UNITED STATES DISTRICT COURT
FOR DISTRICT OF COLORADO

YAISEL RAMON ZEQUERA RAMIREZ,
Plaintiff,

Case No.1:26-cv-00819-SBP

v.

KRISTI NOEM, SECRETARY OF THE
U.S. DEPARTMENT OF HOMELAND SECURITY;
PAMELA BONDI,
ATTORNEY GENERAL OF THE UNITED STATES;
TODD M. LYONS, ACTING DIRECTOR OF
IMMIGRATION AND CUSTOMS ENFORCEMENT;
JUAN BALTAZAR
WARDEN OF THE DENVER CONTRACT ICE DETENTION
CENTER;
ROBERT GAUDIAN, FIELD OFFICE
DIRECTOR FOR ENFORCEMENT AND REMOVAL
OPERATIONS,
U.S. DEPARTMENT OF HOMELAND SECURITY;
IN THEIR OFFICIAL CAPACITIES,

Defendants,

REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I. Issue Presented

Whether Petitioner-who was detained by U.S. Immigration and Customs Enforcement while present in the United States without having been admitted-is detained pursuant to 8 U.S.C. § 1225(b) (mandatory detention) as Respondents contend, or pursuant to 8 U.S.C. § 1226(a) (discretionary detention with access to a bond hearing) as the Petition alleges.

II. Governing Legal Rules (as relevant here)

A. Section 1226(a) provides for discretionary detention and bond hearings

Section 1226(a) authorizes the Attorney General to arrest and detain certain noncitizens pending removal proceedings and also authorizes release on bond or conditional parole. Johnson v. Arteaga-Martinez, 596 U.S. 573, 142 S. Ct. 1827 (2022).

Federal regulations provide that noncitizens detained under § 1226(a) receive bond hearings after the Government initially detains them. Johnson v. Arteaga-Martinez, 596 U.S. 573, 142 S. Ct. 1827 (2022).

B. Jennings v. Rodriguez, 583 U.S. 281, 138 S. Ct. 830 (2018): narrow holding relevant to statutory text, not a command to apply § 1225(b) in every "present but not admitted" case

Jennings rejected reading § 1226(a) to require additional, court-imposed procedures beyond the initial bond hearing contemplated by existing regulations (e. g. , periodic six-month hearings and a clear-and-convincing burden on the Government), because nothing in § 1226(a)'s text supports those added requirements. Johnson v. Arteaga-Martinez, 596 U.S. 573, 142 S. Ct. 1827 (2022). Jennings also described that a noncitizen who "is present" but "has not been admitted" is treated as an "applicant for admission," and it read §§ 1225(b)(1) and (b)(2) as mandating detention of "applicants for admission" until certain proceedings conclude. Jennings v. Rodriguez, 583 U.S. 281, 138 S. Ct. 830 (2018).

III. Application: This Court Should Follow Recent District of Colorado Decisions Applying § 1226(a) and Order a Bond Hearing

A. District of Colorado has repeatedly granted § 1226(a) bond-hearing relief in materially similar habeas cases

Respondents concede the central legal issue here is the same issue this Court has already resolved in a prior District of Colorado case (Merchan-Pacheo v. Noem, Civil Action No. 1:25-cv-03860-SBP, 2026 U.S. Dist. LEXIS 5493 (D. Colo. Jan. 12, 2026), 25-cv-03860-SBP), and they further concede the facts are not materially distinguishable for purposes of the § 1225(b) versus § 1226(a) question. ,.

That concession is dispositive as a matter of intra-district consistency and judicial efficiency: absent controlling Tenth Circuit authority to the contrary, this Court should adhere to its own recent approach and grant the same form of relief here.

Respondents' own filing identifies a consistent remedial thread in this District's recent decisions: when the court determines § 1226(a) governs, the appropriate relief is an order directing a bond hearing before an immigration judge, not immediate release.

Thus, even on Respondents' framing of District of Colorado practice, the proper course if the Court rejects § 1225(b) is straightforward: order a prompt § 1226(a) bond hearing.

B. The narrowest defensible reading of Jennings does not mandate Respondents' § 1225(b) position in this District

Respondents invoke Jennings for the proposition that present but not admitted noncitizens are applicants for admission and that §§ 1225(b)(1) and (b)(2) mandate detention of applicants for admission. ,.

But Jennings's clear statutory holding about § 1226(a) is that courts may not rewrite § 1226(a) to impose extra procedures (like periodic hearings and heightened burdens) not found in the text. Johnson v. Arteaga-Martinez, 596 U.S. 573, 142 S. Ct. 1827 (2022).

