

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

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| Valentin Villegas Cruz, |) | |
| |) | |
| Petitioner, |) | Case No. 1:25-cv-01678-ADA-ML |
| |) | |
| v. |) | |
| |) | |
| Charlotte Collins, et al., |) | |
| |) | |
| Respondents. |) | |
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**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO THE PETITION FOR WRIT
OF HABEAS CORPUS AND MOTION FOR IMMEDIATE RELEASE**

1. Introduction

Petitioner has resided in the United States since March 2002. Dkt. 1 at 9. He is the certified victim of an aggravated assault with a deadly weapon that left him badly injured. *Id.* His U nonimmigrant status petition for cooperative victims of violent crime has been pending with USCIS since May 2022, and he was recently granted deferred action by DHS based on that application. Exhibit A; *see* section 2, *infra*. On October 13, 2025, Petitioner was stopped for a minor traffic infraction, allegedly involving the color of lights on his truck. Dkt. 1 at 9. He was not issued a citation and was immediately transferred to ICE custody, where he remains. *Id.* Petitioner filed this habeas petition on October 20, 2025. Dkt. 1. The Court ordered Respondents to respond within 30 days from the service the petition. Dkt. 5. Respondents filed their response on December 10, 2025. Dkt. 11.

2. Update Regarding Petitioner's Immigration Case

Petitioner received a wait list determination from DHS on November 26, 2025 granting him deferred action. U nonimmigrant status is available to noncitizen victims of certain crimes who assist law enforcement, however, Congress capped U visas at 10,000 annually, so approvable applications exceeding that number cannot be granted. 8 U.S.C. § 1101(a)(15)(U); 1184(p)(2). Demand far exceeds the cap; as of the fourth quarter of 2024, 238,892 U nonimmigrant status applications were pending. USCIS, *Number of Form I-918, Petition For U Nonimmigrant Status by Fiscal Year, Quarter, and Case Status*, available at https://www.uscis.gov/sites/default/files/document/data/i918u_visastatistics_fy2024_q4.xlsx (last accessed Dec. 15, 2025). Thus, DHS created a wait list for petitions that are approvable but barred by the cap. 8 C.F.R. § 214.14(d)(2). Individuals on the wait list receive deferred action (protection from removal and work authorization). *Id.*

Thus, DHS—which is currently arguing for Petitioner's indefinite detention—has simultaneously determined that Petitioner has a path to lawful status and is not a priority for removal. DHS is effectively

saying Petitioner should be subjected to mandatory detention while it tries to remove him, and he is not a removal priority.

3. Argument

a. The Statutory Text Supports Petitioner's Bond Eligibility

i. Plain Language

Respondents' argument focuses on what an applicant for admission is, but that is not the issue. This case turns on whether Petitioner is "seeking admission" and therefore subject to § 1225(b)(2)(A). Section 1225(a)(1) defines "applicant for admission" as "an alien present in the United States who has not been admitted." The statute does not define "seeking admission."

Respondents' argue: "If Petitioner, who has never been 'admitted' after inspection by an immigration officer, is not 'seeking admission,' then the logical assumption is that he must be seeking his immediate release *via removal from the United States.*" Dkt. 11 at 3. That premise conflicts with Supreme Court precedent and DHS policy: presence without admission does not itself mean an individual is seeking admission, and a noncitizen may seek lawful status from within the U.S. without seeking admission. *Sanchez v. Mayorkas*, 141 S. Ct. 1809, 1813 (2021) (in concluding TPS may be granted from within the U.S. without admission, stating, "a foreign national can be in lawful status but not admitted"); *see also USCIS Policy Alert re: Admission for Adjustment of Status under INA 245(a)* (Nov. 3, 2025), available at <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251103-AOSAadmission.pdf> (grant of U nonimmigrant status from within the U.S. is not an admission).

Accordingly, Petitioner argues that those "seeking admission" are individuals who are at the border asking to be let in or otherwise not yet in the U.S. One court has provided a succinct and precise example of the ordinary meaning of the phrase seeking admission:

For example, someone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as "seeking admission" to the theater. Rather, that person would be described as already present there. Even if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as "seeking admission" (or "seeking" "lawful entry") at that

point—one would say that they had entered unlawfully but now seek a lawful means of remaining there.

