

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

DANIEL ALEJANDRO PETRO-DORIA,

Petitioner,

v.

FIELD OFFICE DIRECTOR, EL PASO
FIELD OFFICE, U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT; and
KRISTI NOEM, SECRETARY, U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

No. 3:26-CV-00002-LS

PETITIONER'S SUPPLEMENTAL BRIEFING

The Petitioner hereby submits this supplemental brief in compliance with the Notice of Oral Argument in the Fifth Circuit Court of Appeals and Order for Supplemental Briefing. ECF No. 6.

PROCEDURE HISTORY

1. The Petitioner is a native and citizen of Venezuela. ECF No. 1-3, p. 1.
2. He entered the United States on July 17, 2022 without inspection or parole at or near San Luis, Arizona. ECF No. 1-3, p. 6.
3. Upon entry, he encountered Border Patrol (BP) agents (a sub agency of the Department of Homeland Security) who detained and processed him. ECF No. 1-3, pp. 8-10.
4. On July 18, 2022, the Border Patrol issued the Form I-200, Warrant for Arrest of Alien, under which the Petitioner was detained the day prior. ECF No. 1-3, p. 9; Ex. A, p. 2.
5. The Petitioner's Warrant for Arrest reads:
"To any officer delegated authority pursuant to Section 287 of the Immigration and

Nationality Act from evidence submitted to me, it appears that DANIEL ALEJANDRO PETRO DORIA, an alien who entered the United States at or near SAN LUIS, ARIZONA on July 17, 2022 is within the country in violation of the immigration laws and is therefore liable to be taken into custody as authorized by section 236 of the Immigration and Nationality Act. By virtue of the authority vested in me by the immigration laws of the United States and the regulations pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.”

ECF No. 1-3, p. 9 (emphasis added); Ex. A, p. 2 (Form I-200, Warrant for Arrest of Alien).

6. On the same day, a Border Patrol agent determined that it would release the Petitioner from detention pursuant to Form I-286, Notice of Custody Determination (July 18, 2022). ECF No. 1-3, p. 8; Ex. A, p. 3. That notice reads:

“Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of the Title 8, Code of Federal Regulations, I have determined that pending a final administrative determination in your case, you will be released under other conditions.”

ECF no. 1-3, p. 8 (emphasis added); Ex. A, p. 3 (Form I-286, Notice of Custody Determination).

7. On July 19, 2022, the Petitioner was released on an I-220A, Order of Release on Recognizance which reads:

“You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions . . .”

ECF No. 1-3, p. 10 (emphasis added); Ex. A, p. 4 (I-220A, Order of Release on Recognizance).

8. The Petitioner was released into the United States with a Notice to Appear (NTA). ECF No. 1-3, pp. 6-7; Ex. A, pp. 5-6 (Notice to Appear).

9. The Petitioner’s NTA does not indicate any prior expedited removal proceedings under § 1225(b)(1). [ECF No. 1-3, pp. 6-7; Ex. A, pp. 5-6] (Box unchecked as to whether “this notice is being issued after an asylum officer has found that the respondent has demonstrated a

credible fear of persecution or torture.”).

10. The Petitioner has remained in the United States since his entry in 2022 in compliance with the conditions and requirements on his Order of Release on Recognizance.

11. On July 21, 2025, the Petitioner was arrested following a traffic stop for failing to wear proper headgear while driving a motorcycle. ECF No. 1-3, p. 12.

12. He was subsequently transferred to ICE custody where he has remained since without the possibility to contest his detention before an immigration judge by way of a custody redetermination hearing. ECF No. 1-3, p. 2.

ARGUMENT

I. The Petitioner was Detained Pursuant to Form I-200, Warrant for Arrest of Alien Under § 1226.

As thoroughly briefed in Petitioner’s Traverse [ECF No. 7], the Petitioner is not subject to mandatory detention under § 1225(b)(1), the expedited removal statute, because he was detained pursuant to a Form I-200, Warrant for Arrest of Alien under 8 U.S.C. § 1226. There is no document proffered by the Respondents that would indicate the government applied the procedures and regulations of expedited removal to the Petitioner.

