UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:26-cv-20553-LEIBOWITZ

SILVIO ELIEZER DURAN OROZCO,

Petitioner,

v.

PAM BONDI, *et al.*,

Respondents.

______________________________________/

ORDER

THIS CAUSE comes before the Court on the Government's Return to Writ of Habeas Corpus [ECF No. 6], filed on January 30, 2026. The Government has argued that the Petition must be denied because, *inter alia*, Petitioner is detained under 8 U.S.C. § 1225(b), and Petitioner failed to exhaust administrative remedies. [*Id.* at 1]. The Court agrees with Respondents that Petitioner is not entitled to a bond hearing. Although Respondents failed to argue explicitly and precisely how this case is distinguishable from other cases in this District that have found that Section 1226 is the applicable detention authority for immigrants such as Petitioner, this case is indeed distinguishable and Section 1225(b) applies here.

I. FACTUAL BACKGROUND

On January 27, 2026, *pro se* Petitioner Silvio Eliezer Duran Orozco ("Petitioner") filed this Petition for a Writ of Habeas Corpus. [ECF No. 1]. Petitioner is a native and citizen of Nicaragua. [*Id.* ¶ 3]. In September 2023, Petitioner arrived in the United States and was paroled under the Nicaraguan Humanitarian Parole program at or near San Francisco, California. [*Id.* ¶ 6; *see* ECF No. 6-2 at 2]. Parole expired on June 12, 2025. [ECF No. 6-2 at 2]. Immigration and Customs Enforcement ("ICE") eventually apprehended Petitioner on November 7, 2025, at the Turner

Guilford Knight Correctional Center in Miami after Petitioner was arrested for domestic battery. [*Id.*; *see also* ECF No. 6-5]. The charges were dismissed [*see* ECF No. 6-5 at 1–2], but Petitioner was detained and subsequently transferred to Krome Service Processing Center where he remains in ICE custody. [ECF No. 1 ¶ 4]. Petitioner now brings this action to seek release from custody and have an opportunity for a prompt, individualized bond hearing. [*See* ECF No. 1 at 5–6].

II. DISCUSSION

On these precise facts, Petitioner is an "arriving alien" under Section 1182 of the INA and is not entitled to a bond hearing. Unlike the other cases in this District, Petitioner has been detained pursuant to Section 212(a)(7)(A)(i)(I) of the INA as an "arriving alien" from the very beginning. [*Compare* ECF No. 6-1 at 4, *with Ocampo Fernandez v. Ripa*, No. 1:25-cv-24981-DSL, ECF No. 17 at 14–15 (S.D. Fla. Nov. 25, 2025) ("The August 2022 Notice to Appear did not classify Petitioner as 'an arriving alien' but rather one 'present in the Untied States who has not been admitted or paroled.'")]. An "arriving alien" for INA purposes is one who "at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the [INA], and a valid unexpired passport, or other suitable travel document . . . ." [ECF No. 6-1 at 4]; *see also* 8 U.S.C. § 1182(a)(7). An alien properly characterized as one "under section 1182(a)(6)(C) or 1182(a)(7)" by an immigration officer shall be removed from the United States "without further hearing or review unless the alien indicates either an intention to apply for asylum under section 1158 of [the INA] or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(i). Here, the Notice to Appear classified Petitioner as an "arriving alien," not an alien "present in the United States who has not been admitted or paroled." [ECF No. 6-1 at 1]. This difference is important.

Petitioner does not claim anywhere that he is in fear of persecution in Nicaragua. [*See generally* ECF No. 1]. While Petitioner has a pending application for asylum [*id.* ¶ 7; ECF No. 1-1 at 6–7], this

does not bear on the ultimate question of entitlement to a bond hearing; rather it bears solely on the ultimate question of *removal*. *See* 8 U.S.C. § 1225(b)(1)(A)(i). Petitioner's requested relief is only *to obtain a bond hearing*, and he may still be detained while any application for asylum is pending. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 111 (2020) ("Applicants who are found to have a credible fear may also be detained pending further consideration of their asylum applications." (first citing 8 U.S.C. § 1225(b)(1)(B)(ii); then citing *Jennings v. Rodriguez*, 583 U.S. 281, 277–78 (2018))). Therefore, Petitioner is properly detained without a bond hearing pursuant to Section 1225(b).

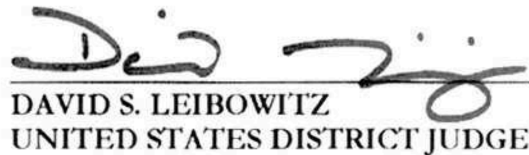
The fact that Petitioner was initially paroled under the Nicaraguan Humanitarian Parole program when he entered the United States in September 2023 and was apprehended two years later in the United States by ICE does not change this conclusion. The case of *Garcia v. United States*, No. 25-cv-1053, 2025 WL 3537592 (M.D. Fla. Dec. 10, 2025) is persuasive on this point. There, the petitioner had been apprehended at the border in 2021 but had an active asylum application. *Id.* at *1. Although the petitioner spent time in the United States after being released on an order of recognizance and was eventually re-apprehended, this did not change the initial classification as an "arriving alien" at the border. *See id.* (quoting *Jennings*, 583 U.S. at 288 ("[W]hen the purpose of the parole has been served, 'the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.'")). Here, the "purpose of the parole has been served," so Petitioner is classified under the same legal status as when he first entered the United States in 2023. *See Jennings*, 583 U.S. at 297. Therefore, Petitioner's initial release on parole "shall not be regarded as an admission of the alien," and did not change his status an "arriving alien." *See Jennings*, 583 U.S. at 288. He is subject to mandatory detention and is not entitled to a bond hearing.

III. CONCLUSION

Accordingly, upon due consideration it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Petition [**ECF No. 1**] is **DENIED**.
2. The ***Clerk*** is **DIRECTED** to **CLOSE** this case. All deadlines are **TERMINATED**, and any pending motions are **DENIED** as moot.
3. The ***Clerk*** is further **DIRECTED** to mail a copy of this Order to Petitioner.

DONE AND ORDERED in the Southern District of Florida on February 4, 2026.



DAVID S. LEIBOWITZ
UNITED STATES DISTRICT JUDGE

cc: counsel of record
Silvio Eliezer Duran Orozco

A#
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