

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**

Clemente CABALLERO ESTRADA,)	Case No.: 0:26-cv-60122-MD
)	
Petitioner,)	
)	
v.)	
)	
Kristi NOEM, Secretary, Department of)	
Homeland Security; DEPARTMENT OF)	
HOMELAND SECURITY; Pamela BONDI,)	
Attorney General; EXECUTIVE OFFICE FOR)	
IMMIGRATION REVIEW; Garrett RIPA,)	
Miami Field Office Director, ICE)	
Enforcement and Removal Operations;)	
IMMIGRATION AND CUSTOMS)	A# 201-988-034
ENFORCEMENT; and Warden, Broward)	
Transitional Center.)	
)	
Respondents.)	
)	

REPLY TO RESPONDENTS’ RESPONSE TO ORDER TO SHOW CAUSE

Petitioner, CLEMENTE CABALLERO ESTRADA, by and through the undersigned counsel, replies to Respondents’ Response to the Court’s Order to Show Cause. ECF 5.

I. INTRODUCTION

Respondents rely on a recent, distorted, and impermissibly broad construction of “seeking admission” in 8 U.S.C. § 1225(b)(2)(A) to detain Petitioner, who has lived in the United States for more than twenty (20) years, without any finding of dangerousness or flight risk, in violation of his due process rights. This construction has been widely rejected by courts across the country and in this District. Respondents fail to provide any meaningful reason for this Court to find otherwise and conclude that Petitioner’s entry into the United States without

inspection or admission renders him an “applicant for admission” who is “seeking admission” under 8 U.S.C. § 1225(b)(2)(A), and thus subject to mandatory detention and ineligible for a bond hearing. Thus, this Court should find that Petitioner is unlawfully detained, grant his Petition for Writ of Habeas Corpus (ECF 1), and order his immediate release or, in the alternative, that he be afforded an individualized bond hearing on the merits.

II. PETITIONER’S POSITION IS CONSISTENT WITH THAT ADOPTED BY COURTS IN THIS DISTRICT AND ACROSS THE UNITED STATES.

Federal district courts all over the United States have overwhelmingly held that individuals who enter the United States without inspection and are subsequently encountered by immigration officials years later are subject to detention pursuant to 8 U.S.C. § 1226 and not 8 U.S.C. § 1225. *See, e.g., Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.); *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash.); *Jhon Peter Hyppolite v. Noem*, No. 25-cv-4303 (E.D.N.Y.); *Dixon v. Noem*, 2:25-cv-01067-KCD-DNF (M.D. Fla.); *Reynosa Jacinto v. Trump*, 4:25-cv-03161 (D. Neb.). Such cases, involving noncitizens unlawfully denied a bond hearing pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), are instructive.

Additionally, courts in this District have affirmed Petitioner’s contention that he is detained pursuant to § 1226. *See, e.g., Acando Ceballo v. Parra et al*, No. 1:2025-cv-25271 (S.D. Fla.) and *Duwallon Boffill v. Field Office Director, Miami Field Office et al*, No. 1:2025-cv-25179 (S.D. Fla.). Chief Judge Cecilia M. Altonaga found in a similar case that the plain meaning of the statute, legislative history, and the recent passage of the Laken Riley Act, Pub. L. 119-1,139 Stat. 3 (2025), all support the assertions that Petitioner makes in the instant case. *Alvarez Puga v. Assistant Field Office Director, Krome North Service Processing Center*, 1:25-cv-24535 (S.D. Fla.). This Court, in *Espinal-Encarnacion v. Lyons*, 0:25-cv-61898 (S.D.

Fla.), also adopted Chief Judge Altonaga’s reasoning in *Alvarez Puga*. Using the reasoning in *Alvarez Puga*, the Court found “8 U.S.C. § 1226(a) and its implementing regulations govern Petitioner’s detention, and not Section 1225(b).” *Id.* at *4. With facts nearly indistinguishable from *Alvarez Puga* and *Espinal-Encarnacion* and using the reasoning from those cases, the Court would reach the same conclusion in the case at bar.

