

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 AUSTIN DIVISION
4

5
6 RIGOBERTO FORTUNA GUZMAN)
7)
8 Petitioner-Plaintiff,)
9)
10 v.)
11 PAM BONDI,)
12 United States Attorney General;)
13)
14 KRISTI LYNN NOEM,)
15 Secretary of the United States)
16 Department of Homeland Security;)
17)
18)
19 TODD M. LYONS,)
20 Director of United States)
21 Immigration and Customs Enforcement;)
22)
23 SYLVESTER ORTEGA)
24 Field Office Director)
25 for Detention and Removal, U.S.)
26 Immigration and Customs Enforcement,)
27)
28 Warden of the T. Don Hutto Detention)
29 Center)
30 Daren K. Margolin, Director of the)
31 Executive Office for Immigration Review)
32 Respondents-Defendants.)
33)
34

Civ. No. 1:26-cv-00239-DAE

DHS File Number: 

REPLY TO RESPONSE

35 PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS
36 CORPUS
37 AND MOTION FOR LEAVE TO FILE REPLY ONE DAY OUT OF TIME
38

39 Petitioner respectfully files this Reply in further support of his Petition for Writ of Habeas
40 Corpus and, to the extent necessary, moves for leave to file this Reply one day out of time.

41 I. REQUEST TO ACCEPT REPLY ONE DAY LATE

42 Petitioner acknowledges that this Reply is being submitted one day after the Court-ordered
43 deadline. Petitioner respectfully requests that the Court accept this filing and deem it timely, or
44 grant leave to file out of time, for the following reasons:

45

- 46 • Undersigned counsel was already admitted in this District at the time the reply was due,
47 but last week received an unexpected diagnosis of a neurological condition and has been
48 undergoing evaluation and determining an appropriate course of treatment.
 - 49 • These sudden health issues significantly affected counsel's ability to manage deadlines
50 during the relevant period and resulted in the reply being filed one day late.
 - 51 • Counsel can provide medical documentation or other supporting proof of the diagnosis
52 and treatment, in camera or under seal, if the Court so directs.
 - 53 • The delay is limited to a single day and was not an attempt to disregard Court orders.
 - 54 • Respondents suffer no material prejudice from this brief delay, whereas the prejudice to
55 Petitioner—who remains in civil immigration detention—would be substantial if his
56 reply were not considered.
 - 57 • District courts routinely exercise their discretion to accept out-of-time filings where a
58 short delay is supported by good cause or excusable neglect and causes no meaningful
59 prejudice, particularly in habeas matters where a detainee's liberty is at stake. *Angel A. v.*
60 *Lyons* (D. Minn. Feb. 02, 2026) (Page 3) and *Singh v. Baltazar* (D. Col. Feb. 09, 2026)
61 (Page 4).
- 62 Petitioner therefore respectfully asks the Court to:
- 63 A - Accept this Reply as timely filed *nunc pro tunc* to the deadline, or

64 B - In the alternative, grant leave to file this Reply one day out of time and consider it on
65 the merits.

66 **II. REPLY ON THE MERITS**

67 Respondents' response rests on the premise that Petitioner "entered the United States without
68 inspection" and is thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2), citing
69 *Buenrostro v. Bondi* and *Matter of Yajure Hurtado*. That premise is factually incorrect and legally
70 dispositive.

71 Petitioner did not enter without inspection. He entered on a valid visa, was inspected and
72 admitted, and later fell out of status. *See Exhibit 3*. Respondents' attempt to treat him as an
73 "applicant for admission" under § 1225(b)(2) therefore fails at the threshold. As a noncitizen
74 who was admitted and is now in removal proceedings under 8 U.S.C. § 1229a, his detention is
75 governed, if at all, by 8 U.S.C. § 1226—not § 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S.
76 281, 289 (2018) (distinguishing detention of "aliens already in the country pending the outcome
77 of removal proceedings under §§ 1226(a) and (c)" from detention of "aliens seeking admission
78 into the country under §§ 1225(b)(1) and (b)(2)"). *Edwin C.R. v. Pamela Bondi* (D. Minn. Jan.
79 25, 2026) (Page 5).

80 Because Respondents misclassify Petitioner's statutory status, their reliance on *Buenrostro* and
81 *Hurtado* is misplaced, and their argument against relief collapses. In addition, even if the Court
82 were to accept Respondents' statutory framework *arguendo*, Petitioner is entitled to immediate
83 release, or at minimum to constitutionally adequate custody process, under the Fifth
84 Amendment.

