IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

SOLERO DAFRED URBINA GARCIA,	)	
Petitioner,	)	
v.	)	**Case No. CIV-25-1225-J**
RUSSELL HOLT et al.,	)	
Respondents.	)	

REPORT AND RECOMMENDATION

Petitioner Solero Dafred Urbina Garcia, a noncitizen,[1] seeks a writ of habeas corpus under 28 U.S.C. § 2241. Doc. 1.[2] United States District Judge Bernard M. Jones referred the case to the undersigned Magistrate Judge for initial proceedings under 28 U.S.C. § 636(b)(1)(B), (C). Doc. 3. The Government responded, Doc. 9, and Petitioner replied, Doc. 12. So the matter is at issue.

For the reasons below, the undersigned recommends the Court grant Petitioner's habeas petition, in part, and order Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within five business

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[1] This Report and Recommendation "uses the term 'noncitizen' as equivalent to the statutory term 'alien.'" *Nasrallah v. Barr*, 590 U.S. 573, 578 n.2 (2020) (citing 8 U.S.C. § 1101(a)(3)).

[2] Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

days or otherwise release Petitioner if he has not received a lawful bond hearing within that period.

I. Factual background and procedural history.

Petitioner is a Honduran citizen who has lived in the United States since about 2017. Doc. 1, at 5, 11. He resides in Tulsa, Oklahoma with his partner and stepchildren. *Id.* at 11-12; Doc. 12, at 10. He has no criminal convictions. Doc. 1, at 12.

On September 2, 2025, Immigration and Customs Enforcement (ICE) officials arrested him, and are detaining him without bond at the Cimmaron Correctional Facility in Cushing, Oklahoma. *Id.* at 3, 5. Petitioner states he has not applied for a bond hearing because Immigration Judges are constrained by the Board of Immigration Appeals' (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which held that those who entered the country without admission or parole are ineligible for a bond hearing and are detained under 8 U.S.C. § 1225(b)(2)(A). *Id.* at 2, 5, 12.[3]

In 2017, ICE placed Petitioner into removal proceedings but dismissed those proceedings in 2024. *Id.* at 11 & Atts. 1-2. Petitioner is once again in

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[3] *Hurtado* is not binding on this Court. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) ("[C]ourts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.").

removal proceedings after ICE charged him as "being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection." *Id.*; *see* § 1182(a)(6)(A)(i) ("An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.").

II. Petitioner's claims.

Petitioner raises two grounds for relief:

> Ground One: Respondents' "application of § 1225(b)(2) unlawfully mandates his continued detention and violates the [Immigration and Nationality Act] INA."
>
> Ground Two: Respondents' "detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process."

Doc. 1, at 12-13.

Petitioner asks the Court to issue a writ of habeas corpus "requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to [] § 1226(a) within five days" and declare his detention unlawful. *Id.* at 14.

III. Standard of review.

An application for a writ of habeas corpus "is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of

the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Habeas corpus relief is warranted only if the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). "Challenges to immigration detention are properly brought directly through habeas." *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).

"When called on to resolve a dispute over a statute's meaning," the Court should "seek to afford the [statute's] terms their ordinary meaning at the time Congress adopted them" and to "exhaust all the textual and structural clues bearing on the meaning." *Niz-Chavez v. Garland*, 593 U.S. 155, 160 (2021) (internal quotation marks omitted). This Court's "'sole function' is to apply the law as the Court finds it, . . . not defer to some conflicting reading the government might advance." *Id.* (internal citation omitted); *see also Oklahoma v. U.S. Dep't of Health & Hum. Servs.*, 107 F.4th 1209, 1222 n.11 (10th Cir. 2024) (stating that the court "must independently interpret the statutory phrase irrespective of the parties' positions"), *judgment vacated on other grounds*, 145 S. Ct. 2837 (2025).

IV. Discussion.

A. The Court has jurisdiction to consider the petition.

Respondents contend that 8 U.S.C. §§ 1252(a)(5), (b)(9) and 1252(g) bar the Court from hearing Petitioner's claims related to his detention. Doc. 9, at 16-19. The undersigned disagrees.