As of the date of this submission, the government has not provided any tangible evidence or documentary records to support their argument that the Petitioner was processed under the expedited removal statutory framework of 8 U.S.C. § 1225(b)(1). Other than the government’s conclusory statements and arguments, the record is void of any documentary evidence that the Petitioner received an expedited removal order under § 1225(b)(1)(A)(i), was referred for a “credible fear or persecution” interview by an asylum officer under after indicating a fear of return under § 1225(b)(1)(A)(ii), or that he either passed or failed that credible fear interview under § 1225(b)(1)(B)(i). Therefore, absent this record evidence, and in light of the documentary evidence

demonstrating his detention was and is governed under § 1226, he cannot be subject to the expedited removal mandatory detention provisions of the INA. 8 U.S.C. § 1225(b)(1)(B)(ii) (“Referral of certain aliens – If the officer determines at the time of the interview that an alien has credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.”); § 1225(b)(1)(B)(iii)(IV) (“Any alien subject to the procedures under this clause **shall be detained** pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.”) (emphasis added).

It is clear that the Petitioner was placed in full §§ 1229 and 1229a removal proceedings when he entered in 2022, and was never subjected to the expedited removal procedures—his NTA lack any indicia of prior expedited removal proceedings from any prior expedited removal proceedings under § 1225(b)(1)—either at the time of his initial detention in 2022, or at his most recent detention on July 21, 2025.¹ Now that he has been present in the United States for over two years since he was initially apprehended and released under § 1226 for the duration of his full-removal proceedings, it is impermissible for the government to rely on expedited removal statute to now justify mandatory detention.

Although not addressed by the government in its return [ECF No. 5], the Petitioner reiterates and preserves all arguments put forth in his Petition for Writ of Habeas Corpus as to why

¹ Overall, government practices evidence that although an arrest warrant supports the Petitioner’s claim, its absence (as it relates to his most recent detention on July 21, 2025) should not be dispositive or weigh against a petitioner in this context as ICE agents are not required to have an administrative warrant before the arrest of an alien. See U.S. Department of Homeland Security, *ICE FAQs* (available at <https://www.ice.gov/immigration-enforcement-frequently-asked-questions>) (last accessed Feb. 2, 2026); see also U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement (May 12, 2025), *Utilizing Form I-205, Warrant of Removal* [Memorandum] (emphasis added). **Ex. A, pp. 7-9.**

he is not subject to mandatory detention under § 1225(b)(2)(A) and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), and why his continued civil immigration detention without a full and fair custody redetermination hearing before an immigration judge violates both the INA and his substantive and procedural due process rights. ECF No. 1, pp. 1-2, 8-16. Here, as documentary evidence demonstrates, see ECF No. 1-3, pp. 6-10; Ex. A, pp. 2-5 (Form I-200 Warrant for Arrest of Alien; Form I-286, Notice of Custody Determination; Form I-220A, Order of Release on Recognizance) the Petitioner's detention is governed by 8 U.S.C. § 1226, and he is eligible to be released on a bond set by the immigration judge under § 1226(a).

CONCLUSION

For these reasons, the Court should find that the Petitioner is not subject to mandatory detention under either 8 U.S.C. §§ 1225(b)(1) or 1225(b)(2). As the Petitioner's arrest, detention, and initial release documents demonstrate, the Court should find the Petitioner's detention continues to be governed by 8 U.S.C. § 1226, find that the immigration judge (IJ) properly exercised jurisdiction over his custody redetermination request on August 21, 2025, order the IJ's bond order in the amount of \$5,000.00 to be immediately reinstated. [ECF No. 1, pp. 1, 7, 17].

Dated: February 2, 2026

Respectfully submitted,

s/ Anthony Richard Dominguez

Fla Bar No. 1002234

Prada Dominguez, PLLC

12940 SW 128th ST, Suite 203

Miami, FL 33186

o. 786.703.2061

adominguez@pradadominguez.com

Counsel for the Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 2, 2026, I electronically filed the forgoing document 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, 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

Dated: February 2, 2026

Respectfully submitted,

s/ Anthony Richard Dominguez

Fla Bar No. 1002234

Prada Dominguez, PLLC

12940 SW 128th ST, Suite 203

Miami, FL 33186

o. 786.703.2061

adominguez@pradadominguez.com

Counsel for the Petitioner