

United States District Court  
Western District of Texas  
San Antonio Division

Angela Azucena Ramirez,  
Petitioner,

v.

Kristi NOEM, *et. al.*  
Respondents.

No. 5:26-CV-00098-FB

**Federal Respondents' Response to Petition for Writ of Habeas Corpus**

Federal<sup>1</sup> Respondents provide this response to Petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief she seeks, including attorney's fees under the Equal Access to Justice Act ("EAJA")<sup>2</sup>, and this Court should deny this habeas petition without the need for an evidentiary hearing.

Petitioner alleges but for the Board of Immigration Appeals (BIA) decision in *Hurtado*, 29 I&N Dec. 216, she would be eligible for bond. ECF No. 1 at ¶¶ 4, 39. This allegation is inaccurate, as Petitioner is an, 'arriving alien' who was ineligible, pre-*Hurtado*, for bond from an immigration judge. ECF No. 1-2 (copy of Notice to Appear (NTA) wherein DHS checked the box to indicate that Petitioner is an arriving alien and alleges that she applied for admission at the port of entry in 2018); 8 C.F.R. 1003.19(h)(2)(i); *see also Goguev v. Noem*, et al, SA-25-CA-01593-XR (W.D. Tex. Jan. 13, 2026) (Rodriguez, J.) (denying habeas petition to an arriving alien).

**I. Relevant Facts and Procedural History**

In her habeas petition, Petitioner mischaracterizes her entry into the United States, but she includes a copy of her NTA as an exhibit, which clearly charges her as an arriving alien for having

<sup>1</sup> The Department of Justice represents only federal employees in this action.

<sup>2</sup> *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

presented herself for inspection at the port of entry. *Compare* ECF No. 1 ¶¶ 3, 35 (erroneously claiming to have entered without inspection) *with* ECF No. 1-2 (NTA). Indeed, Petitioner concedes in her petition that arriving aliens are subject to mandatory detention under 8 U.S.C. § 1225(b). *See* ECF No. 1 ¶¶ 14, 19, 32–33

Petitioner is a citizen and native of Honduras who applied for admission at the port of entry on January 18, 2018.<sup>3</sup> ECF No. 1-2 at 1. In the exercise of discretion, Petitioner was released into the United States and issued an NTA for full removal proceedings, rather than being placed into expedited removal proceedings. *See id.* Petitioner is now in ICE custody while she awaits removal proceedings. ECF No. 1 ¶¶ 37–38; *see also* Automated Case Information System (last accessed Jan. 20, 2026).

## II. Argument

The only relief available through habeas is release from custody. 28 U.S.C. § 2241; *DHS v. Thuraissigiam*, 591 U.S. 103, 118–19 (2020).

### A. Petitioner is an Arriving Alien

This petition differs from those frequently filed before the Court because this Petitioner is an arriving alien who presented herself to immigration authorities at a port of entry. *See* ECF No. 1-2 (NTA). The term “arriving alien” means an applicant for admission coming or attempting to come into the United States at a port-of-entry ....” 8 C.F.R. § 1001.1(q). Arriving aliens are inspected immediately upon arrival in the United States and, unless “clearly and beyond a doubt entitled to be admitted,” are placed in “removal proceedings to determine admissibility.” *Clark v.*

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<sup>3</sup> This is a factual difference between this petition and the others frequently filed before the court, as Petitioner here presented herself at a port of entry, as opposed to entering without inspection between ports of entry. *See* ECF No. 2 at 2 (collecting cases, all of which involved aliens who entered without inspection).

*Martinez*, 543 U.S. 371, 373 (2005) (quoting 8 U.S.C. § 1225(b)(2)(A)).

Since Petitioner applied for admission at the port of entry, she is an arriving alien. 8 C.F.R. § 1001.1(q). Pursuant to 8 U.S.C. § 1225(b)(2)(A), arriving aliens are to be detained unless released by ICE on a discretionary parole. 8 C.F.R. § 1235.3(c); *Clark*, 543 U.S. at 373 (explaining that detention of an “alien arriving in the United States” is “subject to the Secretary’s discretionary authority to parole” her into the United States); *see also* 8 U.S.C. § 1182(d)(5)(A). Whether the government decides to parole an arriving alien or keep her detained, the regulations state that an immigration judge does not have authority to review the custody determination of an arriving alien in removal proceedings. 8 C.F.R. § 1003.19(h)(2)(i)(B). This regulation pre-dates *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) and is well-settled law. *See, e.g., Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *see also Garibay-Robledo v. Noem*, --- F.Supp.3d ---, No. 1:25-CV-177-H, 2026 WL 81679 at \*4 (N.D. Tex. Jan. 9, 2026).

Petitioner, therefore, is currently properly detained under § 1225(b)(2)(A) as an arriving alien in removal proceedings under 8 U.S.C. § 1229a. *See Matter of E-R-M- & L-R-M-*, 25 I & N Dec. 520, 521, 523 (BIA 2011); 8 C.F.R. § 239.1 (DHS has the discretion to issue an NTA at the port of entry in lieu of expedited removal proceedings). As an arriving alien, irrespective of the Board’s decision in *Hurtado*, the regulations bar Petitioner from seeking bond from an immigration judge.

**B. On Its Face, and As Applied to Petitioner, § 1225(b)(2)(A) Comports with Due Process.**

Section 1225 does not provide for a bond hearing. The Supreme Court upheld the facial constitutionality of § 1225(b) in *Thuraissigiam*, 591 U.S. 103, 139 (2020). Aliens who arrive at ports of entry—even those paroled elsewhere in the country for years pending removal—are “treated” for due process purposes “as if stopped at the border.” *Thuraissigiam*, 591 U.S. at 139.