Lopez Benitez v. Francis, No. 25-cv-5937 (DEH) at 14-15 (S.D.N.Y. Aug. 13, 2025).

Although not dispositive, *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) supports the conclusion that § 1225 governs those seeking admission at the border and § 1226 governs those inside the U.S. *Id.* at 838 (emphasis added) (“In sum, U.S. immigration law authorizes the Government to detain certain aliens *seeking admission into the country* under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens *already in the country pending the outcome of removal proceedings* under §§ 1226(a) and (c).”); *id.* at 846 (emphasis added) (“As noted, § 1226 applies to aliens *already present in the United States*.”); *id.* at 874 (Breyer, J., dissenting) (emphasis added) (“The statutory provision that governs the third category of noncitizens seeking admission *at the border* is § 1225(b)(2)(A).”).

Therefore, “applicant for admission” and “seeking admission” are distinct terms: “seeking admission” in § 1225(b)(2)(A) means applicants for admission at the border seeking admission into the U.S.

ii. Doctrine Against Surplusage

It is well-established that a court’s statutory interpretation should not render another part of the statute superfluous. *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 143 S.Ct. 1720, 1731 (2023) (quoting *Montclair v. Ramsdell*, 107 U.S. 147, 152 (1883) (“‘every clause and word of a statute’ should have meaning”); *see also Hibbs v. Winn*, 542 U.S. 88, 89 (2004); *United States v. Nation*, 564 U.S. 162, 185 (2011).

Sections 1225 and 1226 govern distinct groups: § 1225 applies to those at the border “seeking admission” and § 1226 applies to those within the U.S. Applying § 1225 to noncitizens already in the U.S. would erase that distinction, making § 1226 superfluous.

Finding that § 1225 applies regardless of whether the person is in the U.S. or seeking admission from outside the U.S. would render the Laken Riley Act (hereinafter, “LRA”), which was just passed in January 2025, meaningless. *See LRA*, Pub. L. No. 119-1, 139 Stat. 3 (2025). “When Congress adopts a new law against the backdrop of a ‘longstanding administrative construction,’ this Court generally presumes the new

provision should be understood to work in harmony with what has come before.” *Monsalvo Velazquez v. Bondi*, 145 S.Ct. 1232, 1242 (2025) (quoting *Haig v. Agee*, 453 U.S. 280, 297-298 (1981)).

Respondents assert that their interpretation only makes the LRA appear redundant, not superfluous. The only binding authority Respondents cite, *Barton v. Barr*, 140 S. Ct. 1442 (2020), undermines Respondents’ redundancy argument. Although the Court acknowledged some redundancy in its reading, it did not deem redundancy categorically permissible; instead, it accepted redundancy because 1) both parties’ interpretations required it, 2) the best overall reading of the statute entailed it, and 3) the rejected interpretation would eviscerate another statutory provision. *Id.* at 1453. None of the factors that led to the *Barton* Court accepting statutory redundancy apply here. Petitioner’s reading of §§ 1225 and 1226 avoids redundancy in the statute. Petitioner’s reading is the better overall reading because it allows all portions of the statute to have meaning. Accepting Respondents proposed reading would eviscerate the LRA.

The LRA only applies to individuals who are charged in removal proceedings as being inadmissible under 8 U.S.C. § 1182. *See* 8 U.S.C. § 1226(c)(1)(E). The LRA applies only if the individual is inadmissible under §§ 1182(a)(6)(A), (6)(C), or (7). *Id.* at § 1226(c)(1)(E)(i). Individuals who are inadmissible under these sections are definitionally applicants for admission. If the individual is not inadmissible under one of those sections, the LRA does not apply. *Id.* at § 1226(c)(1)(E). To put it simply: if § 1226 does not apply to any applicants for admission, then the LRA is meaningless because the LRA only applies to applicants for admission. *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995) (citations omitted) (“When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.”).

