UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

LAREDO DIVISION

JOSE PADRON COVARRUBIAS, Petitioner, v. MIGUEL VERGARA, ICE Field Office Director, ET AL., Respondents.	§ § § § § § § § § § §	CIVIL ACTION NO. 5:25-CV-112

RESPONDENTS' RESPONSE TO
PETITIONER'S EMERGENCY EX PARTE MOTION
FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW the Respondents, Miguel Vergara, U.S. Immigration & Customs Enforcement (ICE) Field Office Director, San Antonio ICE Detention and Removal, Kristi Noem, Secretary of the U.S. Department of Homeland Security, Pamela Jo Bondi, Attorney General of the United States, Juan S. Diaz, Warden, Laredo Processing Center, Corrections Corporation of America, and Susan Aikman, Assistant Chief Counsel, Office of ICE Chief Counsel, in their official capacities, by and through the United States Attorney for the Southern District of Texas, and hereby respectfully present their Response to Petitioner's Emergency Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction.

BACKGROUND

Petitioner Jose Padron Covarrubias (Padron) is a native and citizen of Mexico who entered the United States without inspection near Laredo, Texas on or about September 16, 2001. On May 29, 2025, he was apprehended by ICE in Tallahassee, Florida. On June 6, 2025, ICE served

Padron with a Notice to Appear (NTA) in removal proceedings under section 240 of the Immigration and Nationality Act (INA) charging him with being subject to removal pursuant to Section 212(a)(6)(A)(i) of the INA as an alien present in the United States without admission or parole or who arrived in the United States at any time or place other than as designated by the Attorney General. Currently, Padron remains in ICE custody at the Rio Grande Processing Center in Laredo, Texas. On June 25, 2025, Padron sought a redetermination of his custody status with the Immigration Court in Laredo, but the Immigration Judge (IJ) denied his request and found him ineligible for bond as an applicant for admission arrested and detained without a warrant under INA Section 235(b). Padron reserved appeal at the conclusion of the hearing, and on July 3, 2025, he filed an appeal with the Board of Immigration Appeals (BIA). Padron also applied for Cancellation of Removal, and his final removal hearing is scheduled for October 24, 2025. [1]

On July 8, 2025, Padron filed his Petition for Writ of Habeas Corpus (Petition) in this Court seeking his release from ICE custody at the Laredo Processing Center in Laredo, Texas, where he was detained pending his removal proceedings. See Civil Docket for Case # 5:25-CV-00112 (SDTX), [Docket # 3]. On August 25, 2025, Respondents filed their Motion to Dismiss Petitioner's Petition for Writ of Habeas Corpus [Docket # 20]. On September 26, 2025, Petitioner filed his Emergency Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction (TRO/PI Motion) [Docket # 24], and on September 30, 2025, the Court ordered Respondents to respond to that motion by October 6, 2025 [Docket # 25].

LEGAL STANDARD

[1] Documents which support the facts set out in this paragraph may be found appended to Respondents' Motion to Dismiss Petitioner's Petition for Writ of Habeas Corpus [Docket # 20] as Exhibits A – D [Docket #'s 20-2 – 20-5].

The purpose of a Temporary Restraining Order (TRO) is to preserve the status quo and prevent irreparable harm until the court makes a final decision on injunctive relief. *Granny Goose Foods, Inc. v. Bhd of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974). The legal standard for issuing a TRO is essentially identical to the standard for issuing a preliminary injunction. *See Enrique Bernat F., S.A. v. Guadalajara, Inc.*, 210 F.3d 439, 442 (5th Cir. 2000). A court may issue a preliminary injunction upon notice to the adverse party. Fed R. Civ. P. 65(a). A preliminary injunction is an "extraordinary remedy never awarded as of right", *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (internal citations omitted). To justify such relief, a party must demonstrate: (1) a substantial likelihood of success on the underlying merits of his claims; (2) that he is likely to suffer irreparable injury without the entry of an injunction; (3) that the balance of hardships between the parties warrants the relief; and (4) that the injunction is in the public interest. *Id.* at 20. The third and fourth factors "merge when the Government is the opposing party". *Nken v. Holder*, 556 U.S. 418, 435 (2009).

PETITIONER'S TRO/PI MOTION

In his TRO/PI Motion, Padron characterizes his continuing immigration detention pending his removal proceeding as unlawful and failing to comport with the requirements of the Due Process Clause of the Fifth Amendment. TRO/PI Motion at page 6. Padron asserts that he has been subjected to a new DHS policy which instructs ICE employees to consider anyone arrested within the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. Id. at ¶ 3. However, he contends that he has a right to an individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a), which he has been denied. Id. at ¶ 2, page 7 ¶ 5. Padron insists that 8 U.S.C. § 1225(b)(2)(A) does not apply to

individuals who previously entered the United States and are now residing (illegally) therein; rather, he contends that such individuals are subject to § 1226a, which allows for release on bond while removal proceedings are pending. Id. at pages 7 – 8, ¶ 6. Padron therefore seeks a TRO to enjoin the Respondents from continuing to detain him "based on their incorrect interpretation of the Immigration and Nationality Act". Id. at page 8, ¶ 8.

Padron assets that he is likely to succeed on the merits of his claim that his ongoing immigration detention under 1225(b)(2) and the denial of a bond hearing before an IJ is unlawful, because 1226(a) governs his detention. Id. at page 12, ¶ 19. As such, the Government's denial of his requested bond hearing violates his Fifth Amendment right to due process, violates federal law, and ICE's own administrative procedures. Id. at ¶ 20. In support of that proposition, Padron points to a recent BIA decision, *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) which "resolves that 'aliens present in the United States without having been admitted or paroled, . . . , are subject to mandatory detention under § 1225(b)(2) as applicants for admission . . .'". Id. at page 13, ¶ 20. Padron reports that numerous federal district court decisions have ruled against the BIA's holding, "without a single district judge agreeing with its logic". Id.

