

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ZAVALA ULLOA, JESUS YAHIR,

Petitioner,

v.

JAMISON, J.L., Warden, Federal Detention
Center, Philadelphia, *et al.*,

Respondents.

Civil Action No. 2:26-cv-00813-KSM

Reply

**PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO THE
PETITION FOR WRIT OF HABEAS CORPUS**

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INTRODUCTION

The U.S. Department of Homeland Security (“DHS”) detained Jesus Yahir Zavala Ulloa on February 6, 2026, in Philadelphia, Pennsylvania, over one year after his initial parole had expired. Respondents commit the same error that this Court and federal district courts across the country have repeatedly addressed over the past year: they gloss over the specific, present-facing language of 8 U.S.C. § 1225(b) to argue that anyone who has not yet effectuated an “admission,” 8 U.S.C. § 1101(a)(13)(A), including Jesus, is subject to mandatory detention. But because Jesus was neither “arriving” nor “seeking admission” at the time DHS re-detained him on February 6, 2026, he is not subject to mandatory, Section 1225(b)-detention.

Regardless of which statute authorizes Jesus’s current detention, he is due additional process. Civil immigration detention is permissible only to prevent danger to the community and reduce risk of flight. DHS once released Jesus into the U.S.-interior because he presented no such risks. It then re-detained him over two years later, even though Jesus had proven during his time at liberty that he had no intention of evading his removal proceedings and presented no threat. There was no constitutional purpose for Jesus’s re-detention. DHS’s re-detention of Jesus without any individualized assessment of flight or danger risks violates his substantive and procedural due process rights.

Jesus’s entitlement to additional process is not extinguished even if this Court concludes he is subject to Section 1225(b) detention. As the Supreme Court has long reminded, “Once a [noncitizen] enters the country, the legal circumstances change, for the Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

ARGUMENT

I. JESUS IS DETAINED UNDER 8 U.S.C. § 1226(A).

a. Jesus Was Not an “Arriving” Noncitizen When DHS Re-Detained Him.

Respondents assert that Jesus’s “petition is distinguishable from the numerous petitions recently considered by this Court” because he “was initially processed for expedited removal.” Resp’ts’ Opp’n at 2.¹ Not so. Respondents’ proposed disparity is a distinction without a difference. 8 U.S.C. § 1225(b)’s reference to present tense actions, Supreme Court precedent, and DHS’s treatment of Jesus all demonstrate that he—like the many other noncitizens who have recently sought relief—does not fall under a mandatory detention category. Multiple judges in this District have—as Respondents pointed out in their reply—agreed that noncitizens in similar positions to Jesus are not mandatorily detained. *See, e.g.*, Order, *Vasquez Diaz v. Rose*, No. 26-cv-342, ECF No. 7 at 1 n.1 (E.D. Pa. Feb. 10, 2026) (Gallagher, J.); Order, *Pkhaladze v. Rose*, No. 26-cv-509, ECF No. 9 at 1 n.1, 2 n.3 (E.D. Pa. Feb. 10, 2026) (Leeson, Jr., J.);² Order, *Talabadze v. Rose*, No. 26-cv-360, ECF No. 10 at 1 n.1 (E.D. Pa. Jan. 30, 2026) (Perez, J.); *Vasquez-Rosario v. Noem*, No. 25-cv-7427, 2026 WL 196505, at *6–9 (E.D. Pa. Jan. 26, 2026) (Kenney, J.); Order, *Sadykov v. Rose*, No. 26-cv-86, ECF No. 10 at 2 n.2 (E.D. Pa. Jan. 16, 2026) (Younge, J.) (collecting cases).

Section 1225(b) covers detention for two categories of noncitizens. Section 1225(b)(1) mandates the detention of noncitizens “arriving in the United States,” who are subsequently processed for expedited removal. Section 1225(b)(2)(A), meanwhile, mandates the detention of noncitizens who are “applicant[s] for admission” and “seeking admission.” Both categories of

¹ ECF-labeled pagination is referenced throughout this reply.

