

U.S. Department of Justice



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Southern District of New York

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January 23, 2026

By ECF

The Honorable John P. Cronan
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Alvarado Quezada v. Francis, et al.*, No. 26 Civ. 387 (JPC)

Dear Judge Cronan:

This Office represents Respondents (the “Government”) in the above-referenced immigration habeas corpus action, brought by Freddy Raul Alvarado Quezada (“Petitioner”), a non-citizen who is challenging his detention by U.S. Immigration and Customs Enforcement (“ICE”). The primary legal issue presented by Petitioner’s Habeas Petition concerns the statutory authority for Petitioner’s detention—whether it is 8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b)(2)(A)—and the attendant due process issues stemming from such authority. Petitioner seeks an order from this Court directing ICE to release him from detention, or in the alternative, provide him with a bond hearing in seven days. Dkt. No. 1 (“Petition” or “Pet.”) at 12. This Court recently issued a decision on the principal legal issue in *Chen v. Almodovar*, No. 25 Civ. 9670 (JPC) (S.D.N.Y. Jan. 14, 2026), concluding that § 1225(b)(2)(A), not § 1226, was the correct detention authority for an applicant for admission. As discussed below, this case is not materially distinguishable from *Chen*, and so the Court should deny Petitioner’s statutory and due process claims. Petitioner raises one additional claim, which was not addressed in *Chen*, but it should also be denied. In any event, even if Petitioner were to succeed on that claim it would not warrant his release, as opposed to a bond hearing.

I. Factual Background

The Petitioner, who is a citizen of Ecuador, alleges that he entered the United States without admission or inspection on or about July 1, 2011. Pet. ¶¶ 2, 13.¹ On October 28, 2025, Petitioner was arrested by ICE in connection with a vehicle stop. *Id.* ¶ 3. Petitioner does not dispute that he has no legal status in the United States. *Id.* ¶¶ 3, 6; *see* Notice to Appear, Return to Habeas Petition Exhibit A. Petitioner was served with a Notice to Appear charging him as inadmissible under sections 212(a)(6) and (a)(7) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1182(a)(6) and (a)(7), because he is an alien present in the United States who has not been

¹ Petitioner alleges that he “has lived and worked in the United States since [entering on or about July 1, 2011], and has complied with DHS’s supervision requirements.” Pet. ¶ 2. It is unclear what Petitioner means by his assertion that he has complied with DHS’s supervision requirements given that, as he acknowledges, he was first intercepted by ICE on October 28, 2025, *id.* ¶ 3, and thus was never released under supervision.

admitted or paroled and because he is not in possession of a valid entry document. Ex. A. Petitioner has been in immigration detention since October 28, 2025, pursuant to 8 U.S.C. § 1225(b)(2)(A). Pet. ¶ 13.

II. Habeas Petition

Petitioner filed the Petition on January 15, 2026. Dkt. No. 1. The Petition argues that the mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not apply to Petitioner because he had already entered and had been residing in the United States when he was arrested by ICE. Pet. ¶¶ 6, 35-36, 42.

Petitioner's first claim for relief asserts that he is not subject to mandatory detention pursuant to section 1225(b)(2), and that section 1226(a) instead applies to noncitizens like him who "previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings." *Id.* ¶¶ 41-43. Petitioner's second claim asserts that, because his detention is not authorized, it violates his due process rights. *Id.* ¶¶ 44-47. In his third claim, Petitioner alleges that he is a member of the class certified in *Bautista v. Santacruz*, Case No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), and that an order entered in the *Bautista* case entitles him to a bond hearing. *Id.* ¶¶ 48-52.

III. *Chen v. Almodovar*

On January 14, 2026, this Court issued a decision on the principal question presented in this action in a similar habeas case challenging a non-citizen's apprehension by ICE at a scheduled appointment at 26 Federal Plaza, and his subsequent detention under 8 U.S.C. § 1225(b)(2)(A). Dkt. No. 13 ("Chen Op.") at 12. In *Chen*, the petitioner illegally entered the United States in October 2023 and filed an application for asylum in the interim but was taken into custody by ICE in November 2025 and detained pending the resolution of his removal proceedings. *Id.* at 10-12. The petitioner filed a habeas petition seeking release from ICE custody or, in the alternative, an order declaring that he was entitled to a bond hearing. *Id.* at 13. He asserted that he could have been detained, if at all, under 8 U.S.C. § 1226, and that ICE had violated his statutory and constitutional rights by detaining him under 8 U.S.C. § 1225(b)(2)(A). *Id.*

This Court found that "[a]fter applying a textual analysis [of sections 1225(b)(2)(A) and 1226(a)] with fresh eyes, this Court concludes that the Government has the better reading of the INA" and "[b]ecause Chen is detained under Section 1225(b)(2)(A), he is not entitled to a bond hearing. Nor does his detention without bond violate due process." *Id.* at 15. Specifically, the Court concluded that "[t]he fairest reading of Section 1225(b)(2)(A) is that (aside from the three categories of aliens excepted under Section 1225(b)(2)(B)) it covers all applicants for admission, including those 'present in the United States' who have 'not been admitted' and never gained lawful entry into the country after inspection and authorization by an immigration officer, regardless of how long they have been present." *Id.* at 26 (quoting 8 U.S.C. §§ 1101(a)(13)(A), 1225(a)(1), (b)(2)(A)). Further, "[t]hose applicants must be detained when 'the examining immigration officer determines' that they are 'not clearly and beyond a doubt entitled to be admitted.'" *Id.* (quoting 8 U.S.C. § 1225(b)(2)(A)). The Court held that "Chen is covered by Section 1225(b)(2)(A), and so he must be detained without a bond hearing," because he "arrived in the United States" but was "not then admitted or paroled after inspection by an Immigration

