UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAVIER TELLEZ LAUDINO, Petitioner, v. SAM OLSON, Chicago Field Office Director, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, Respondents.	)	No. 26 C 676 Judge Lefkow

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

As noted in the court's minute order of January 21, 2026, Dkt. 3, judges in this district have recently granted habeas corpus relief in cases raising similar factual and legal issues to those raised by the present case. Respondents do not dispute that the decisions cited by this court's order held that 8 U.S.C. § 1226(a) apply to foreign nationals who are "present in the United States without having been legally admitted." *Miguel v. Noem*, No. 25 C 11137, 2025 WL 2976480, at *5 (N.D. Ill. Oct. 21, 2025); *see also H.G.V.U. v. Smith*, No. 25 C 10931, 2025 WL 2962610 (N.D. Ill. Oct. 20, 2025); *Ochoa Ochoa v. Noem*, No. 25 C 10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025). Those courts have ordered relief in the form of a bond hearing under 8 U.S.C. § 1226(a) because the foundation of those petitioners' theory of harm is that respondents are detaining the petitioners under *that* provision of the Immigration and Nationality Act ("INA") (which allows for bond hearings), rather than 8 U.S.C. § 1225(b)(2) (which provides for mandatory detention during removal proceedings for "applicant[s] for admission"). *See id.*

In this case, petitioner Javier Tellez-Laudino is a native and citizen of Mexico who is challenging his immigration detention. *See generally* Dkt. 1 ("Pet."). He entered the United States

without inspection on an unknown date and time, and is now seeking release because he argues his arrest and present detention for being in this country unlawfully is (1) violative of the Immigration and Nationality Act's provision for bond hearings while foreign nationals are in removal proceedings and (2) violates the Due Process Clause because he has not yet had a bond hearing. *See id.* ¶¶ 52–58.

These claims ultimately stem from how, in September 2025, the Board of Immigration Appeals ("BIA") ruled that foreign nationals who entered the United States without inspection (such as the petitioner here) were not eligible for bond hearings in immigration court because they were never actually admitted to the United States and thus fit into the statutory definition of "applicant[s] for admission" within § 1225(b) of the INA. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The respondents here have detained petitioner pursuant to § 1225(b) because he is an applicant for admission. And as a BIA decision, *Matter of Yajure Hurtado* is binding on immigration judges, who cannot consider petitioner for bond under 8 U.S.C. § 1226(a). This is the crux of this case and is the same central issue addressed in the cases listed above.

While respondents disagree with those courts' conclusions, they also acknowledge that the present case is not distinguishable from them in any material respect. Still, respondents re-assert and adopt the arguments made in the briefing filed in those cases. *See* Exhibit 1. Specifically, respondents cite to our Memorandum in Opposition filed in *H.G.V.U. v. Smith*, No. 25-cv-10931, Dkt. 29, in order to preserve those arguments for potential appeal. To recap, respondents respectfully contend that this court lacks jurisdiction over these issues by virtue of the jurisdictional bars set forth in 8 U.S.C. § 1252. *Id.* at 3–9. The respondents contend that the decision to detain petitioner during removal proceedings is incident to both the commencement of those proceedings and the adjudication of that case under 8 U.S.C. § 1252(g). *Id.* at 4–6. The

respondents also respectfully contend that review of the detention decision is barred by 8 U.S.C. § 1252(b)(9) (review only available on judicial review of final order of removal) and 8 U.S.C. § 1252(a)(2)(B)(ii) (no jurisdiction over discretionary immigration decisions). *Id.* at 6–7. Similarly, respondents do not believe that due process is violated in this matter because Seventh Circuit law does not recognize that foreign nationals who have not been lawfully admitted have a liberty interest in release from custody into the United States. *Id.* at 12–13. Last, and as alluded to above, respondents contend that foreign nationals who were never lawfully admitted into the United States do not qualify for bond under the INA. *Id.* at 14–21. The respondents believe that these arguments apply equally to this case.

Incidentally, respondents also wish to point out that there is not unanimity on these issues, and some district courts have denied similar habeas petitions involving the same legal issues. *Hernandez v. Olson, No. 25-CV-1670, 2026 WL 161509; Cruz Rodriguez v. Olson,* -- F. Supp. 3d --, No. 25 C 12961, 2026 WL 63613 (N.D. Ill. Jan. 8, 2026); *Benitez v. Bradford*, No. 4:25-CV-06178, 2026 WL 82235 (S.D. Tex. Jan. 8, 2026); *Ugarte-Arenas v. Olson*, No. 25-cv-1721, 2025 WL 3514451 at *5 (E.D. Wis. Dec. 8, 2025); *Suarez v. Noem*, No. 25-cv-202, 2025 WL 3312168, at *2 (E.D. Mo. Nov. 28, 2025); *Alonzo v. Noem*, No. 25-cv-1519, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025); *Valencia v. Chestnut*, No. 25-cv-1550, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Montoya Cabanas v. Bondi*, No. 25-cv-4830, 2025 WL 3171331, at *6 (S.D. Tex. Nov. 13, 2025) ("[Section] 1225(b)(2)(A) by its terms applies to [petitioner] and supports the position of the Government as to mandatory detention. Inquiry beyond that, as to whether such position is the best or wisest use of executive enforcement priorities, or whether it is in line with the priorities of prior Administrations, simply isn't the remit of an Article III court. It is instead the subject of legislation and the result of elections, both of which have consequences."); *Mejia-Olalde v. Noem*,

No. 25-cv-168, 2025 WL 3131942, at *1 (E.D. Mo. Nov. 10, 2025) ("What governs this case is the text of the statute, not what other district courts have concluded. Because § 1225(b)(2) plainly covers Mejia Olalde and requires detention without bond, the Court denies the petition for a writ of habeas corpus."); *Silva Oliveira v. Patterson*, No. 25-cv-1463 (W.D. La. Nov. 4, 2025); *Barrios Sandoval v. Acuna*, No. 25-cv-1467, 2025 WL 3048926, at *3 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, No. 25-cv-177, Dkt. 9 (N.D. Tex. Oct. 24, 2025); *Vargas v. Lopez*, No. 25-cv-526, 2025 WL 2780351, at *4–9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-cv-23250, 2025 WL 2730228, at *4–5 (S.D. Cal. Sept. 24, 2025); *Pipa-Aquise v. Bondi*, No. 25-cv-1094, 2025 WL 2490657, at *1 (E.D. Va. Aug. 5, 2025); *Pena v. Hyde*, No. 25-cv-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025).

In sum, respondents respectfully request that the habeas petition be denied.

Respectfully submitted,

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