² Jesus’s case appears factually indistinguishable from *Pkhaladze*. In granting *Pkhaladze* and ordering the noncitizen’s immediate release, Judge Leeson, Jr. relied in large part on Judge Kenney’s opinion in *Vasquez-Rosario*.

detention are premised on present-tense actions. *See Alvarez Ortiz v. Freden*, --- F. Supp. 3d ---, 2025 WL 3085032, at *6 (W.D.N.Y. Nov. 4, 2025) (the use of present participles “necessarily implies some sort of present-tense action[s]” (quoting *Martinez v. Hyde*, 792 F. Supp. 3d 211, 218 (D. Mass. 2025))). Noncitizens fall under Section 1225(b)-detention only if they are “arriving in the United States,” 8 U.S.C. § 1225(b)(1), or are “seeking admission,” 8 U.S.C. § 1225(b)(2)(A).

Jesus was not an arriving noncitizen when DHS re-detained him on February 5, 2026. He had, by that point, “already arrived . . . and ha[d] . . . been present in the United States for over [two] year[s].” *Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098, at *6 (S.D.N.Y. Dec. 17, 2025). To “[a]rrive” means “‘to reach a destination’ or ‘to make an appearance.’” *Id.* (quoting *Arrive*, Merriam-Webster’s Collegiate Dictionary (1996)); *see also id.* (noting that the Immigration and Nationality Act “does not itself define the phrase ‘arriving in the United States,’” compelling courts to identify the phrase’s “plain meaning”) (citing *Encino Motorcars, LLC v. Navarro*, 584 U.S. 79, 85 (2018)). 8 C.F.R. § 1.2 defines, *inter alia*, an “arriving” noncitizen as someone “coming or attempting to come into the United States at a port-of-entry.” The words “‘arriving,’ ‘arrival,’ and ‘arrive’ in Section 1225” therefore “refer to a process that occurs upon physical entry into the United States, ‘not an interminable . . . status’ that attaches to a noncitizen upon arrival.” *Id.* (quoting *Coal. for Humane Immigrant Rts. v. Noem*, 805 F. Supp. 3d 48, 90 (D.D.C. 2025)). Jesus was plainly not “arriving” at a port-of-entry when DHS re-detained him in Philadelphia on February 6, 2026. *See Vasquez-Rosario*, 2026 WL 196505, at *9 (“At the time of Vasquez-Rosario’s arrest outside of his home in Philadelphia on December 31, 2025, he was not ‘in the process of arriving’ in the United States.’ . . . To the contrary, he had been residing here for over three years.”).

The Supreme Court’s discussion of Sections 1225(b) and 1226(a) detention in *Jennings v. Rodriguez* solidifies this reading of the statutes. *See* 583 U.S. 281 (2018). The Court explained that Section 1225 applies to “certain [noncitizens] seeking admission into the country,” *id.* at 289, while Section 1226 is the “default rule” that “applies to [noncitizens] already present in the United States,” *id.* at 303. For someone like Jesus who was “already in the country” at the time of his re-detention, *id.* at 289, and “ha[d] been residing in this country for more than two years,” *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 491 (S.D.N.Y. 2025), Section 1226(a) applies.

DHS’s past interactions with Jesus further confirm that he is detained under Section 1226(a). After processing Jesus through the expedited removal procedures, DHS issued Jesus a Notice to Appear to initiate regular removal proceedings. *See* ECF No. 6-2. At that time, DHS had three options to categorize Jesus’s case. It could have designated Jesus as “an arriving [noncitizen].” *See id.* at 2 (checkboxes at the top of the Notice to Appear allowing for DHS categorization). DHS chose to designate Jesus as “a[] [noncitizen] present in the United States who has not been admitted or paroled,” rendering him no longer an “arriving” noncitizen. *Id.*; *see also Martinez*, 792 F. Supp. 3d at 219 (explaining the significance of the checkboxes on notices to appear). Its decision to charge Jesus under both 8 U.S.C. § 1182(a)(7)(A)(i)(I), as a noncitizen without a valid entry document at the time of application for admission; and 8 U.S.C. § 1182(a)(6)(A)(i), as a noncitizen “present in the United States without being admitted or paroled, or who has arrived in the United States at any time or place other than as designated by the Attorney General” also shows that DHS no longer treated Jesus as an arriving noncitizen. ECF No. 6-2 at 2; *see also Vasquez-Rosario*, 2026 WL 196505, at *5 (discussing the Section 1182(a)(6)(A)(i) charge of removability).

