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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Juan Daniel Luna-Gonzalez,

Petitioner,

v.

Kristi Noem, *et al.*,

Respondents.

No. CV-25-03794-PHX-MTL-DMF

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Respondents Kristi Noem, Secretary Homeland Security; Todd Lyons, Acting Director of U.S. Immigration and Customs Enforcement; John Cantu, Field Office Director for ICE's Enforcement and Removal Operation's ("ERO") Phoenix, Arizona; and Sirce Owen, Acting Director of the Executive Office of Immigration Review ("EOIR"), by and through undersigned counsel, respond in opposition to Petitioner's Petition for Writ of Habeas Corpus (Doc. 1).

I. BACKGROUND

Petitioner Juan Daniel Luna-Gonzalez is a native and citizen of Mexico. Exhibit A, Declaration of Jayson McElhaney at ¶ 3. He entered the United States from Mexico on an unknown date and an unknown time at a time and place other than designated by the Secretary of Homeland Security. *Id.* at ¶ 4. Petitioner applied for DACA and related

employment authorization documents ("EAD") and was approved on December 12, 2012. *Id.* at ¶ 5. Petitioner subsequently reapplied for and was approved for DACA and EADs six times, including, most recently, for the period of October 18, 2024, through October 15, 2026. *Id.*

On May 19, 2022, Petitioner was charged with Driving Under the Influence ("DUI"). *Id.* at ¶ 6. On October 4, 2023, Petitioner was convicted of DUI and sentenced to one day in jail and 60 months of probation. *Id.* at ¶ 7. U.S. Border Patrol took Petitioner into custody June 20, 2025, and served him with a Notice to Appear ("NTA") charging inadmissibility under section 212a07(A)(i) and 237a01(C)(i) of the Immigration and Nationality Act. *Id.*; *see also* Doc. 1-1 at 69-71.

Petitioner seeks an order directing Respondents to release him from immigration detention. The Petition alleges that Petitioner is wrongfully detained because he is a current recipient of Deferred Action for Childhood Arrivals ("DACA"); that Respondents violated agency policies by detaining him; that his constitutional due process rights have been violated; and that Respondents violated the Administrative Procedures Act ("APA").

II. DACA STATUS DOES NOT PREVENT DETENTION AND REMOVAL PROCEEDINGS

Petitioner is a member of the class certified in *Inland Empire-Immigrant Youth Collective v. Nielsen*, No. EDCV 17-2048 PSG (SHKx), 2018 WL 1061408, at *22 (C.D. Cal. Feb. 26, 2018) ("All recipients of Deferred Action for Childhood Arrivals ("DACA") who, after January 19, 2017, have had or will have their DACA grant and employment authorization revoked without notice or an opportunity to respond, even though they have not been convicted of a disqualifying criminal offense."). *See* Exhibit B, Order Granting Plaintiffs' motion for class certification and Granting Plaintiffs' motion for a class-wide preliminary injunction.

The decision in *Inland Empire* contemplates and allows Respondents to prosecute removal proceedings against DACA recipients without termination of their DACA grants. *Id.* at *22 ("It is hereby ORDERED that Defendants are preliminarily enjoined from terminating grants of DACA and related EADs based solely on the issuance of a Notice to

Appear [ ] that charges the DACA recipient as removable due to his or her presence in the United States without admission or having overstayed a visa.") Respondents have not terminated petitioner's DACA status through the issuance of an NTA. Respondents are in the process of reviewing whether DACA status should be terminated.

