  
Email: [michelle.lambert@usdoj.gov](mailto:michelle.lambert@usdoj.gov)

*Attorneys for Respondent*

*I certify that this memorandum contains 1,696 words,  
in compliance with the Local Civil Rules.*