

1 Jeremy Mondejar, ESQ.  
2 2885 E Charleston BLVD, Suite 103  
3 Las Vegas, NV 89104  
4 Telephone: (702) 816-6611  
5 help@azteclegalgroup.com

6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF NEVADA

8 JEFFERSON DOMINGUEZ-LARA;) JOSE  
9 RAMIREZ,) ON BEHALF OF THEMSELVES  
10 AS INDIVIDUALS) AND ON BEHALF OF  
11 OTHERS SIMILARLY SITUATED

12 Plaintiff

13 vs.

14 , KRISTI NOEM, SECRETARY THE UNITED  
15 STATES DEPARTMENT OF HOMELAND  
16 SECURITY; PAM BONDI, UNITED STATES  
17 ATTORNEY GENERAL; TODD LYONS,  
18 DIRECTOR OF UNITED STATES  
19 IMMIGRATION AND CUSTOM  
20 ENFORCEMENT; BRYAN WILCOX, FIELD  
21 OFFICE DIRECTOR FOR DETENTION AND  
22 REMOVAL, U.S. IMMIGRATION AND  
23 CUSTOMS ENFORCEMENT,  
24 DEPARTMENT OF HOMELAND  
25 SECURITY; JOHN MATTOS, WARDEN,  
26 NEVADA SOUTHERN DETENTION  
27 CENTER; EXECUTIVE OFFICE FOR  
28 IMMIGRATION REVIEW (EOIR); SIRCE  
OWEN, ACTING DIRECTOR, EOIR; LAS  
VEGAS IMMIGRATION COURT

Defendant

Case No.: 2:25-cv-01553-JAD-BNW

PLAINTIFFS' RESPONSE TO  
FEDERAL RESPONDENTS'  
OPPOSITION TO MOTION  
FOR PRELIMINARY INJUNCTION

**INTRODUCTION**

Section 1225(b)(2)(A) simply does not apply to Petitioners. Respondents do not argue that  
Petitioners are a flight risk or a danger to the community but solely argue that the applicable  
detention authority is section 1225(b)(2)(A). For support, the government relies primarily on a  
PLAINTIFFS' RESPONSE TO FEDERAL RESPONDENTS' OPPOSITION TO MOTIONFOR PRELIMINARY  
INJUNCTION - 1

1 recent decision of the Board of Immigration Appeals (“BIA”), Matter of Yajure Hurtado, 26  
2 I&N Dec. 216 (BIA 2025), where the BIA held that noncitizens who are present in the  
3 United States without admission and are arrested on a warrant are subject to section  
4 1225(b)(2)(A). However, this Court is not bound by Matter of Yajure Hurtado. In fact, this  
5 position (1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the  
6 relationship between sections 1225 and 1226; (3) would render a recent amendment to section  
7 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and  
8 practice.  
9

### 10 ARGUMENT

11  
12 a. Petitioners are being improperly detained under § 1225(b)(2)(A) “[C]ourts must exercise  
13 independent judgment in determining the meaning of statutory provisions.” *Loper Bright Enters.*  
14 *v. Raimondo*, 603 U.S. 369, 394, 413 (2024). After *Loper Bright*, a federal court “may look to  
15 [the BIA’s] interpretations [of the INA] for guidance, but [must not] defer to the agency.”  
16 Petitioners are not asking this Court to break new ground or issue an outlier decision; rather,  
17 Petitioners are asking this Court to join the numerous Federal District Courts throughout this  
18 country and find that *Matter of Yajure Hurtado* is unpersuasive. See, e.g., *Lopez v. Garland*, 116  
19 F.4th 1032, 1036 (9th Cir. 2024). *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803  
20 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at \*9  
21 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at \*8 (D.  
22 Mass. July 7, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D.Cal. Sept. 3, 2025);  
23 *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);  
24 *Kostak v. Trump*, No. 3:25-cv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025); *Benitez v. Noem*,  
25 No. 5:25 cv-02190 (C.D. Cal. Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-  
26  
27  
28  
PLAINTIFFS’ RESPONSE TO FEDERAL RESPONDENTS’ OPPOSITION TO MOTION FOR PRELIMINARY  
INJUNCTION - 2

1 JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); Romero v. Hyde, No. 25-11631-BEM, 2025  
2 WL 2403827 (D. Mass. Aug. 19, 2025); Arrazola-Gonzalez v. Noem, No. 5:25-cv- 01789-ODW,  
3 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); Aguilar Maldonado v. Olson, No. 25-cv-3142,  
4 2025 WL 2374411 (D. Minn. Aug. 15, 2025); Dos Santos v. Noem, No. 1:25-cv-12052-JEK,  
5 2025 WL 2370988 (D. Mass. Aug. 14, 2025); Rocha Rosado v. Figueroa, No. CV 25-02157,  
6 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted 2025 WL  
7 2349133 (D. Ariz. Aug. 13, 2025); Doc. 11, Maldonado Bautista v. Santacruz, No. 5:25-cv-  
8 01874-SSS- BFM, \*13 (C.D. Cal. July 28, 2025). As these decisions have concluded, “[f]or  
9 section 1225(b)(2)(A) to apply, several conditions must be met—in particular, an ‘examining  
10 immigration officer’ must determine that the individual is: (1) an ‘applicant for admission’; (2)  
11 ‘seeking admission’; and (3) ‘not clearly and beyond a doubt entitled to be admitted.’” Martinez  
12 v. Hyde, No. CV 25-11613-BEM, 2025 WL 2084238, at \*2 (D. Mass. July 24, 2025); Lopez  
13 Benitez, 2025 WL 2371588, at \*5. Here, Respondents have failed to show in this case that an  
14 “examining immigration officer” made these determinations. Respondents argue that section  
15 1225(b)(2)(A) applies to all noncitizens living in the U.S. who did not lawfully enter, regardless  
16 of how long they have lived here or whether they ever took any affirmative step to seek  
17 admission. The government’s proposed interpretation of the statute ignores the plain meaning of  
18 the phrase “seeking admission.” Martinez, 2025 WL 2084238, at \*6. “Seeking” means “asking  
19 for” or “trying to acquire or gain.” Merriam-Webster Dictionary, [https://www.merriam-  
21 webster.com/dictionary/seeking](https://www.merriam-<br/>20 webster.com/dictionary/seeking). And the use of a present participle, “seeking,” “necessarily  
22 implies some sort of present-tense action.” Martinez, 2025 WL 2084238, at \*6. The term  
23 “admission” is defined as “the lawful entry of the alien into the United States after inspection and  
24 authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). And “entry” has long been  
25  
26  
27  
28

1 understood to mean “a crossing into the territorial limits of the United States.” *Hing Sum v.*  
2 *Holder*, 602 F.3d 1092, 1100–01 (9th Cir. 2010) (quoting *Matter of Pierre*, 14 I & N Dec.  
3 467, 468 (1973)). The phrase “seeking admission” means that one must be actively “seeking”  
4 “lawful entry.” *Lopez Benitez*, 2025 WL 2371588, at \*7. Petitioners do not fall within this  
5 definition by any stretch of the imagination. Respondents’ “selective reading of the statute . . .  
6 ignores its ‘seeking admission’ language.” *Martinez*, 2025 WL 2084238, at \*6. “If, as the  
7 government argues, [section] 1225(b)(2)(A) was intended to apply to all ‘applicant[s] for  
8 admission,’ there would be no need to include the phrase ‘seeking admission’ in the statute.”  
9 *Lopez Benitez*, 2025 WL 2371588, at \*6. “That is, rather than stating that mandatory detention is  
10 required for any ‘applicant for admission, if the examining immigration officer determines that  
11 an alien seeking admission is not clearly and beyond a doubt entitled to be admitted,’ the statute  
12 would instead provide for mandatory detention for any ‘applicant for admission, if the examining  
13 immigration officer determines that [the] alien seeking admission is not clearly and beyond a  
14 doubt entitled to be admitted.’” *Id.* (quoting 8 U.S.C. § 1225(b)(2)(A)). “[E]very clause and word  
15 of a statute’ should have meaning.” *United States, ex rel. Polansky v. Exec. Health Res., Inc.*,  
16 599 U.S. 419, 432 (2023) (quoting *Montclair v. Ramsdell*, 107 U.S. 147, 152 (1883)); *League of*  
17 *California Cities v. Fed. Commc’ns Comm’n*, 118 F.4th 995, 1019 (9th Cir. 2024) (“The rule  
18 against surplusage generally prohibits [a court] from interpreting [a statute] in a way that  
19 ‘mak[es] a part of it unnecessary.’” (quoting *NLRB v. Aakash, Inc.*, 58 F.4th 1099, 1105 (9th  
20 Cir. 2023))). Here, Respondents’ position would render the “seeking admission” language  
21 meaningless, violating the rule against surplusage. *Martinez*, 2025 WL 2084238, at \*6; *Lopez*  
22 *Benitez*, 2025 WL 2371588, at \*6. In addition, Respondents disregard the context of sections  
23 1225 and 1226 and the broader statutory scheme. As the Supreme Court noted in *Jennings*,  
24  
25  
26  
27  
28  
PLAINTIFFS’ RESPONSE TO FEDERAL RESPONDENTS’ OPPOSITION TO MOTION FOR PRELIMINARY  
INJUNCTION - 4

