

United States District Court
Western District of Texas
El Paso Division

Claudia Sofia Castro Macanilla,
Petitioner,

v.

Pamela Jo Bondi, *et al.*,
Respondents.

No. 3:26-CV-00137-OLG

Federal Respondents' Response to Petition for Writ of Habeas Corpus

Federal¹ 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")², and this Court should deny this habeas petition without the need for an evidentiary hearing. Petitioner's administratively unexhausted and non-habeas claims³ should be dismissed. Furthermore, Petitioner's allegations ICE violated the Administrative Procedure Act (APA) should be denied as ICE's discretionary decisions to revoke Petitioner's order of supervision is protected from judicial review. ECF No. 1 at 18–20; 8 U.S.C. § 1252(a)(2)(B). The APA does not permit review of discretionary agency actions. *See* 5 U.S.C. § 701(a).

This case is different from many of the other habeas petitions that have been filed

¹ The Department of Justice represents only federal employees in this action.

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

³ Petitioner did not pay the filing fee for non-habeas claims. *See Ndudzi v. Castro*, No. SA–20–CV–0492–JKP, 2020 WL 3317107 at *2 (W.D. Tex. June 18, 2020) (citing 28 U.S.C. § 1914(a)). “When a filing contains both habeas and non-habeas claims, ‘the district court should separate the claims and decide the [non-habeas] claims’ separately from the habeas ones given the differences between the two types of claims. *Id.* (collecting cases and further noting the “vast procedural differences between the two types of actions”). Given the differences, the Court should either sever the non-habeas claims or dismiss them altogether without prejudice if severance is not warranted. *Id.* at *3.

with this court recently as Petitioner is an, 'arriving alien' who was ineligible for bond pre-*Hurtado* from an immigration judge. 8 C.F.R. § 1003.19(h)(2)(i). The fact that Petitioner was paroled and released does not change the fact that she is an arriving alien. Arriving aliens remain arriving aliens throughout their proceedings. 8 C.F.R. § 1001(q).

I. Relevant Facts and Procedural History

Petitioner is a citizen and native of Columbia who applied for admission at the San Ysidro, California port of entry.⁴ ECF No. 1 ¶¶ 5, 11; ECF No. 5-1 at 1. Petitioner is currently in proceedings in the Pearsall, Texas immigration court with her next hearing is scheduled for January 29, 2026. See Automated Case Information System (last accessed Jan. 26, 2026).

II. Argument

The only relief available to Petitioner 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

Again, this petition differs from those frequently filed before the Court because this Petitioner is an arriving alien who presented herself to a port of entry and did not enter the United States unlawfully between ports of entry.

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

⁴ This is a factual difference between this petition and the others frequently filed before the court, where Petitioner entered the United States *in between* the ports of entry. Petitioner here presented herself to a port of entry.

remains an arriving alien even after paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked.” 8 C.F.R. § 1001.1(q).

Since Petitioner applied for admission at the port of entry, she an arriving alien. *See* ECF No. 1 ¶¶ 5, 11; ECF No. 5-1 at 1; 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 a “alien arriving in the United States” is “subject to the Secretary’s discretionary authority to parole him into the United States “for urgent humanitarian reasons or significant public benefit,” “to meet a medical emergency[,] or ... for a legitimate law enforcement objective.”); 8 U.S.C. § 1182(d)(5)(A). Once ICE determines that the purposes of the parole have been served, “the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” 8 U.S.C. § 1182(d)(5)(A). Whether the government decides to parole an arriving alien or keep them detained, the regulations state that an immigration judge does not have authority to review the custody determination. 8 C.F.R. § 1003.19(h)(2)(i)(B). Here, Petitioner was paroled. However, service of an NTA and placement in removal proceedings automatically terminated said parole. 8 C.F.R. § 212.5 (e)(2)(i). The termination of the parole then reverted Petitioner back to her previous status as an arriving alien, thus subject to mandatory detention. 8 C.F.R. § 1001.1(q); *see also* 8 U.S.C. § 1225(b)(2)(A); *see also Goguev v. Noem*, SA-25-CV-01593-XR (W.D. Tex. Jan. 13, 2026) (finding an arriving alien, factually similar to this Petitioner, Sections 1225(b)(2) and 1182(d)(5) authorize detention as a statutory matter).

