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7 UNITED STATES DISTRICT COURT
8
9 SOUTHERN DISTRICT OF CALIFORNIA

10 RAMIRO OSORIA HERRERA,,
11

12 Plaintiff,
13

14 vs.
15

16 CHRISTOPHER LAROSE, WARDEN,
17 RESPONDENT, ET. AL
18

19 Defendant
20

Case No.: 3:26-CV-02348

PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE TO PETITION
FOR WRIT OF HABEAS CORPUS AND
RESPONSE TO COURT'S MAY 5, 2026
MINUTE ORDER

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24 Petitioner Ramiro Osoria Herrera ("Petitioner"), by and through undersigned counsel Jesse
25 Blanco, respectfully submits this Reply to Respondents' Opposition and responds to the Court's
26 May 5, 2026 Minute Order directing briefing on whether Petitioner, as a lawful permanent
27 resident ("LPR"), should be treated as an applicant for admission pursuant to 8 U.S.C. §§
28 1101(a)(13)(C) and 1182(a)(2)(H), thereby allegedly rendering him subject to mandatory
detention under 8 U.S.C. § 1225(b)(2).

I. INTRODUCTION

Respondents contend that Petitioner, despite his long-standing lawful permanent resident status and substantial ties to the United States, should be treated as an arriving alien seeking admission under INA § 101(a)(13)(C), 8 U.S.C. § 1101(a)(13)(C), and consequently detained under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). Respondents' argument improperly expands the narrow statutory exceptions applicable to lawful permanent residents and ignores constitutional limitations recognized by the Supreme Court and the Ninth Circuit concerning prolonged detention without individualized process.

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1 Even assuming arguendo that Petitioner was initially detained pursuant to § 1225(b), the
2 Government cannot constitutionally continue to detain him indefinitely without an individualized
3 custody determination before a neutral adjudicator. Petitioner has now endured prolonged
4 detention while actively pursuing relief in removal proceedings. The Due Process Clause
requires a bond hearing where the Government bears the burden of proving by clear and
convincing evidence that continued detention is justified.

5 Petitioner respectfully requests that this Court order Respondents to provide an individualized
6 bond hearing before an Immigration Judge, or alternatively order Petitioner released on
reasonable conditions or his own recognizance pending completion of removal proceedings.

7 8 9 II. PETITIONER'S STATUS AS A LAWFUL PERMANENT RESIDENT LIMITS THE 10 GOVERNMENT'S AUTHORITY TO TREAT HIM AS AN APPLICANT FOR ADMISSION

11 Lawful permanent residents returning from temporary travel abroad are generally not regarded as
12 applicants for admission. Congress codified this principle in 8 U.S.C. § 1101(a)(13)(C), which
provides that an LPR "shall not be regarded as seeking an admission into the United States"
unless one of the narrow statutory exceptions applies.

13
14 The Supreme Court has repeatedly recognized the substantial constitutional protections afforded
to lawful permanent residents. In *Landon v. Plasencia*, the Supreme Court held that returning
15 lawful permanent residents are entitled to due process protections because they possess
significant liberty interests arising from their established ties within the United States. The Court
16 emphasized that an LPR "may not be deprived of her life, liberty, or property without due
process of law."

17
18 Petitioner Ramiro Osoria Herrera has longstanding ties to the United States, including family,
community connections, and substantial residence in this country. His detention is not the brief
19 and limited inspection detention contemplated under § 1225. Rather, it has become prolonged
civil confinement without a constitutionally adequate custody review.
20

21 22 III. EVEN IF § 1225(b) APPLIES, PROLONGED DETENTION WITHOUT A BOND 23 HEARING VIOLATES DUE PROCESS

24 Respondents' reliance on § 1225(b)(2) does not end the constitutional inquiry. The Supreme
Court and Ninth Circuit have repeatedly recognized that immigration detention remains subject
25 to constitutional limitations.

26 In *Zadvydas v. Davis*, the Supreme Court held that civil immigration detention cannot become
27 indefinite and must remain reasonably related to its statutory purpose. Likewise, the Ninth

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1 Circuit has consistently recognized that prolonged detention without individualized review raises
2 serious constitutional concerns.

3 In Casas-Castrillon v. Department of Homeland Security, the Ninth Circuit held that prolonged
4 immigration detention requires a neutral bond hearing before an Immigration Judge. Similarly, in
5 Singh v. Holder, the court held that due process requires the Government to bear the burden of
6 proving danger or flight risk by clear and convincing evidence in immigration bond proceedings.

7 Although Respondents attempt to classify Petitioner under § 1225(b), courts within this Circuit
8 have recognized that constitutional due process protections apply even where detention
9 originates under the inspection provisions of the INA. See also Diouf v. Napolitano (requiring
10 bond hearings for prolonged detention).

11 Petitioner's continued detention has now become unreasonably prolonged. He has diligently
12 pursued relief in immigration proceedings and has not engaged in dilatory tactics. The
13 Government's position effectively permits indefinite detention without meaningful review,
14 contrary to longstanding constitutional principles.

15 IV. PETITIONER IS NOT A DANGER TO THE COMMUNITY OR A FLIGHT RISK

16 Even if this Court declines to order immediate release, the record demonstrates that Petitioner
17 qualifies for release on bond or recognizance.

18 Petitioner is a lawful permanent resident with longstanding ties to the United States. He has
19 significant family and community connections and has every incentive to continue appearing in
20 removal proceedings to pursue available relief. His detention is civil in nature, not punitive.

21 The Government cannot meet its burden of establishing by clear and convincing evidence that
22 Petitioner presents either a danger to the community or a serious flight risk warranting continued
23 incarceration.

24 Numerous courts within the Ninth Circuit have recognized that prolonged civil immigration
25 detention without individualized review violates due process where the detainee has substantial
26 equities and meaningful defenses to removal. Petitioner respectfully submits that this case falls
27 squarely within those constitutional protections.

28 V.- On May 5, 2026, the Honorable Judge Jinsook Ohta issued a Minute Order directing
Petitioner to file a reply addressing Respondents' arguments raised in their Opposition to the
Petition for Writ of Habeas Corpus. Specifically, the Government asserted that Petitioner, a
lawful permanent resident, should be treated as "seeking admission" pursuant to 8 U.S.C. §§
1101(a)(13)(C) and 1182(a)(2)(H), and therefore subject to mandatory detention under 8 U.S.C.
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1 § 1225(b)(2). The Court ordered Petitioner to file a reply addressing these arguments and the
2 applicability of the Government's asserted detention authority.

3 Petitioner respectfully submits this Reply and maintains that continued detention without an
4 individualized custody determination violates the Due Process Clause of the United States
5 Constitution. Even assuming arguendo that Petitioner was initially detained pursuant to §
6 1225(b)(2), prolonged detention without a bond hearing before a neutral adjudicator is
7 constitutionally impermissible under controlling Supreme Court and Ninth Circuit precedent.
8 Petitioner therefore respectfully requests that this Court order his release, or alternatively order
9 an individualized bond hearing where the Government bears the burden of proving by clear and
10 convincing evidence that continued detention is justified.

11 **PROCEDURAL BACKGROUND AND RESPONSE TO COURT'S MINUTE** 12 **ORDER**

13 On April 21, 2026, Respondents filed their Return to Petition for Writ of Habeas Corpus,
14 asserting that Petitioner Ramiro Osoria Herrera is properly classified as a lawful permanent
15 resident "seeking admission" pursuant to 8 U.S.C. §§ 1101(a)(13)(C) and 1182(a)(2)(H), and
16 therefore allegedly subject to mandatory detention under 8 U.S.C. § 1225(b)(2) pending
17 completion of removal proceedings.

18 Specifically, Respondents contend that Petitioner became an applicant for admission after
19 presenting himself at the San Ysidro Port of Entry on May 30, 2025, and being charged under
20 INA § 212(a)(6)(E)(i), alleging that he knowingly assisted undocumented individuals attempting
21 to enter the United States. Respondents further argue that Petitioner falls within the
22 inadmissibility provisions of 8 U.S.C. § 1182(a)(2)(H) and therefore may be treated as an
23 arriving alien subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

24 Thereafter, the Honorable Judge Jinsook Ohta issued a Minute Order directing Petitioner to file a
25 Reply addressing Respondents' arguments that Petitioner, despite his lawful permanent resident
26 status, should be treated as "seeking admission" under 8 U.S.C. §§ 1101(a)(13)(C) and
27 1182(a)(2)(H), and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2).
28 Petitioner respectfully submits this Reply in response to the Court's directive.

Petitioner respectfully contends that Respondents' position improperly expands the narrow
statutory exceptions applicable to lawful permanent residents and ignores controlling
constitutional limitations governing prolonged immigration detention. Although Respondents
rely heavily upon the statutory language of § 1225(b)(2), the Government's interpretation cannot
supersede the constitutional protections guaranteed under the Due Process Clause of the Fifth
Amendment.

Petitioner has been detained since approximately June 6, 2025, while pursuing relief in ongoing
removal proceedings before the Immigration Court at the Otay Mesa Detention Center. The
Government acknowledges that Petitioner has filed an application for Cancellation of Removal

1 for Lawful Permanent Residents under INA § 240A(a), demonstrating that his removal
2 proceedings remain unresolved and that relief remains legally available.

3 Importantly, Petitioner is not challenging the Government's authority to conduct removal
4 proceedings. Rather, Petitioner challenges the constitutionality of his continued prolonged civil
5 detention without an individualized custody hearing where the Government bears the burden of
6 proving by clear and convincing evidence that continued incarceration is necessary.

7 Respondents further argue that this Court lacks jurisdiction pursuant to 8 U.S.C. § 1252(g).
8 However, Petitioner's habeas challenge does not seek review of any discretionary prosecutorial
9 decision to commence removal proceedings. Instead, Petitioner challenges the legality and
10 constitutionality of his prolonged detention without meaningful process. Federal district courts
11 retain jurisdiction under 28 U.S.C. § 2241 to review constitutional challenges to immigration
12 detention, including prolonged detention claims arising under the Due Process Clause.

13 Moreover, Respondents acknowledge within their own briefing that Petitioner has remained
14 detained for more than ten months while removal proceedings continue. Although Respondents
15 attempt to minimize the significance of the duration of detention, the Ninth Circuit and courts
16 within the Southern District of California have repeatedly recognized that prolonged immigration
17 detention without an individualized bond hearing raises serious constitutional concerns, even
18 where detention initially arises under § 1225(b).

19 Petitioner respectfully submits that continued detention under these circumstances has become
20 excessive, unreasonable, and constitutionally impermissible. Petitioner is a longtime lawful
21 permanent resident with substantial family and community ties within the United States, ongoing
22 relief applications before the Immigration Court, and significant incentives to appear for all
23 future proceedings. Less restrictive alternatives to detention plainly exist, including release on
24 reasonable bond or on Petitioner's own recognizance while proceedings continue.

25 Accordingly, Petitioner respectfully requests that this Court reject Respondents' arguments
26 regarding mandatory detention, grant the Petition for Writ of Habeas Corpus, and order either:
27 (1) Petitioner's immediate release under reasonable conditions of supervision; or alternatively,
28 (2) an individualized bond hearing before an Immigration Judge where the Government bears the
burden of proving by clear and convincing evidence that continued detention is justified.

29 VI. CONCLUSION

30 WHEREFORE, Petitioner respectfully requests that this Court:

- 31 1. Reject Respondents' argument that mandatory detention under 8 U.S.C. § 1225(b)(2)
32 authorizes indefinite detention without constitutional limitations;

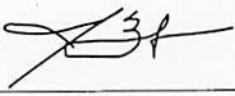
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2. Order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within fourteen (14) days, at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary;
3. Alternatively, order Petitioner released on bond or on his own recognizance pending completion of removal proceedings; and
4. Grant such further relief as this Court deems just and proper.

Dated: 05/15/2026

Respectfully submitted,

BLANCO LAW GROUP

By: 

Jesse Blanco, Esq.

Attorney for Petitioner

Ramiro Osoria Herrera

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2026, I electronically filed the foregoing PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND RESPONSE TO COURT'S MINUTE ORDER with the Clerk of the United States District Court for the Southern District of California by using the Court's CM/ECF system.

I further certify that all participants in this case who are registered CM/ECF users will be served by the Court's CM/ECF system, including counsel for Respondents:

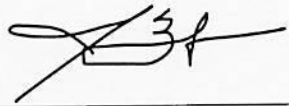
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Respectfully submitted,

DATED: 05/15/2026

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By: 

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Ramiro Osoria Herrera

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