If the issue before the Court was whether Respondents can remove Petitioner, the parties might agree that, because of his status as a DACA recipient, ICE cannot remove Petitioner from the United States. But that is not at issue. Nothing prevents Respondents from commencing removal proceedings against Petitioner. *See* 8 C.F.R. § 236.21(c)(2) ("A grant of deferred action under this section does not preclude DHS from commencing removal proceedings at any time or prohibit DHS or any other Federal agency from initiating any criminal or other enforcement action at any time."). Petitioner relies on 8 C.F.R. § 236.21(c)(3) to argue that he is "lawfully present," but "lawfully present" as used in 8 C.F.R. § 236.21(c)(3) has a circumscribed meaning. 8 C.F.R. § 236.21(c)(3) states that "[d]uring this period of forbearance, on the basis of this subpart only, a DACA recipient is considered 'lawfully present' under the provisions of 8 CFR 1.3(a)(4)(vi)." 8 C.F.R. § 1.3(a)(4)(vi) is titled "Lawfully present aliens for the purposes of applying for Social Security benefits[,]" and defines, for the purposes of 8 U.S.C. § 1611(b)(c) ("Aliens who are not qualified aliens ineligible for Federal public benefits"), which aliens are eligible to receive federal public benefits. Thus, Petitioner's reliance on 8 C.F.R. § 236.21(c)(3) is misplaced because it relates to an alien's ability to obtain federal public benefits and does not relate to the Government's authority to initiate removal proceedings against DACA recipients or to detain them during the pendency of those proceedings.

Indeed, the immigration court has the discretion to terminate removal proceedings where the alien has deferred action but may decide to allow them to continue. *See* 8 C.F.R. § 1003.18(d)(1)(ii)(C) ("In removal, deportation, or exclusion proceedings, immigration judges may, in the exercise of discretion, terminate the case upon the motion of a party where at least one of the requirements listed in paragraphs (d)(1)(II)(A) through (F) of this section is met. [. . .] The noncitizen is a beneficiary of Temporary Protected Status,

deferred action or Deferred Enforced Departure.") Petitioner's DACA status is not relevant to the question of whether Respondents may initiate removal proceedings against him and detain him during the pendency of those removal proceedings.

III. PETITIONER IS SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225(b)(2)(A).

A. Statutory background and detention under the INA.

"The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "The phrase 'applicant for admission' is a term of art denoting a particular legal status." *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc), *declined to extend by, United States v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024).

Section 1225(a)(1) was added to the INA as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). Pub. L. No. 104-208, § 302, 110 Stat. 3009-546. IIRIRA added Section 1225(a)(1) to "ensure[] that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA." *Torres*, 976 F.3d at 928; *see also* H.R. Rep. 104-469, pt. 1, at 225 (explaining that § 1225(a)(1) replaced "certain aspects of the current 'entry doctrine,'" under which illegal aliens who entered the United States without inspection gained equities and privileges in immigration proceedings unavailable to aliens who presented themselves for inspection at a port of entry). The provision "places some physically-but-not-lawfully present noncitizens into a fictive legal status for purposes of removal proceedings." *Torres*, 976 F.3d at 928.

The INA authorizes civil detention of aliens during removal proceedings and "[d]etention is necessarily part of this deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see also* 8 U.S.C. § 1225(b), 1226(a), and 1231(a). "Where an alien falls within this statutory scheme can affect whether his detention is mandatory or discretionary, as well as the kind of review process available to him if he wishes to contest the necessity of his detention." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008).

1 **1. Detention under 8 U.S.C. § 1225.**

2 The INA mandates the detention of applicants for admission. 8 U.S.C. § 1225(b)(1)
3 and (b)(2). An "applicant[ ] for admission," who is defined as an "alien present in the United
4 States who has not been admitted" or "who arrives in the United States." 8 U.S.C.
5 § 1225(a)(1).[1] Applicants for admission "fall into one of two categories, those covered by
6 § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287
7 (2018).

8 Section 1225(b)(1) applies to arriving aliens and "certain other" aliens "initially
9 determined to be inadmissible due to fraud, misrepresentation, or lack of valid
10 documentation." *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject
11 to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien
12 "indicates an intention to apply for asylum . . . or a fear of persecution," immigration
13 officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien
14 "with a credible fear of persecution" is "detained for further consideration of the application
15 for asylum." *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for
16 asylum, express a fear of persecution, or is "found not to have such a fear," he is detained
17 until removed. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

18 Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583
19 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.*
20 Under § 1225(b)(2), an alien "who is an applicant for admission" shall be detained for a
21 removal proceeding "if the examining immigration officer determines that [the] alien
22 seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C.
23 § 1225(b)(2)(A); *see Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) ("for aliens arriving
24 in and seeking admission into the United States who are placed directly in full removal
25 proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
26 detention 'until removal proceedings have concluded.'") (citing *Jennings*, 583 U.S. at 299).
27

28 [1] Admission is the "lawful entry of an alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13).