Padron again urges that 1225 does not apply to him, rather, 1226 does, and that he is therefore likely to succeed on the merits of his claim. Id. at ¶¶ 21 – 27. Padron further contends that he will suffer irreparable harm if a TRO is not issued, since he would remain detained and separated from his family after being deprived of his liberty and subjected to unlawful incarceration by immigration authorities. Id. at pages 16 – 19, ¶¶ 28 – 33. He finally argues that the balance of equities and the public interest favor granting the TRO, since he claims the Government is engaging in an unlawful practice. Id. at pages 19 – 20. ¶¶ 34 – 38.

Through his TRO/PI Motion, Padron seeks the following relief: (1) to enjoin the

Respondents from continuing to detain him based on their "incorrect interpretation" of the Immigration and Nationality Act (INA); (2) an order immediately releasing him from immigration detention; (3) an order prohibiting Respondents from re-arresting him until he is afforded a hearing before a neutral decision-maker who will determine whether he is a flight risk or a danger to the community: (4) to enjoin the Respondents from continuing to detain him unless he is provided with an individualized bond hearing before an immigration judge (IJ) pursuant to 8 U.S.C. § 1226(a) within seven days of the TRO; (5) issue an order enjoining Respondents from "using the same argument they now use in interpreting the bond statutes as requiring mandatory detention, based on him being allegedly subject to 8 U.S.C. § 1225(b)", as a basis to refuse Padron's bond payment by filing an automatic stay of the custody order while the government appeals the bond order; (6) prohibit Respondents form relocating Padron outside the Southern District of Texas; and (7) order Respondents for file a complete copy of his administrative file with the Court. TRO/PI Motion at page 5.

RESPONSE OF RESPONDENTS

I. Applicants for admission are subject to detention under 8 U.S.C. § 1225:

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). 8 U.S.C. § 1225(a)(1) defines an "applicant for admission" as an "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .) . . . ." 8 U.S.C. § 1225(a)(1); *see Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission."). Accordingly, by its very definition, the term

"applicant for admission" includes two categories of aliens: (1) arriving aliens and (2) aliens present without admission or parole (PWAP). *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'" (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . ."); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that "the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted" (citing 8 U.S.C. 1225(a)(1))). An arriving alien is defined, in pertinent part, as "an applicant for admission coming or attempting to come into the United States at a port-of-entry [("POE")] . . . ." 8 C.F.R. §§ 1.2, 1001.1(q). 8 U.S.C. § 1182(a) describes certain classes of aliens who are inadmissible, arriving aliens "present in the United States without being admitted or paroled[.]" 8 U.S.C. § 1182(a)(6)(A)(i).

All aliens who are applicants for admission "shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) ("Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection . . . ."). An applicant for admission seeking admission at a United States POE "must present whatever documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is entitled, under all of the applicable provisions of the immigration laws . . . to enter the United States." 8 C.F.R. § 235.1(f)(1); *see* 8 U.S.C. 1229a(c)(2)(A) (describing the related burden of an applicant for admission in removal proceedings). "An alien present in the United States who has not been admitted or paroled or an

alien who seeks entry at other than an open, designated [POE] . . . is subject to the provisions of [8 U.S.C. 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or U.S.C. [8 U.S.C. § 1229a]." 8 C.F.R. § 235.1(f)(2).

Here, Padron did not present himself at a POE but instead entered the United States on or about September 16, 2001, between POEs and without having been admitted or paroled after inspection by an immigration officer. Padron is therefore an alien PWAP and, consequently, an applicant for admission. Both arriving aliens and aliens PWAP, as applicants for admission, may be removed from the United States by, *inter alia*, expedited removal under 8 U.S.C. § 1225(b)(1)[2] or removal proceedings before an IJ under 8 U.S.C. § 1229a. 8 U.S.C. §§ 1225(b)(1), (b)(2)(A), 1229a; *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing how "applicants for admission fall into one of two categories, those covered by 8 U.S.C. § 1225(b)(1) and those covered by 8 U.S.C. § 1225(b)(2)"). Immigration officers have discretion to apply expedited removal under 8 U.S.C. § 1225 or to initiate removal proceedings before an IJ under 8 U.S.C. § 1229a. *E-R-M- & L-R-M-*, 25 I&N Dec. at 524; *see also Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) ("DHS may place aliens arriving in the United States in either expedited removal proceedings under [8 U.S.C. § 1225(b)(1)], or full removal proceedings under [8 U.S.C. § 1229a]" (citations omitted)).

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2 8 U.S.C. § 1225(b)(1) authorizes immigration officers to order certain inadmissible aliens "removed from the United States without further hearing or review" if the immigration officer finds that the alien, "who is arriving in the United States or is described in [8 U.S.C. § 1225(b)(1)(A)(iii)] is inadmissible under [8 U.S.C. 1182(a)(6)(C) or (a)(7)]." 8 U.S.C. § 1225(b)(1)(A)(i); *see* 8 C.F.R. § 235.3(b)(2)(i). If DHS wishes to pursue inadmissibility charges other than 8 U.S.C. § 1182(a)(6)(C) or (a)(7), DHS must place the alien in removal proceedings under 8 U.S.C. § 1229a. 8 C.F.R. § 235.3(b)(3). Additionally, an alien PWAP "who establishes that he or she has been continuously physically present in the United States for the 2–year period immediately prior to the date of determination of inadmissibility shall be detained in accordance with [8 U.S.C. § 1225(b)] for a proceeding under [8 U.S.C. § 1229a]." *Id.* § 235.3(b)(1)(ii); *id.* § 1235.6(a)(1)(i) (providing that an immigration officer will issue and serve an NTA to an alien "[i]f, in accordance with the provisions of [8 U.S.C. § 1225(b)(2)(A)], the examining immigration officer detains an alien for a proceeding before an immigration judge under [8 U.S.C. § 1229a]").