Here, as Petitioner is an arriving alien, irrespective of the Board’s decision in *Hurtado*, 29 I&N Dec. 216, Petitioner would be ineligible to seek bond from an immigration judge. *See also*

Maldonado v. Macias, 150 F.Supp.3d 788, 797–98 (W.D.T.X. Dec. 15, 2015) (the parties agree [Maldonado] is an arriving alien, and the Court finds this to be accurate, as [Maldonado] applied for admission to the United States at a port-of-entry... As such, Petitioner is currently detained pursuant to 8 U.S.C. § 1225(b)(2)(A)).

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.

Thuraissigiam also applies here because of the “entry fiction,” that is because Petitioner applied for admission at the port of entry, she is treated for due process purposes as if she is stopped at the border. *Goguev v. Noem*, SA-25-CV-01593-XR (W.D. Tex. Jan. 13, 2026) *citing* *Thuraissigiam*, 591 U.S. 103, 140 (2020) (*citing* *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), *Leng May Ma v. Barber*, 357 U.S. 185 (1958), *Kaplan v. Tod*, 267 U.S. 228 (1925)).

Mandatory detention of an applicant for admission during “full” removal proceedings does not violate due process, because the constitutional protections are built into those proceedings. The alien was served with a charging document (an NTA) outlining the factual allegations and the charge(s) of removability against her. ECF 5-1. She has an opportunity to be heard by an immigration judge and represented by counsel of her choosing at no expense to the government. *Id.* § 1229a(b)(1), (b)(4)(A). She can seek reasonable continuances to prepare any applications for relief from removal, or she can waive that right and seek immediate removal if she wishes. *Id.* § 1229a(b)(4)(B), (c)(4). Should she receive any adverse decision, she has the right to seek judicial

review of the complete record and that decision not only administratively, but also in the circuit court of appeals. *Id.* § 1229a(b)(4)(C), (c)(5).

While an as-applied constitutional challenge, such as a prolonged detention claim, may be brought before the district court in certain circumstances, Petitioner here raises no such claim where she has been detained for only a brief period pending her removal proceedings. For aliens, like Petitioner, who are detained during removal proceedings as applicants for admission, what Congress provided to them by statute satisfies due process. *Thuraissigiam*, 591 U.S. at 140. As applied here to Petitioner, her detention does not violate due process.

III. Response to Court Order

In its order dated January 15, 2026, the Court ordered Respondents to consider the cases attached to the order and identify any material differences, namely *Rahimi v. Thompson*, Order, No. SA-25-CV-1338-OLG (W.D. Tex. Dec. 4, 2025); *Mendoza Euceda v. Noem*, Order, SA-25-CV-1234-OLG (W.D. Tex. Nov. 17, 2025); and *Perez-Puerta v. Johnson*, Order, SA-25-CV-01476-OLG (W.D. Tex. Dec. 15, 2025). ECF No. 2 at 2. All three of these cases are materially different as the respective petitioners in all three of those cases entered without inspection. Here, Petitioner entered the United States at a port of entry and thus is properly classified as an Arriving Alien. *See* ECF No. 1 ¶¶ 5, 11; ECF No. 5-1 at 1; 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 a “alien arriving in the United States” is “subject to the Secretary’s discretionary authority to parole him into the United States “for urgent humanitarian reasons or significant public benefit,” “to meet a medical emergency[,] or ... for a legitimate law enforcement objective.”); 8 U.S.C. § 1182(d)(5)(A).

IV. Conclusion

Petitioner is lawfully detained as an arriving alien. The Board's decision in *Hurtado* did not affect an alien, like Petitioner, who is an arriving alien, and is ineligible for bond regardless of the *Hurtado* decision. The Court should deny the Petition in its entirety.

Respectfully submitted,

Justin R. Simmons
United States Attorney

By: /s/ Nathan Ripley
Nathan Ripley
Special Assistant United States Attorney
Illinois Bar No. 304097
700 E. San Antonio Ave., Suite 200
El Paso, Texas 79901
(915) 534-6884 (phone)
Nathan.Ripley@usdoj.gov

Attorneys for Federal Respondents