Still, DHS has the sole discretionary 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." *Id.* § 1182(d)(5)(A); *see Bidèn v. Texas*, 597 U.S. 785, 806 (2022).

2. Detention under 8 U.S.C. § 1226(a).

Section 1226 provides that "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Under section 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole.[2] By regulation, immigration officers can release an alien if the alien demonstrates that he "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8). An alien can also request custody redetermination (*i.e.*, a bond hearing) by an Immigration Judge at any time before a final order of removal is entered but an alien that "has not been admitted," is treated as "an applicant for admission." 8 U.S.C. § 1225(a)(1); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19; *Jennings*, 583 U.S. at 286-87.

At a custody redetermination, the IJ may continue detention or release the alien on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have broad discretion in deciding whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39-40 (BIA 2006) (listing nine factors for IJs to consider). But regardless of the factors IJs consider, an alien "who presents a danger to persons or property should not be released during the pendency of removal proceedings." *Id.* at 38.

B. Under the plain text of § 1225, Petitioner must be detained pending the outcome of his removal proceedings.

The Court should reject Petitioner's argument that § 1226(a) governs his detention instead of § 1225. When there is "an irreconcilable conflict in two legal provisions," then

[2] Being "conditionally paroled under the authority of § 1226(a)" is distinct from being "paroled into the United States under the authority of § 1182(d)(5)(A)." *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007) (holding that because release on "conditional parole" under § 1226(a) is not a parole, the alien was not eligible for adjustment of status under § 1255(a)).

1 "the specific governs over the general." *Karczewski v. DCH Mission Valley LLC*, 862 F.3d
2 1006, 1015 (9th Cir. 2017). Section 1226(a) applies to aliens "arrested and detained pending
3 a decision" on removal. 8 U.S.C. § 1226(a). In contrast, § 1225 is narrower. *See* 8 U.S.C.
4 § 1225. It applies only to "applicants for admission"; that is, as relevant here, aliens present
5 in the United States who have not be admitted. *See id.; see also Florida v. United States*,
6 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023). Because Petitioner falls within that category,
7 the specific detention authority under § 1225 governs over the general authority found at
8 § 1226(a).

9 Under 8 U.S.C. § 1225(a), an "applicant for admission" is defined as an "alien
10 present in the United States who has not been admitted or who arrives in the United States."
11 Applicants for admission "fall into one of two categories, those covered by § 1225(b)(1)
12 and those covered by § 1225(b)(2)." *Jennings*, 583 U.S. at 287. Section 1225(b)(2)—the
13 provision relevant here—is the "broader" of the two. *Id.* It "serves as a catchall provision
14 that applies to all applicants for admission not covered by § 1225(b)(1) (with specific
15 exceptions not relevant here)." *Id.* And section 1225(b)(2) mandates detention. *Id.* at 297;
16 *see also* 8 U.S.C. § 1225(b)(2); *Matter of Q. Li*, 29 I & N. Dec. at 69 ("[A]n applicant for
17 admission who is arrested and detained without a warrant while arriving in the United
18 States, whether or not at a port of entry, and subsequently placed in removal proceedings is
19 detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any
20 subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)."). Section
21 1225(b) therefore applies because Petitioner is present in the United States without being
22 admitted.

23 The BIA has long recognized that "many people who are not *actually* requesting
24 permission to enter the United States in the ordinary sense are nevertheless deemed to be
25 'seeking admission' under the immigration laws." *Matter of Lemus-Losa*, 25 I. & N. Dec.
26 734, 743 (BIA 2012). Statutory language "is known by the company it keeps." *Marquez-*
27 *Reyes v. Garland*, 36 F.4th 1195, 1202 (9th Cir. 2022) (quoting *McDonnell v. United States*,
28 579 U.S. 550, 569 (2016)). The phrase "seeking admission" in § 1225(b)(2)(A) must be

1 read in the context of the definition of "applicant for admission" in § 1225(a)(1). Applicants
2 for admission are both those individuals present without admission and those who arrive in
3 the United States. *See* 8 U.S.C. § 1225(a)(1). Both are understood to be "seeking admission"
4 under §1225(a)(1). *See Lemus-Losa*, 25 I. & N. Dec. at 743. Congress made that clear in
5 § 1225(a)(3), which requires all aliens "who are applicants for admission or otherwise
6 seeking admission" to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The
7 word "or" here "introduce[s] an appositive–a word or phrase that is synonymous with what
8 precedes it ('Vienna or Wien,' 'Batman or the Caped Crusader')." *United States v. Woods*,
9 571 U.S. 31, 45 (2013).

10 One of the most basic interpretative canons instructs that a "statute should be
11 construed so that effect is given to all its provisions." *See Corley v. United States*, 556 U.S.
12 303, 314 (2009) (cleaned up). The court's decision in *Florida v. United States* is instructive
13 here. The district court held that 8 U.S.C. § 1225(b) mandates detention of applicants for
14 admission throughout removal proceedings, rejecting the assertion that DHS has discretion
15 to choose to detain an applicant for admission under either section 1225(b) or 1226(a). 660
16 F. Supp. 3d at 1275. The court held that such discretion "would render mandatory detention
17 under § 1225(b) meaningless. Indeed, the 1996 expansion of § 1225(b) to include illegal
18 border crossers would make little sense if DHS retained discretion to apply § 1225(a) and
19 release illegal border crossers whenever the agency saw fit." *Id.* The court pointed to
20 *Demore v. Kim*, 538 U.S. 510, 518 (2003), in which the Supreme Court explained that
21 "wholesale failure" by the federal government motivated the 1996 amendments to the INA.
22 *Florida*, 660 F. Supp. 3d at 1275. The court also relied on, *Matter of M-S-*, 27 I. & N. Dec.
23 509, 516 (A.G. 2019), in which the Attorney General explained "section [1225] (under
24 which detention is mandatory) and section [1226(a)] (under which detention is permissive)
25 can be reconciled only if they apply to different classes of aliens." *Florida*, 660 F. Supp. 3d
26 at 1275. Petitioner, present in the United States without being admitted, is an applicant for
27 admission and is therefore subject to mandatory detention without bond under 8 U.S.C. §
28 1225(b). *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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C. Congress did not intend to treat individuals who unlawfully enter the United States better than those who appear at a port of entry.

When the plain text of a statute is clear, "that meaning is controlling" and courts "need not examine legislative history." *Washington v. Chimei Innolux Corp.*, 659 F.3d 842, 848 (9th Cir. 2011). But to the extent legislative history is relevant here, nothing "refutes the plain language" of § 1225. *Suzlon Energy Ltd. v. Microsoft Corp.*, 671 F.3d 726, 730 (9th Cir. 2011). Congress passed IIRIRA to correct "an anomaly whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully." *Torres*, 976 F.3d at 928. The Court should reject the Petitioner's interpretation because it would put aliens who "crossed the border unlawfully" in a better position than those "who present themselves for inspection at a port of entry." *Id.* Aliens who presented at port of entry would be subject to mandatory detention under § 1225, but those who crossed illegally would be eligible for a bond under § 1226(a).

D. The Court should not follow the decision in *Echevarria.*

Respondents are aware of a prior decision in this District rejecting Respondents' position, *see Echevarria v. Bondi, et al.*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025), but respectfully maintain that Petitioner has not been deprived of due process, and falls within the definition of an "arriving alien" warranting mandatory detention as the removal process unfolds. Respondents also respectfully maintain that an alien is an "applicant for admission" until an immigration official has inspected that person and determined that he or she is admissible into the United States.

In *Echevarria*, Judge Dominic Lanza determined that the phrase "alien seeking admission" in 8 U.S.C. § 1225(b)(2)(A) implies a present-tense nature to the desire for admission, such that an alien who is already present in the United States cannot be "seeking admission":

> The word "seeking" is the present participle of the verb "seek." It thus has a temporal element—Petitioner must have been in the process of seeking admission at the time of the inspection.
>
> It is hard to see how Petitioner could be deemed to have been "seeking"

> admission at the time of the encounter on July 2, 2025. By that point, Petitioner had already been present in the United States for 24 years, having arrived and entered in 2001. Moreover, under Respondents' interpretation of § 1225(a)(1), Petitioner became an "applicant for admission" in 2001, upon his arrival and entry. Implicit in Respondents' position, then, is that Petitioner somehow existed in a perpetual state of "seeking" admission during the 24-year period between when he first became an "applicant for admission" in 2001, by virtue of his entry into the country, and when he was encountered and inspected by an immigration officer in 2025.