iii. Statutory Titles

Statutory titles and headings aid in resolving doubts about a statute’s meaning. *Florida Dep’t of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 47 (2008). Section 1225’s title refers to “expedited removal of inadmissible arriving aliens.” An “arriving alien” is an applicant for admission at a port of entry

or interdicted and brought to the U.S. 8 C.F.R. § 1.2. This suggests § 1225 does not apply to individuals already inside the U.S. *Espinoza Andres v. Noem*, No. 4:25-cv-05128-DH at 8 (S.D. Tex. Dec. 2, 2025).

iv. Legislative History

The detention provisions at § 1226(a) and § 1225(b)(2) were enacted through the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Before IIRIRA, the law that governed bond hearings was 8 U.S.C. § 1252(a). That section allowed the government to detain noncitizens during deportation proceedings and also gave the authority to release them on bond. *See* 8 U.S.C. § 1252(a) (1994). When Congress passed IIRIRA, it kept this same basic detention authority in § 1226(a). Separately, IIRIRA created new detention rules specifically for people who were arriving at the border or had just entered the U.S. in § 1225(b)(1)–(2). Congress made clear that § 1226(a) simply “restates the current provisions in section [1252](a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States.” H.R. Rep. No. 104-469, pt. 1, at 229 (1996); *see also* H.R. Rep. No. 104-828, at 210 (1996) (Conf. Rep.) (same). Accordingly, the legislative history indicates that § 1226 applies to applicants for admission inside the U.S., and § 1225 applies to applicants for admission seeking admission at the border.

v. Prior Agency Interpretation

When IIRIRA was enacted, the former Immigration and Naturalization Service clarified that people who entered the U.S. without inspection and not placed in expedited removal would still be detained under the same rule they always had been: 8 U.S.C. § 1226(a) (previously § 1252(a)). *See* Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Specifically, the document states: “*Despite being applicants for admission*, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.” *Id.* (emphasis added). Thus, for the next 28 years, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many

more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

Decades of agency interpretation, the plain language of the statute, and legislative history, are not meaningless. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024) (“the longstanding practice of the government—like any other interpretive aid—can inform a court’s determination of what the law is”) (internal quotations, citations, and alterations omitted). Thus, § 1226 applies to applicants for admission who are inside the U.S., and § 1225 applies to applicants for admission who are seeking admission at the border.

b. The Court Has Jurisdiction Over Petitioner’s Claim

i. § 1252(g)

Section 1252(g) does not strip jurisdiction over “ICE’s decision to detain him and seek a removal order” or “any part of the process by which is removability will be determined[,]” Dkt. 11 at 5-6. Rather, § 1252(g) “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.’” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original) (quoting 8 U.S.C. § 1252(g)). Notably, Respondents rely on *Jennings* to support their § 1252(g) argument. However, *Jennings* only mentioned § 1252(g) in passing while discussing § 1252(b)(9), and it concluded that only the three actions of commencing proceedings, adjudicating cases, or executing orders are precluded from review. *Jennings*, 138 S. Ct. at 841. *Jennings* supports this Court’s jurisdiction to review Respondents’ decision to detain Petitioner without an opportunity for bond. Petitioner is not challenging the commencement of his removal proceedings, adjudication of his case, or execution of a removal order; he seeks release—in habeas corpus—because Respondents have unlawfully detained him. “Such claims are not barred by § 1252(g).” *Lopez-Arevelo v. Ripa*, No. 3:25-cv-00337-KC at *10 (W.D. Tex. Sept. 22, 2025).

ii. § 1252(b)(9)