Section 1252(a)(5) provides that "a petition for review filed with an appropriate court of appeals . . . shall be the sole and exclusive means for judicial review of an order of removal." 8 U.S.C. § 1252(a)(5). Section 1252(b)(9) provides another bar to judicial review, specifically for "questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States" "[e]xcept as otherwise provided in this section." *Id.* § 1252(b)(9). Section 1252(b)(9) is a "jurisdiction-stripping 'zipper clause,'" which "channel[s] review of all 'decisions and actions leading up to or consequent upon final orders of deportation' in the courts of appeal, following issuance of an order of removal." *Mukantagara v. DHS*, 67 F.4th 1113, 1115 (10th Cir. 2023) (quoting *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482-85 (1999)).

Section 1252(g) provides that "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). The Court reads § 1252(g) narrowly, *Reno*, 525 U.S. at 482, as it does not cover "all claims arising from deportation proceedings" or impose "a general jurisdictional limitation." *Id.* Instead, it "applies only to three discrete actions that the Attorney General may take: her 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" *Id.*

The Court has jurisdiction over the petition as Petitioner is only challenging the way Respondents are conducting his detention—the lack of a bond determination. *See Ferry v. Gonzales*, 457 F.3d 1117, 1131 (10th Cir. 2006) (holding that § 1252(a)(5) does "not eliminate a district court's jurisdiction to review habeas petitions challenging an alien's detention" and affirming district court's finding that it had jurisdiction to review a habeas petition challenging "DHS's continued detention [of petitioner] without bond or without providing a bond hearing"); *see also* Doc. 12, at 5.

Likewise, § 1252(b)(9) does not bar this Court's review. Petitioner is not asking the Court to review a removal order (which has not been issued), or Respondents' decision to detain him or seek his removal. And, by addressing

the petition, the Court is not reviewing any part of Respondents' process for determining Petitioner's eligibility for removal. *See Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018) (holding that § 1252(b)(9) "does not present a jurisdictional bar" when "detained aliens" "are not asking for review of an order of removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not . . . challenging any part of the process by which their removability will be determined"); *see also Cabalerro v. Baltazar*, 2025 WL 2977650, at *4 (D. Colo. Oct. 22, 2025) (finding § 1252(b)(9) does not present a jurisdictional bar to a noncitizen challenging "the legality of his continued detention without a bond hearing"); *cf. Nielsen v. Preap*, 586 U.S. 392, 402 (2019) (holding § 1252(b)(9) did not strip the court of jurisdiction to address the issue of mandatory detention without bond under § 1226(c)).

Finally, § 1252(g) does not present a jurisdictional bar to this Court's review. Respondents argue § 1252(g)'s language strips this Court of jurisdiction to review any claim arising from the decision to commence proceedings against Petitioner—including the "basis" for that decision. Doc. 9, at 17. But the Supreme Court finds this interpretation "implausible" because "the mention of three discrete events along the road to deportation was [not] a shorthand way of referring to all claims arising from deportation proceedings." *Reno*, 525 U.S. at 482. And, in *Jennings*, the Supreme Court reaffirmed this

narrow reading, explaining that *Reno* "did not interpret [§1252(g)] to sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General." 583 U.S. at 294. Because Petitioner is only challenging his detention without a bond determination hearing and not the start of the removal proceeding itself, his claim falls outside the narrow jurisdictional limitations of § 1252(g). *See, e.g.*, *Gutierrez v. Baltasar*, 2025 WL 2962908, at *3 (D. Colo. Oct. 17, 2025) ("§ 1252(g) does not deprive the Court of jurisdiction to consider the narrow legal questions of whether Mr. Gutierrez's detention under 8 U.S.C. § 1225 violates the INA and whether he is entitled to a bond hearing under § 1226's discretionary detention framework" because these "'purely legal' questions fit the exception to § 1252(g)'s jurisdiction-stripping provision, as they can be decided in the abstract on an undisputed factual record and do not challenge the Attorney General's discretionary authority").

B. Section 1226 governs Petitioner's detention.

Petitioner asserts that Respondents have violated the INA by detaining him under the mandatory detention provision in § 1225(b)(2). Doc. 1, at 12-13. He argues this provision does not apply to him because, before Respondents' latest apprehension of him, he had previously entered and had been residing in the United States for eight years. *Id.* So, as someone who is not a recent arrival seeking inspection and admission into the United States, Petitioner

asserts his detention is governed—not by § 1225(b)(2)—but by § 1226(a). *Id.* at 6-11.[4] Respondents contend § 1226 does not apply to Petitioner because he was never "admitted" to the country in the first place. Doc. 9, at 13-14. And § 1225 does apply to him because that section's mandatory detention provision "does not contain an 'arriving' limitation." *Id.* at 20 (citing 8 U.S.C. § 1225(b)(2)(A)).

