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CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Danys Humberto Bohorquez Uzcategui, **Petitioner,** v **Eric Rokosky**, et al., **Respondents.**	**Case No. CV-26-05444-PHX-JJT** **PETITIONERS MOTION FOR LEAVE TO FILE REPLY OUT OF TIME AND REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR HABEAS CORPUS**

PETITIONER'S MOTION FOR LEAVE TO FILE REPLY OUT OF TIME AND REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Danys Humberto Bohorquez Uzcategui, proceeding pro se and presently detained in civil immigration custody, respectfully moves this Court for leave to file the accompanying Reply in Support of his Petition for Writ of Habeas Corpus after expiration of the applicable filing deadline.

Petitioner further respectfully submits this Reply to Respondents' Response to the Petition.

I. MOTION FOR LEAVE TO FILE REPLY OUT OF TIME

Respondents filed their Response to Petitioner's Petition for Writ of Habeas Corpus on August

12, 2026.

Petitioner acknowledges that the time permitted for filing his Reply has expired. He respectfully requests that the Court exercise its discretion to accept this Reply out of time.

Under Federal Rule of Civil Procedure 6(b)(1)(B), a court may, for good cause, extend a deadline after its expiration where the failure to act resulted from excusable neglect.

Petitioner is presently detained and is proceeding without counsel. His ability to research the legal issues raised by Respondents, obtain legal authorities, prepare legal documents, make copies, communicate with persons outside the detention facility, and arrange for filing is substantially restricted by his confinement.

The delay was not intentional, was not undertaken in bad faith, and was not intended to disregard this Court's deadlines or delay resolution of this proceeding.

The Reply also addresses significant legal issues raised by Respondents concerning the statutory basis for Petitioner's detention and the constitutional limitations upon prolonged civil immigration detention.

Respondents will suffer no material prejudice if the Court considers the Reply. The Reply responds to arguments already raised by Respondents and does not seek to unfairly expand the litigation.

By contrast, Petitioner's physical liberty remains at issue. Refusing to consider his response solely because of a procedural delay would substantially affect a detained pro se litigant attempting to challenge the legality of his continuing physical confinement.

Courts also construe pro se submissions liberally. *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972).

Petitioner therefore respectfully requests that the Court grant leave to file this Reply out of time and consider it on the merits.

II. INTRODUCTION

Respondents contend that Petitioner's detention is mandatory under 8 U.S.C. § 1225(b)(2)(A) because Petitioner was classified as an "arriving alien" when he presented himself for inspection at the Hidalgo, Texas Port of Entry in January 2023.

Respondents further contend that Petitioner's subsequent parole did not change that classification and that *Jennings v. Rodriguez*, 583 U.S. 281 (2018), authorizes his detention throughout the completion of his removal proceedings without bond.

That analysis does not fully address the detention challenged in this habeas proceeding.

According to Respondents' own factual account, Petitioner was paroled into the United States for approximately one year and thereafter received Temporary Protected Status. His TPS remained in effect until April 2, 2025.

Petitioner was not continuously detained at the border beginning in January 2023.

Instead, after having lived physically within the United States for more than two years following his parole, Petitioner was taken into ICE custody in Arizona on August 22, 2025.

The statutory question therefore cannot be resolved solely by Petitioner's historical classification at the border in 2023.

The Court must determine which detention provision governs the **later detention initiated in the interior of the United States in August 2025.**

Recent binding Ninth Circuit authority confirms that being an "applicant for admission" does not automatically mean that a noncitizen physically present in the interior is currently "seeking admission" for purposes of § 1225(b)(2)(A).

See *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir. July 30, 2026).

III. RESPONDENTS' RELIANCE ON PETITIONER'S 2023 "ARRIVING ALIEN" CLASSIFICATION DOES NOT BY ITSELF ESTABLISH THAT HIS 2025 RE-DETENTION IS GOVERNED BY § 1225(b)(2)(A)

Respondents focus on Petitioner's classification when he presented himself for inspection at the Hidalgo Port of Entry in January 2023.

Petitioner does not dispute for purposes of this Reply that immigration officials initially classified him as an arriving alien.

But that does not resolve the statutory basis for his **later detention in August 2025.**

Respondents' own account establishes an important intervening history.