Padron has been placed in full removal proceedings before an IJ under 1229a.

II. Applicants for Admission in 8 U.S.C. § 1229a Removal Proceedings are detained pursuant to 8 U.S.C. § 1225(b)(2)(A):

Applicants for admission whom DHS places in removal proceedings before an IJ under 8 U.S.C. § 1229a are subject to detention and ineligible for a custody redetermination hearing before an IJ. Specifically, aliens PWAP placed in 8 U.S.C. § 1229a removal proceedings are both applicants for admission as defined in 8 U.S.C. § 1225(a)(1) *and* aliens "seeking admission," as contemplated in 8 U.S.C. § 1225(b)(2)(A). Such aliens are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and thus ineligible for a bond redetermination hearing before the IJ.

Aliens PWAP whom DHS places in 8 U.S.C. § 1229a removal proceedings are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for a bond hearing before an IJ. 8 U.S.C. § 1225(b)(2)(A) "serves as a catchall provision that applies to all applicants for admission not covered by 8 U.S.C. § 1225(b)(1)." *Jennings*, 583 U.S. at 287; *see* 8 U.S.C. § 1225(b)(2)(A), (B). Under 8 U.S.C. § 1225(b)(2)(A), "an alien who is an applicant for admission" "*shall be detained* for a proceeding under [8 U.S.C. 1229a]" "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (emphasis added); 8 C.F.R. § 235.3(b)(3) (providing that an alien placed into 8 U.S.C. § 1229a removal proceedings in lieu of expedited removal proceedings under 8 U.S.C. § 1225 "shall be detained" pursuant to 8 U.S.C. § 1225(b)(2)); 8 C.F.R. § 235.3(c) (providing that "any arriving alien . . . placed in removal proceedings pursuant to [8 U.S.C. § 1229a] shall be detained in accordance with [8 U.S.C. § 1225(b)]" unless paroled pursuant to 8 U.S.C. § 1182(d)(5)).

Thus, according to the plain language of 8 U.S.C. § 1225(b)(2)(A), applicants for

admission in 8 U.S.C. § 1229a removal proceedings "*shall* be detained." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). "The 'strong presumption' that the plain language of the statute expresses congressional intent is rebutted only in 'rare and exceptional circumstances,' . . . ." *Ardestani v. INS*, 502 U.S. 129, 135–36 (1991) (quoting *Rubin v. United States*, 449 U.S. 424, 430 (1981)); *see Lamie*, 540 U.S. at 534 ("It is well established that when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms." (quotation marks omitted)). As the Supreme Court observed in *Jennings*, nothing in 8 U.S.C. § 1225(b)(2)(A) "says anything whatsoever about bond hearings." 583 U.S. at 297. Further, there is no textual basis for arguing that 8 U.S.C. § 1225(b)(2)(A) applies only to arriving aliens. The distinction the Attorney General drew in the 1997 Interim Rule (addressed in detail below) between "arriving aliens," *see* 8 C.F.R. §§ 1.2, 1001.1(q), and "aliens who are present without being admitted or paroled," Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997),[3] finds no purchase in the statutory text. No provision within 8 U.S.C. § 1225(b)(2) refers to "arriving aliens," or limits that paragraph to arriving aliens, as Congress intended for it to apply generally "in the case of an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Where Congress means for a rule to apply only to "arriving aliens," it uses that specific term of art or similar phrasing. *See, e.g., id.* 8 U.S.C.

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3 As discussed more below, the preamble language of the 1997 Interim Rule states that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10,323. However, preambular language is not binding and "should not be considered unless the regulation itself is ambiguous." *El Comite Para El Bienestar de Earlimart v. Warmerdam*, 539 F.3d 1062, 1070 (9th Cir. 2008); *see also Wards Cove Packing Corp. v. Nat'l Marine Fisheries Serv.*, 307 F.3d 1214, 1219 (9th Cir. 2002) ("[T]he plain meaning of a regulation governs and deference to an agency's interpretation of its regulation is warranted only when the regulation's language is ambiguous." (citing *Christensen v. Harris County*, 529 U.S. 576, 588 (2000))).

§ 1182(a)(9)(A)(i), 8 U.S.C. § 1225(c)(1).

Until recently, DHS and the Department of Justice ("DOJ") interpreted 8 U.S.C. § 1226(a) to be an available detention authority for aliens PWAP placed directly in 8 U.S.C. § 1229a removal proceedings. *See, e.g.*, *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 747 (BIA 2023); *Matter of R-A-V-P-*, 27 I&N Dec. 803, 803 (BIA 2020); *Matter of Garcia-Garcia*, 25 I&N Dec. 93, 94 (BIA 2009); *Matter of D-J-*, 23 I&N Dec. 572 (A.G. 2003). This past practice does not change the fact that the plain language of 8 U.S.C. § 1225 mandates that it is the sole applicable detention authority for all applicants for admission. The weight given to agency interpretations "must always 'depend upon their thoroughness, the validity of their reasoning, the consistency with earlier and later pronouncements, and all those factors which give them power to persuade.'" *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 432–33 (2024) (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944) (cleaned up)).