The Court's inquiry "begins with the statutory text" and ends there if it "is unambiguous." *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004). "If the statutory language is plain, [the Court] must enforce it according to its terms." *King v. Burwell*, 576 U.S. 473, 486 (2015). "[O]ftentimes the 'meaning—or ambiguity—of certain words or phrases may only become evident when placed in context.'" *Id.* (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132 (2000)). "So when deciding whether the language is plain, [the Court] must read the words 'in their context and with a view to their place in the overall statutory scheme.'" *Id.* (quoting *Brown & Williamson*, 529 U.S. at 133).

Section 1225(b)(2)(a) provides that:

> [I]n 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

[4] The Court rejects Respondents' contention that Petitioner has not "plainly state[d]" this ground for relief. Doc. 9, at 19-20.

> admitted, the alien shall be detained for a proceeding under section 1229(a) of [Title 8].

8 U.S.C. § 1225(b)(2)(a). This section "authorizes the Government to detain certain aliens seeking admission into the country." *Jennings*, 583 U.S. at 289; *see also Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025) ("[Section] 1225 governs removal proceedings for 'arriving aliens.'").

Section 1226(a), on the other hand, "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289 (emphasis added). "Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien 'pending a decision on whether the alien is to be removed from the United States.'" *Id.* (quoting § 1226(a)).[5] "Except as provided in [Section 1226(c)]', the Attorney General 'may release' an alien detained under § 1226(a) 'on . . . bond' or 'conditional parole.'" *Id.* (quoting § 1226(a)(1)-(2)). Courts have described § 1226(a) as a "catchall" provision

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[5] The *Jennings* Court acknowledged § 1226 as the default rule for detaining and removing noncitizens "already present" in the country. *Jennings*, 583 U.S. at 303. The Court did not, however, specify whether the "already present" rule applied only to persons who had once entered the country lawfully—as Respondents argue—or to all noncitizens present in the country whether lawfully admitted—as Petitioner argues. Because *Jennings* is not definitive, the Court continues its analysis.

which "capture[s] noncitizens who fall outside of the specified categories" of § 1225. *Pizarro Reyes*, 2025 WL 2609425, at *5.

The resolution of Petitioner's claim turns on whether he is a noncitizen "seeking admission" as that phrase is used in § 1225, or an arrested and detained noncitizen who—having never sought to obtain lawful status—falls under § 1226 and may be released on conditional parole or bond pending the outcome of his removal proceeding.

As Petitioner notes, his "mandatory" detention arises out of a novel interpretation of §§ 1225 and 1226, which has ensnared other similarly positioned petitioners around the country. Doc. 1, at 6-9; *see, e.g.*, *Savane v. Francis*, 2025 WL 2774452, at *1 (S.D.N.Y. Sep. 28, 2025) (explaining that "[t]his is another case in a recent line of cases concerning the scope of the government's authority to detain noncitizens during the pendency of removal proceedings"); *see also Vega v. Holt,* No. CIV-25-1184-JD, Doc. 11, at 22-23 & n.6 (W.D. Okla. Oct. 30. 2025) (Report and Recommendation) (collecting cases). Under ICE's new internal guidance:

> An 'applicant for admission' is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. Effective immediately, it [sic] the position of DHS that such aliens are subject to detention under [§ 1225(b)(2)(A)] and may not be released from ICE custody except by [§ 1182] parole. . . . For custody purposes, these aliens are now treated in the same manner

> that 'arriving aliens' have historically been treated. The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under [§ 1226(a)] during removal proceed[ings] are aliens admitted to the United States . . . with the exception of those subject to mandatory detention under [§ 1226(c)].

Savane, 2025 WL 2774452, at *5-6 (quoting *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*).

The Court begins with § 1225's title. "[T]the title of a statute and the heading of a section are tools available for the resolution of a doubt about the meaning of a statute." *Dubin v. United States*, 599 U.S. 110, 121 (2023) (internal quotation marks omitted). And "a title is especially valuable where it reinforces what the text's nouns and verbs independently suggest." *Id.* (internal quotation marks and alteration omitted).

Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing." (emphasis added). Use of the term "arriving" to describe noncitizens clarifies that the section governs the entrance of noncitizens to the United States. Section 1225 is also located between two other sections dealing with the arrival of noncitizens: § 1224, "Designation of ports of entry for aliens arriving by aircraft," and § 1225a, "Preinspection at foreign airports."

