

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

DEINI MOISES HERNANDEZ GARCIA,

Petitioner,

v.

Warden of the ERO El Paso East Montana;
JOEL GARCIA, Field Office Director, El
Paso Field Office, United States Immigration
and Customs Enforcement; TODD M.
LYONS, Acting Director, United States
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of Homeland
Security; PAMELA JO BONDI, United States
Attorney General, *in their official capacities,*

Respondents.

Civil Action No.: 3:25-cv-00058-DCG

PETITIONER'S
REPLY IN SUPPORT
OF THE PETITION
FOR WRIT OF
HABEAS CORPUS

**PETITIONER'S REPLY IN SUPPORT OF THE PETITION FOR
WRIT OF HABEAS CORPUS**

I. Petitioner Cannot Be Detained under 8 U.S.C. § 1225(b)(1) OR (b)(2).

Respondents argue that Petitioner was detained pursuant to 8 U.S.C. § 1225(b) after he entered the U.S. in May 2024, and, therefore, the same subsection authorizes his detention now.¹

¹ See, ECF No. [5 at 3]. In cases involving similar fact patterns (an initial apprehension shortly after entry followed by an order of release on recognizance pursuant to 8 U.S.C. § 1226), Respondents have been equivocal regarding which paragraph of § 1225(b) is controlling in the context of a noncitizen's re-detention. See, e.g., *Urquiza-Orozco v. Bondi et al.*, No. 5:25-cv-01428-XR (W.D. Tex. Nov. 20, 2025); *Vega v. Thompson et al.*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 21, 2025) (citing detention authority under § 1225(b)(2)) versus *Tinoco Pineda v. Noem*, No. 5:25-CV-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025) (alleging detention authority under § 1225(b)(1)).

This argument fails for several reasons. First, the only detention authority explicitly cited by Respondents at the time of Petitioner's May 2024 arrest was 8 U.S.C. § 1226(a), a position they cannot now abandon the simply because it is no longer convenient. *See, Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390, at *5 (D.N.H. Sept. 8, 2025) (explaining that the government cannot ignore the statutory authority it relied on when releasing and arresting petitioner to now apply different statutory authority to his recent re-detention); *Sandoval v. Raycraft*, 2025 WL 2977517, at *8 (E.D. Mich. Oct. 17, 2025) ("The Court cannot credit this new position that was adopted post-hac, despite clear indication that [Petitioner] was not detained under this provision when he was first apprehended, arrested and bonded in [2021].") *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115–16 (9th Cir. 2007) (holding that a noncitizen released on an "Order of Release on Recognizance" necessarily must have been detained and released under § 1226 because he was not an "arriving alien" under the regulations governing § 1225 examinations).

Second, the notion that the classification and inspection regime detailed in both §1225(b)(1) and (b)(2) carries forward indefinitely into the future following an arrest, even where the noncitizen has subsequently be released into the interior, has been rejected by numerous courts, including the court in *Maldonado Bautista*, which affirmed that §1225 limited in its temporal scope. No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *15 (C.D. Cal. Nov. 25, 2025). *See also, Mendoza Euceda v. Noem, et al.*, 5:25-CV-1234-OLG at *9 (W.D. Tex. Sep. 30, 2025) ("A noncitizen who entered years ago and has since resided in the United States is not, by any plain sense meaning of the term, "seeking admission" when apprehended by interior enforcement officers"); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025) ("seeking admission" means "action –

something that is currently occurring, and in this instance, would most logically occur at the border upon inspection...”);

