UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Oscar Acuna Zavala, Petitioner, Kristi Noem, Secretary of Homeland Security; Pamela Bondi, U.S. Attorney General, Todd M. Lyons, Acting Director of Immigration and Customs Enforcement; Joshua Johnson, Dallas Field Office Director; Thomas Bergami, Warden of Prairieland Detention Center Respondents.	**Civil Case No. 3:25-cv-2691-L-BN**

REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Respectfully submitted,

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In *Maldonado Bautista v. Santacruz*, the U.S. District Court for the Central District of California granted partial summary judgment to the petitioners on November 20, 2025, finding that the government's interpretation of the Immigration and Nationality Act (INA) is inconsistent with the statute's plain language. No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the court certified a nationwide class and extended declaratory relief to all class members. *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The court held that members of the Bond Denial Class are detained under 8 U.S.C. § 1226(a)—not § 1225(b)(2)(A)—and therefore may not be categorically denied consideration for release on bond. *Maldonado Bautista*, 2025 WL 3289861, at *11. Petitioner in this case is clearly a member of the bond class.

However, class counsel reports that "the government appears to have instructed IJs not to abide by the order."[1] As a result, IJs have continued to deny bond requests on the ground that they are not bound by *Maldonado Bautista*. *See* Exh. A. In light of the government's refusal to comply with that ruling, Petitioner respectfully asks this Court to grant his habeas petition and order his immediate release. In the alternative, Petitioner requests that the Court direct the Respondents to provide him a bond hearing within five days of the Court's order, at which the Government must prove by clear and convincing evidence that he is a danger or a flight risk. *See Erazo Rojas v. Noem et al.*, No. EP-25-CV-443-KC, --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 217585, at *11 (W.D. Tex. Oct. 30, 2025) ("The weight of authority also holds that when ordering a bond hearing as a habeas remedy, the burden of proof should be on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.").

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[1] *Practice Advisory: Seeking Bond Hearings for Maldonado Bautista Class Members – Those Who Entered Without Inspection and are Subject to Yajure-Hurtado*, https://www.nwirp.org/our-work/impact-litigation/assets/bautista-noem/2025.12.03%20-20Draft%20Bautista%20Practice%20Advisory_final.pdf (last visited Dec. 3, 2025).

In their response. the Respondents provide a fallacious interpretation of 8 U.S.C. § 1225(b)(2), fail to grapple with Petitioner's obvious bond eligibility under 8 U.S.C. § 1226(a) and provide an erroneous application of the Due Process Clause. The Court should follow the growing avalanche of other district court opinions made on this issue and grant the Petitioner's writ of habeas corpus. *See* ECF Doc. 4 at 2-3 (collecting cases).

I. The Respondents' construction of the detention statutes runs contrary to the provisions' plain language, their legislative history, and decades of practice.

The Supreme Court considered 8 U.S.C. §§ 1225(b) and 1226 and the classes of individuals to whom they apply in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). The Court explained that § 1225(b) "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Id.* at 297. In contrast, the Court explained that § 1226 "applies to aliens already present in the United States." *Id.* at 303. The Court further noted that "Section 1226(a) 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," and also "permits the Attorney General to release those aliens on bond." *Id.* Contrary to the Respondents' claims, § 1225(b) does not require the Petitioner's detention; rather, § 1226(a) plainly allows for his release on bond.

Section 1225(b)(2) is inapplicable because the plain language of the statute limits its application to noncitizens who are "seeking admission" into the United States. The statute states:

> Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, 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 section 1229a of this title.

(Emphasis added). The statute is inapplicable here because the Petitioner was not "seeking admission" when he was detained. By the time the Petitioner was detained, he had been residing in the United States for approximately 24 years and was thus an "alien[] already present in the

United States," rather than an "alien[] seeking entry." *Jennings*, 583 U.S. at 297. Under *Jennings*, this means that § 1226, rather than § 1225(b) applies.