1 section 1225 applies “at the Nation’s borders and ports of entry, where the Government must  
2 determine whether an alien seeking to enter the country is admissible.” Jennings, 583 U.S. at  
3 287. Section 1225 “authorizes the Government to detain certain aliens seeking admission into the  
4 country,” whereas section 1226 “authorizes the Government to detain certain aliens already in  
5 the country pending the outcome of removal proceedings.” Id., 583 U.S. at 289 (emphasis  
6 added). “It is a fundamental canon of statutory construction that the words of a statute must be  
7 read in their context and with a view to their place in the overall statutory scheme.” Davis v.  
8 Michigan Dep’t of Treasury, 489 U.S. 803, 809 (1989). Section 1225 is titled “Inspection by  
9 immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” 8  
10 U.S.C. § 1225. “Inspection” is a process that occurs at the border or other ports of entry. Posos-  
11 Sanchez v. Garland, 3 F.4th 1176, 1183 (9th Cir. 2021) (explaining that “inspection and  
12 authorization” must “take place at a ‘port of entry’” for one to be considered to have “lawfully  
13 entered”); 8 C.F.R § 235.1(a) (“Application to lawfully enter the United States shall be made in  
14 person to an immigration officer at a U.S. port-of-entry when the port is open for inspection.”).  
15 Likewise, “expedited removal” applies to a noncitizen “who is arriving in the United States” and  
16 “is inadmissible.” 8 U.S.C. § 1225(b)(1)(A). Section 1225(a)(2) prohibits the admission of  
17 “stowaways”—noncitizens “who obtain[] transportation without the consent of the owner . . . of  
18 any vessel or aircraft through concealment aboard such vessel or aircraft,” 8 U.S.C. §  
19 1101(a)(49)—who would be discovered at the border or a port of entry. 8 U.S.C. § 1225(a)(2).  
20 Respondents also argue that a recent amendment to section 1226(c) was merely done as a  
21 redundancy. Gomes, 2025 WL 1869299, at \*5. Although section 1226(a) sets out a discretionary  
22 detention scheme, section 1226(c) provides an exception which mandates detention for certain  
23 criminal noncitizens. 8 U.S.C. § 1226(c)(1)(E). Section 1226 references circumstances that  
24  
25  
26  
27  
28

1 logically would occur inside the country, such as the detention of certain “criminal aliens” upon  
2 their release from a correctional facility and the issuance of detainers to “State [or] local  
3 officials.” 8 U.S.C. § 1226(c)(1), (3). If every “applicant for admission”—which is defined, as  
4 relevant here, as an “alien present in the United States who has not been admitted,” 8 U.S.C. §  
5 1226(a)(1)—is already subject to mandatory detention under section 1225(b)(2)(A), as the  
6 government contends, there would have been no need for the new section 1226(c)(1)(E), which  
7 mandates detention for every noncitizen who is “present in the United States without being  
8 admitted or paroled” and who has been “charged with, arrested for, or admits to” committing  
9 certain crimes, see 8 U.S.C. §1226(c)(1)(E). Reading section 1225 as the Respondents propose  
10 would thus render section 1226(c)(1)(E) superfluous. *Gomes*, 2025 WL 1869299, at \*5; *Lopez*  
11 *Benitez*, 2025 WL 2371588, at \*7; *Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL  
12 2403827, at \*11 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 25-CV- 3142 (SRN/SGE),  
13 2025 WL 2374411, at \*12 (D. Minn. Aug. 15, 2025) (“The Court will not find that Congress  
14 passed the Laken Riley Act to ‘perform the same work’ that was already covered by §  
15 1225(b)(2).”). At the very least, Respondents new interpretation of the statutes conflicts with  
16 years of prior interpretation, meaning there are serious questions going to the merits of their  
17 claims regarding the statute’s interpretation. Likewise, “once an alien enters the country, the  
18 legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United  
19 States, including aliens, whether their presence here is lawful, unlawful, temporary, or  
20 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693, 121 S. Ct. 2491, 150 L. Ed.2d 653 (2001).  
21 *Romero*, 2025 WL 2403827, at \*12–13; cf. *Lopez-Campos*, 2025 WL 2496379, at \*9–10  
22 (finding that the government’s application of section 1225(b)(2)(A) in similar circumstances  
23 violated detainee’s due process rights). Civil immigration detention, which is “nonpunitive in  
24 PLAINTIFFS’ RESPONSE TO FEDERAL RESPONDENTS’ OPPOSITION TO MOTIONFOR PRELIMINARY  
25 INJUNCTION - 6

