**UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF MICHIGAN**

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| REYNALDO HURTADO-MEDINA; FERNANDO PEREZ PEREZ; CHRISTOPHER POLANCO; BAYRO RAMIREZ-RAMOS<br><br>Petitioners,<br><br>v.<br><br>KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,<br><br>Respondents. | Case No. 25-cv-13248<br><br>Hon. Matthew F. Leitman |

**PETITIONERS' REPLY BRIEF**
**IN SUPPORT OF**
**PETITION FOR WRIT OF HABEAS CORP**

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## INTRODUCTION

Respondents do not dispute that Petitioners have lived in the United States for years or decades. Nor do Respondents dispute that the government itself for decades interpreted the Immigration and Nationality Act (INA) to provide for bond hearings for people like Petitioners, or that dozens of courts, including this Court, have rejected Respondents' new "strained interpretation" of the INA.[1] *Valencia Zapata v. Kaiser*, No. 25-cv-07492, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025); *Contreras-Cervantes, et al., v. Raycraft*, 2025 WL 952796 (E.D. Mich. Oct. 17, 2025). In fact, one petitioner, Bayro Ramirez-Ramos, was first released under § 1226 in 2021. His bond conditions were continued in 2023. Officer Saunders's Decl. about Ramirez-Ramos ¶¶ 6–7, ECF No. 8, PageID. 148–149. Respondents throw up a smokescreen of hyper-technical arguments that have been repeatedly rejected by the courts. None of those arguments have merit.

## ARGUMENT

### I. Section 1226(a), Not Section 1225(b)(2)(A) Applies to Petitioners.

#### a. Respondents Ignore Both Section 1226 and the INA's Structure.

Respondents invite this Court to read § 1225 in isolation, ignoring not just § 1226, but the INA's overall structure. Section 1226 "authorizes the Government to

[1] For an updated list of decisions on this issue, see Exhibit A.

detain certain aliens already in the country pending the outcome of removal proceedings," while § 1225 authorizes detention of "certain aliens seeking admission into the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).[2] As their titles state, § 1226 relates to "[a]pprehension and detention" of noncitizens living in the U.S., while § 1225 covers procedures at the border, including "[i]nspection by immigration officers" and "expedited removal of inadmissible arriving aliens."

Respondents do not respond to the fact that the plain text of § 1226(a) applies here: Petitioners were arrested "on a warrant . . . pending a decision on whether [they are] to be removed from the United States." Respondents also cannot explain why § 1226 does not render bond-eligible most people who reside here but have not been admitted when it specifically carves out "inadmissible" non-citizens charged or convicted of certain crimes for mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D)-(E). A "plain reading of this exception implies that the default discretionary bond procedures in section 1226(a) apply to noncitizens who … are 'present in the United States without being admitted or paroled'" unless § 1226(c) applies. *Rodriguez v. Bostock*, -- F. Supp. 3d --, 2025 WL 2782499, *17 (W.D. Wash., Sept. 30, 2025).

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[2] Respondents admit that *Jennings* described § 1226(a) as applying to noncitizens "present" in the U.S., but claim that by citing § 1227(a) (referring to admitted non-citizens), *Jennings* "made clear" that § 1226(a) applies only to those both present and admitted. Resp. Brf, ECF 8, PageID 128. Respondents conveniently ignore that the Court cited § 1227(a) just as an "example" of people who are present and can be detained under § 1226(a) pending removal proceedings. *Jennings*, 583 U.S. at 288.

Congress just amended § 1226(c) in the Laken Riley Act. If Respondents' interpretation of § 1225(b)(2) were correct, that "would render the Laken Riley Act a meaningless amendment, since it would have prescribed mandatory detention for noncitizens already subject to it." *Cordero Pelico v. Kaiser*, 2025 WL 2822876, *12 (N.D. Cal., Oct. 3, 2025). Respondents' only answer to that point is to say the Court should ignore Laken Riley because it does not apply to Petitioners. Resp. Brf, ECF 8, PageID 126-127. But the fact that *Petitioners* cannot be detained under Laken Riley does not alter the fact that Respondents' reading renders Laken Riley meaningless.

The government tries to explain away the conflict between their reading of § 1225(b)(2)(A)—that it mandates detention for *all* non-admitted non-citizens—and § 1226—which mandates detention for *some but not all* non-admitted non-citizens—as a mere redundancy. Resp. Brf, ECF 8, PageID 125. But,

> even allowing for some redundancy in statutory drafting, it is a "cardinal rule of statutory interpretation that no provision should be construed to be entirely redundant." Defendants' expansive reading of section 1225 … would render section 1226(c)(1)(E) "entirely redundant."

*Rodriguez*, 2025 WL 2782499, *19 (citing *Kungys v. United States*, 485 U.S. 759, 778 (1988)). *See Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 2809996, *6 (D. Mass., Oct. 3, 2025) (§ 1226(c) "implies that there are no other circumstances under which a noncitizen detained under § 1226 is subject to mandatory detention").

**b. Respondents Misunderstand How Section 1225 Works.**

Respondents contend that Section 1225 distinguishes "between recently arrived noncitizens ('arriving aliens') and those like Petitioners who were successfully able to evade apprehension for many years ('applicants for admission')." Resp. Brf, ECF 8, PageID 124. Respondents assert that § 1225(b)(1) covers "arriving aliens", while § 1225(a) and (b)(2) apply to "applicants for admission." *Id.* at ECF 8, PageID 122-123. Not so.

First, the distinction Respondents invent between "arriving aliens" (i.e. people at the border) and "applicants for admission" (i.e. people already in the U.S.) is entirely divorced from the statutory text. Section 1225(a)(1) defines "applicants for admission" to *include* non-citizens arriving in the United States. Meanwhile, in describing "arriving aliens," Respondents themselves cite provisions in § 1225(b)(2) about "crewmen, "stowaways" and people arriving from contiguous territory, even though Respondents contend that § 1225(b)(2) only concerns "applicants for admission." Resp. Brf, ECF 8, PageID 121. There is no plausible way to read § 1225(b)(2) as covering only people who have lived in the U.S. for years.

Second, Respondents misunderstand the structure of § 1225. Section 1225(b)(1) provides for expedited removal and detention of certain non-citizens. Section 1225(b)(2) applies to other "applicants for admission" who are "seeking admission" who are *not* subject to expedited removal but instead are in full removal

proceedings. Depending on their circumstances, people arriving at the border may fall under either (b)(1) or (b)(2). *See Jennings*, 583 U.S. at 287 ("applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)," with (b)(2) serving "as a catchall provision" that applies to those not covered by (b)(1)).

Recognizing that § 1225 is a border inspection scheme—as dozens of courts have done—does not nullify § 1225(b)(2), which continues to apply to non-citizens arriving at the border who are not subject to expedited removal. In other words:

> § 1225(b)(2) applies to arriving noncitizens who are inadmissible on grounds other than … the grounds that put an arriving noncitizen on the track for expedited removal[]. The statute governing inadmissibility lists ten grounds for inadmissibility…. There are thus arriving noncitizens inadmissible on these other bases who would fall under Section 1225(b)(2), as opposed to Section 1225(b)(1).

*Cordero Pelico*, 2025 WL 2822876, at* 13. *See Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J., Sept. 26, 2025) (unpublished) (examples of non-citizens at border not subject to expedited removal, such as certain lawful residents returning from abroad who must be inspected by immigration officials). The argument that § 1225(b)(2) is meaningless unless applied to Petitioners is wrong.

**c. Respondents Misinterpret Section 1225(b)(2).**

Even if one reads § 1225(b)(2) in complete isolation without regard to the statutory structure, it does not support Respondents' reading. Respondents entirely

ignore § 1225(b)(2)'s requirement for a determination by an "examining immigration officer." *See* Pet. Brf, ECF 4, Page ID 64–66 (explaining that Petitioners are seeking relief before immigration judges, not examination by immigration officers). Instead, Respondents focus on whether Petitioners are "applicants for admission" who are "seeking admission." Oddly, Respondents point to the definition of "admission"—which is "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." Resp. Brf, ECF 8, PageID 116–17 (citing 8 U.S.C. § 1101(a)(13)(A)). Not only does this definition take us right back to inspections by immigration officers, but "[c]onstruing section 1225(b)(2) to apply to noncitizens already residing in the country would read the word 'entry' out of the definition[]." *Chafla v. Scott*, 2025 WL 2688541, *6 (D. Me., Sept. 22, 2025).

Respondents—constrained by the present tense nature of "seeking admission"—engage in verbal gymnastics to obfuscate the obvious: "the active language implies that the noncitizen is actively engaged in the exercise of being admitted to the United States, rather than currently residing here and seeking to stay." *Id.* Respondents argue seeking immigration relief that would allow Petitioners to *remain* is the same as seeking to *enter*. Resp. Brf, ECF 8, PageID 119. But Petitioners are not seeking permission to enter from immigration officers, but rather adjustment of status, asylum, or withholding of removal from immigration judges.

For example, if Petitioners obtain cancellation of removal (which is a form of relief available both to people who were and were not lawfully admitted, 8 U.S.C. § 1229b(a)(1)), that would result in cancellation of their removal and adjustment of their legal status, not an entry into the U.S., which is where Petitioners already are.

**d. Respondents Misunderstand the Legislative History.**

Respondents ignore the legislative history and contemporaneously-issued regulations showing that § 1226(a) applies here. *See* Pet. Brief, ECF 4, PageID 57-60. Instead, they argue that in enacting IIRIRA, Congress wanted to ensure that people seeking to enter lawfully are not treated worse than those who entered without inspection. Resp. Brief, ECF 8, PageID 129. But the government "err[s] in its analysis by identifying *one* of Congress's concerns in enacting IIRIRA and then treating it as Congress's sole concern driving the statute." *Cordero Pelico*, 2025 WL 2822876 at 13. While Congress was concerned about "placing noncitizens on equal footing in *removal* proceedings" (and IIRIRA thus imposes a greater burden of proof on non-citizens in the U.S. in defending against removal), that "says nothing about detention." *Rodriguez*, 2025 WL 2782499, *24 (cleaned up). Respondents cannot

> enlarge Congress's stated concern that noncitizens living in the United States had an advantage during *removal* proceedings pre-IIRIRA to an unarticulated aim to mandate *detention* for all such noncitizens post-IIRIRA. It is easy to conceive of reasons Congress would distinguish between these concepts; for one, noncitizens who have lived for years in this country are more likely to be working in critical industries,

> parenting U.S. citizen children, or otherwise serving their communities .... If Congress had wished to enact the transformation of the immigration detention system that Defendants contend it did—requiring the detention of millions of people currently living and working in the United States—then it would have said so more clearly.

*Id.*

To adopt Respondents' interpretation would violate the "no-elephants-in-mouseholes canon," which "recognizes that Congress does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions." *Bostock v. Clayton County*, 590 U.S. 644, 680 (2020). If Congress intended to upend its prior scheme and mandate that millions of people who have lived here for years be held without bond hearings, then (1) Congress would have clearly said so; and (2) it is inconceivable that immigration authorities would have simply carried on for three decades without implementing that Congressional directive. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024) ("longstanding practice of the government" can inform court's interpretation of statutory provisions).

## II. Due Process Requires a Bond Hearing.

The writ of habeas corpus extends to a detainee who "is in custody in violation of the Constitution or laws or treaties of the United States[.]" 28 U.S.C. § 2241(c)(3). This relief extends to noncitizens. 8 U.S.C. § 1252(a)(2)(D). Petitioners are entitled to a writ of habeas corpus regardless of whether Petitioners' detention is "unlawful"

or "unconstitutional." Resp. Brf, ECF 8, PageID 114. Petitioners' unlawful detention under 8 U.S.C. § 1225(b)(2)(a) entitles them to a writ of habeas corpus.

"[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 v. Davis*, 533 U.S. 678, 693 (2001). Respondents do not even try to show a special justification for detaining Petitioners without a bond hearing. Nor weigh the factors of *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976). Nor identify a single case where courts have found it constitutional to deprive long-time residents of their liberty without any consideration of flight risk, dangerousness, or criminal history. Rather, Respondents argue that because procedural protections exist in *removal* proceedings (i.e., administrative hearings on immigration relief), Petitioners have no right to due process on *detention*. But Petitioners have a liberty interest in freedom from detention that is distinct from their liberty interest in remaining in the United States. Deprivation of either requires due process.

Respondents also point to inapposite cases concerning the more limited due process protections for people apprehended upon entry or with significant criminal history. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), concerned the "due process rights of an alien seeking initial entry" and governmental control over who crosses our borders. *Id.* at 107; *see id.* at 139 (discussing the due process rights of "an alien at the threshold of initial entry" who lack "established connections

in this country"). Petitioners are not "at the threshold of initial entry," and each Petitioner has "established connections" here. *See Cordero Pelico*, 2025 WL 2822876, at *6 (distinguishing government's cases on exactly this basis).

Respondents' reliance on *Demore v. Kim*, 538 U.S. 510 (2003), is similarly off base. *Demore* rejected a facial challenge to 8 U.S.C. § 1226(c), which requires mandatory detention of certain noncitizens with criminal convictions. Based on the presumption that such people are a danger/flight risk, the Court found the government's interest in detaining them for "a very limited time" outweighed their interest in liberty. *Id.* at 529, n.12. *Demore* does not create an irrebuttable presumption of dangerousness/flight risk even for people with significant criminal history[3], much less for people who—as here—have been living law-abiding lives in the community. And *Zadvydas v. Davis*, 533 U.S. 678 (2001), contrary to Respondents' depiction, emphasizes that immigration detention must be tied to the civil purposes of preventing flight and protecting the public. *Zadvydas* held that even where non-citizens (unlike here) had already been ordered removed (such that the government had specific interests around accomplishing removal), there were "serious constitutional problem[s]" with reading the INA to allow for prolonged detention. *Id.* "[W]e construe the statute to contain an implicit 'reasonable time'

[3] Non-citizens detained under § 1226(c) remain free to bring as-applied constitutional challenges to their detention. *See Nielsen v. Preap*, 586 U.S. 392, 420 (2019); *Black v. Decker*, 103 F.4th 133, 151-155 (2d Cir. 2024).

limitation, the application of which is subject to federal-court review." *Id.* at 682. In short, Respondents' cited cases do not support their claim.

## III. Requiring Administrative Exhaustion Would Be Futile.

Respondents admit that administrative exhaustion would be futile. Resp. Brf., ECF 8, PageID 115 (admitting that *Matter of Yajure Hurtado*, 29 I &N Dec. 216 (BIA 2025), bars administrative relief).

## IV. There Are Multiple Proper Respondents.

The parties agree that the ICE field office director is Petitioners' "immediate custodian" and thus a proper respondent. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). But it does not necessarily follow, as Respondents assert, that because the director is *a* proper respondent, he is the *only* proper respondent. *See* Exhibit A (listing dozens of similar cases with multiple respondents).

First, Petitioners are not just seeking a writ of habeas corpus, but also declaratory relief, an injunction on transfer, fees and any other just and proper relief. Pet., ECF 1, PageID 34. This Court has jurisdiction both in habeas (28 U.S.C. § 2241; U.S. Const. art. I, § 9, cl. 2), and over federal questions (28 U.S.C. § 1331). It can grant relief under 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. *See* Pet., ECF 1, PageID 6.

Second, Petitioners are detained under a new ICE directive issued in coordination with DOJ. If Respondents Noem, Bondi and the Department of Homeland Security (DHS) rescinded the directive, Petitioners could be released, either based on ICE setting bond, 8 C.F.R. § 236.1(8), or through bond hearings. Bond hearings are held in immigration courts, which are under the Executive Office of Immigration Review (EOIR), itself a component agency of DOJ. Respondents EOIR and Bondi can—but have failed to—ensure that Petitioners get the bond hearings.

Third, Secretary Noem and DHS are proper Respondents with respect to the requested injunction on transfer, over which they have ultimate authority.

Nonetheless, if Respondents concede and stipulate that this Court can order all relief requested in the Petition against Respondent Raycraft, Petitioners will not object to the dismissal of the other Respondents.

## CONCLUSION

Petitioners request that the Court grant the relief requested in their Petition.

Respectfully submitted,

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