UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

YITZELKA MENDOZA-GOMEZ

Petitioner

V. Case No. 1:26-cv-00831-TPO

[redacted]

WARDEN, et al.;

Defendants-Respondents

_____/

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I. Introduction

Respondents' response confirms that this case is controlled by this Court's prior ruling on the same legal issue. Respondents acknowledge that the facts here are not materially distinguishable from that prior case and that, if this Court adheres to its prior reasoning, Petitioner is entitled to relief. *See* Resp'ts' Resp. at 2, ECF No. 9.

Because Petitioner was previously released under 8 U.S.C. § 1226(a) and later re-detained, her detention is governed by § 1226—not § 1225—and she is entitled to a bond hearing. Respondents' concession that the facts are not materially distinguishable from this Court's prior ruling effectively resolves the statutory question in Petitioner's favor.

II. Petitioner Was Previously Released Under § 1226(a)

The Court specifically directed the parties to address the statutory basis for Petitioner's prior release. Respondents now concede and agree that Petitioner was released on her own recognizance pursuant to 8 U.S.C. § 1226(a). *See* Resp'ts' Resp. at 2, ECF No. 9.

That concession is dispositive. Release under § 1226(a) reflects a determination that Petitioner was subject to the post-arrest detention framework governing individuals already present in the United States—not the inspection-based framework of § 1225. That prior release confirms that Petitioner was processed under the post-entry detention framework of § 1226, not the inspection-based framework of § 1225.

III. Re-Detention Does Not Convert § 1226 Custody Into § 1225 Mandatory Detention

Respondents argue that DHS may revoke release and re-detain Petitioner. That is true—but irrelevant.

The statutory authority to re-detain arises under § 1226 itself. See 8 U.S.C. § 1226(a) (authorizing arrest and detention pending a decision on removal). The statute does not authorize DHS to convert a § 1226 detention into § 1225 mandatory detention simply through re-arrest.

Courts within this District and Circuit have already rejected that position. As Respondents acknowledge, this Court has previously held that individuals in Petitioner's position are governed by § 1226 rather than § 1225, and Respondents concede that the facts here are not materially different. See, e.g., *Garcia Cortes v. Noem*, 2025 WL 2652880, at *4 (D. Colo. Sept. 16, 2025); *Garcia Abanil v. Baltazar*, --- F. Supp. 3d ----, 2026 WL 100587,

at *6–7 (D. Colo. Jan. 14, 2026); *See, e.g., Velasquez Salazar v. Dedos*, 806 F. Supp. 3d 1231, 1241 (D.N.M. 2025) (describing the process owed under § 1226 as "an individualized bond hearing before an [immigration judge]).

There is no basis to depart from that reasoning here.

IV. Respondents' Reliance on Out-of-Circuit Authority Does Not Alter This Court's Prior Ruling

Respondents rely on decisions from the Fifth and Eighth Circuits adopting a broader interpretation of § 1225. *See* Resp'ts' Resp. at 2, ECF No. 9. But those decisions are not binding in this Circuit. The Tenth Circuit has not adopted that interpretation, and an appeal on this issue remains pending. This Court has already considered and rejected Respondents' position. Nothing in Respondents' abbreviated response warrants revisiting that determination.

V. Petitioner Is Entitled to a Bond Hearing

If the Court determines that Petitioner is detained under § 1226(a), the appropriate relief is a bond hearing before an immigration judge. Respondents concede as much.

Petitioner respectfully requests that the Court order such a hearing within a fixed and brief period.

VI. Due Process Independently Requires a Custody Determination

Even apart from the statutory analysis, detention without a meaningful opportunity for individualized review raises serious constitutional concerns. The Due Process Clause requires that a noncitizen be afforded a meaningful opportunity to challenge continued

detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Mathews v. Eldridge,* 424 U.S. 319, 335 (1976). Because Petitioner has not been afforded a bond hearing, her continued detention violates due process.

VII. Conclusion and Relief Requested

This case does not present a novel question. This Court has already rejected Respondents' position on materially indistinguishable facts, and Respondents effectively concede that outcome controls here. See Resp'ts' Resp. at 4, ECF No. 9. No further analysis is required.

Petitioner was released under 8 U.S.C. § 1226(a), later re-detained, and has never received a custody determination. Under this Court's prior rulings and the governing statutory framework, her detention must be treated as arising under § 1226(a). The only remaining question is remedy.

A bond hearing delayed is no remedy at all. Petitioner has already been detained for weeks without any individualized review, despite full compliance with ICE prior to detention. There is no justification for further delay.

Accordingly, the Petitioner respectfully requests that this Court grant the Petition and order Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within five (5) days, with the burden set upon the Respondents by clear and convincing evidence to show detention is warranted by danger or flight risk, and for such other relief as the Court deems appropriate.

Date: March 29, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 29, 2026, I filed the foregoing PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS using the Court's CM/ECF system, which will serve all counsel of record who are registered CM/ECF users.

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