1 purpose and effect[,]” is typically justified under the Due Process Clause only when a noncitizen  
2 presents a risk of flight or danger to the community. *Zadvydas*, 533 U.S. at 690; *Padilla v. ICE*,  
3 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023). “It is therefore reasonable to read these statutes  
4 ‘against [that] backdrop.’” *Romero*, 2025 WL 2403827, at \*13 (quoting *Hewitt v. United States*,  
5 145 S. Ct. 2165, 2173 (2025)).  
6

7           *Garland v. Aleman Gonzalez*, 596 U.S. 543, is not applicable to the instant case  
8 because Plaintiffs are not asking the Court to enjoin or require action in regards to operations  
9 carried out under 8 USC §§ 1221 – 1232. Rather, Plaintiffs ask this court to issue injunctions  
10 under the Due Process provision of the U.S Constitution in regards to the speediness of BIA  
11 appeal adjudication and to enjoin application of 8 CFR 1003.6. To the extent that Matter of  
12 *Hurtado* comes into play, again this decision is not part and parcel of 8 USC 1221-1232 but  
13 rather a misinterpretation of the current law by an agency in question. Other similar cases have  
14 also declined to extend the *Aleman Gonzalez* finding, *Refugee and Immigrant Center for*  
15 *Education and Legal Services v Noem*, 2025 WL 1825431, \*19+, D.D.C, *Kidd v. Mayorkas*, 343  
16 F.R.D. 428,436+, C.D.Cal. *Texas v. United States*, 2022 WL 2720155, \*1+, S.D.Tex., *Texas v.*  
17 *Biden*, 646 F. Supp.3d 753, 767+, N.D.Tex., *Texas v. United States*, 40 F.4th 205, 219+, 5th  
18 cir.(Tex.), *Immigration Defenders Law Center v. Noem*, 781 F.Supp.3d 1011, 1030+, C.D.Cal.,  
19 *Mendez v U.S. Immigration and Customs Enforcement*, 2023 WL 2604585, N.D. Cal..  
20  
21  
22

23 ....

24 ....

25 ....

26 ....

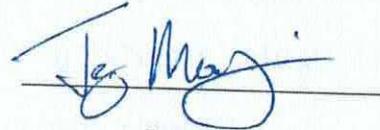
27 ....

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CONCLUSION**

For the foregoing reasons, Plaintiffs respectfully request the Court grant their motion for a preliminary injunction.

DATED this 16th day of October, 2025.

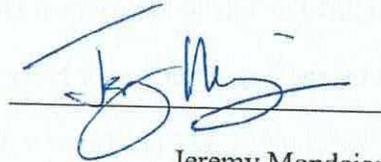


Jeremy Mondejar, ESQ.  
2885 E Charleston BLVD, Suite 103  
Las Vegas, NV 89104  
Telephone: (702) 816-6611

**CERTIFICATE OF SERVICE**

I hereby swear and affirm that a true and complete copy of the above PLAINTIFFS' RESPONSE TO FEDERAL RESPONDENTS' OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION was electronically served on the Respondents via PACER.

DATED this 16th day of October, 2025.



Jeremy Mondejar, ESQ.  
2885 E Charleston BLVD, Suite 103  
Las Vegas, NV 89104  
Telephone: (702)