Accordingly, even assuming that Petitioner was, or could have been, classified as an “applicant for admission” under 8 U.S.C. §1225(a)(1) when he was initially arrested, the government’s authority to detain him under §1225(b)(1) evaporated the moment he was released, not only because the inspection process had been abandoned, but also because the government never satisfied the basic requirements for mandatory detention under that provision. Section 1225(b)(1) mandates the detention and expedited removal of applicants for admission who have been (1) physically present in the U.S. for less than two years and (2) who are found inadmissible pursuant to either 8 U.S.C. §1182(a)(6)(C) (misrepresentations) or (a)(7) (insufficient documents). *See*, 8 U.S.C. §1225(b)(1)(A)(i-iii). Prior to his release from DHS custody in 2024, Petitioner was not deemed inadmissible under either of those provisions. Instead, he was simply charged under §1182(a)(6)(A)(i). *See* ECF No. 1 at 28. Given this omission, Respondents cannot now assert their detention authority under §1225(b)(1) endures as Petitioner has resided in the U.S. for more than one year. *See, e.g., Tinoco Pineda v. Noem*, No. 5:25-CV-01518-XR, 2025 WL 3471418 at *6-7 (W.D. Tex. Dec. 2, 2025).

Third, the expedited removal and detention scheme contemplated under §1225(b)(1) cannot co-exist with an active removal case. Rather proceeding with expedited removal, immigration agents instead exercised their discretion to place Petitioner into “full” removal proceedings under 8 U.S.C. §1229a. ECF No 1. at 28. These proceedings are still active as Petitioner has a pending case before the immigration court, with his next hearing set for February 5, 2026. ECF. No 2. at 49. A noncitizen cannot simultaneously be in both “full” and “expedited” removal proceedings. *See, Patel v. Tindall*, No. 3:25-CV-373-RGJ, 2025 WL 2823607, at *5

(W.D. Ky. Oct. 3, 2025). *See also, Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJ), 2025 WL 3314420, at *17 (E.D.N.Y. Nov. 28, 2025) (“once DHS “affirmatively cho[se]” to authorize Rodriguez-Acurio's parole and corresponding release from ICE detention, it “made the determination that it no longer intend[ed] to fast-track [her] removal and that it [would] proceed with the standard removal process under 8 U.S.C. § 1229a.” *Aviles-Mena*, 2025 WL 2578215, at *5). Accordingly, even if §1225(b)(1) could apply to Petitioner under other circumstances, it cannot in the present case as there currently is no expedited removal proceeding.

Finally, congressional intent surrounding the passage of the IIRAIRA does not support a permanent and indefinite detention regime for noncitizens classified as applicants for admission under §1226(a). This was not the position of the federal government for decades following IIRAIRA's adoption, it was not the position of U.S. Supreme Court in *Jennings*, and it not the position of the majority of federal courts today. *See, Jennings* at 297 (noting that 1225(b)(1) detention applies to applicants seeking entry and is mandatory only until certain inspection requirements are completed). *See also, Buenrostro Mendez v. Bondi*, 4:25-CV-03726, (S.D. Tex. Oct. 7, 2025)(“Indeed, according to almost every district court that has taken up this issue — including courts in this district — ‘the statutory text, the statute’s history, Congressional intent, and § 1226(a)’s application for the past three decades clearly support the finding that § 1226 applies, not § 1225.”) Even accepting that Petitioner was initially held pursuant to the Department’s §1225(b) authority (which Petitioner was not), the clear congressional intent as affirmed by the federal courts remains that such authority was relinquished the moment he was released.

The mandatory inspection and detention regime outlined in §1225(b) was abandoned by Respondents at the time Petitioner was initially released from custody in May 2024. Given that

there is no new factual basis to mandate detention under a different statute, Petitioner should be immediately ordered released or given a bond hearing as required by statute with the burden on the government to explain why he should remain in custody.