Officer.” *Id.* In addition, an “examining immigration officer” determined that Chen was “not clearly and beyond a doubt entitled to be admitted,” when they found that he was inadmissible as “an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.” *Id.* at 26-27 (citing 8 U.S.C. § 1225(b)(2)(A); Notice to Appear (citing 8 U.S.C. § 1182(a)(6)(A)(i))).

The Court also held that Chen’s detention satisfied due process because Chen’s argument to the contrary “‘appears to present nothing beyond the larger contention as to the relevant and applicable statute to apply,’ without any broader argument ‘that the application of [Section] 1225(b)(2)(A) is itself unconstitutional, if determined to be the correct statute.’” *Id.* at 28 (quoting *Cabanas v. Bondi*, No. 4:25-cv-4830, 2025 WL 3171331, at *6-7 (S.D. Tex. Nov. 13, 2025)).

IV. Discussion

A. Petitioner’s Challenges to His Detention Under Section 1225(b) Fails

Petitioner alleges that he is not subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) because he previously entered the country and had been residing in the United States prior to being apprehended and placed in removal proceedings. Pet. ¶ 42. As noted above, this Court has already resolved nearly identical claims. Accordingly, this Court’s decision in *Chen* should control the result in this case if the Court adheres to its prior decision, as the facts of this case are materially indistinguishable. Similar to *Chen*, Petitioner is an alien who illegally entered the United States and is deemed an inadmissible applicant for admission. To conserve judicial resources and to expedite the Court’s consideration of this case, the Government hereby relies upon, and incorporates by reference, the legal arguments it presented in *Chen*, see brief attached as Exhibit A, and submits the Court can decide this matter without further briefing. However, should the Court prefer to receive a formal opposition brief in this matter, we will file such a brief upon the Court’s request.

B. Petitioner’s Detention Under Section 1225(b) Comports with Due Process

This Court likewise rejected materially identical due process arguments in *Chen*. Because Petitioner is deemed an applicant for admission and thus is treated for constitutional purposes as if stopped at the border, he is lawfully detained pursuant to Section 1225(b)(2)(A), and neither his procedural nor substantive due process rights have been violated. The Supreme Court has made clear that “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953); cf. *Guzman v. Tippy*, 130 F.3d 64, 66 (2d Cir. 1997) (the rights of excluded aliens “are determined by the procedures established by Congress and not by the due process protections of the Fifth Amendment”). Again, to conserve judicial resources and to expedite the Court’s consideration of this case, the Government hereby relies upon, and incorporates by reference, the legal arguments it presented in *Chen*.

C. Petitioner’s Claim for Relief under *Maldonado Bautista*

On November 25, 2025, a district court in the Central District of California granted a motion certifying a class (the “Bond Eligible Class”) that is defined as follows: “All noncitizens in the United States without lawful status who (1) have entered or will enter the United States

without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.” *Bautista*, 2025 WL 3288403, at *9. Prior to class certification, the court partially granted the petitioners’ motion for summary judgment, declaring the government’s position that the petitioners were subject to detention under Section 1225 unlawful. *Bautista v. Santacruz*, 25 Civ. 1873 (SSS) (BFM), 2025 WL 3289861, at *9, *11 (C. D. Cal. Nov. 20, 2025). On December 18, 2025, the *Bautista* court entered a partial final judgment under Fed. R. Civ. P. 54(b) in favor of petitioners and members of the Bond Eligible Class, which declared, *inter alia*, that: “the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2)”; and pursuant to 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.” Final Judgment, *Bautista v. Noem*, 25 Civ. 1873 (SSS)(BFM) (C.D. Cal. Dec. 18, 2025) (ECF No. 94). Petitioner asserts that he is a member of the Bond Eligible Class and is therefore entitled to consideration for release on bond under 8 U.S.C. § 1226(a). Pet. Count III.

The government disagrees with the merits of the *Bautista* court’s summary judgment ruling and contends that the district court lacked jurisdiction to enter class-wide declaratory relief in the habeas context because “jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (per curiam). Accordingly, on December 18, 2025, the government immediately filed a notice of appeal from the judgment in the Ninth Circuit. *See* Notice of Appeal, *Bautista v. Noem*, 25 Civ. 1873 (SSS) (BFM) (C.D. Cal. Dec. 18, 2025) (ECF No. 95). The government is presently assessing whether and how *Bautista* impacts this case and thus takes no position on Petitioner’s arguments at this time. In any event, even if Petitioner is included in the *Bautista* Bond Eligible Class and entitled to relief on that basis, that would mean that Petitioner would be entitled to a bond hearing—not that Petitioner would be released.

Accordingly, for the reasons set forth above and in the government’s brief in *Chen*, the government respectfully requests that the Court deny this habeas petition.

I thank the Court for its consideration of this submission.

Respectfully submitted,

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