The Notice to Appear further “vacated” the previous expedited removal order. *See* ECF No. 6-2 at 2 (checking off a box that says the previous “Section 235(b)(1) order” has been vacated pursuant to 8 C.F.R. § 208.30). The Notice to Appear thus supersedes the previous expedited removal order’s designation of Jesus as an “arriving” noncitizen and its finding that he is inadmissible from the United States. *See* ECF No. 6-1 at 2. The Notice to Appear’s designation of Jesus as a noncitizen “present in the United States who has not been admitted or paroled” places him squarely within *In re Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)’s ambit. *See* Order, *Pkhaladze*, No. 26-cv-509, ECF No. 9 at 2 n.3; *see also* *Rodrigues Pereira v. O’Neill*, No. 25-cv-6543, 2025 WL 3516665, at *3 (E.D. Pa. Dec. 8, 2025) (explaining the *Yajure Hurtado* cases).

b. Jesus’s Past Parole into the U.S.-Interior Does Not Affect the Analysis.

Respondents argue that Jesus’s past parole into the U.S.-interior changes his custody determination and subjects him to mandatory detention under 8 U.S.C. § 1225(b)(1)(A)(iii)(II). *See* Resp’ts’ Opp’n at 12 (contending that Jesus was returned to Section 1225(b)(1)(A)(iii)(II)-detention because he was once paroled into the U.S.-interior and had to have been “returned to the custody from which he was paroled”) (emphasis removed)). Respondents’ assertions defy both the facts of Jesus’s case and Section 1225(b)(1)(A)(iii)(II)’s text.

DHS did not re-detain Jesus at the conclusion of his parole. Jesus’s parole—as Respondents acknowledge—expired on December 19, 2024, one year after its issuance. *See* ECF No. 6-3 at 2 (“Your parole authorization is valid for one year . . . and will automatically terminate . . . at the end of the one-year period unless ICE provides you with an extension at its discretion.”). Because DHS did not re-detain Jesus when his parole expired, its subsequent detention of him did not “return” him “to the custody from which he was paroled.” Resp’ts’ Opp’n at 12 (quoting 8 U.S.C. § 1182(d)(5)(A)).

DHS’s re-detention of Jesus in February 2026, over one year after his parole expired, places his detention—like the thousands of recent habeas petitions across the country—within regular immigration enforcement. *See Vasquez-Rosario*, 2026 WL 196505, at *8. The detention that accompanies such enforcement is Section 1226(a). *See Qasemi*, 2025 WL 3654098, at *11 (“Section 1182(d)(5)(A) suggests that rather than reverting to any prior status, a noncitizen whose parole has expired is treated like the vast majority of undocumented immigrants currently living in this country who are not subjected to expedited removal.”) (quoting *Rodriguez-Acurio v. Almodovar*, --- F. Supp. 3d ---, 2025 WL 3314420, at *17 (E.D.N.Y. Nov. 28, 2025)); *see also*, e.g., *Ivonin v. Rhoney*, No. 25-cv-6673, 2026 WL 199283, *4 (W.D.N.Y. Jan. 26, 2026) (“[W]here a petitioner’s re-arrest was not a continuation of the initial border encounter, but an independent decision to detain the individual after the expiration of his parole, the detention pursuant to that re-arrest arises under § 1226.”).

Section 1225(b)(1)(A)(iii)(II)’s text confirms this result. The provision mandates detention for noncitizens who have (1) “not been admitted or paroled into the United States” or (2) “not affirmatively shown” that they have “been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility.” Removing the negative, “the statute states that if a noncitizen has *either* been ‘admitted or paroled,’ or has been continuously in the United States for ‘a two-year period prior to a determination of inadmissibility,’ the noncitizen is not subject to expedited removal (and the accompanying mandatory detention regime of Section 1225(b)(1).” *Qasemi*, 2025 WL 3654098, at *7 (emphasis in original).