Additionally, legal developments have made clear that 8 U.S.C. § 1225 is the sole applicable immigration detention authority for *all* applicants for admission. In *Jennings*, the Supreme Court explained that 8 U.S.C. § 1225(b) applies to all applicants for admission, noting that the language of 8 U.S.C. § 1225(b)(2) is "quite clear" and "unequivocally mandate[s]" detention. 583 U.S. at 300, 303 (explaining that "the word 'shall' usually connotes a requirement" (quoting *Kingdomware Technologies, Inc. v. United States*, 579 U.S. 162, 171 (2016))). Similarly, the Attorney General, in *Matter of M-S-*, unequivocally recognized that 8 U.S.C. §§ 1225 and 1226(a) do not overlap but describe "different classes of aliens." 27 I&N Dec. at 516. The Attorney General also held—in an analogous context—that aliens PWAP placed into expedited removal proceedings are detained under 8 U.S.C. § 1225 even if later placed in 8 U.S.C. § 1229a removal proceedings. 27 I&N Dec. at 518-19. In *Matter of Q. Li*, the Board held that an alien who illegally

crossed into the United States between POEs and was apprehended without a warrant while arriving is detained under 8 U.S.C. § 1225(b). 29 I&N Dec. at 71. This ongoing evolution of the law makes clear that all applicants for admission are subject to detention under 8 U.S.C. § 1225(b). *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (providing that "no amount of policy-talk can overcome a plain statutory command"); *see generally Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that "the 1996 expansion of 8 U.S.C. § 1225(b) to include illegal border crossers would make little sense if DHS retained discretion to apply 8 U.S.C. § 1226(a) and release illegal border crossers whenever the agency saw fit").[4] *Florida's* conclusion "that 8 U.S.C. § 1225(b)'s 'shall be detained' means what it says and . . . is a mandatory requirement . . . flows directly from *Jennings*." *Florida*, 660 F. Supp. 3d at 1273.

Given 8 U.S.C. § 1225 is the applicable detention authority for all applicants for admission—both arriving aliens and aliens PWAP alike, regardless of whether the alien was initially processed for expedited removal proceedings under 8 U.S.C. § 1225 or placed directly into removal proceedings under 8 U.S.C. § 1229a —and "[b]oth 8 U.S.C. § 1225(b)(1) and (b)(2) mandate detention ... throughout the completion of applicable proceedings," *Jennings*, 583 U.S. at 301–03, IJs do not have authority to redetermine the custody status of an alien PWAP.

Here, Padron is an applicant for admission (specifically, an alien PWAP), placed directly into removal proceedings under 8 U.S.C. § 1229a. He is therefore subject to detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and ineligible for a custody redetermination hearing before an IJ. "It is well established . . . that the Immigration Judges only have the authority to consider matters that

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4 The U.S. District Court for the Northern District of Florida's decision is instructive here. *Florida* held that 8 U.S.C. § 1225(b) mandates detention of applicants for admission throughout removal proceedings, rejecting the assertion that DHS has discretion to choose to detain an applicant for admission under either 8 U.S.C. §§ 1225(b) or 1226(a). 660 F. Supp. 3d at 1275. The court held that such discretion "would render mandatory detention under 8 U.S.C. § 1225(b) meaningless." *Id.*

are delegated to them by the Attorney General and the [INA]." *Matter of A-W-*, 25 I&N Dec. 45, 46 (BIA 2009). "In the context of custody proceedings, an Immigration Judge's authority to redetermine conditions of custody is set forth in 8 C.F.R. § 1236.1(d) . . . ." *Id.* at 46. The regulation clearly states that "the [IJ] is authorized to exercise the authority in 8 U.S.C. § 1226." 8 C.F.R. § 1236.1(d); *see id.* § 1003.19(a) (authorizing IJs to review "[c]ustody and bond determinations made by [DHS] pursuant to 8 C.F.R. part 1236"); *see id.* § 1003.19(h)(2)(i)(B) ("[A]n IJ may not redetermine conditions of custody imposed by [DHS] with respect to . . . [a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to 8 U.S.C. §1182(d)(5)[.]"). "An Immigration Judge is without authority to disregard the regulations, which have the force and effect of law." *Matter of L-M-P-*, 27 I&N Dec. 265, 267 (BIA 2018). Thus, the IJ correctly held that Padron was subject to mandatory detention in his removal proceeding.

Aliens PWAP in 8 U.S.C. § 1229a removal proceedings are both applicants for admission under 8 U.S.C. § 1225(a)(1) and aliens seeking admission under 8 U.S.C. § 1225(b)(2)(A). As discussed above, aliens PWAP placed in removal proceedings under 8 U.S.C. § 1229a are applicants for admission as defined in 8 U.S.C. § 1225(a)(1), subject to detention under 8 U.S.C. § 1225(b)(2)(A), and thus ineligible for a bond redetermination hearing before the IJ. Such aliens are also considered "seeking admission," as contemplated in 8 U.S.C. § 1225(b)(2)(A). To be sure, "many people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws." *Lemus*, 25 I&N Dec. at 743; *see Q. Li*, 29 I&N Dec. at 68 n.3; *see also Matter of Valenzuela-Felix*, 26 I&N Dec. 53, 56 (BIA 2012) (explaining that "an application for admission [i]s a continuing one").

