

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-60216-CIV-SINGHAL

ROCIO TAMARIZ ESCAROLA,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

ORDER

Petitioner Rocio Tamariz Escarola is a Mexican national who was detained during a December 2, 2025 traffic stop after authorities realized she lacked documentation to remain in the United States. See (DE [6-1] at 3). She has been detained since then. On December 24, 2025 she was issued a Notice to Appear for January 6, 2026. (DE [6-3] at 1). The government alleged she was removable under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an inadmissible immigrant, since she did not possess valid immigration documentation. *Id.* at 4. At her hearing, the immigration judge denied her bond because under § 1225(b)(2)(A), the immigration judge lacked authority to grant bond to aliens present in the United States who had not been admitted. (DE [6-4]). For support, the immigration judge cited to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). (DE [6-4]).

By way of background, in July 2025 Rodney Scott, Commissioner of the U.S. Customs and Border Protection, issued a statement advising that Department of Homeland Security (“DHS”) revised its legal position on detention and release

authorities.¹ DHS determined that section 235 of the Immigration and Nationality Act (INA) (codified at 8 U.S.C. § 1225) rather than section 236 (codified at 8 U.S.C. § 1226), is the applicable immigration detention authority for all applicants for admission” and that “[e]ffective immediately, it is the position of DHS that applicants for admission are subject to mandatory detention under INA § 235(b) and may not be released from DHS custody except by INA § 212(d)(5) parole.” Further, the use of a Warrant for Arrest and Notice of Custody Determination under § 1226 would no longer be an option for applicants for admission. *Id.* The *Hurtado* decision by the BIA approved DHS’s new policy on applicants for admission.

Petitioner filed a Petition for Writ of Habeas Corpus, (DE [1]), and the government responded. (DE [6]). This Court held a hearing on February 11, 2026.² (DE [8]). Having considered the parties’ briefs and arguments raised at the hearing, the Petition is denied.

I. LEGAL STANDARD

District courts have authority to grant writs of habeas corpus. 28 U.S.C. § 2241(a). Habeas corpus is fundamentally “a remedy for unlawful executive detention.” *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (citation omitted). A writ may be issued to a petitioner who demonstrates that he is being held in custody in violation of the Constitution or federal law. See 28 U.S.C. § 2241(c)(3). The court’s jurisdiction extends to challenges involving immigration-related detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

¹ <https://www.cbp.gov/sites/default/files/2025-09/intc-46100> (emphasis in original).

² At the hearing, Petitioner’s counsel demonstrated both impressive knowledge of the legal issues and history of the INA, as well as great candor regarding the intersection of § 1225 and § 1226. The Court is grateful for counsel’s diligence and candor.

II. DISCUSSION

Petitioner claims that she has been unlawfully detained without bond under 8 U.S.C. § 1225, and that she should be released. The Court has recently considered and rejected similar arguments. *See, e.g., Morales v. Noem*, -- F. Supp. --, 2026 WL 236307, at *8 (S.D. Fla. Jan. 29, 2026); *Banchi v. Diaz*, No. 0:25-cv-62341 (S.D. Fla. Feb. 2, 2026); *Doria v. Warden, Broward Transitional Center*, No. 0:26-cv-60112 (S.D. Fla. Feb. 9, 2026). Other courts, including a court of appeals, have done the same. *See, e.g., Buenrostro-Mendez v. Bondi*, ___ F.4th ___, 2026 WL 323330, at *4 (5th Cir. Feb. 6, 2026); *Lopez v. Dir. of Enf't & Removal Operations*, -- F. Supp. --, 2026 WL 261938, at *7 (M.D. Fla. Jan. 26, 2026); *Weng v. Genalo*, 2026 WL 194248, at *3 (S.D.N.Y. Jan. 25, 2026). This case is no different. The government may, under the present statutory scheme, detain Petitioner under § 1225(b)(2) pending removal.

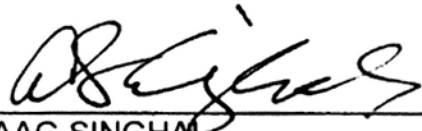
Petitioner's due process arguments are similarly of no avail. *See, e.g., Arroyo v. Diaz*, -- F. Supp. --, 2026 WL 279656, at *6 (S.D. Fla. Feb. 2, 2026); *Morales*, 2026 WL 236307, at *9. The "[Supreme] Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523 (2003). "[A]liens are not entitled to a bond hearing while they pursue withholding of removal." *Johnson v. Guzman Chavez*, 594 U.S. 523, 526 (2021). Because the Supreme Court has upheld the constitutionality and lawfulness of detention without bond, we conclude that Petitioner's due process rights have not been violated.

III. CONCLUSION

For the reasons discussed above, the Court concludes that Petitioner's detention under 8 U.S.C. § 1225(b)(2) is permissible. Petitioner is not entitled to release or a bond hearing pending removal. Accordingly, it is hereby **ORDERED AND ADJUDGED** that the

Petition (DE [1]) is **DENIED**. The Clerk of Court is directed to **CLOSE** this case and **DENY AS MOOT** any pending motions.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 17th day of February 2026.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF