

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUAN CARLOS DERAS ARANA,)	
<i>Petitioner,</i>)	Civ. No. 26-240 (GHW)
)	
-against-)	PETITIONER’S REPLY
)	MEMORANDUM
PAUL ARTETA, <i>et al.</i> ,)	
<i>Respondents.</i>)	

Petitioner (“Mr. Deras”) respectfully submits this memorandum of law in reply to Respondents’ memorandum in opposition to his petition for a writ of habeas corpus.

Mr. Deras’s petition turns on the question of whether he is detained pursuant to 8 U.S.C. § 1226(a) or, as Respondents contend, under 8 U.S.C. § 1225(b). The Government asks this Court to join a minority of judges in this jurisdiction who, on similar facts to these, have held that a person who entered the United States without inspection or admission must be treated as an alien seeking admission and subject to mandatory detention during the pendency of his removal proceedings. The Court should reject Respondents’s request and find that Mr. Deras is properly detained under 8 U.S.C. § 1126(a), as a noncitizen arrested and processed while already in the United States.

The Supreme Court has explained that “while U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2), [i]t also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). “Once inside the United States . . . an alien present in the country may still be removed under Section 1226. Section 1226(a) provides that, for a noncitizen who is ‘arrested and

detained’ ‘[o]n a warrant issued by the Attorney General,’ the Attorney General (1) ‘may continue to detain’ the arrested noncitizen, (2) ‘may release’ the noncitizen on ‘bond, or (3) ‘may release’ the noncitizen on ‘conditional parole.’ Section 1226(a), therefore, ‘establishes a discretionary detention framework.’” *Id.* 288 - 289 (internal citations omitted).

A majority of judges of this District has consistently followed the reasoning in *Jennings* and held that individuals such as Mr. Deras are subject to detention under § 1226, and rejected Respondents’ recent policy of mandating detention for all unlawful entrants irrespective of the time and place of their arrest. *See e.g. Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. Aug. 13, 2025); *Quispe-Sulcaray v. Noem*, No. 25 Civ. 9908 (VEC) (S.D.N.Y. Dec. 7, 2025); *Barco Mercado v. Francis*, No. 25 Civ. 6582 (LAK) (S.D.N.Y. Nov. 26, 2025); *Guzman Andujar v. Francis*, No. 25 Civ. 9199 (JLR) (S.D.N.Y. Nov. 18, 2025); *Guzman Cardenas v. Almodovar*, No. 25 Civ. 9169 (JMF) (S.D.N.Y. Nov. 18, 2025); *Comes v. DeLeon*, No. 25 Civ. 9283 (AT) (S.D.N.Y. Nov. 14, 2025); *Rueda Torres v. Francis*, No. 25 Civ. 8408 (DEH) (S.D.N.Y. Nov. 13, 2025); *Ortiz-Lopez v. Francis*, 25 Civ. 7985 (KPF) (S.D.N.Y. Nov. 6, 2025); *Tumba Huamani v. Francis*, No. 25 Civ. 8110 (LJL) (S.D.N.Y. Nov. 4, 2025); *J.G.O. v. Francis*, No. 25 Civ. 7233 (AS) (S.D.N.Y. Oct. 28, 2025); *Gonzalez v. Joyce*, No. 25 Civ. 8250 (AT) (S.D.N.Y. Oct. 19, 2025); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH) (S.D.N.Y. Aug. 19, 2025).

In *Benitez v. Francis*, the Court reasoned that “[i]f, as Respondents argue, § 1225(b)(2) (A) were intended to apply to all ‘applicant[s] for admission,’ there would be no need to include the phrase ‘seeking admission’ in the statute. That is, rather than stating that mandatory detention is required for any ‘applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted,’ § 1225(b)

(2)(A), the statute would instead provide for mandatory detention for any ‘applicant for admission, if the examining immigration officer determines that [the] alien ~~seeking admission~~ is not clearly and beyond a doubt entitled to be admitted.’” *Benitez v. Francis*, 795 F. Supp. 3d 475, 488 (S.D.N.Y. 2025). The interpretation of the statute proposed by Respondents renders the phrase “seeking admission” superfluous.

There is at least one self-evident, practical reason for the statutory distinction between noncitizens “seeking admission” and those already residing within the United States. Section 1225(b) is implicitly addressed to the scenario that plays out daily at designated ports of entry — airports being perhaps the clearest example — where noncitizens present themselves for inspection to a U.S. Customs and Border Protection officer and formally request admission to the United States. If such a person arrives at an airport and is found to be inadmissible, § 1225(b) prescribes mandatory detention so that the person may be promptly repatriated before fully effecting entry into the country. Such noncitizens — e.g., the “tourist” visa holder who, upon inspection, is found to have immigrant intent or pose a security risk to the United States, or the wholly undocumented person seeking asylum and found not to have a credible fear of return — are generally ineligible for full removal proceedings; most are subject to expedited removal. By contrast, a person arrested within the United States after more than 10 years of continuous residence in the interior is entitled to full removal proceedings and eligible for immigration benefits such as cancellation of removal under 8 U.S.C. § 1229b, a defensive application which the noncitizen can only make after the Government initiates proceedings against him in immigration court.

The interpretation of the relevant statutes proposed by Respondents contradicts the

position taken by the Government in tens of thousands of removal proceedings under the Clinton, Bush, Obama, Trump, and Biden administrations, as recently as August 2025, and undermines decades of precedential decisions entered by the Department of Justice itself through the Board of Immigration Appeals, and by every Court of Appeals in which immigration bonds have been litigated since the passage of IIRIRA in 1996. It evinces Respondents' intent to restructure the immigration bond system without congressional authorization and, in the process, to subvert the rights of Mr. Deras and thousands like him.

For these reasons and those set forth in our initial pleadings, the Court should grant Mr. Deras's petition and order Respondents to conduct an individualized bond hearing pursuant to 8 U.S.C. § 1226(a).

Respectfully submitted,

Dated: New York, New York
January 26, 2026

/s/ Edgar Loy Fankbonner
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CERTIFICATE OF COMPLIANCE

Pursuant to Local Civil Rule 7.1(c), the undersigned counsel hereby certifies that this memorandum complies with the word-count limitations of this Court's Local Civil Rules. As measured by the word processing system used to prepare it, and excluding the items set forth in the rule, there are 1,265 words in this memorandum.

Dated: New York, New York
January 26, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2026 I caused the foregoing submission to be served on Leslie A. Ramirez-Fisher, counsel for Respondents, by uploading a true and correct copy thereof to the Court's electronic filing portatl.

Dated: New York, New York
January 12, 2026

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