Petitioner was granted parole and permitted to enter and physically live within the United States. He thereafter received Temporary Protected Status.

Petitioner consequently spent more than two years physically present within the United States before ICE took him into custody in Arizona on August 22, 2025.

His current confinement therefore did not begin while he was standing at a port of entry requesting admission.

It resulted from a later apprehension occurring within the interior of the United States.

The distinction is now particularly important under binding Ninth Circuit precedent.

IV. RODRIGUEZ VAZQUEZ REJECTS THE PROPOSITION THAT "APPLICANT FOR ADMISSION" AUTOMATICALLY MEANS "SEEKING ADMISSION" UNDER § 1225(b)(2)(A)

On July 30, 2026, the Ninth Circuit decided *Rodriguez Vazquez v. Bostock*, No. 25-6842.

There, the Government argued that noncitizens present without admission remained "applicants for admission" and therefore were "seeking admission" within the meaning of § 1225(b)(2)(A).

The Ninth Circuit rejected that interpretation.

The Court of Appeals held that § 1225(b)(2)(A) applies to noncitizens seeking entry at the border, whereas § 1226 generally governs detention of unadmitted noncitizens apprehended in the interior.

The Ninth Circuit explained that the terms "applicant for admission" and "seeking admission" cannot simply be treated as interchangeable for purposes of § 1225(b)(2)(A).

That distinction matters here.

Petitioner may continue to possess a statutory classification connected to his original 2023 arrival, but Respondents must still establish that the detention presently challenged falls within the particular detention authority invoked by the Government.

Petitioner was not taken into ICE custody in August 2025 while presenting himself at Hidalgo or another port of entry.

He was already physically present within the United States following parole and TPS.

Accordingly, Respondents' assertion that Petitioner remains an "applicant for admission" does not, standing alone, establish that his later interior detention is mandatory under § 1225(b)(2)(A).

V. THE FACTS OF SANANES HERNANDEZ PROVIDE PERSUASIVE SUPPORT FOR PETITIONER'S POSITION

Recent persuasive authority has applied this distinction in circumstances substantially similar to those presented here.

In *Sananes Hernandez v. Leyva*, No. 4:26-cv-00054-DN (D. Utah July 6, 2026), the petitioner originally arrived at a port of entry, was detained, and was subsequently paroled into the United States.

He later obtained TPS.

After his parole terminated and after he had lived within the United States for years, ICE arrested him in the interior.

The Government argued that § 1225(b)(2)(A) required mandatory detention because the petitioner remained an applicant for admission and because termination of parole required his return to custody.

The district court rejected that interpretation.

The court reasoned that even assuming parole had terminated, the petitioner had already been physically present within the United States for a substantial period before ICE subsequently

arrested him.

The court concluded that § 1225(b)(2) did not govern the later detention and that the detention instead fell within § 1226(a). The court ultimately granted habeas relief and ordered immediate release.

The factual parallels are substantial.

Here, Petitioner likewise:

entered through a port of entry;

was subsequently paroled;

physically lived within the United States;

received TPS;

and was later taken into ICE custody within the interior rather than while attempting to enter the country.

Although *Sananes Hernandez* is persuasive rather than binding authority, its reasoning is consistent with the Ninth Circuit's subsequent interpretation of §§ 1225 and 1226 in *Rodriguez Vazquez*.

VI. OTHER RECENT AUTHORITY LIKEWISE REJECTS THE GOVERNMENT'S OVERBROAD INTERPRETATION OF § 1225(b)(2)

Other courts have rejected the proposition that an historical arriving-alien classification automatically places every subsequent detention within § 1225(b)(2).

For example, in *Y.J.B.R. v. Oddo*, No. 3:26-cv-00776 (W.D. Pa. May 18, 2026), the petitioner

was a Venezuelan national who had been released on humanitarian parole, had TPS history, resided within the United States, and was later apprehended in the interior.

The Government argued that he remained subject to mandatory detention under § 1225(b).

The district court rejected that position and held that his detention was governed by § 1226(a), ordering an individualized bond hearing.

These authorities reinforce the distinction between the immigration classification a person received upon arrival and the statutory authority governing a later detention occurring after substantial physical presence within the United States.