In analyzing 8 U.S.C. § 1225(b)(2)(A), the Supreme Court in *Jennings* equated "applicants for admission" with aliens "seeking admission." *See Jennings*, 583 U.S. at 289. As noted above,

the Supreme Court stated that 8 U.S.C. § 1225(b)(2) "serves as a catchall provision that applies to all applicants for admission not covered by 8 U.S.C. § 1225(b)(1)." *Id.* at 287. In doing so, it specifically cited 8 U.S.C. § 1225(b)(2)(A)—and thus did not appear to consider aliens "seeking admission" to be a subcategory of applicants for admission. *Id.* The Supreme Court also stated that "[a]liens who are instead covered by 8 U.S.C. § 1225(b)(2) are detained pursuant to a different process . . . [and] 'shall be detained for a [removal] proceeding' . . . ." *Id.* at 288 (quoting 8 U.S.C. § 1225(b)(2)(A)). The Supreme Court considered all aliens covered by 8 U.S.C. § 1225(b)(2) to be subject to detention under subparagraph (A)—not just a subset of such aliens. Moreover, *Jennings* found that 8 U.S.C. § 1225(b) "applies primarily to aliens *seeking entry* into the United States (*'applicants for admission' in the language of the statute*)." *Id.* at 297 (emphases added). The Court therefore considered aliens seeking admission/entry and applicants for admission to be virtually indistinguishable; it did not consider them to be merely a subcategory of applicants for admission.

Indeed, the Supreme Court explicitly stated that aliens seeking admission are subject to 8 U.S.C. § 1225(b) detention: "In sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under 8 U.S.C. § 1225(b)(1) and (b)(2)]." *Id.* at 289. This was recently reiterated by the Board in *Matter of Q. Li*, which held that for aliens "seeking admission into the United States who are placed directly in full removal proceedings, [8 U.S.C. § 1225(b)(2)(A)] . . . mandates detention 'until removal proceedings have concluded.'" 29 I&N Dec. At 68 (quoting *Jennings*, 583 U.S. at 299).

The structure of the statutory scheme prior to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Pub. L. No. 104-208, div. C, 110 Stat. 3009-546 (1996) bolsters the understanding that under the current statutory scheme, all applicants for

admission are subject to detention under 8 U.S.C. § 1225(b). The broad definition of applicants for admission was added to the INA in 1996. Before 1996, the INA only contemplated inspection of aliens arriving at POEs. *See* 8 U.S.C. § 1226(a) (1995) (discussing "aliens arriving at ports of the United States"); *id.* 8 U.S.C. § 1225(b) (1995) (discussing "the examining immigration officer at the port of arrival"). Relatedly, any alien who was "in the United States" and within certain listed classes of deportable aliens was deportable. *Id.* 8 U.S.C. § 1231(a) (1995). One such class of deportable aliens included those "who entered the United States without inspection or at any time or place other than as designated by the Attorney General." *Id.* 8 U.S.C. § 1231(a)(1)(B) (1995) (former deportation ground relating to entry without inspection). Aliens were excludable if they were "seeking admission" at a POE or had been paroled into the United States. *See id.* 8 U.S.C. §§ 1182(a), 1225(a) (1995). Deportation proceedings (conducted pursuant to former 8 U.S.C. § 1252(b) (1995)) and exclusion proceedings (conducted pursuant to former 8 U.S.C. § 1226(a) (1995)) differed and began with different charging documents. *See Sale v. Haitian Ctrs. Council, Inc.*, 509 U.S. 155, 175 (1993) (explaining the "important distinction" between deportation and exclusion); *Matter of Casillas*, 22 I&N Dec. 154, 156 n.2 (BIA 1998) (noting the various forms commencing deportation, exclusion, or removal proceedings). The placement of an alien in exclusion or deportation proceedings depended on whether the alien had made an "entry" within the meaning of the INA. *See* 8 U.S.C. § 1101(a)(13) (1995) (defining "entry" as "any coming of an alien into the United States, from a foreign port or place or from an outlying possession"); *see also Rosenberg v. Fleuti*, 374 U.S. 449, 462 (1963) (concluding that whether a lawful permanent resident has made an "entry" into the United States depends on whether, pursuant to the statutory definition, he or she has intended to make a "meaningfully interruptive" departure).

Former 8 U.S.C. § 1225 provided that aliens "seeking admission" at a POE who could not demonstrate entitlement to be admitted ("excludable" aliens) were subject to mandatory detention, with potential release solely by means of parole under 8 U.S.C. § 1182(d)(5) (1995). 8 U.S.C. § 1225(a)-(b) (1995). "Seeking admission" in former 8 U.S.C. § 1225 appears to have been understood to refer to aliens arriving at a POE.[5] *See id.* The INS regulations implementing former 8 U.S.C. § 1225(b) provided that such arriving aliens had to be detained without parole if they had "no documentation or false documentation," 8 C.F.R. § 235.3(b) (1995), but could be paroled if they had valid documentation but were otherwise excludable, *id.* § 235.3(c) (1995). With regard to aliens who entered without inspection and were deportable under former 8 U.S.C. § 1231, such aliens were taken into custody under the authority of an arrest warrant, and like other deportable aliens, could request bond. *See* 8 U.S.C. §§ 1231(a)(1)(B), 1252(a)(1) (1995); 8 C.F.R. § 242.2(c)(1) (1995).

As a result, "[aliens] who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings," while [aliens] who actually presented themselves to authorities for inspection were restrained by "more summary exclusion proceedings." To remedy this unintended and undesirable consequence, the IIRIRA

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5 Given Congress's overhaul of the INA, including wholesale revision of the definition of which aliens are considered applying for or seeking admission, Congress clearly did not intend for the former understanding of "seeking admission" to be retained in the new removal scheme. Generally, "[w]hen administrative and judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute indicates . . . the intent to incorporate its administrative and judicial interpretations as well." *Bragdon v. Abbott*, 524 U.S. 624, 645 (1998). However, the prior construction canon of statutory interpretation "is of little assistance here because, . . . this is not a case in which 'Congress re-enact[ed] a statute without change.'" *Public Citizen Inc. v. U.S. Dep't of Health and Human Servs.*, 332 F.3d 654, 668 (D.C. Cir. 2003) (quoting *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran*, 456 U.S. 353, 382 n.66 (1982)). Rather, the presumption "of congressional ratification" of a prior statutory interpretation "applies only when Congress reenacts a statute without relevant change." *Holder v. Martinez Gutierrez*, 566 U.S. 583, 593 (2012) (citing *Jama v. Immigration and Customs Enforcement*, 543 U.S. 335, 349 (2005)).

substituted "admission" for "entry," and replaced deportation and exclusion proceedings with the more general "removal" proceeding. *Martinez v. Att'y Gen.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012) (citation omitted) (quoting *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010)). Consistent with this dichotomy, the INA, as amended by IIRIRA, defines *all* those who have not been admitted to the United States as "applicants for admission." IIRIRA § 302.

Moreover, Congress's use of the present participle—seeking—in 8 U.S.C. § 1225(b)(2)(A) should not be ignored. *United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes."). By using the present participle "seeking," 8 U.S.C. § 1225(b)(2)(A) "signal[s] present and continuing action." *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.*, 48 F.4th 1298, 1307 (11th Cir. 2022). The phrase "seeking admission" "does not include something in the past that has ended or something yet to come." *Shell v. Burlington N. Santa Fe Ry. Co.*, 941 F.3d 331, 336 (7th Cir. 2019) (concluding that "having" is a present participle, which is "used to form a progressive tense" that "means presently and continuously" (citing Bryan A. Garner, *Garner's Modern American Usage* 1020 (4th ed. 2016))). The present participle "expresses present action in relation to the time expressed by the finite verb in its clause," *Present Participle*, Merriam-Webster, http://www.merriam-webster.com/dictionary/present%20participle (last visited Aug. 7, 2025), with the finite verb in the same clause of 8 U.S.C. § 1225(b)(2)(A) being "determines." Thus, when pursuant to 8 U.S.C. § 1225(b)(2)(A) an "examining immigration officer determines" that an alien "is not clearly and beyond a doubt entitled to be admitted" the officer does so contemporaneously with the alien's present and ongoing action of seeking admission. Interpreting the present participle "seeking" as denoting an ongoing process is consistent with its ordinary usage. *See e.g. Samayoa v. Bondi*, No. 24-1432, 2025 WL 2104102, at *2 (1st Cir., July 28, 2025) (alien inadmissible under 8 U.S.C. §

1182(a)(6)(A)(i) but "seeking to remain in the country lawfully" applied for relief in removal proceedings); *Garcia v. USCIS*, No. 23-35267, 2025 WL 2046176, at *2 (9th Cir. July 22, 2025) ("USCIS requires all U-visa holders seeking permanent resident status under 8 U.S.C. § 1255(m) to undergo a medical examination . . ."). Accordingly, just as Samayoa is not only an alien PWAP but also seeking to remain in the United States, Padron is not only an alien PWAP, and therefore an applicant for admission as defined in 8 U.S.C. § 1225(a)(1), *but also* an alien seeking admission under 8 U.S.C. § 1225(b)(2)(A).

Lastly, Congress's significant amendments to the immigration laws in IIRIRA supports DHS's position that such aliens are properly detained pursuant to 8 U.S.C. § 1225(b)—specifically, 8 U.S.C. § 1225(b)(2)(A). Congress, for example, eliminated certain anomalous provisions that favored aliens who illegally entered without inspection over aliens arriving at POEs. A rule that treated an alien who enters the country illegally, such as Padron, more favorably than an alien detained after arriving at a POE would "create a perverse incentive to enter at an unlawful rather than a lawful location." *Gambino-Ruiz*, 91 F.4th at 990 (quoting *Thuraissigiam*, 591 U.S. at 140) (rejecting such a rule as propounded by the defendant). Such a rule reflects "the precise situation that Congress intended to do away with by enacting" IIRIRA. *Id.* "Congress intended to eliminate the anomaly 'under which illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a [POE]'" by enacting IIRIRA. *Ortega-Lopez v. Barr*, 978 F.3d 680, 682 (9th Cir. 2020) (quoting *Torres*, 976 F.3d at 928); *see also* H.R. Rep. No. 104-469, pt. 1, at 225–29 (1996).

During IIRIRA's legislative drafting process, Congress asserted the importance of controlling illegal immigration and securing the land borders of the United States. *See* H.R. Rep.

104-469, pt. 1, at 107 (noting a "crisis at the land border" allowing aliens to illegally enter the United States). As alluded to above, one goal of IIRIRA was to "reform the legal immigration system and facilitate legal entries into the United States . . . ." H.R. Rep. No. 104-828, at 1 (1996). Nevertheless, after the enactment of IIRIRA, the DOJ took the position—consistent with pre-IIRIRA law—that "despite being applicants for admission, aliens who are present without being admitted or paroled . . . will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10,323. Affording aliens PWAP, who have evaded immigration authorities and illegally entered the United States bond hearings before an IJ, but not affording such hearings to arriving aliens, who are attempting to comply with U.S. immigration law, is anomalous with and runs counter to that goal. *Cf.* H.R. Rep. No. 104-469, pt. 1, at 225 (noting that IIRIRA replaced the concept of "entry" with "admission," as aliens who illegally enter the United States "gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a [POE]").

