UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-60062-DMM

Nancy Carolina Carcamo Quiroz,

Petitioner,

v.

Broward Transitional Center., et al.,

Respondent.
_____/

PETITIONER, NANCY CAROLINA CARCAMO QUIROZ's, REPLY TO RESPONDENTS' RETURN TO PETITION FOR WRIT OF HABEAS CORPUS AND RESPONSE TO ORDER TO SHOW CAUSE

Petitioner, NANCY CAROLINA CARCAMO QUIROZ, by and through his undersigned counsel, hereby files this Reply to Respondent's Return to Petition for Writ of Habeas Corpus and Response to Order to Show Cause, and in support thereof states as follows:

FACTUAL BACKGROUND

1. Petitioner entered the U.S. on or about 2003 and has resided in the U.S. for over twenty (20) years.

2. Petitioner has three (3) United States Citizen. (Attached hereto as "Exhibit A," copy of birth certificates for children).

3. Petitioner was not apprehended or encountered at a port entry, she was encountered when 911 was called due to a deer incident, which occurred on the highway and thereafter, highway patrol apprehended her and detained her at the local jail. Petitioner did not commit any crimes and has not committed any crimes in the United States.

4. Petitioner had filed for asylum and had a valid driver's license, when she was encountered by Florida Highway Patrol.

ARGUMENT

A. Petitioner is not an Applicant for Admission subject to Detention pursuant to 8 U.S.C. §1225(b)(2)(A) and Detention under §1226 is Applicable. Matter of Yajure Hurtado is not applicable.

Here, the Petitioner's detention is subject to 8 U.S.C. §1226 rather than 1225(b)(2). *Matter of Yajure Hurtado* is not controlling in this case.

As explained by the U.S. Supreme Court, 8 U.S.C. §1225(b) "primarily applies to aliens seeking entry into the United States," whereas 8 U.S.C. §1226 "applies to aliens already present in the United States." *See*, *Jennings v. Rodriguez*, 583 U.S. 281, 297, 303 (2018). Here, the Notice to Appear alleges that Petitioner "[e]ntered the United States as an unknown location, on unknown dates' you were not then admitted or inspected by an immigration officer." Further, Petitioner has not been charged as an arriving alien. The Notice to Appear charges the Petitioner as an alien present in the United States who has not been admitted or paroled; therefore, Petitioner's detention squarely falls under 8 U.S.C. §1226. *See*, *e.g.*, *Boffill*, 2025 WL 3246868, at *6 (NTA charged petitioner as present in the United States without admission or paroled so the classification places him squarely within section 1226); *Merino*, 2025 WL 2941609, at *3 ("Petitioner, who has resided in the country for nearly a decade and was apprehended while already within United States, not at the border, falls under §1226(a), not §1225(b)(2)..."); *Patel v. Hardin*, No. 2:25-CV-870-JES-NPM, 2025 WL 3442706, at *5 (M.D. Fla. Dec. 1, 2025) ("It is undisputed that Patel has been in this country since 2011. Hus detention is thus governed by §1226(a).")

B. Petitioner is not an Applicant for Admission her detention pursuant to 8 U.S.C. §1225(b)(2)(A) is not Proper.

Petitioner's detention is governed by 8 U.S.C. §1226 not §1225(b)(2)(A). Also, §1229a is a removal statute rather than a detention statute.

The application of 8 U.S.C. §1226(a) does not turn on whether someone has been previously admitted to the United States. Section 1226(a) affords access to bond to noncitizens that are inadmissible. Section 1225(b)(2)(A) requires an active construction of the phrase seeking admission and therefore "applicants for admission," cannot apply to Petitioner. Further, §1225(b)(2) applies to other noncitizens who is an applicant for admission, if the examining immigration officer determine that a noncitizen seeking admission is not clearly and beyond a doubt entitled to be admitted. See, 8 U.S.C. §1225(b)(2). But, *Jennings*, considered §1226 along with §1225(b)(2), where §1226(a) authorizes the Government to certain certain noncitizens already in the country pending the outcome of removal proceedings. *Jennings*, 583 U.S. at 289.

Further, the heading under which §1225 falls, states the following "inspection by immigration officers; expedited removal of inadmissible arriving noncitizens; referral for hearing." *See*, 8 U.S.C. §1225.

C. Section 1226 does not only apply to those noncitizens that have been admitted

Petitioner is subject to detention under 8 U.S.C. §1226 rather than 8 U.S.C. §1225. In January 2025, Congress amended several provisions of the INA, including INA §§235, 235. *See*, Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). The additional section discusses individuals who entered without admission or inspection. 8 U.S.C. §1226(c)(1)(E). The additional section encompasses those aliens who are inadmissible under 8 U.S.C. §1182(6)(A), "which are noncitizens present in the Untied States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney

General." *Id.* The section continues, stating that such noncitizens must also have been "charged with, arrested for, convicted of, having committed, or admits committing such acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of law enforcement office offense, or any other crime that results in death or serious bodily injury to another person." *See*, 8 U.S.C. §1226(c)(1)(E)(ii). Congress has specifically delineated a list of individual present without admission or inspection who are ineligible for bond. See, 8 U.S.C. §1226(c)(1)(E). When Congress creates specific exceptions the statute generally applies. *See*, *Shady Grove Orthopedics Assocs., PA. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010). If 8 U.S.C. §1225(b) applied to all noncitizens who were not admitted, such an interpretation would render superfluous 8 U.S.C. §1226(c)(1)(E), which specifically applies to certain categories of inadmissible noncitizens with criminal convictions.

E. Petitioner does not have to Exhaust Administrative Remedies for there is No Genuine Opportunity for Adequate Relief and an Administrative Appeal would be Futile.

Here, the Immigration Judge entered an order denying bond because the Immigration Judge lacked jurisdiction.

Courts generally do not require an exhaustion of remedies where no genuine opportunity for relief exists or an administrative appeal would be futile. *See*, *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982). Matter of Yajure Hurtado is binding precedent on immigration judges and subjects Petitioner, a non-citizen who is present in the United States and has not been admitted or paroled, to mandatory detention without the possibility of a bond, there is no adequate administrative remedy for Petitioner.

CONCLUSION

Based on the foregoing, the Petitioner requests that the Petition be Granted for his detention is unlawful. Petitioner detention falls squarely under 8 U.S.C. §1226. Petitioner does not have to exhaust his administrative remedies for it is futile. Petitioner requests that his Petition be granted and that the Court either order his immediate release or order an adequate bond to occur within the next five (5) days.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 3, 2026, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record and interested parties as listed below.

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