This interpretation is bolstered by § 1225's overall inspection scheme for allowing noncitizens into the country and the section's subheadings all related to "arriving" noncitizens. *See, e.g.*, § 1225(b)(1) (labeled "Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled" and describing their immediate removal "without further hearing or review" unless there is a claim for asylum or a fear of persecution); § 1225(b)(2) (labeled "Inspection of other aliens" and describing detention of noncitizens "seeking admission"); § 1225(d) (labeled "Authority Relating to Inspections" and describing the powers of immigration officers to search and detain vessels and "arriving aliens").

Next, the Court looks at the INA's statutory definitions. *See BP Am. Prod. Co. v. Haaland*, 87 F.4th 1226, 1235 (10th Cir. 2023) (analyzing statute by leaning "on related statutory definitions in the Royalty Management Act."). Section 1225(a)(1) defines an "applicant[] for admission" as:

> An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters)[.]

8 U.S.C. § 1225(a)(1).

Section 1101(13)(A) provides that "[t]he terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United

States after inspection and authorization by an immigration officer." *Id.* § 1101(13)(A).

Respondent contends that Petitioner, despite being present in the country for many years, is still considered "an applicant for admission" under § 1225(a)(1) because he originally entered the country without inspection. Doc. 9, at 14-15. While the undersigned agrees Petitioner is technically "an alien present in the United States who has not been admitted," that does not mean Petitioner is subject to mandatory detention under § 1225(b)(2)(A). That is because § 1225(b)(2)(A) introduces a different phrase: "an alien seeking admission." It provides that:

> 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.

8 U.S.C. § 1225(b)(2)(A). Courts interpreting this narrowing language have thus concluded § 1225 mainly "governs the entrance of noncitizens to the United States," not those already present. *Vega*, Doc. 11, at 12-13; *see also Jennings*, 583 U.S. at 297 ("[Section] 1225(b) applies primarily to aliens *seeking entry into the United States* ('applicants for admission' in the language of the statute)." (emphasis added)).

As noted, the INA defines "admission" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). "Seeking," however, is undefined. "When a term is undefined in a statute, [the Court] must look to its ordinary meaning." *Rocky Mountain Wild v. Dallas*, 98 F.4th 1263, 1291 (10th Cir. 2024). "'Dictionary definitions are useful touchstones to determine the 'ordinary meaning' of an undefined statutory term.'" *Id.* (quoting *In re Mallo*, 774 F.3d 1313, 1321 (10th Cir. 2014)).

"Seeking" is the present participle of "seek," which Merriam-Webster defines as "to resort to," "go to," "to go in search of," "look for," "to try and discover," "to ask for," "request," "to try to acquire or gain," "aim at," "to make an attempt," or "try." *Seek,* Merriam-Webster, https://www.merriam-webster.com/dictionary/seeking#dictionary-entry-1 (last visited Nov. 20, 2025). So the use of "seeking" "denotes an active and present effort." *Valverde v. Olson*, 2025 WL 3022700, at *3 (E.D. Wis. Oct. 29, 2025); *see also Cabalerro,* 2025 WL 2977650, at *6 ("The plain meaning of the phrase 'seeking admission' requires that the applicant must be presently and actively seeking lawful entry into the United States. The use [of] the present participle in § 1225(b)(2)(A) 'implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection.'" (quoting *Lopez-*

Campos v. Raycraft, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025))). As a result, a noncitizen seeking admission is a person who, at the time of his or her detention, is presently pursuing lawful admission into the United States. *See Hernandez v. Baltazar*, 2025 WL 2996643, at *5 (D. Colo. Oct. 24, 2025) ("Courts have found that '[n]oncitizens who are just 'present' in the country . . ., who have been here for years upon years and never proceeded to obtain any form of citizenship[,] . . . are not 'seeking' admission" under § 1225(b)(2)(A)." (quoting *Lopez-Campos*, 2025 WL 2496379, at *6)).