Jennings addresses § 1252(b)(9), although Respondents do not cite it. Dkt. 11 at 6. Section 1252(b)(9) “does not present a jurisdictional bar’ where those bringing suit ‘are not asking for review of an order of removal,’ ‘the decision . . . to seek removal,’ or ‘the process by which . . . removability will be determined.’” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020) (quoting *Jennings*, 138 S. Ct. at 841). Nor does it reach claims only remotely connected to removal or those that cannot be raised efficaciously in administrative proceedings. *Duron v. Johnson*, 898 F.3d 644, 647 (5th Cir. 2018). *Jennings* expressly rejected an overbroad reading of “arising from.” 138 S. Ct. at 840. If § 1252(b)(9) barred this habeas petition, his detention would be “effectively unreviewable,” *Jennings*, 138 S. Ct. at 840, given the BIA decision that immigration judges lack authority to consider bond requests in Petitioner’s situation. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). Due to *Yajure-Hurtado*, Petitioner cannot raise his detention challenge efficaciously in administrative proceedings. *Duron*, 898 F.3d at 647. As *Jennings* explained, by the time a final removal order is issued, the noncitizen may already have been removed, rendering any challenge to the legality of prior detention moot. 138 S. Ct. at 840.

Petitioner does not seek review of an order of removal, the decision to seek removal, or the process by which removability will be determined; instead, Petitioner claims that Respondents lack legal authority to subject him to mandatory detention under § 1225 instead of detention with a bond hearing under § 1226(a). Because Petitioner challenges only his ongoing detention during the pendency of his removal proceedings, “§ 1252(b)(9) does not present a jurisdictional bar.” *Jennings*, 138 S. Ct. at 841.

iii. § 1225(b)(4)

Finally, Respondents cite § 1225(b)(4) to assert that Petitioner must bring his claim before an immigration judge in removal proceedings. Dkt. 11 at 6. Even under Respondents’ flawed theory that Petitioner is challenging the adjudication of his removal proceedings rather than his detention, Petitioner’s challenge to a presumably unsuccessful application for admission would not arise under § 1225(b)(4), which governs challenges brought by an immigration officer to favorable admissibility decisions made by another

officer. *See* 8 U.S.C. § 1225(b)(4). Petitioner has not received any favorable determination of his admissibility, and he is not an immigration officer. Respondents' reference to § 1225(b)(4) is misplaced.

c. Due Process

i. Effect of *Thuraissigiam*

Respondents cite *DHS v. Thuraissigiam*, 591 U.S. 103 (2020) to argue that applicants for admission possess fewer due process rights. Dkt. 11 at 6-8. But *Thuraissigiam* is distinguishable from Petitioner's case. In *Thuraissigiam*, the noncitizen was detained under § 1225, found to lack credible fear, placed in expedited removal, and sought habeas relief to obtain a new opportunity to apply for asylum. *Id.* at 140, 114-15. By contrast, Petitioner challenges his immigration detention, not a negative credible fear determination. The Court's analysis addressed the limited scope of habeas—permitting challenges to unlawful detention but not an additional “opportunity to remain lawfully in the United States[.]” *id.* at 117-20, and did not consider whether noncitizens subject to mandatory detention under § 1225(b) have a due process right to challenge detention. That reading is confirmed by *Jennings*, which expressly left the constitutional due process question open and remanded for consideration in the first instance. 138 S. Ct. at 844-48, 851. Since then, the government has acknowledged that as-applied constitutional challenges remain available, *Johnson v. Arteaga-Martinez*, 142 S. Ct. 1827, 1835 (2022), and the Court has reaffirmed that “[i]t is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings[.]” *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

Moreover, *Thuraissigiam* was apprehended “within 25 yards of the border,” immediately detained, and never released, and the Court emphasized that a noncitizen at the threshold of initial entry has only the rights Congress provides. *Thuraissigiam*, 140 S. Ct. at 1964-68. “It is important to note . . . that our immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” In the latter instance the Court has recognized additional rights and privileges not extended to those in the former

category who are merely ‘on the threshold of initial entry.’” *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U. S. 206, 212 (1953)).

Since Petitioner is challenging his detention, not ability to stay in the U.S., and he was detained after 23 years of presence in the U.S., rather than on the threshold of initial entry, *Thuraissigiam* does not apply.

ii. The Mathews Test

Respondents do not address Petitioner’s challenge to his detention under the Fifth Amendment Due Process Clause; Respondents only address the Ex Post Facto clause, *see* U.S. Const. art. I, § 9, cl. 3 and § 10, cl. 1, which is not the basis of Petitioner’s claim.