III. ORDERING PETITIONER A BOND HEARING DOES NOT CONTRAVENE IIRIRA’S GOALS AND IS CONSTITUTIONALLY REQUIRED.

Respondents contend that it is contrary to the goals of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, div. C, 110 Stat. 3009-546 (1996), to deny bond hearings to noncitizens detained at a port of entry but afford them to noncitizens who have been present in the United States for a lengthy period of time but were nonetheless not admitted into the country. In support of this contention, Respondents point to *Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) and *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020). However, *Hing Sum* looked at the meaning of “admission” in light of 8 U.S.C. § 1182(h) (waiver for specific crimes committed by lawful permanent residents), and *Torres* interpreted the meaning of “admission” pursuant to the Consolidated Natural Resources Act, Pub. L. No. 110-229, 122 Stat. 754 – which implemented the Immigration and Nationality Act, Pub. L. No. 82-414, § 101, 66 Stat. 163, 167 (1952) (codified as amended at 8 U.S.C. § 1101) – to the Commonwealth of the Northern Mariana Islands and the territory’s laws. As such, these cases are inapposite.

What is perhaps most troubling in the Response is that Respondents claim that Petitioner’s interpretation of IIRIRA, i.e. granting a bond hearing to individuals who have not encountered immigration authorities, is “*exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate.” ECF 5 at 11. As Respondents would have it, the mere

opportunity to seek bond before the immigration judge is “perverse preferential treatment,” and not the process the Constitution requires before the government may continue to deprive a person of liberty. Moreover, the opportunity to seek a bond before the immigration judge does not afford such individuals preferential treatment over those who have been admitted to the United States, such as visa overstays or lawful permanent residents in the Department of Homeland Security’s (DHS) custody. The immigration judge must still conduct its own analysis on whether an individual is a flight risk or danger to society; affording an individual a bond hearing does not guarantee that said individual will even be afforded bond on the merits of his motion. Thus, Petitioner’s right to have a bond hearing, before a neutral adjudicator, on the merits of his motion does not put him in any superior position over a visa overstay or afford him preferential treatment.

IV. RESPONDENT ICE’S PAPERWORK UNDERMINES RESPONDENTS’ ARGUMENT THAT PETITIONER IS DETAINED PURSUANT TO 8 U.S.C. § 1225.

In support of its Response, Respondents submitted documents from ICE related to Petitioner’s arrest and detention, Executive Office for Immigration Review (“EOIR”) documents related to his ongoing removal proceedings, and a declaration from ICE Deportation Officer Jiesys Miranda. The documents submitted by Respondents undermine their own position and support the conclusion that Petitioner is detained under § 1226, rather than § 1225.

Respondents submitted the Form I-200, Warrant for Arrest of Alien issued by ICE against the Petitioner, dated January 15, 2020 which shows that ICE arrested and detained Petitioner under an arrest warrant. Furthermore, the warrant itself states that it is directed to “[a]ny immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act [8 U.S.C. §§ 1226-1227] and part 287 of title 8, Code of Federal Regulations, to

serve warrants of arrest for immigration violations[.]” ECF 5-9. Nowhere does the warrant suggest that ICE arrested and detained Petitioner pursuant to § 1225. In fact, the warrant does not cite or otherwise reference § 1225 at all.

Similarly, the Form I-286, Notice of Custody Determination dated January 16, 2020 submitted by Respondents states that Petitioner is being detained by DHS “pursuant to the authority contained in section 236 of the Immigration and Nationality Act [8 U.S.C. § 1226] and part 236 of title 8, Code of Federal Regulations[.]” ECF 5-10 Again, nowhere does the document even suggest that Petitioner is detained under § 1225.

What Respondents also conveniently fail to explain is how Petitioner somehow magically transformed into an applicant for admission five (5) years between the two encounters with Respondent ICE inside the United States. It seems as though Respondents’ reading of § 1225 and § 1226 has nothing to do with correcting mistakes – it has everything to do with achieving the Executive’s goal of mass detention. And although not dispositive, these documents point to detention under § 1226, where Petitioner would be entitled to a bond hearing, rather than subject to mandatory detention under § 1225(b).

V. CONCLUSION

Respondents seek to rewrite the law to further the current administration’s policy goals of mass detention of noncitizens, regardless of their time here or the pendency of processes to obtain lawful status. The government’s reading of the statute would permit detention without the required dangerousness or flight-risk findings, abridging noncitizens’ liberty and due process rights. Essentially, Respondents’ position is no more than a plea of administrative convenience that this Court must reject. *See Niz-Chavez v. Garland*, 593 U.S. 155, 169 (2021). Therefore, the

Petitioner requests that the Court grant the Petition (ECF 1) and order Petitioner's immediate release or, in the alternative, an individualized bond hearing.

DATED this 2nd day of February, 2026.

Respectfully submitted,

/s/ Alyssa Barberis

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 2, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Respectfully submitted,

/s/ Alyssa Barberis

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