Accordingly, for the reasons discussed above, Padron, as an alien PWAP in 8 U.S.C. § 1229a removal proceedings, is an applicant for admission and an alien seeking admission and is therefore subject to detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for a bond redetermination hearing before an IJ. *See Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

III. Applicants for Admission may only be released from detention on an 8 U.S.C. § 1182 (d)(5) Parole:

Importantly, applicants for admission may only be released from detention if DHS invokes its discretionary parole authority under 8 U.S.C. § 1182(d)(5). DHS has the exclusive authority to temporarily release on parole "any alien applying for admission to the United States"

on a "case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5); *see* 8 C.F.R. § 212.5(b). In *Jennings*, the Supreme Court placed significance on the fact that 8 U.S.C. § 1182(d)(5) is the specific provision that authorizes release from detention under 8 U.S.C. § 1225(b), at DHS's discretion. *Jennings*, 583 U.S. at 300. Specifically, the Supreme Court emphasized that "[r]egardless of which of those two sections authorizes . . . detention, 8 U.S.C. § 1225(b)(1) or (b)(2)(A), applicants for admission may be temporarily released on parole . . . ." *Id.* at 288.

Parole, like an admission, is a factual occurrence. *See Hing Sum*, 602 F.3d at 1098; *Matter of Roque-Izada*, 29 I&N Dec. 106 (BIA 2025) (treating whether an alien was paroled as a question of fact). The parole authority under 8 U.S.C. § 1182(d)(5) is "delegated solely to the Secretary of Homeland Security." *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 261 (BIA 2010); *see* 8 C.F.R. § 212.5(a). Thus, neither the Board nor IJs have authority to parole an alien into the United States under 8 U.S.C. § 1182(d)(5). *Castillo-Padilla*, 25 I&N Dec. at 261; *see also Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771, 777 n.5 (BIA 2002) (indicating that "parole authority 8 U.S.C. § 1182(d)(5)] is now exercised exclusively by the DHS" and "reference to the Attorney General in 8 U.S.C. § 1182(d)(5) is thus deemed to refer to the Secretary of Homeland Security"); *Matter of Singh*, 21 I&N Dec. 427, 434 (BIA 1996) (providing that "neither the Immigration Judge nor th[e] Board has jurisdiction to exercise parole power"). Further, because DHS has exclusive jurisdiction to parole an alien into the United States, the manner in which DHS exercises its parole authority may not be reviewed by an IJ or the Board. *Castillo-Padilla*, 25 I&N Dec. at 261; *see Matter of Castellon*, 17 I&N Dec. 616, 620 (BIA 1981) (noting that the Board does not have authority to review the way DHS exercises its parole authority).

Importantly, parole does not constitute a lawful admission or a determination of

admissibility, 8 U.S.C. §§ 1101(a)(13)(B), 1182(d)(5)(A), and an alien granted parole remains an applicant for admission, *id.* § 1182(d)(5)(A); *see* 8 C.F.R. §§ 1.2 (providing that "[a]n arriving alien remains an arriving alien even if paroled pursuant to 8 U.S.C. § 1182(d)(5), and even after any such parole is terminated or revoked"), 1001.1(q) (same). Parole does not place the alien "within the United States." *Leng May Ma*, 357 U.S. at 190. An alien who has been paroled into the United States under 8 U.S.C. § 1182(d)(5) "is not . . . 'in' this country for purposes of immigration law . . . ." *Abebe*, 16 I&N Dec. at 173 (citing, *inter alia*, *Leng May Ma*, 357 U.S. at 185; *Kaplan*, 267 U.S. at 228). Following parole, the alien "shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States," 8 U.S.C. § 1182(d)(5)(A), including that they remain subject to detention pursuant to 8 U.S.C. § 1225(b)(2).

III. <u>8 U.S.C. § 1226 does not impact the detention authority for Applicants for Admission:</u>

8 U.S.C. § 1226 is the applicable detention authority for aliens who have been admitted and are deportable who are subject to removal proceedings under 8 U.S.C. § 1229a. 8 U.S.C. §§ 1226, 1227(a), and 1229a, do not impact the directive in 8 U.S.C. § 1225(b)(2)(A) that "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceedings under 8 U.S.C. § 1229a." 8 U.S.C. § 1225(b)(2)(A).[6] As the Supreme Court explained, 8 U.S.C. § 1226(a)

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6 The specific mandatory language of 8 U.S.C. § 1225(b)(2)(A) governs over the general permissive language of 8 U.S.C. § 1226(a). "[I]t is a commonplace of statutory construction that the specific governs the general . . . ." *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 384 (1992); *see RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (explaining that the general/specific canon is "most frequently applied to statutes in which a general permission or prohibition is contradicted by a specific prohibition or permission" and in order to "eliminate the contradiction, the specific provision is construed as an exception to the general one"); *Perez-Guzman v. Lynch*, 835 F.3d 1066, 1075 (9th Cir. 2016) (discussing, in the context of asylum eligibility for aliens subject to reinstated removal orders, this canon and explaining that "[w]hen two statutes come into conflict, courts assume Congress intended specific provisions to prevail over more general ones"). Here, 8 U.S.C. § 1225(b)(2)(A) "does not negate 8 U.S.C. § 1225(a) entirely," which still applies to admitted aliens who are deportable, "but only in its