85 **A. Buenrostro and Hurtado By Their Terms Apply to Noncitizens "Present in the United**
86 **States Without Admission," Not to Prior Visa Entrants**

87

88 Buenrostro addressed “aliens, like the petitioners, who entered the United States illegally and
 89 who are not ‘clearly and beyond a doubt entitled to be admitted.’” 2026 WL 323330, at *1.
 90 Matter of Yajure Hurtado likewise involved “aliens ... who are present in the United States
 91 without admission.” 29 I. & N. Dec. at 225. Respondents’ own description of Buenrostro
 92 confirms that its holding is expressly limited to those “who entered the United States illegally.”
 93 Petitioner, however, entered with a visa and was lawfully inspected and admitted. He is
 94 therefore:

- 95 • Not an “applicant for admission” within the meaning of § 1225; and
- 96 • Squarely within the class of respondents whose pre-final-order detention is governed by §
 97 1226. See, e.g.:

98 District courts recognizing that § 1226(a) is the “predominant form of detention authority for ...
 99 noncitizens arrested in the interior of the United States” and that § 1225(b)(2) does not apply to
 100 individuals already admitted and residing in the United States. *Alaya Amaya v. Bondi* (D.N.J.
 101 Oct. 30, 2025) (Page 7).

102 Decisions holding that detention for those arrested in the interior—after residing in the United
 103 States for years—is authorized only under § 1226(a), not § 1225(b). *Vincenz-Marquez v. Soto*
 104 (D.N.J. Nov. 6, 2025) (Page 4); *Flores Pineda v. Simon* (E.D. Va. Oct. 21, 2025) (Page 7).

105 Respondents’ attempt to shoehorn an admitted visa holder into the statutory category of
 106 never-admitted “applicants for admission” is contrary to the structure of the INA and the settled
 107 distinction between inadmissibility and deportability grounds.

108 Because Petitioner was admitted:

- 109 • The Government’s reliance on § 1225(b)(2) is *ultra vires*.

- 110 • Buenrostro and Hurtado—both predicated on lack of admission—do not control his case.
- 111 • The Court need not—and should not—apply § 1225(b)(2)’s mandatory-detention regime
- 112 here.

113

114 **B. Section 1226 Governs Petitioner’s Detention; Immediate Release Is the Appropriate**
115 **Remedy on This Record**

116 Once the § 1225(b)(2) predicate falls away, detention authority is governed by § 1226. Numerous
117 courts confronted with comparable misclassification have held that:

- 118 • Detention “is only authorized under 8 U.S.C. § 1226(a)” where the individual resides in
119 the interior and is in § 1229a proceedings; and
- 120 • Mandatory detention under § 1225(b)(2)(A) is unlawful in those circumstances. *Alaya*
121 *Amaya v. Bondi* (D.N.J. Oct. 30, 2025) (Page 7); *Vincenz-Marquez v. Soto* (D.N.J. Nov. 6,
122 2025) (Page 4).

123 Courts have granted habeas relief and ordered:

- 124 • Immediate release where mandatory detention under § 1225 was found unlawful and due
125 process had been violated. *Rivera Zumba v. Bondi* (D.N.J. Sep. 26, 2025) (Page 24).
- 126 • Release unless a prompt, individualized custody redetermination hearing under § 1226(a)
127 was provided within a court-ordered deadline. *Maya Ramirez v. Lynch* (W.D. Mich. Jan.
128 27, 2026) (Page 3). *Sanchez Sanchez v. Trump* (S.D. Ind. Nov. 26, 2025) (Page 8).

129 Here, Petitioner is a long-time resident, a prior visa entrant, the parent of U.S. citizen children,
130 and has no criminal history. Respondents have offered no case-specific justification for continued
131 incarceration, relying instead on an inapplicable mandatory-detention theory. That
132 misclassification:

133 • Deprives Petitioner of the discretionary-release framework Congress provided in § 1226;

134 and

135 • Has already resulted in prolonged, no-hearing detention.

136 Given that Respondents are detaining Petitioner under an incorrect statute and have not
137 attempted to justify detention under § 1226(a)'s discretionary standard, the appropriate remedy is
138 immediate release, not merely a belated bond hearing. Courts have ordered outright release
139 where § 1225 detention was unlawful and ongoing detention violated the INA and due process.
140 *Rivera Zumba v. Bondi* (D.N.J. Sep. 26, 2025) (Page 24).

141 **C. Even If the Court Looked to § 1226(a) Bond Procedures, the Misclassification and**
142 **Prolonged No-Hearing Detention Violate Due Process**

143

144 Even assuming *arguendo* that Respondents could now pivot and characterize Petitioner's
145 detention under § 1226(a), his continued confinement without any individualized custody
146 determination offends procedural due process.

