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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

JASON C. JIMENEZ MOLINA,

Petitioner,

v.

SERGIO ALBARRAN, Field Office Director of U.S. Immigration & Customs Enforcement,

Respondent,

Case No. 3:25-cv-8427-TLT

RESPONDENT'S SUPPLEMENTAL BRIEF IN OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION

Hon. Trina L. Thompson

Respondent submits this supplemental brief to address two issues discussed at the December 16, 2025, hearing on Petitioner's motion for a preliminary injunction: (1) whether individuals like Petitioner who are detained pursuant to 8 U.S.C. § 1225(b)(2) must be afforded a pre-custody bond hearing; and (2) the effect of Congress's recent amendment of Section 1226(c) through the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025).

First, as a district court in this Circuit recently held, "the failure to provide a bond hearing does not constitute a violation of due process" where the petitioner cannot establish a statutory right to a bond hearing. *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-AJR, 2025 WL 3199872, at *8 (C.D. Cal. Nov. 12, 2025); *Dep't of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020) (explaining that an alien who has never been lawfully admitted to the United States is " 'treated' for due process purposes 'as if stopped at the border," "has only those rights regarding admission that Congress has provided by statute," and that "the Due Process Clause provides nothing more").

Second, the Government's reading of 8 U.S.C. § 1225(b) does not render superfluous Congress's recent amendment of Section 1226(c) through the Laken Riley Act.

I. Mandatory Detention Under 8 U.S.C. § 1225(b)(2)

"Applicants for admission" like Petitioner are subject to mandatory detention under the Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA"). Before 1996, federal immigration laws required the detention of individuals who presented at a port of entry, but allowed those who had entered between ports of entry and were already unlawfully present in the United States when encountered to obtain release pending removal proceedings. Congress overhauled the immigration system by passing IIRIRA, which included the specific objective of ending preferential treatment of noncitizens who attempted to evade inspection by entering the United States unlawfully between ports of entry.

Relevant here, Congress enacted what is now codified at 8 U.S.C. § 1225, which "deem[s]" any "alien present in the United States who has not been admitted or who arrives in the United States" to be "an applicant for admission." 8 U.S.C. § 1225(a)(1). And it mandates the detention of any "applicant for admission" who cannot show that they are "clearly and beyond a doubt entitled to be admitted." *Id.* § 1225(b)(2)(A). The statute makes no exception for how far into the country an alien traveled or how long he or she manages to avoid detection. Unless the Secretary exercises narrow and discretionary parole

authority not applicable here, detention is statutorily mandated for individuals who have never been lawfully admitted.

Here, Petitioner entered the country without inspection, was never "admitted," and unambiguously remains an "applicant for admission" subject to mandatory detention despite his prior release on an I-94 as an alternative to detention. *Thuraissigiam*, 591 U.S. at 138–40. Several courts in other districts in this Circuit have recently denied motions for temporary restraining orders or for preliminary injunctive relief for individuals like Petitioner who are detained under 8 U.S.C. § 1225(b)(2) after prior conditional release. These courts have upheld, at least preliminarily, mandatory detention under § 1225(b)(2). *See Altamirano Ramos*, 2025 WL 3199872, at *4 (acknowledging that the court had previously rejected the government's interpretation of § 1225(b)(2), but "after additional research and analysis, the court has concluded that Petitioner is subject to mandatory detention under § 1225(b)(2)(a), and that Petitioner is not eligible for a bond hearing under 8 U.S.C. § 1226(a)"); *Sixtos Chavez v. Noem*, No. 25-cv-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), *appeal docketed*, No. 25-7077 (9th Cir. Nov. 7, 2025); *Valencia v. Chestnut*, No. 25-cv-01550, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Alonzo v. Noem*, No. 25-cv-01519, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025); *see also In re Matter of Yajure Hurtado*, 29 I & N Dec. 216, 225 (B.I.A. 2025).

Likewise here, Petitioner is subject to mandatory detention and is not entitled to a custody redetermination hearing prior to re-detention. As courts have found, due process does not invariably require a bond hearing before an alien can be constitutionally detained. *See Aguilar Garcia v. Kaiser*, No. 25-cv-05070-JSC, 2025 WL 2998169, at *5 (N.D. Cal. Oct. 24, 2025) ("Petitioner is within the 90-day mandatory detention window of Section 1231(a)(2) and due process does not require a bond hearing at least until he is in the post-removal period.").

II. The Laken Riley Act

The Laken Riley Act requires mandatory detention of (and prohibits parole for) criminal aliens who (1) are inadmissible because they are physically present in the United States without admission or parole (8 U.S.C. § 1182(a)(6)(A)), have committed a material misrepresentation or fraud, (*id.* § 1182(a)(6)(C)), or lack required documentation, (*id.* § 1182(a)(7); and (2) are "charged with, [] arrested for, [] convicted of, admit[] having committed, or admit[] committing acts which constitute the essential elements of" certain listed

offenses. 8 U.S.C. § 1226(c)(1)(E).

As with the other grounds of "inadmissibility" listed in Section 1226(c), both (a)(6)(C) and (a)(7) may apply to inadmissible aliens who were admitted in error, as well as those never admitted. *See Mejia Olalde v. Noem*, 2025 WL 3131942, at *4 (E.D. Mo. Nov. 10, 2025) (noting that "the Laken Riley Act may apply to situations where § 1225 might not") (citing 8 U.S.C. § 1182(a)(6)(C)(i)). Again, Section 1225(b)(2) has no application to aliens admitted in error.

To be sure, the Act's application to aliens who are inadmissible under §1182(a)(6)(A) — for being "present . . . without being admitted or paroled" — overlaps with § 1225(b)(2)(A). But "[r]edundancies are common in statutory drafting," and are "not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Barton v. Barr*, 590 U.S. 222, 239 (2020); *see Mejia Olalde*, 2025 WL 3131942, at *4 ("even assuming there were surplusage, that cannot trump the plain meaning of [Section] 1225(b)(2)"). That is especially true where, as here, there is overlap under *any* possible reading of the statute. *See Microsoft Corp. v. I4I Ltd. P'ship*, 564 U.S. 91, 106 (2011) ("[T]he canon against superfluity assists only where a competing interpretation gives effect to every clause and word of a statute") (internal quotation omitted).

In any event, § 1226(c) still does independent work, despite the overlap, by preventing the Executive from releasing the specified criminal aliens on parole. In fact, Congress's desire to further limit the parole power with respect to criminal aliens was one reason it enacted the Act. *See* 171 Cong. Rec. at H278 (daily ed. Jan. 22, 2025) (Rep. McClintock) (observing that the Act was adopted in the wake of a murder committed by an inadmissible alien who was "paroled into this country through a shocking abuse of that power"). Congress passed it out of concern that the executive branch "ignore[d] its fundamental duty under the Constitution to defend its citizens." *Id.* at H269 (statement of Rep. Roy). The Act thus reflects a "congressional effort to be double sure," *Barton*, 590 U.S. at 239, that unadmitted criminal aliens are not paroled into the country through an abuse of the Secretary's exceptionally narrow parole authority.

DATED: December 17, 2025

Respectfully submitted,

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/s/ Michelle Lo
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