"applies to aliens already present in the United States" and "creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at 289, 303; *Q. Li*, 29 I&N Dec. at 70; *see also M-S-*, 27 I&N Dec. at 516 (describing 8 U.S.C. § 1226(a) as a "permissive" detention authority separate from the "mandatory" detention authority under 8 U.S.C. § 1225).[7]

Generally, such aliens may be released on bond or their own recognizance, also known as "conditional parole." 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 303, 306. 8 U.S.C. § 1226(a) does not, however, confer the *right* to release on bond; rather, both DHS and IJs have broad discretion in determining whether to release an alien on bond as long as the alien establishes that he or she is not a flight risk or a danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006); *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). Further, ICE must detain certain aliens due to their criminal history or national security concerns under 8 U.S.C. § 1226(c). *See* 8 U.S.C. § 1226(c)(1), (c)(2); 8 C.F.R. §§ 236.1(c)(1)(i), 1236.1(c)(1)(i); *see also id.* § 1003.19(h)(2)(i)(D). Release of such aliens is permitted only in very specific circumstances. *See* 8 U.S.C. § 1226(c)(2).

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application to the situation that [8 U.S.C. § 1225(b)(2)(A)] covers." A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* 185 (2012).

7 Importantly, a warrant of arrest is not required in all cases. 8 U.S.C. § 1357(a). For example, an immigration officer has the authority "to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation" or "to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest . . . ." *Id.* 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.3(a), (b) (recognizing the availability of warrantless arrests); *see Q. Li*, 29 I&N Dec. at 70 n.5. Moreover, DHS may issue a warrant of arrest within 48 hours (or an "additional reasonable period of time" given any emergency or other extraordinary circumstances), 8 C.F.R. § 287.3(d); doing so does not constitute "post-hoc issuance of a warrant," *Q. Li*, 29 I&N Dec. at 69 n.4. While the presence of an arrest warrant is a threshold consideration in determining whether an alien is subject to 8 U.S.C. § 1226(a) detention authority under a plain reading of 8 U.S.C. § 1226(a), there is nothing in *Jennings* that stands for the assertion that aliens processed for arrest under 8 U.S.C. § 1225 cannot have been arrested pursuant to a warrant. *See Jennings*, 583 U.S. at 302.

Notably, 8 U.S.C. § 1226(c) references certain grounds of inadmissibility, 8 U.S.C. § 1226(c)((1)(A), (D)-(E), and the Supreme Court in *Barton v. Barr*—after issuing its decision in *Jennings*—recognized the possibility that aliens charged with certain grounds of inadmissibility could be detained pursuant to 8 U.S.C. § 1226. 590 U.S. 222, 235 (2020); *see also Nielsen v. Preap*, 586 U.S. 392, 416-19 (2019) (recognizing that aliens who are inadmissible for engaging in terrorist activity are subject to 8 U.S.C. § 1226(c)). However, in interpreting provisions of the INA, the Board does not view the language of statutory provisions in isolation but instead "interpret[s] the statute as a symmetrical and coherent regulatory scheme and fit[s], if possible, all parts into an harmonious whole." *Matter of C-T-L-*, 25 I&N Dec. 341, 345 (BIA 2010) (internal quotation marks omitted) (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000)). As the Supreme Court in *Barton* also noted, "redundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication." *Barton*, 590 U.S. at 239. "Redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text . . . ." *Id.* The statutory language of 8 U.S.C. § 1226(c)—including the most recent amendment pursuant to the Laken Riley Act, *see* 8 U.S.C. § 1226(c)(1)(E), merely reflects a "congressional effort to be doubly sure" that certain aliens are detained, *Barton*, 590 U.S. at 239.

To reiterate, to interpret 8 U.S.C. § 1225(b)(2)(A) as not applying to all applicants for admission would render it meaningless. As explained above, Congress expanded 8 U.S.C. § 1225(b) in 1996 to apply to a broader category of aliens, including those aliens who crossed the border illegally. IIRIRA § 302. There would have been no need for Congress to make such a change if 8 U.S.C. § 1226 was meant to apply to aliens PWAP. Thus, 8 U.S.C. § 1226 does not

have any controlling impact on the directive in 8 U.S.C. § 1225(b)(2)(A) that "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under [8 U.S.C. § 1229a]." 8 U.S.C. § 1225(b)(2)(A).

CONCLUSION

Contrary to Padron's contentions, this is not a case of Respondents failing to follow the proper procedures regarding his pre-removal order detention, but rather a case of Padron trying to prevent the Respondents from following the applicable procedures. Padron is lawfully detained by statute, and he is therefore unlikely to prevail on the merits of his due process claims. Consequently, Padron's TRO/PI Motion should be denied. *See Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

Respectfully Submitted,

NICHOLAS J. GANJEI
United States Attorney

"S/" Hector C. Ramirez
HECTOR C. RAMIREZ
Assistant United States Attorney
State Bar I.D. # 16501850
Fed. Adm. # 18155
P.O. Box 1179
Laredo, Texas 78040
Tel.: (956)-723-6523
Email: hector.ramirez@usdoj.gov
ATTORNEY IN CHARGE
FOR RESPONDENTS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **RESPONDENTS' RESPONSE TO PETITIONER'S EMERGENCY EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION** in the case of JOSE PADRON COVARRUBIAS v. MIGUEL VERGARA, ET AL, Civil Action Number 5:25-CV-112, was sent to Stephen O'Connor, O'Connor & Associates, 7703 N. Lamar Blvd, Suite 300, Austin, Texas 78752, by electronic mail through the District Clerk's electronic case filing system, on this the 6th day of October, 2025.

"S/" Hector C. Ramirez
HECTOR C. RAMIREZ
Assistant United States Attorney