The Respondents' claim that § 1225(b)(2) applies to all "applicants for admission" renders the phrase "alien seeking admission" in § 1225(b)(2)(A) "mere surplusage." *Lopez Benitez v. Francis*, --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 157214, at *18 (S.D.N.Y. Aug. 8, 2025); *see* ECF Doc. 10 at 14. If § 1225(b)(2)(A) applies to all "applicants for admission," *i.e.* those who "arrive[] in the United States" and those already "present in the United States who ha[ve] not been admitted," 8 U.S.C. § 1225(a)(1), then the statutory language limiting § 1225(b)(2)(A) to applicants for admission who are also "alien[s] seeking admission" is a nullity. 8 U.S.C. § 1225(b)(2)(A). "By reading a phrase out of the statute, the Respondents' interpretation of § 1225 clearly violates the rule against surplusage." *Lopez Benitez*, 2025 LEXIS 157214, at *18; *see United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) ("[E]very clause and word of a statute should have meaning.") (quotation marks omitted); *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("[A] statute ought ... to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.").[2]

Indeed, the Respondents' interpretation improperly equates the terms "applicant for admission" and "alien seeking admission" in § 1225(b)(2)(A). *See* ECF Doc. 10 at p. 16, 19. Treating these phrases synonymously contradicts the presumption that Congress intended different words or phrases to be accorded different meanings. *Lopez Benitez*, 2025 LEXIS 157214, at *18. Furthermore, although it may be true that non-citizens, like the Petitioner, who never lawfully entered the United States but have been present here for a substantial period of time are included in the statutory definition of the term "applicant for admission," 8 U.S.C. § 1225(a)(1), they

[2] The Supreme Court's decision in *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) does not support the Respondents' interpretation. *Thuraissigiam* held that federal courts lack jurisdiction to review denials of credible fear results and says nothing at all about what constitutes "seeking admission" under 8 U.S.C. § 1225(b)(2)(A).

nevertheless do not fall within the plain meaning of the phrase "alien seeking admission." "Admission" is defined as lawful "entry" into the United States, 8 U.S.C. § 1101(a)(13)(A). and individuals like the Petitioner "ha[ve] already entered the country" unlawfully. *Id.* (quotation marks omitted). What individuals like Petitioner are seeking before the immigration court is not lawful entry into the United States but rather "a lawful means of remaining" here.[3] *Id.* at *21.

The Respondents' construction of "seeking admission" as a never-ending state of being is wrong and should be rejected. *See* ECF 10 at 22. The plain language of § 1225(b)(2)(A) clearly indicates that it applies only to individuals who are "arriving" and "seeking admission into the United States," a phrase that implies a present, affirmative act. *See Belsai v. Bondi*, 2025 U.S. Dist. LEXIS 194262, at *13. Once an individual has entered the United States, there is no longer any ongoing act of seeking admission; the process is complete. *See Bethancourt Soto v. Soto*, 2025 U.S. Dist. LEXIS 207818, at *16. To treat "seeking admission" as a perpetual state renders the term superfluous. *See, e.g., Lopez Benitez*, 2025 LEXIS 157214, at *18.

The Respondents provide no answer to the Laken Riley Act's (LRA) effect on the statutes' interpretation and nor can they convincingly do so. Applying § 1225(b)(2)(A) to persons like the Petitioner would nullify the portion of the LRA that amends § 1226(a) to require mandatory detention for non-citizens who (1) are deemed inadmissible because they are "present in the United States without being admitted or paroled" and (2) have been arrested for, charged with, or convicted of certain crimes. 8 U.S.C. §§ 1182(a)(6)(A)(i), 1226(c)(1)(E). If, as Respondents claim, § 1225(b)(2)(A) required mandatory detention for all non-citizens deemed inadmissible because they are present in the United States without being admitted or paroled, then Congress would have

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[3] Thus, the so-called "legal conundrum" of what is the Petitioner's legal status is answered without difficulty. He has no current legal status. *See* ECF Doc. 10 at p. 18. However, non-citizens who entered the country illegally can obtain lawful status without being admitted and do so routinely before the IJ. Sections 1255(i) (adjustment of status),1240b(b)(1) (cancellation of removal), and 1158 (asylum) all provide avenues to procure lawful status for noncitizens who were not "admitted" because they lack legal entry.

had no reason to amend § 1226 to require mandatory detention for non-citizens who not only fall into that category but also have been convicted of enumerated crimes. *See, e.g., Sampiao v. Hyde*, --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 175513, at *20 (D. Mass Sept. 9, 2025); *Loa Caballero v. Baltazar*, --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 208290, at *18 (D. Colo. Oct. 22, 2025). Respondents' position runs contrary to the presumption that, when Congress amends a statute, "it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995), abrogation on other grounds recognized by *Riley v. Bondi*, 606 U.S. 259, 276 (2025).

