

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Jelsson Luis Suarez Pino v. James Bausch, et al.

Suarez Pino v. Bausch · No. 26-CV-6349 (JLS) · Decided June 16, 2026

SUMMARY

The court held that the petitioner, who had applied for admission at a port of entry and was apprehended at or near the border, remained subject to detention under 8 U.S.C. § 1225(b)(2)(A). Applying the Second Circuit's decision in *da Cunha v. Freden*, the court concluded that the petitioner was not entitled to a bond hearing and denied the habeas petition, directing the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	John L. Sinatra, Jr.
JURISDICTION	United States District Court for the Western District of New York
DECIDED	June 16, 2026
DOCKET	26-CV-6349 (JLS)
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petitioner sought relief from detention under 8 U.S.C. § 1225(b)(2)(A), including a bond hearing. The district court denied the petition and directed the Clerk of Court to close the case.
PRECEDENTIAL VALUE	unpublished district court decision
PARTIES	Jelsson Luis Suarez Pino v. James Bausch, Philip Rhoney, Todd Lyons, Todd Blanche, Markwayne Mullin

TOPICS

- immigration detention
- removal proceedings
- statutory interpretation
- civil procedure

PRACTICE AREAS

- immigration law
- immigration detention
- federal civil procedure

QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1225(b)(2)(A) applied to petitioner because he was a noncitizen seeking admission who had been encountered at or near the border.
2. Whether petitioner was entitled to a bond hearing while detained under 8 U.S.C. § 1225(b)(2)(A).

HOLDINGS

1. Section 1225(b)(2)(A) applies to a noncitizen who is present in the United States without having been admitted and who is seeking lawful entry after inspection and authorization, including a person who presents at a port of entry or is apprehended at the threshold of initial entry.
2. A noncitizen detained under 8 U.S.C. § 1225(b)(2)(A) in the circumstances presented is not entitled to a bond hearing.

KEY QUOTATIONS

“Section 1225(b)(2)(A) applies to those noncitizens who present themselves at a port of entry for admission, or who cross the physical border into the United States but are apprehended at the “threshold of initial entry.”” (2026 WL 1146044, at *6)

“For the reasons stated above, Petitioner is detained under 8 U.S.C. § 1225(b)(2)(A) and, therefore, is not entitled to a bond hearing.” (2026 WL 1146044, at *15)

FACTUAL BACKGROUND

Petitioner, a native and citizen of Venezuela, applied for admission to the United States at the Laredo, Texas Port of Entry on November 10, 2024, without valid entry documents. He was released from custody on parole, which terminated on April 18, 2025, and he voluntarily remained in the United States until his current detention. Unlike the noncitizen in *da Cunha*, petitioner was encountered at or near the border while seeking admission rather than entering undetected and remaining in the country for years.

PROCEDURAL HISTORY

Petitioner, a Venezuelan citizen, applied for admission at the Laredo, Texas Port of Entry on November 10, 2024, without valid entry documents. After being paroled into the United States and remaining there, he was detained, and he filed this proceeding challenging the detention and seeking a bond hearing. The district court concluded that § 1225(b)(2)(A) applied and denied the petition.

DISPOSITION

writ_denied

CASES CITED

- *da Cunha v. Freden*, 2026 WL 1146044 (2d Cir. Apr. 28, 2026)
- *Rivera Castillo v. Rhoney*, No. 25-CV-1065 (JLS), 2026 WL 775995 (W.D.N.Y. Mar. 19, 2026)
- *Ferreira Candido v. Bondi*, No. 25-CV-867 (JLS), 2025 WL 3123696 (W.D.N.Y. Nov. 7, 2025)
- *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 107 (2020)

- *Leng May Ma v. Barber*, 357 U.S. 185, 189 (1958)
- *Poonjani v. Shanahan*, 319 F. Supp. 3d 644, 648 (S.D.N.Y. 2018)

OPINION

Bausch

PER CURIAM.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

JELSSON LUIS SUAREZ PINO,

Petitioner, v. 26-CV-6349 (JLS) JAMES BAUSCH, in his official capacity as Acting Deputy Field Office Director, Buffalo Field Office, U.S. Immigration & Customs Enforcement; PHILIP RHONEY, in his official capacity as Acting Deputy Field Office Director, Buffalo Field Office, U.S. Immigration & Customs Enforcement; TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; TODD BLANCHE, in his official capacity as Acting Attorney General of the United States; MARKWAYNE MULLIN, in his official capacity as Secretary of Homeland Security, Respondents. !