That holding does not answer the antecedent question presented here-which detention statute applies-and it certainly does not foreclose District of Colorado's approach of ordering the bond hearing that the § 1226(a) regulations already provide.

In other words, even accepting Jennings's textual limits, the relief Petitioner seeks in this District-access to the initial § 1226(a) bond hearing contemplated by regulation-is consistent with Jennings's insistence that courts adhere to the statutory text and existing regulatory scheme, rather than inventing new procedures.

C. Respondents' reliance on Buenrostro-Mendez is unpersuasive in this forum because it is non-binding and conflicts with this District's consistent approach

Respondents' principal supporting authority is a Fifth Circuit decision, Buenrostro-Mendez v. Bondi, 166 F.4th 494 (5th Cir. 2026), which they acknowledge is not a Tenth Circuit decision and is offered in the face of contrary District of Colorado rulings. ,.

Because the Tenth Circuit has not ruled, this Court should follow the line of District of Colorado decisions it has already applied (including this Court's own prior ruling) rather than adopting an out-of-circuit approach that this District has repeatedly rejected.

Respondents also acknowledge that a District of Colorado decision rejecting their position has been appealed and remains pending in the Tenth Circuit (Mendoza Gutierrez v. Baltazar, No. 25-1460).

That pending appeal is a reason to preserve the status quo in this District-continuing to apply the District's existing approach-until the Tenth Circuit provides controlling guidance.

IV. Statutory Construction: The Court Should Apply the Statute that Provides the Bond-Hearing Framework for Detention Pending Removal Proceedings

Section 1226(a) is the provision that expressly contemplates detention "pending" a decision on removal and expressly authorizes release on bond or conditional parole, with bond hearings provided at the outset by regulation. Johnson v. Arteaga-Martinez, 596 U.S. 573, 142 S. Ct. 1827 (2022).

By contrast, Respondents' position would categorically foreclose the § 1226(a) bond-hearing framework for a class of people who are physically present in the United States but not admitted, even though § 1226(a) is the statute that, by its terms, supplies the bond mechanism and the implementing regulations supply the hearing.

At minimum, where (as here) Respondents concede the issue is the same as in this Court's prior District of Colorado ruling and the facts are not materially distinguishable, the better reading in this forum is the one that harmonizes detention authority with the bond-hearing mechanism Congress and the regulations expressly provide in § 1226(a).

V. Remedy and Scope of Relief

A. The Court should order a prompt § 1226(a) bond hearing; and in the alternative immediate release if Respondent do not comply with the bond hearing

Respondents argue that if the Court determines § 1226(a) applies, the appropriate relief is to direct a bond hearing before an immigration judge and not to order immediate release. ,. Petitioner disagrees, consistent with this District's recent practice identified by Respondents, the proper relief is an order requiring a prompt § 1226(a) bond hearing before an immigration judge, and however if Respondents do not comply the court should order immediate release and any other relief the court considers just and proper.

B. The Court should not adopt Respondents' request to foreclose consideration of other claims as a condition of granting relief

Respondents ask the Court to treat the § 1225(b)(2)(A) issue as dispositive and to decline to address additional arguments.

Petitioner does not oppose resolving the case on the narrowest ground necessary, but Petitioner also preserves all arguments and requests that any order granting relief make clear it is without waiver of any additional statutory or constitutional claims should further relief later become necessary.

C. Timing and reporting

If the Court grants relief, it may adopt Respondents' proposed administrative framework-ordering a bond hearing within seven days and a status report within seven days after the hearing-because that schedule is consistent with prompt habeas relief and Respondents themselves propose it.

VI. Procedural Posture and Magistrate Judge Authority

The parties have consented to proceed before a full-time United States Magistrate Judge under D.C.COLO. LCivR 40.1(c), and the Court may enter final judgment.

Given Respondents' express reservation of appellate rights and the pending Tenth Circuit appeal on the same issue, the Court's order should be tightly reasoned and grounded in this District's consistent approach and the limited, text-based holdings of Jennings.

VII. Conclusion

Because Respondents concede this Court has already ruled on the same issue in a materially indistinguishable District of Colorado case, the Court should reject Respondents' § 1225(b) theory in this case as well and grant the Petition to the extent of ordering a prompt bond hearing under 8 U.S.C. § 1226(a) before an immigration judge, with an appropriate status report thereafter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 6, 2026, the foregoing response was electronically filed with the clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted

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