To determine whether detention violates procedural due process, courts weigh the three factors set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976): (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.” *See, e.g., Martinez v. Noem*, No. 5:25-cv-1007-JKP at *2 (W.D. Tex. Sept. 8, 2025); *Lopez-Arevelo v. Ripa*, No. 25–CV–337–KC (W.D. Tex. Sept. 22, 2025).

First, Petitioner’s private interest is freedom from imprisonment, “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Liberty is the norm; detention “is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). The first *Mathews* factor weighs in Petitioner’s favor.

Second, the risk of erroneous deprivation is extraordinarily high when Respondents’ agency officials have sole, unreviewable discretion to detain Petitioner. The additional procedures sought are those already provided under § 1226(a) and 8 C.F.R. § 1003.19, including a custody redetermination hearing before an immigration judge and the opportunity to appeal the immigration judge’s decision to the Board of

Immigration Appeals. These procedures reduce the risk of error by requiring Respondents to justify detention based on flight risk or danger to the community. The second *Mathews* factor weighs in Petitioner's favor.

Third, Respondents have articulated no facts or argument regarding the government's interest in detaining Petitioner indefinitely and without a hearing before a neutral adjudicator regarding Petitioner's detention. Significantly, DHS's recent deferred action grant to Petitioner demonstrates the government has granted him protection from removal, diminishing the government's interest in detaining him indefinitely. *See* section 2, *supra*. Indeed, bond procedures limiting detention to dangerous or flight-risk noncitizens reduce fiscal burdens and serve the government's interest. *See, e.g., Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (noting in 2017 that immigration detention cost the public \$158 each day per detainee, amounting to a total daily cost of \$6.5 million, while supervised release programs cost between 17 cents and 17 dollars each day per person). Thus, all three factors weigh in Petitioner's favor.

d. Effect of *Maldonado Bautista*

Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873 (C.D. Cal.). *See* Dkt. 8. On November 20, 2025, the court granted partial summary judgment for the individual plaintiffs; on November 25, 2025, it certified a nationwide class and extended declaratory relief to the class. *Maldonado Bautista*, No. 5:25-CV-01873, Dkt. 81 at 17; Dkt. 82 at 14–15. The declaratory judgment held that class members are detained under 8 U.S.C. § 1226(a) and may not be denied bond consideration. *Id.*, Dkt. 81 at 17. The declaratory judgment has “the force and effect of a final judgment.” 28 U.S.C. § 2201(a). The court initially declined to enter final judgment because class certification was pending, but it later certified the class and extended relief to the Bond Eligible Class. *Maldonado Bautista*, No. 5:25-CV-01873, Dkt. 81 at 17; Dkt. 82 at 14. Thus, Petitioner is entitled to the class-wide declaratory relief.

If the Court does not find the judgment in *Maldonado-Bautista* is a final judgment, Petitioner has established an independent eligibility for a writ of habeas corpus due to the statutory and due process violations. *See* sections 3a-3c, *supra*.

4. Conclusion

For these reasons, the writ of habeas corpus should be granted, as Petitioner's detention is illegal.

Respectfully submitted this 17th day of December, 2025.

s/Jennifer Walker Gates
JLW Immigration Law Group
Attorney for Petitioner
Texas Bar No. 24051483
Federal Bar No. 2754065
PO Box 202050
Austin, Texas 78759
Phone: 512-633-1785
jennifer@jlw.law
Counsel for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Valentin Villegas Cruz, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing REPLY OF PETITIONER TO RESPONDENTS' RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR IMMEDIATE RELEASE are true and correct to the best of my knowledge.

Dated this 17th day of December, 2025.

s/Jennifer Walker Gates
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2025, I sent a true and correct copy of the foregoing RESPONSE OF PETITIONER TO RESPONDENTS' RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR IMMEDIATE RELEASE via electronic filing through CM/ECF.

Dated this 16th day of December, 2025.

s/Jennifer Walker Gates
Counsel for Petitioner