DECISION AND ORDER

This Court has examined the Second Circuit’s recent decision in *da Cunha v. Freden*, --- F. 4th ---, 2026 WL 1146044 (2d Cir. Apr. 28, 2026). To the extent the 1 The caption has been updated pursuant to Federal Rule of Civil Procedure 25(d). holding therein conflicts with this Court’s decisions in *Rivera Castillo v. Rhoney*, No. 25-CV-1065 (JLS), 2026 WL 775995 (W.D.N.Y. Mar. 19, 2026), and *Ferreira Candido v. Bondi*, No. 25-CV-867 (JLS), 2025 WL 3123696 (W.D.N.Y. Nov. 7, 2025), this Court is bound to follow the Second Circuit’s *da Cunha* dictates. The balance of this Court’s analysis in *Rivera Castillo* and *Ferreira Candido* bears reference and is incorporated here. As relevant to the case now before this Court, in *da Cunha*, the Second Circuit ruled that:

1. “A noncitizen like [da Cunha] is unlawfully present, and thus an ‘applicant for admission,’ but indisputably never sought or applied for lawful entry after inspection and authorization, and is not doing so now. To the contrary, he _ evaded immigration inspectors, snuck into the country, and today applies only for non-admission forms of relief, including asylum and cancellation of removal.” *da Cunha*, 2026 WL 1146044, at *7 (citation modified).
2. “Here, although [da Cunha] is an applicant for admission under the statutory definition because he is present in the country and has never been admitted, it simply cannot be said that he is ‘seeking admission,’ as he is not requesting lawful entry into the United States. By total contrast, [da Cunha] entered the interior unlawfully twenty years ago and is now seeking only relief from removal. Therefore, because Section 1225(b)(2)(A) applies only to a noncitizen who is both an ‘applicant for admission’ and ‘seeking admission,’ it does not apply to [da Cunha].” *Id.* at *6.
3. “Section 1225(b)(2)(A) does not apply to such noncitizens, who are present in

the United States after entering the country without inspection and admission, and who were not apprehended while entering the country or shortly thereafter.” Id. at *2 (citation modified).

4. “Together, Section 1225(b)(2) therefore applies only to (1) noncitizens who are present and have not been admitted, and (2) are requesting (3) lawful entry into the United States after inspection and authorization.” Id. at *6.

5. “Instead, Section 1225(b)(2)(A) applies to those noncitizens who present themselves at a port of entry for admission, or who cross the physical border into the United States but are apprehended at the ‘threshold of initial entry.” Id. (quoting *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107

(2020) (holding that a noncitizen “apprehended just 25 yards from the border” had not effected an “entry”), and citing *Leng May Ma v. Barber*, 357 □ U.S. 185, 189 (1958) (treating noncitizens paroled into the country “as [if] stopped at the boundary line”)) (citation modified). In *da Cunha*, the Second Circuit drew a distinction between aliens who “snuck into” the country and “evaded” detection for years (ruling that a bond hearing is required) and aliens who were encountered at or near the border (where no bond hearing is required). Here, Petitioner is in the latter category. See Dkt. 6 at 2 | 3-5. (Petitioner “is a native and citizen of Venezuela who applied for admission to the United States at the Laredo, Texas Port of Entry on November 10, 2024, without valid entry documents”). In particular, he was released from custody on parole, which terminated on April 18, 2025. See *id*; Dkt. 6-2 at 2 [{ 5-8. As such, under *da Cunha*, “Section 1225(b)(2)(A) applies to those noncitizens {like Petitioner here} who present themselves at a port of entry for admission, or who cross the physical border into the United States but are apprehended at the threshold of initial entry.” *da Cunha*, 2026 WL 1146044, at *6 (citation modified). Petitioner indeed was “seeking admission” into the United States when he entered and was first encountered by government agents. He was at or near the border intending to enter and remain here. He has voluntarily remained since (until the commencement of his current detention), thereby continuing to “seek” admission to the United States. How could it be otherwise? If he were not so seeking admission, he would have given up and departed already and, certainly, would have so departed after his release. In addition, the “entry fiction” doctrine, which treats petitioners the same way now, under the Constitution, as when they were first encountered, is in accord. See *da Cunha*, 2026 WL 1146044 at *15 (citing *Thuraissigiam*); see also *Thuraissigiam*, 591 U.S. at 139-40; *Poonjani v. Shanahan*, 319 F. Supp. 3d 644, 648 (S.D.N.Y. 2018) (same, as to a petitioner stopped at the border and paroled into the country). For the reasons stated above, Petitioner is detained under 8 U.S.C. § 1225(b)(2)(A) and, therefore, is not entitled to a bond hearing. Thus, the petition is denied. The Clerk of Court shall close this case. SO ORDERED. Dated: June 15, 2026
Buffalo, New York JOHN L. SINATRA, JR.

UNITED STATES DISTRICT JUDGE