The Respondents misunderstand the legislative history of §§ 1225(b)(2)(A) and 1226(a). *See* ECF Doc. 10 at 21. Contrary to the Respondents' claim, legislative history and decades of immigration law practice heavily favor the Petitioner's argument. It has been common practice in immigration law that aliens within the United States are eligible for a bond hearing under 1226(a). Specifically, before IIRIRA's passage, noncitizens who entered the country without inspection were subject to discretionary release from detention. *See Orellana v. Moniz*, --- F. Supp. 3d ----, No. 25-cv-12664-PBS, 2025 U.S. Dist. LEXIS 196282, at *22 (D. Mass. Oct 3, 2025). A congressional report issued during IIRIRA's passage confirms that the revised § 1226(a) "restates the current provisions ... regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." *Id.* (citing H.R. Rep. No. 104-828, at 210 (1996) and H.R. Rep. No. 104-469, pt. I, at 229 (1996)). Thus, rather than eliminating bond eligibility for individuals who entered without inspection, Congress reaffirmed the Attorney General's longstanding authority to arrest and release such individuals under § 1226(a).

The Respondents' understanding of § 1225(b)(2)(A) expands its reach "far beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing [§] 1226(a) such that it would have extremely limited ... application." *Lopez Benitez*, 2025 LEXIS 157214 at *23. "[T]he line

historically drawn between" §§ 1225(b)(2)(A) and 1226(a)—including by the DHS—and which "mak[es] sense of their text and the overall statutory scheme, is that [S]ection 1225 governs detention of non-citizens 'seeking admission into the country,' whereas [S]ection 1226 governs detention of non-citizens 'already in the country.'" *Lopez Benitez*, 2025 LEXIS 157214 at *24. Respondents have failed to provide any persuasive reason to justify the radical shift they urge in the interpretation of the two statutes.

Respondents claim that finding for the Petitioner "would lead to an 'incongruous result' that rewards aliens who unlawfully enter the United States without inspection and subsequently evade apprehension for a number of years. *See* ECF Doc. 10 at 19, 23. Yet, there is no anomaly in treating a recent arrival differently from one who, like the Petitioner, has resided in the United States for decades and has substantial family ties in this country. Congress did not act unreasonably by allowing immigration judges to consider these very different classes of nonimmigrants differently—allowing bond for those with demonstrable equities accumulated over years of physical presence in the United States but not for new arrivals. As the Supreme Court explained, "once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

In their drive to dramatically expand the expansion of § 1225(b)(2), the Respondents do not meaningfully engage with the plain meaning of 8 U.S.C. § 1226(a)(2), which authorizes the IJ to grant bond to noncitizens who entered the country unlawfully. 8 U.S.C. § 1226(a) provides, in pertinent part, as follows:

> (a) Arrest, detention, and release.
> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—
> (1) may continue to detain the arrested alien; and

> (2) may release the alien on—
> (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
> (B) conditional parole . . .

Section § 1226(a) specifically applies to "an alien" arrested "on a warrant" who is "detained pending a decision on whether the alien is to be removed from the United States." This statute clearly applies to the Petitioner's case. As the Supreme Court has stated, § 1226(a) "authorizes the Government to detain certain aliens *already in the country* pending outcome of removal proceedings . . . ." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis added).

The Respondents provide the Court with decisions from a minority of courts that ruled in their favor, none of which are binding.[4] The bulk of precedent decision overwhelmingly supports the Petitioner. Next, the Respondent claims that *Yajure Hurtado* should carry more weight than the federal court decisions because of the BIA's alleged "subject-matter expertise." However, the issue presented in this case involves statutory construction where the federal courts, not the BIA, hold sway. In *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 391-92 (2024), the Supreme Court explained:

> The APA thus codifies for agency cases the unremarkable, yet elemental proposition reflected by judicial practice dating back to *Marbury*: that courts decide legal questions by applying their own judgment. It specifies that courts, not agencies, will decide "*all* relevant questions of law" arising on review of agency action, §706 (emphasis added)—even those involving ambiguous laws—and set aside any such action inconsistent with the law as they interpret it. And it prescribes no deferential standard for courts to employ in answering those legal questions.

The Court can easily reject the Respondents' argument that it should defer to the BIA on this matter of statutory interpretation.

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[4] The Respondents argue that the Court should ignore the vast majority of decisions because many of the courts in the majority rely on each other. *See* Doc. 10 at 25. However, relying on persuasive authority from other courts is not a reason to ignore the majority opinion. Further, attempting to bolster its small number, the Respondents cite decisions from the same judge. *Garibay-Robledo* and *Diaz Garcia* are opinions from Judge Hendrix. Notably, those decisions apparently failed to persuade other courts, including those within the same district. *See, e.g., Parada-Hernandez v. Johnson*, No. 3:25-cv-2729-K-BN, 2025 U.S. Dist. LEXIS 234517, at *2 (N.D. Tex. Dec. 2, 2025).

If the Court believes the statutes are ambiguous, then it must "exercise [its] independent judgment in deciding whether an agency has acted within its statutory authority" while according only "due respect" to an agency's interpretation. *Id.* at 413, 370. The amount of "respect" owed to an agency's interpretation depends on "the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." *Skidmore v. Swift*, 323 U.S. 134, 140 (1944). The BIA's current position is inconsistent with earlier pronouncements, decades of prior practice, and the reasoning adopted by multiple federal district courts. For nearly thirty years, immigration judges, noncitizens' counsel, and attorneys for DHS uniformly understood § 1226(a) to confer bond eligibility on noncitizens who entered without inspection. Even the Executive Branch has recognized this. During oral argument in *Biden v. Texas*, the Solicitor General explained that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended." *Chogllo Chafla v. Scott*, --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 184909, at *23 (D. Me. Sep.21, 2025) (quoting Tr. of Oral Argument at 44:24–45:20, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954)); *see also Martinez v. Hyde*, 792 F. Supp. 3d 211(D. Mass 2025). Accordingly, the BIA's interpretation should not be granted any deference and given little respect.

II. The Due Process Clause entitles Petitioner to habeas corpus relief based on unlawful detention.

The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. "[T]he Due Process clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Id.* at 690. The Petitioner has a weighty liberty interest in his freedom even if the

"government wields significant discretion." *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CBD), --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 156344, at *33 (D. Ariz. Aug 11, 2025). When the government, as here, is detaining a noncitizen in violation of the plain language of a statute, the detention violates procedural due process.

To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. These factors all favor a determination that the Petitioner is being held without due process of law. The deprivation of the Petitioner's liberty interest based on *Yajure Hurtado* carries a high risk that the Petitioner's liberty is being erroneously deprived that is not outweighed by any valid governmental interest.

Critically, a decision from the Northern District from December 2, 2025, accepted the Magistrate's decision that favors the Petitioner's side of this argument. *See Parada-Hernandez v. Johnson*, No. 3:25-cv-2729-K-BN, --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 234517, at *17 (N.D. Tex. Dec. 2, 2025). The Magistrate stated in the decision affirmed by the District Judge:

> The undersigned finds that, even if Parada-Hernandez was properly classified under Section 1225, detaining him without a bond hearing violates his Fifth Amendment rights.

Id. at *8. The Magistrate proceeded to demonstrate that "*Thuraissigiam* is distinguishable in this context." *Id.* The Court then applied the *Mathews* factors and recommended his petition for habeas corpus be granted.[5]

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[5] In *Parada*, the noncitizen satisfied the private interest involved, in part, because he had previously been released from detention. Here, Petitioner was not previously released but his liberty interests in residing with his wife and child,

Instead of addressing the *Mathews* factors, the Respondents erroneously rely upon *Demore v. Kim* for its claim that the Due Process Clause is not implicated. 538 U.S. 510 (2003). *Demore* is not relevant to the analysis because it construed the mandatory detention provisions of 8 U.S.C. § 1226(c)—not § 1225(b)(2). *Demore* made certain that § 1226(c) did not provide for a pre-removal order bond hearing, but it made no ruling on whether the misapplication of § 1225(b)(2) to a noncitizen eligible for bond under paragraph (a) of § 1226 violates due process of law. Further, presuming, without conceding, that § 1225(b) does require mandatory detention, it is still distinguishable from *Demore*. In *Demore*, there was no competing statute allowing for a bond hearing, while in this case § 1226(a) clearly allots for it.

CONCLUSION

The Respondents have unlawfully detained the Petitioner for approximately three months. That may not seem prolonged to the Respondents, *see* ECF 10 at 26, but it is wreaking havoc on the Petitioner, and his U.S. citizen daughter. It has gone on for long enough and should end now.

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employment, and freedom from detention are equally implicated. *See, e.g., Alvarez v. Noem*, 2025 U.S. Dist. LEXIS 204896 (W.D. Mich. Oct. 17, 2025); *Santiago v. Noem*, 2025 U.S. LEXIS 195616 (W.D. Tex. Oct. 1, 2025); and *Martinez v. Noem*, 2025 U.S. LEXIS 209332 (W.D. Tex. Oct. 21, 2025).

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that on today's date, December 4, 2025, I electronically filed the above reply to the Respondents' Response in Opposition by using the Court's CM/ECF system which will automatically send a notice of electronic filing to Respondents' counsel.

/s/ Lance Curtright
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