147 Multiple courts have held that:

148 Prolonged pre-final-order immigration detention, without an individualized bond hearing at
149 which the Government bears the burden by clear and convincing evidence, violates the Fifth
150 Amendment and warrants habeas relief. *Flores Pineda v. Simon* (E.D. Va. Oct. 21, 2025) (Page
151 7); *Sanchez Sanchez v. Trump* (S.D. Ind. Nov. 26, 2025) (Page 8).

152 Where DHS has improperly invoked § 1225(b)(2), courts may order either immediate release or
153 a prompt bond hearing under § 1226(a) with appropriate procedural safeguards. *Maya Ramirez v.*
154 *Lynch* (W.D. Mich. Jan. 27, 2026) (Page 3); *Edwin C.R. v. Pamela Bondi* (D. Minn. Jan. 25,
155 2026) (Page 5).

156 Here, Respondents:

- 157 • Have classified Petitioner under § 1225(b)(2), a statute inapplicable to admitted visa
- 158 holders;
- 159 • Have thereby foreclosed bond jurisdiction in the immigration court under *Hurtado*; and
- 160 • Have offered no individualized assessment of flight risk or danger.

161 Under *Mathews v. Eldridge* and *Zadvydas v. Davis*, Petitioner's strong liberty interest, long
 162 residence, family ties, and lack of criminal history, combined with the complete absence of an
 163 individualized custody process, require more than bare adherence to an incorrect statutory label.
 164 *Sanchez Sanchez v. Trump* (S.D. Ind. Nov. 26, 2025) (Page 8).

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166 **D. Jurisdiction, Exhaustion, and Stay Arguments Do Not Bar Relief**

167 Respondents' reliance on 8 U.S.C. § 1252 and prudential exhaustion is misplaced. Courts
 168 routinely exercise habeas jurisdiction under 28 U.S.C. § 2241 to review the legality and
 169 constitutionality of immigration detention, as distinct from reviewing the merits of removal
 170 orders. *Bethancourt Soto v. Soto* (D.N.J. Oct. 22, 2025) (Page 4).

171 In similar § 1225/§ 1226 disputes, courts have:

- 172 • Rejected exhaustion defenses where the challenge is to the legal basis of detention and
- 173 where BIA precedent (such as *Hurtado*) renders administrative relief futile. *Lopez*
- 174 *Sarmiento et al. v. Noem et al.* (E.D. Va. Oct. 02, 2025) (Page 19); *Chillogalli Puzhi v.*
- 175 *English* (N.D. Ind. Feb. 10, 2026) (Page 3).
- 176 • Entered orders enjoining detention under § 1225 and, at times, requiring release or bond
- 177 hearings without dismissing on exhaustion grounds. *Rivera Zumba v. Bondi* (D.N.J. Sep.
- 178 26, 2025) (Page 24); *Alaya Amaya v. Bondi* (D.N.J. Oct. 30, 2025) (Page 7).

179 Similarly, courts have recognized authority to maintain stays of removal or to enjoin transfer or
180 re-detention where necessary to preserve effective habeas review. *Velasquez Salazar v. Dedos*
181 (D.N.M. 2025) (Page 5); *Otabek K.R. v. Bondi* (D. Minn. Feb. 06, 2026) (Page 3).

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183 III. RELIEF REQUESTED

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185 For the reasons above, Petitioner respectfully requests that the Court:

- 186 1. Grant leave to file this Reply one day out of time and consider it on the merits;
- 187 2. Declare that Petitioner—having entered the United States on a visa and been
188 admitted—is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2);
- 189 3. Declare that, if detained at all, Petitioner is detained under 8 U.S.C. § 1226;
- 190 4. Order Respondents to immediately release Petitioner from custody, given the
191 misclassification and the absence of any individualized, constitutionally adequate custody
192 determination;
- 193 5. In the alternative, if the Court does not order immediate release, require Respondents to
194 provide Petitioner with an individualized bond hearing under § 1226(a) within seven (7)
195 days, before a neutral immigration judge, at which the Government bears the burden to
196 justify continued detention by clear and convincing evidence; and
- 197 6. Maintain any existing stay of removal until this Court's orders have been fully
198 implemented.

199 Respectfully submitted on February 19, 2026.

200 /s/ Georgia Santos Laurent

201 Georgia Santos Laurent

202 Counsel for Petitioner

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CERTIFICATE OF SERVICE

232 I certify, in accordance with the rules of this Court, I filed the foregoing via the Court's CM/ECF
233 system, which will send notice to all registered counsel of record.

234 February 19th, 2026.

235



236

237 Georgia Santos Laurent

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