VII. JENNINGS DOES NOT ANSWER THE THRESHOLD QUESTION OF WHETHER § 1225(b)(2)(A) GOVERNS PETITIONER'S PRESENT DETENTION

Respondents rely heavily on *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

But *Jennings* does not establish that every noncitizen who was once classified as an arriving alien remains subject to § 1225(b)(2)(A) whenever later detained within the United States.

Jennings addressed the permissible duration of detention for individuals **who were properly detained under the statutory provisions at issue** and rejected a statutory interpretation that imposed automatic six-month bond hearings.

The threshold question here is different.

Before Respondents may rely upon *Jennings*' interpretation of § 1225(b), they must first establish that **§ 1225(b)(2)(A) is the statute governing Petitioner's August 2025 detention.**

Rodriguez Vazquez demonstrates why the two inquiries cannot be collapsed into one.

The Government cannot establish § 1225 detention merely by labeling Petitioner an applicant for admission and then rely upon *Jennings* to justify indefinite continuation of detention under that statute.

VIII. THE REGULATORY DEFINITION OF "ARRIVING ALIEN" DOES NOT RESOLVE WHICH STATUTE GOVERNS THE LATER DETENTION

Respondents also rely upon 8 C.F.R. § 1001.1(q), emphasizing that an individual may remain classified as an arriving alien even following parole.

Petitioner does not ask this Court to disregard that regulation.

But retention of an immigration classification does not necessarily answer the distinct statutory question of **which detention provision authorizes a later interior arrest and detention**.

The Government's argument effectively equates:

"arriving alien";

"applicant for admission"; and

"seeking admission."

Rodriguez Vazquez demonstrates that those concepts cannot automatically be treated as synonymous when applying § 1225(b)(2)(A).

Thus, the Government's reliance on the regulatory definition of arriving alien does not end the statutory inquiry.

IX. THE GOVERNMENT'S RELIANCE ON THE "ENTRY FICTION" DOES NOT DISPOSE OF THE STATUTORY QUESTION

Respondents rely upon *Barrera-Echavarria v. Rison*, 44 F.3d 1441 (9th Cir. 1995) (en banc), and later District of Arizona decisions applying the entry-fiction doctrine.

Petitioner respectfully submits that those authorities do not eliminate the need to determine the correct statutory basis for Petitioner's present detention.

The question before this Court is not whether parole constituted formal "admission" into the United States.

Petitioner does not contend that parole itself constituted an admission.

The question is instead whether Petitioner's later apprehension within Arizona, after more than two years of physical presence following parole and TPS, is governed by § 1225(b)(2)(A).

That statutory question must now be considered in light of *Rodriguez Vazquez*.

X. PETITIONER DOES NOT CLAIM THAT PAROLE CREATED AN IRREVOCABLE RIGHT TO REMAIN FREE

Respondents devote a separate portion of their Response to the proposition that Petitioner has "no liberty interest in parole."

That argument does not resolve Petitioner's principal claim.

Petitioner does not contend that humanitarian parole constituted formal admission into the United States.

Nor does Petitioner contend that parole created an irrevocable statutory entitlement never to be detained again.

Instead, parole is relevant because it forms part of the undisputed sequence of events establishing that Petitioner's current detention is **not the original border detention from January 2023**.

DHS permitted Petitioner to enter the interior through parole.

Petitioner subsequently obtained TPS and remained physically within the country.

ICE did not commence the detention challenged here until August 22, 2025.

Accordingly, Petitioner's statutory challenge does not depend upon proving a permanent liberty interest in parole.

It depends upon determining which statute authorized his **later interior detention**.

XI. ALTERNATIVELY, EVEN IF § 1225(b)(2)(A) APPLIES, PETITIONER'S PROLONGED DETENTION PRESENTS A DISTINCT FIFTH AMENDMENT QUESTION

Even if this Court determines that Petitioner's current detention is governed by § 1225(b)(2)(A), the inquiry should not necessarily end there.

Petitioner has now remained in civil immigration detention for approximately thirteen months.

His detention is civil, not criminal punishment.

The Fifth Amendment protects against unconstitutional deprivation of physical liberty.

Petitioner therefore alternatively challenges his continued mandatory confinement **as applied to the duration and circumstances of his detention.**

Numerous courts considering prolonged § 1225(b) detention after *Jennings* have recognized that statutory detention authority does not necessarily foreclose an as-applied due-process challenge when detention becomes unreasonably prolonged.

Recent Ninth Circuit district-court authority continues to apply that principle. For example, in *Galkin v. Scott*, No. 2:26-cv-00530 (W.D. Wash. 2026), the court concluded that prolonged detention under § 1225(b) had become unreasonable and that due process required an individualized bond hearing.

Even more recently, *Saqib v. Hernandez*, No. 2:26-cv-02680 (W.D. Wash. 2026), applied the *Banda* factors to § 1225 detention and concluded that prolonged mandatory detention required constitutional review.

XII. JENNINGS DID NOT DECIDE THE AS-APPLIED CONSTITUTIONAL CLAIM PRESENTED HERE

Respondents rely upon *Jennings* for the proposition that § 1225(b) permits detention through completion of removal proceedings.

But *Jennings* primarily rejected the Ninth Circuit's use of constitutional avoidance to read a six-month bond-hearing requirement into the statutory text.

Petitioner's alternative claim is not that § 1225 contains an unstated six-month statutory deadline.

It is that, **assuming § 1225 applies**, continued civil confinement for approximately thirteen months without adequate individualized review raises a separate as-applied Fifth Amendment question.

Courts within the Ninth Circuit have continued to analyze such constitutional claims after *Jennings*.

XIII. THE DURATION AND CIRCUMSTANCES OF PETITIONER'S DETENTION WARRANT CONSTITUTIONAL SCRUTINY

Petitioner has been detained since August 22, 2025.

As of the filing of this Reply, that detention has lasted approximately thirteen months.

Respondents' own Response further states that an Immigration Judge ordered Petitioner removed on January 15, 2026, but that Petitioner timely appealed and that his appeal remained pending before the Board of Immigration Appeals.

Petitioner's pursuit of an available administrative appeal should not automatically transform civil detention into confinement of unlimited duration.

The Government has a legitimate interest in ensuring appearance at immigration proceedings and protecting the community where circumstances warrant detention.

But due process requires that deprivation of physical liberty remain reasonably related to legitimate governmental purposes.

As detention becomes prolonged, the constitutional significance of individualized review becomes correspondingly greater.

XIV. THE GOVERNMENT'S DISTRICT OF ARIZONA AUTHORITIES DO NOT FORECLOSE THE DISTINCT STATUTORY ARGUMENT PRESENTED HERE

Respondents rely upon District of Arizona decisions including *Ibarra-Perez* and *Mamedova v. Noem* to argue that an arriving alien has no constitutional right to a bond hearing.

Petitioner recognizes those authorities and does not ask the Court to disregard them.

But Petitioner's principal argument presents a logically prior question:

Is Petitioner's August 2025 interior detention properly governed by § 1225(b)(2)(A) at all?

The Ninth Circuit's July 30, 2026 decision in *Rodriguez Vazquez* provides controlling appellate guidance concerning the boundary between § 1225(b)(2)(A) and § 1226 for interior detention.

Therefore, decisions addressing the constitutional consequences of detention after assuming § 1225 applies do not eliminate the need first to determine whether § 1225 is the correct detention statute.

And should the Court nevertheless determine that § 1225 applies, Petitioner preserves his alternative as-applied constitutional challenge to the prolonged duration of his confinement.

XV. HABEAS JURISDICTION EXISTS TO REVIEW THE LEGAL BASIS OF PETITIONER'S PHYSICAL CUSTODY

Petitioner invokes 28 U.S.C. § 2241 to challenge the legality of his present physical

confinement.

Petitioner does not ask this Court to review the merits of his underlying removal order.

Nor does he ask this Court to decide the merits of the immigration relief being considered in his administrative proceedings.

He challenges the legal authority under which he is physically detained and the constitutionality of continued confinement.

Such a challenge lies at the traditional core of habeas corpus.

Respectfully Submitted,

Dated this 14th day of September, 2026.

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2026, I mailed a true and correct copy of the foregoing **PETITIONER'S MOTION FOR LEAVE TO FILE REPLY OUT OF TIME AND REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**, by United States Postal Service, postage prepaid, to:

Assistant United States Attorney
Two Renaissance Square
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004-4449

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Petitioner, Pro Se