Jesus does not fall under either of these clauses. First, he has been paroled. Courts have found that noncitizens, like Jesus, who have been paroled are not subject to mandatory detention

under Section 1225(b)(1)(A)(iii)(II), even if that parole expires. *Vasquez-Rosario*, 2026 WL 196505, at *7–8 (collecting cases and holding that Section 1225(b)(1)(A)(iii)(II) “does not authorize mandatory detention of aliens who have been paroled into the United States for years”). Second, Jesus has “been physically present in the United States” for more than two years since his arrival in 2023. 8 U.S.C. § 1225(b)(1)(A)(iii)(II). And his inadmissibility has not yet been determined. *See* ECF No. 6-2 at 2 (charging Jesus with two grounds of inadmissibility); ECF No. 1-2 at 2 (showing that Jesus has a scheduled individual hearing on August 25, 2027, where an immigration judge will adjudicate the charges of inadmissibility); *see also Riley v. Bondi*, 606 U.S. 259, 267 (2025) (a determination of inadmissibility is made when the Executive Office of Immigration Review issues a final order of removal). Jesus’s over two years of physical presence in the United States means he does not fit the statutory text of 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

* * *

Ultimately, although Respondents assert that this case is distinct from *Yajure Hurtado*, they present the same arguments that courts across this country have rejected several thousand times over:³ the idea that anyone who enters the United States without inspection is subject to mandatory detention. *See* Resp’ts’ Opp’n at 9–10. Respondents cite *In re M-S-*, 27 I. & N. Dec. 509 (AG 2019) and *In re Q Li*, 29 I. & N. Dec. 66 (BIA 2025), for support, suggesting that those two cases compel a different result from the *Yajure Hurtado* cases. But both *M-S-* and *Q. Li* rely on the same overbroad interpretation of 8 U.S.C. § 1225(b) as *Yajure Hurtado*. All three decisions are predicated on the view that noncitizens who have not been “admitted,” 8 U.S.C. § 1101(a)(13)(A),

³ *See* Nate Raymond, Kristina Cooke & Brad Heath, *Courts Have Ruled 4,400 Times that ICE Jailed People Illegally. It Hasn’t Stopped*, <https://www.reuters.com/legal/government/courts-have-ruled-4400-times-that-ice-jailed-people-illegally-it-hasnt-stopped-2026-02-14/> (Feb. 14, 2026).

are subject to mandatory detention. *Yajure Hurtado* therefore sweeps in previous agency cases like *M-S-* and *Q. Li* because it covers all noncitizens who have not been admitted into the country, which includes those who were paroled (*Q. Li*) or those who were initially processed through expedited removal (*M-S-*).

II. JESUS IS DUE ADDITIONAL PROCESS UNDER EITHER DETENTION STATUTE.

Jesus is due additional process under either detention provision because DHS re-detained him without considering whether his detention serves the limited purposes authorized for civil immigration detention: reducing flight risk or preventing danger to the community. As argued in his petition, Respondents violated Jesus's substantive due process rights by re-detaining him without considering those limited interests. *See* Pet. for Writ of Habeas Corpus ¶¶ 43–45, 62–64. Respondents have not shown, and there are no facts to support, that Jesus is a flight risk or danger to his community. *See Zadvydas*, 533 U.S. at 690. And Respondents violated Jesus's procedural due process rights by applying procedures that create an unacceptably high risk of an erroneous deprivation of the “most significant liberty interest there is—[Jesus's] interest in being free from imprisonment.” *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)); *see also* Pet. for Writ of Habeas Corpus ¶¶ 46–50, 65–69.