Echevarria, 2025 WL 2821282, at *6 (internal citations omitted).

However, this analysis fails to consider other pieces of statutory context. Respondents respectfully argue that the phrase "applicants for admission" carves out a subset of those who are "seeking admission." For example, elsewhere in section 1225, the statute says that "[a]ll aliens who are applicants for admission *or otherwise seeking admission* or readmission to or transit through the United States shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3) (emphasis added). In other words, 8 U.S.C. § 1225(a)(3) shows that an alien may be "seeking admission" either by being an "applicant for admission," or in some different way. As discussed earlier, the phrase "applicant for admission" unambiguously includes aliens who have already entered the United States. "In all but the most unusual situations, a single use of a statutory phrase must have a fixed meaning." *See Cochise Consultancy, Inc. v. United States ex rel. Hunt*, 587 U.S. 262, 268 (2019) (referring to *Ratzlaf* v. *United States*, 510 U.S. 135, 143 (1994)). "We therefore avoid interpretations that would 'attribute different meanings to the same phrase.'" *Id.* (quoting *Reno* v. *Bossier Parish School Bd.*, 528 U. S. 320, 329 (2000)). Thus, the *Echevarria* decision is not supported by the text of the statute, and Respondents respectfully request this Court reach a different result.

Furthermore, Respondents direct the Court's attention to a decision issued on September 30, 2025, in the United States District Court for the District of Nebraska: *Vargas Lopez v. Trump, et al.*, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025). In that case, the court denied a similar habeas petition brought by an alien who entered the United States in 2013, and held that the petitioner was properly detained under § 1225(b)(2)

1 as an alien within the "catchall" scope of § 1225(b)(2) subject to detention without
2 possibility of release on bond through § 1229a removal proceedings. 2025 WL 2780351,
3 at *6-9. The court noted that illegally remaining in the country for years did not mean the
4 petitioner, who "wish[ed] to stay in this country," was suddenly not an "applicant for
5 admission." *Id.* at *9. Additionally, "even if Vargas Lopez might fall within the scope of
6 § 1226(a), he certainly fits within the language of § 1225(b)(2) as well." *Id.*

7 The *Vargas Lopez* decision also noted the "overlapping relationship between
8 § 1225(b) and § 1226(a) is not only consistent with the plain language of the two provisions
9 but consistent with the interpretation of the two provisions under *Jennings*." *Id.* The court
10 determined that § 1226 does not contain language limiting its application "to aliens already
11 present in the United States." *Id.* (comparing *Jennings*' statements that United States
12 immigration law "authorizes the Government to detain certain aliens already in the country
13 pending the outcome of removal proceedings under §§ 1226(a) and (c)[,]" and that "§ 1226
14 applies to aliens already present in the United States[,]" 583 U.S. at 289 (first quote) and
15 303 (second quote), *with* 8 U.S.C. § 1226(a) (containing no reference to aliens "present"
16 or "already present" in the United States) and 8 U.S.C. § 1226(c) (containing no reference
17 to "criminal aliens" "present" or "already present" in the United States). The court
18 determined that "references to 'aliens' in § 1226 must be read to mean 'alien[s] present in
19 the United States who ha[ve] not been admitted' within the meaning of § 1225(a)(1) and
20 within at least the 'catchall provision that applies to all applicants for admission not
21 covered by § 1225(b)(1) in § 1225(b)(2)." 2025 WL2780351, at * 9 (citing *Jennings*, 583
22 U.S. at 287).

23 The Southern District of California also denied a temporary restraining order sought
24 by an alien who was detained under § 1225(b)(2) despite having been surreptitiously
25 present in the United States for years. *See Chavez v. Noem*, --F. Supp. 3d --, No. 3:25-cv-
26 02325-CAB, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025). The court noted, among other
27 arguments, that "Section 1225(a)(1) expressly defines that '[a]n alien present in the United
28 States who has not been admitted . . . shall be deemed for purposes of this Act *an applicant*

1 *for admission.*'" *Id.* at *4 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in original). The court
2 reasoned that, "Petitioners do not contest that they are 'alien[s] present in the United States
3 who ha[ve]not been admitted.' By the plain language of § 1225(a)(1), then, Petitioners are
4 'applicants for admission' and thus subject to the mandatory detention provisions of
5 'applicants for admission' under § 1225(b)(2)." *Id.* (cleaned up). Respondents respectfully
6 request this Court find *Lopez v. Trump* and *Chavez v. Noem* persuasive as they are
7 consistent with the plain language of the INA.

8 **IV. PETITIONER BRINGS IMPROPER APA CLAIMS.**

9 An individual may seek habeas relief under 28 U.S.C. § 2241 if he is "in custody"
10 under federal authority "in violation of the Constitution or laws or treaties of the United
11 States." 28 U.S.C. § 2241(c). But habeas relief is available to challenge ***only*** the legality
12 or duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023);
13 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep't of Homeland Security v.*
14 *Thuraissigiam*, 591 U.S. at 117 (The writ of habeas corpus historically "provide[s] a means
15 of contesting the lawfulness of restraint and securing release."). The Ninth Circuit squarely
16 explained how to decide whether a claim sounds in habeas jurisdiction: "[O]ur review of
17 the history and purpose of habeas leads us to conclude the relevant question is whether,
18 based on the allegations in the petition, release is legally required irrespective of the relief
19 requested." *Pinson*, 69 F.4th at 1072; *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th
20 Cir. 2016) (The key inquiry is whether success on the petitioner's claim would "necessarily
21 lead to immediate or speedier release.").

22 Notably, seeking judicial review under the APA is not properly sought through a
23 habeas petition. *See Flores-Miramontes v. INS.*, 212 F.3d 1133, 1140 (9th Cir. 2000) ("For
24 purposes of immigration law, at least, "judicial review" refers to petitions for review of
25 agency actions, which are governed by the Administrative Procedure Act, while habeas
26 corpus refers to habeas petitions brought directly in district court to challenge illegal
27 confinement."); *see also Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025 WL
28 2300781, at *3 (S.D. Cal. Aug. 1, 2025) ("Like in *Pinson*, the Court lacks jurisdiction over

1 Petitioner's § 2241 habeas petition since it cannot be fairly read as attacking 'the legality
2 or duration of confinement.'") (quoting *Pinson*, 69 F.4th at 1065).
3 Here, Petitioner raises an APA claim without explanation as to why the APA applies
4 to this case. *See* Doc. 1 at 18-20. However, Petitioner is ultimately challenging his
5 detention under § 1225(b)(2), which is appropriately challenged in a habeas petition, not
6 through an additional attack under the APA.
7 Ultimately, challenges to 8 U.S.C. § 1225(b) are limited to the United States District
8 Court for the District of Columbia ("D.D.C."). 8 U.S.C. § 1252(e)(3)(A). The DC Circuit
9 has held that challenges to implementation and policies related to § 1225(b) must be
10 brought in the D.D.C. *See Make The Rd. New York v. Wolf*, 962 F.3d 612, 625 (D.C. Cir.
11 2020). The Ninth Circuit recognized that the limitation of challenges to policies under
12 1225(b) must be filed in the D.D.C. *See Singh v. Barr*, 982 F.3d 778, 783 (9th Cir. 2020).
13 Thus, Petitioner's APA claims fail.
14 **V. CONCLUSION**
15 Every habeas corpus petition necessarily alleges the same basic ground for relief,
16 *i.e.*, that the petitioner is detained in violation of the Constitution, laws or treaties of the
17 United States. *See* 28 U.S.C. § 2241. Here, Petitioner is being held in compliance with
18 Constitution and laws so his petition should be denied.
19 RESPECTFULLY SUBMITTED November 5, 2025.
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TIMOTHY COURCHAINE
United States Attorney
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