II. The Ruling in the Matter of Maldonado Bautista Is Controlling.

The final judgment issued in *Maldonado Bautista* is binding on all class members, including Petitioner. There, the court certified a nationwide “bond eligible” class, issued declaratory relief for all class members, and further clarified that all class members are entitled to benefit from the declaratory judgment confirming that they are subject to detention under 8 U.S.C. § 1226(a) and therefore entitled to a bond hearing. No. 5:25-cv-01873-SSS-BFM 2025 WL 3713982 at * 7 (C.D. Cal. Dec. 18, 2025) (clarifying order issued after evidence presented that the Government was counseling noncompliance with the Court’s orders); No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (extending summary judgment to class); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (summary judgment). The Executive Office for Immigration Review is a Defendant in *Maldonado Bautista*, and is thus bound by the ruling there, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). It is a “basic proposition that all orders and judgments of courts must be complied with promptly,” *Maness v. Meyers*, 419 U.S. 449, 458 (1975), and thus, in “suits against government officials and departments, [courts] assume that they will comply with declaratory judgments.” *United Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023). This is because declaratory judgments like the one in *Maldonado Bautista* have “the same effect as an injunction in fixing the parties’ legal entitlements.” *Florida ex rel. Bondi v. U.S. Dep’t of Health & Hum. Servs.*, 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011). This understanding of declaratory

judgments, including the obligation to comply with the declaratory judgment in *Maldonado Bautista*, is consistent with the decisions of many courts. *See, e.g., Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.) (“[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court.”), abrogated on other grounds by, *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023), cert. denied, 144 S. Ct. 688 (2024); *Smith v. Reagan*, 844 F.2d 195, 200 (4th Cir. 1988) (describing declaratory relief as “the functional equivalent of a writ of mandamus”); *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18, 20 (D.D.C. 1998) (“The government’s decision to appeal this Court’s ruling does not affect the validity of the declaratory judgment unless and until the judgment is reversed on appeal or the government seeks and is granted a stay pending appeal.”), rev’d on other grounds, 184 F.3d 900 (D.C. Cir. 1999).

However, even if this Court finds that *Maldonado Baustista* is not controlling in this case, it is still free to reach the same conclusions as that court (as well as hundreds of other judges in more than 1,600 similar cases)² and we urge it to do so.

III. Further Delay in Releasing Petitioner is not Warranted

Respondents make no new legal arguments in their Abbreviated Response to Habeas Corpus Petition and Request to Proceed Without Oral Argument. In fact, and by their own admission, Respondents merely incorporate by reference existing legal arguments already familiar to this Court. Moreover, Respondents fail to dispute any of Petitioner’s facts set forth in

² Kyle Cheney, *Hundreds of judges reject Trump’s mandatory detention policy, with no end in sight*, Politico, (Jan. 6, 2025), <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494>

the Petition, as required by the Court's Order to Show Cause. Based on this, Petitioner can only conclude that Respondents request for leave to file a "more exhaustive brief" is merely a means to further unlawfully delay Petitioner's release and continue to deny his Constitutional habeas corpus and due process rights. Because Respondents admit their legal arguments in the instant case are the same as those already made in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), Petitioner respectfully requests that this Court review those legal arguments, to the extent this Court is not already familiar with them, and not grant Respondents any further time to respond to Petitioner's Petition because, by Respondents' own admission, they "substantially overlap with those at issue" in *Matter of Yajure Hurtado*. Respondents should not be given more time to reconfigure in another brief the same arguments already made.

Moreover, by failing to dispute any of Petitioner's factual allegations, as required by the Court's Order to Show Cause, and failing to set forth any new legal arguments in support on Petitioner's continued detention, Respondents have simply failed to "show cause" as to why the Court should not grant a writ of habeas corpus. Since Respondents' legal arguments fail – as detailed in the Petition (Petitioner's detention is not governed by 8 U.S.C. § 1225(b) and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), but instead appropriately governed by 8 U.S.C. § 1226(a) and *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) – and as no factual dispute exists, this Court has ample, undisputed factual information and understanding of relevant legal arguments and binding precedent to rule in favor of Petitioner and grant the relief sought in the Petition, and Petitioner respectfully requests the Court expeditiously grant such relief.

Dated: January 31, 2026

Austin, TX

Respectfully submitted,

/s/ Robert Painter

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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant, the undersigned certifies and states that the true and correct copies of this, Petitioner's Reply in Support of Petition for Writ of Habeas Corpus, will be served upon all counsels of record via the online CM/ECF system, on or before January 31, 2026.

/s/ Robert Painter
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