IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Nina Y. Wang

Civil Action No. 26-cv-04901-NYW

BRANDON VICENTE MAZARIEGOS CASTILLO,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity,
DAVID VENTURELLA, in his official capacity,
MARKWAYNE MULLIN, in his official capacity,
TODD BLANCHE, in his official capacity, and
GEORGE VALDEZ, in his official capacity,

Respondents.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on the Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 ("Petition"), [Doc. 1], and Petitioner's Motion for Temporary Restraining Order And/Or Preliminary Injunction ("Motion"), [Doc. 2], filed by Petitioner Brandon Vicente Mazariegos Castillo ("Petitioner" or "Mr. Mazariegos Castillo"). Respondents have filed a Response, stating that they "are not submitting a brief in opposition to the Petition." [Doc. 6 at 1–2]. For the following reasons, the Petition is respectfully **GRANTED in part**, and the Motion is **DENIED as moot**.

DISCUSSION

Petitioner is a citizen of Guatemala who has been present in the United States since 2023. [Doc. 1 at ¶ 27]. He was apprehended upon entry to the United States and

paroled under 8 U.S.C. § 1182(d)(5)(A) "for humanitarian reasons/public benefit." [*Id.* at ¶¶ 2, 28]. He was issued a Notice to Appear, and, as part of his parole and release from custody, Mr. Mazariegos Castillo was placed in the Immigration and Customs Enforcement ("ICE") Intensive Supervision Appearance Program ("ISAP"). [*Id.* at ¶¶ 3–4]. Since his release, "Petitioner has remained compliant with all his obligations under ISAP." [*Id.* at ¶ 4].

On July 28, 2026, at one of Mr. Mazariegos Castillo's regular ISAP check-in appointments, the Department of Homeland Security "re-detained [Petitioner] without a warrant, without probable cause, and without a danger or flight risk determination." [*Id.* at ¶ 5]. He was not provided "any written notice or any explanation of failure to comply with the conditions of his release, rather, the arresting officer, without any proof, merely provided false accusations of him violating the terms of his release." [*Id.*]. On September 10, 2026, he attended a "scheduled bond hearing where the Immigration Judge concluded she lacked jurisdiction based on Petitioner's status as 'arriving alien', rendering him under mandatory detention." [*Id.* at ¶ 31]. Mr. Mazariegos Castillo is currently detained at the Aurora ICE Processing Center in this District. [*Id.* at ¶ 8].

Based on these facts, Petitioner argues that his re-detention "without a warrant violated statutory requirements and the Fourth Amendment," and because he was re-detained without notice or process, it "also violated his constitutional due process rights under the Fifth Amendment." [*Id.* at ¶ 6]. He raises three claims: (1) violation of the Fourth Amendment; (2) violation of his due process rights under the Fifth Amendment; and (3) violation of the Administrative Procedures Act. [*Id.* at ¶¶ 52–71]. He seeks immediate release under reasonable conditions. [*Id.* at 20]. He seeks substantively the

same relief in the Motion. [Doc. 2 at 9–10].

Respondents concede that they "are not submitting a brief in opposition to the Petition," so any arguments opposing Petitioner's allegations are waived. *See Mendoza Hernandez v. Baltazar*, No. 26-cv-03652-WJM, 2026 WL 2453685, at *4 (D. Colo. Aug. 21, 2026) ("Respondents have waived any arguments they might otherwise have had in response to Mendoza Hernandez's claims by expressly declining to respond to Mendoza Hernandez's claims and his arguments in support of those claims.").

As previously explained in detail by the Court, 8 U.S.C. § 1226(a) applies to noncitizens like Petitioner who have resided in the United States for years and were detained within the United States. *See, e.g.*, *Buckle v. Baltazar*, 26-cv-04647-NYW, 2026 WL 2948770, at *2 (D. Colo. Oct. 1, 2026) (citing *Santillan Quiroz v. Mullin*, 180 F.4th 1226, 1237 (10th Cir. 2026)); *Diaz Bermudez v. Warden/Facility Administrator*, No. 26-cv-04020-NYW, 2026 WL 2686685, at *3 (D. Colo. Sept. 14, 2026) (finding that the detention of a noncitizen who had been paroled under § 1182(d)(5) and who "had been residing in the United States for years when he was detained" was governed by § 1226(a)). And it is well-established that a noncitizen subject to § 1226(a) is eligible for bond. *Santillan Quiroz*, 180 F.4th at 1237. Therefore, the immigration judge's conclusion that she "lacked jurisdiction" over Petitioner's bond hearing because he is subject to mandatory detention under 8 U.S.C. § 1225(b) was legally incorrect. *See* [Doc. 1 at ¶¶ 17, 31]. Because Mr. Mazariegos Castillo did not receive a constitutionally adequate bond hearing, his detention violates § 1226(a) and his Fifth Amendment due process rights. *See, e.g.*, *Buckle*, 2026 WL 2948770 at *2 (collecting cases).

The Petition is therefore **GRANTED** as to Mr. Mazariegos Castillo's second claim

that his detention violates his Fifth Amendment due process rights. As for the appropriate relief, Mr. Mazariegos Castillo requests release, [Doc. 1 at 20], and Respondents agree that "if the Court does grant the Petition, the appropriate relief would be an Order directing that Respondents . . . release Petitioner from detention," [Doc. 6 at 2]. Accordingly, the Court **ORDERS** that Respondent **SHALL RELEASE** Petitioner **within 48 hours** of the entry of this Order. Because the Court has granted Petitioner's requested relief, the Court need not address his other claims.[1] Similarly, the Motion is respectfully **DENIED as moot**, as it requests substantially the same relief that the Court has already granted. *See* [Doc. 2].

CONCLUSION

For the reasons set forth above, **IT IS ORDERED** that:

(1) The Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Doc. 1] is **GRANTED in part**;

(2) Respondents **SHALL RELEASE** Petitioner, subject to any previous conditions of supervision, **within 48 hours of the entry of this Order**;

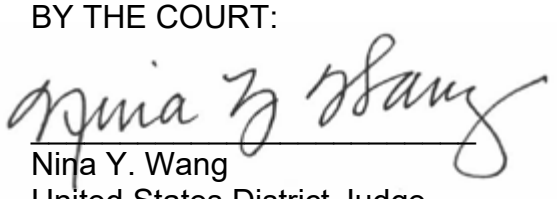
(3) On or before **November 2, 2026**, the Parties **SHALL FILE** a joint status report confirming that Petitioner was released and informing the Court whether further proceedings are required in this case; and

(4) Petitioner's Motion for Temporary Restraining Order And/Or Preliminary Injunction [Doc. 2] is **DENIED as moot.**

[1] To the extent Petitioner asks the Court to award him attorney's fees and litigation expenses under the Equal Access to Justice Act, [Doc. 1 at 20], this District's Local Rules require that a request for attorney's fees be made by separate motion. *See* D.C.COLO.LCivR 54.3.

DATED: October 26, 2026

BY THE COURT:



Nina Y. Wang
United States District Judge