Jesus is due additional process even if he is detained under 8 U.S.C. § 1225(b) because he has a protected liberty interest against his re-detention absent any change in circumstances. Respondents once released Jesus on parole and did not re-detain him until more than one year after his parole had expired. *See* ECF No. 6-3 at 2. Jesus's prior release “created a reasonable expectation that he would be entitled to retain his liberty so long as he was not a flight risk or danger.” *Sharon S. v. Chestnut*, No. 25-cv-1427, 2025 WL 3167826, at *8 (E.D. Cal. Nov. 12, 2025); *cf. Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972) (governmental representations may establish a legitimate claim of entitlement to a constitutionally-protected interest). Even if Section

1225(b) authorizes Jesus’s current detention, he maintains “a protected liberty interest based on the government’s prior representation to him” that he merited release on parole, “combined with the [more than two] year[s] he spent at liberty while relying on that representation.” *Id.*; cf. *Morrissey v. Brewer*, 408 U.S. 471, 487–88 (1972) (a parolee must receive “an opportunity for a hearing . . . prior to the final decision on revocation by the parole authority”).

Respondents rely on *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537 (1950), *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), *Landon v. Plasencia*, 459 U.S. 21 (1982), and *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), to assert that if Jesus is detained under Section 1225(b), he is due no process at all. *See* Resp’ts’ Opp’n at 15. But none of Respondents’ cases concerned a challenge, like Jesus’s, against DHS’s re-detention of a noncitizen who was once released. And the through line for those cases is that a noncitizen has “only those rights *regarding admission* that Congress has provided by statute.” *Thuraissigiam*, 591 U.S. at 140 (emphasis added). Respondents acknowledge as much when they cite that same quote from *Thuraissigiam*. Resp’ts’ Opp’n at 15.

Because all of Respondents’ cases involved noncitizens claiming entitlement to some process connected to their “attempt[] to enter the United States,” they do not foreclose Jesus’s claim for some process against detention under 8 U.S.C. § 1225(b). *Sharan S.*, 2025 WL 3167826, at *8; *see also Knauff*, 338 U.S. at 543 (“[I]t is not within the province of any court . . . to review the determination of the political branch of the Government to *exclude* a given [noncitizen]” (emphasis added)); *Mezei*, 345 U.S. at 212 (noncitizens “on the threshold of initial entry” have only “the procedure authorized by Congress,” but noncitizens “who have once passed through our gates, even illegally,” are entitled “to traditional standards of fairness encompassed in due process of law” (cleaned up)); *Plasencia*, 459 U.S. at 32 (a noncitizen “*seeking initial admission* . . . has

no constitutional rights regarding his application” (emphasis added)); *Thuraissigiam*, 591 U.S. at 140 (a noncitizen attempting to enter the country “has only those rights *regarding admission* that Congress has provided by statute” (emphasis added)).

Jesus’s access to process thus differs in two critical ways from the noncitizens in *Knauff*, *Mezei*, *Plasencia*, and *Thuraissigiam*. First, his petition does not contest the Executive’s decision to exclude him from the United States. Indeed, the Executive has expressly decided *not* to exclude him from the United States at this time because it determined that Jesus has a credible fear of returning to Mexico. *See* ECF No. 6-2. Jesus has process to contest his active detention pending the Executive’s review of his exclusion proceedings and pending asylum application. Second, because Jesus was previously released into the U.S.-interior, he has a protected interest in preserving that liberty. *See Sharan S.*, 2025 WL 3167826, at *8. For the government to extinguish this protected interest, it must afford Jesus some notice “by the factfinders as to the evidence relied on and reasons for revoking parole.” *Morrissey*, 408 U.S. at 489; *see also Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1019 (2025) (statement of Sotomayor, J.) (indicating that the government must provide “notice and an opportunity to be heard” prior to re-detention and removal). At bottom, “once a [noncitizen] enters the country, the legal circumstances change, for the Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. Jesus is entitled to that well enshrined right regardless of the detention statute he falls under.

CONCLUSION

For the foregoing reasons and those stated in his Petition for a Writ of Habeas Corpus, Jesus respectfully requests this Court grant his petition and order Respondents to release him from their custody.

//

//

Respectfully submitted,

Dated: Feb. 17, 2026
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Petitioner's Reply to Respondents' Opposition to Petition for Writ of Habeas Corpus on February 17, 2026, via this Court's CM/ECF system and service will be completed on counsel for Respondents via the CM/ECF system.

//

Dated: Feb. 17, 2026
Philadelphia, PA

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