

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Edgar Cleofas v. Luis Soto, et al.

Civil Action No. 25-18257 (JXN) · No. Civil Action No. 25-18257 (JXN) · Decided January 23, 2026

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY EDGAR CLEOFAS, Petitioner, Civil Action No. 25-18257 (JXN) v. MEMORANDUM AND ORDER LUIS SOTO, et al., Respondents. NEALS, District Judge Before the Court is Petitioner Edgar Cleofas Pedro's ("Petitioner") Amended Petition for Writ of Habeas Corpus ("Amended Petition") pursuant to 28 U.S.C. § 2241, challenging his continued detention by immigration authorities without an individualized bond hearing.

(ECF No. 6.) Respondents filed a letter response. (ECF No. 8.) Petitioner, a native of Mexico, entered the United States without inspection. (Id. at 1.) Petitioner was arrested by Immigration and Customs Enforcement ("ICE") agents and has been detained in ICE custody since his arrest. (Id.) Following Petitioner's arrest and detention by ICE, he has not been afforded an individualized bond hearing because he is being held in mandatory detention under 8 U.S.C. § 1225(b)(2).

(Id.) The Court ordered Respondents to file an answer. (See ECF No. 7.) Respondents filed a letter response. (ECF No. 8.) The Petition contends that Respondents have violated Petitioner's due process rights. (See generally ECF No. 1.) Respondents do not dispute the salient facts and acknowledge that here they assert the same position they have in many other similar cases in this District, including the position they took before this Court in the recent matter *Fuentes Velasquez v. Noem*, No. 25-16797 (JXN).

(See ECF No. 8.) In *Fuentes Velasquez*, Respondents argued DHS has implemented a new policy interpreting INA § 235, 8 U.S.C. § 1225(b)(2)(A), to require mandatory detention of noncitizens who entered the United States without admission or inspection and to render them ineligible for release on bond, a position that the Board of Immigration Appeals recently adopted in *Matter of Yajure Hurtado*, 29 I&N Dec.

216 (BIA 2025). See *Fuentes Velasquez*, No. 25-16797 (ECF No. 5). In *Fuentes Velasquez*, this Court rejected Hurtado's interpretation of 8 U.S.C. § 1225(b)(2). *Fuentes Velasquez*, No. 25-16797 (ECF Nos. 8, 9). In a factually similar situation, the Court held that *Fuentes Velasquez* was unlawfully held in mandatory detention under § 1225(b)(2) and must be treated as being held under the discretionary authority of 8 U.S.C. § 1226(a).

See *id.* In *Fuentes Velasquez*, this Court explained the following: The issue of whether Petitioner is properly detained under § 1225(b) or § 1226(a) is similar to that of many cases in this District

and around the country. “The line historically drawn between these two sections... is that section 1225 governs detention of non-citizens ‘seeking admission into the country,’ whereas section 1226 governs detention of non-citizens ‘already in the country.’” *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *8 (D.

Mass. July 24, 2025) (citing *Jennings*, 583 U.S. at 288–89); see also *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025) (“There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border.”). “[T]he provisions at issue here are mutually exclusive—a noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226....” *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *4 (S.D.N.Y.

Aug. 13, 2025). For nearly 30 years, § 1225 has applied to noncitizens who are either seeking entry to the United States or have a close nexus to the border, and § 1226 has applied to those aliens arrested within the interior of the United States.

The Supreme Court in *Jennings* explicitly adopted this distinction, describing § 1225 as the detention statute for noncitizens affirmatively “seeking admission” into the United States, and § 1226 as the detention statute for noncitizens who are “already in the country.” 583 U.S. at 289. And although the *Jennings* Court characterizes § 1225(b)(2) as the “catchall” detention provision for noncitizens who are “seeking admission,” it identifies § 1226(a) as the “default rule” for the arrest, detention, and release of non-criminal aliens who are already present in the United States.

Id. at 303. The vast majority of courts confronting this precise issue have rejected Respondents’ interpretation, as well as the BIA’s interpretation in *Hurtado*, as contradictory to the plain text of § 1225.¹ See, e.g., *Soto*, 2025 WL 2976572, at *7 (finding that § 1225(b)(2)(A) applies only to noncitizens who are actively, i.e., affirmatively, “seeking admission” to the United States and not petitioners who have been residing in the United States); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947 at * 6 (D.

Minn. Oct. 1, 2025) (noting that “the government’s proposed interpretation of § 1225(b) [is] at odds with the context and structure of the provisions governing detention of noncitizens who are arriving at the border and those who are already present in the country”); *Zumba*, 2025 WL 2753496 at * 3 (noting that “up until July 8 the predominant form of detention authority for petitioner and other noncitizens arrested in the interior of the United States was § 1226(a)”); *Salazar v. Dedos*, No. 25-cv-835, 2025 WL 2676729 (D.N.M.

Sept. 17, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Roman v. Noem*, No. 25-cv-01684, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); *Giron*

Reyes v. Lyons, No. 25-cv-4048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); Singh v. Lewis, No. 25-cv-0096, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); Barrera v. Tindall, No. 25-cv-541, 2025 WL 2690565 (W.D.

Ky. Sept. 19, 2025); Hasan v. Crawford, No. 25-cv-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); Vazquez v. Feeley, No. 2:25-cv-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); [collecting additional cases]. Fuentes Velasquez, No. 25-16797 (ECF No. 8 at 5-10). Based on this Court's statutory interpretation in Fuentes Velasquez, No. 25-16797, the Court finds the facts asserted in the Petition establish Petitioner's detention is authorized only by 8 U.S.C. § 1226(a), and not § 1225(b)(2).

Accordingly IT IS, on this 23rd day of January 2026, ORDERED that the Petition (ECF No. 1) is GRANTED; it is further 1 This Court is not required to defer to the BIA's interpretation of § 1225 because "[w]hen the meaning of a statute [is] at issue, the judicial role [is] to 'interpret the act of Congress, in order to ascertain the rights of the parties.'" Loper Bright Enterprises v. Raimondo, 603 U.S. 369, 385 (2024) (quoting Decatur v. Paulding, 39 U.S. 497, 503 (1840)).

ORDERED that Respondents shall treat Petitioner as detained under 28 U.S.C. § 1226(a); it is further ORDERED that, as soon as practicable but no later than seven (7) days from the date of this Order, Respondents shall provide Petitioner with an individualized bond hearing in accordance with 8 U.S.C. § 1226(a) before an immigration judge who shall assess whether he presents a flight risk or a danger to the community; it is further ORDERED that within three (3) days of that bond hearing, Respondents shall file a written notice of the outcome of that proceeding with the Court; and it is finally ORDERED the Clerk of Court shall serve a copy of this Order and the accompanying Opinion upon the parties electronically and CLOSE the case.

JULIEN XAVIER NEALS United States District Judge