This conclusion is bolstered by § 1225's placement in the overall statutory scheme. *See, e.g.*, *King*, 576 U.S. at 486 (holding that courts are meant "to construe statutes, not isolated provisions" (internal quotation marks omitted)). Congress separated the removal of arriving aliens from its more general section for "Apprehension and detention of aliens" in § 1226. This placement implies Congress's enactment of § 1225 was for a specific, limited purpose, which the Supreme Court underscored in *Jennings*. *See Jennings*, 583 U.S. at 289 (noting that §§ 1225(b)(1) and (b)(2) "authorize[] the Government to detain certain aliens seeking admission into the country" and that §§ 1226(a) and (c) "authorize[] the Government to detain certain aliens already in the country pending the outcome of removal proceedings"); *see also Zadvydas*, 533 U.S. at 693 ("The distinction between an alien who has effected entry into the

United States and one who has never entered runs throughout immigration law. . . . But 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.").

Congress's recent amendment of § 1226 through the Laken Riley Act also bolsters the Court's interpretation and renders Respondents' interpretation of § 1225(b)(2)(A) superfluous. This amendment mandates that ICE "shall take into custody" any noncitizen who is both inadmissible under § 1182(a)(6)(A)(i) ("present in the United States without being admitted or paroled") and is "charged with, [] arrested for, [] convicted of, [or] admits having committed" certain crimes. *See* 8 U.S.C. § 1226(c)(1)(E)(i)-(ii). "Considering that § 1182(a)(6)(A)(i) specifically refers to aliens '"present in the United States without being admitted or paroled,"' and that § 1226(c)(1)(E) requires detention without bond of these individuals if they have also committed a felony, the recently created statutory exception would be redundant if § 1225(b)(2) authorized their detention as well. . . . That is, because an alien present in the United States without admittance would be unlikely to prove that they are '"clearly and beyond a doubt entitled to be admitted,"' ICE would never need to rely on § 1226(c)(1)(E) to detain them. *Pizarro Reyes*, 2025 WL

2609425, at *5 (quoting *Gomes v. Hyde*, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025)). As this interpretation "would largely nullify a statute Congress enacted this very year," the Court should reject it. *Id.* (internal quotation marks omitted); *see also Marx v. Gen. Rev. Corp.*, 568 U.S. 371, 386 (2013) ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.").

Petitioner is not "seeking admission" as he has been in the United States for eight years. *See* Doc. 1, at 11-12. And as far as the Court is aware, he has never sought a form of citizenship (asylum, permanent residency, refugee status, visa application, etc.). *See* Doc. 12, at 7 ("Petitioner is not currently seeking admission."); *see, e.g.*, *Pizarro Reyes*, 2025 WL 2609425, at *6 ("The Court . . . finds it difficult to square a noncitizen's continued presence with the term 'seeking admission,' when that noncitizen never attempted to obtain lawful status."). So when ICE arrested and detained him, he was not subject to mandatory detention under § 1225(b)(2)(A). Instead, Petitioner is subject to § 1226, and "is entitled to an individualized bond hearing as a detainee under [§] 1226(a)." *See Cabalerro,* 2025 WL 2977650, at *8 ("The Court joins the numerous courts across the country that have held that [noncitizens not apprehended at the border, who have been present in the United States for

many years without lawful status] are subject to the discretionary detention framework of § 1226(a).").

The undersigned recommends the Court grant Petitioner's habeas petition in part and order Respondents to provide Petitioner with a bond hearing under § 1226(a) within five days of the Court's adoption of this Report and Recommendation or in the alternative, immediately release Petitioner.

C. The Court should decline to address the merits of Petitioner's due process claim.

Given the undersigned's recommendation as to the disposition of Petitioner's claim for relief under the INA, the undersigned recommends the Court refrain from addressing the merits of Petitioner's due process claim. Doc. 1, at 13. The Court can grant him the relief he seeks under § 1226(a). *See Pizarro Reyes,* 2025 WL 2609425, at *8 ("The Court will decline to decide the merits of [petitioner's] due process claim given that the Court will grant the relief he seeks based on its interpretation of the applicability of § 1226(a).").

V. Recommendation and notice of right to object.

For the reasons set forth above, the undersigned recommends the Court **grant** Petitioner's habeas application, in part, and **order Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within five business days or otherwise release Petitioner if he has not**

received a lawful bond hearing within that period. The undersigned further recommends that the Court order Respondents certify compliance by filing a status report within seven business days of the Court's order.

The undersigned advises the parties of their right to file an objection to this Report and Recommendation with the Clerk of this Court by December 4, 2025, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. The undersigned further advises the parties that failure to make timely objections to this Report and Recommendation waives the right to appellate review of both factual and legal questions contained herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). This Report and Recommendation disposes of the issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 20th day of November, 2025.

SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE