UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHAHROKH RAHIMI, *Petitioner,* v. **BOBBY THOMPSON,** Warden, South Texas ICE Processing Center **MIGUEL VERGARA,** Field Office Director, San Antonio Field Office, United States Immigration and Customs Enforcement **TODD M. LYONS,** Acting Director, United States Immigration and Customs Enforcement; **KRISTI NOEM,** Secretary of United States Department of Homeland Security; **UNITED STATES DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI,** United States Attorney General; **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;** *in their official capacities,* *Respondents.*	)	Case No. 5:25-cv-01338-OLG

REPLY IN SUPPORT OF PETITION FOR HABEAS CORPUS

Introduction

Petitioner Shahrokh Rahimi has lived a peaceful life in San Antonio, Texas for the last twenty years, attending church, raising his twelve-year-old daughter, and working as a caregiver for the community. Pet. For Writ of Habeas Corpus and Compl., Dkt. 1 ¶¶ 33–38 ("Pet." Or "Verified Pet."). In June, government officials came to his house and arrested him in front of his wife and daughter. *Id.* at ¶ 39. His daughter has suffered serious mental health impacts from the separation. *Id.* Mr. Rahimi himself now sits in a detention center, counting the moments until his family's weekly visit.

Mr. Rahimi is neither a flight risk nor a danger, which the government has never disputed. Yet Mr. Rahimi remains detained, in direct violation of the plain language of the Immigration and Nationality Act ("INA") and his due process rights. Petitioner submits this reply Respondents' combined response to his petition for writ of habeas Corpus and motion for preliminary injunction. Resp. to Pet. For Writ of Habeas Corpus, Dkt. 11 ("Resp."). Respondents fail to convincingly rebut any of Mr. Rahimi's statutory or constitutional arguments, instead raising well-settled jurisdictional arguments that courts have repeatedly rejected and, confusingly, refuting arguments not raised by Petitioner. Thus, this Court should grant Mr. Rahimi's petition for writ of habeas corpus and his motion for preliminary injunction, and order his immediate release.

I. This Court Has Jurisdiction Over Mr. Rahimi's Petition.

A. Section 1252(e)(3)(A) does not bar review because Mr. Rahimi is challenging the fact of his detention, not the legality of section 1225(b)(2)(A) itself.

Mr. Rahimi's challenge does not fall under 8 U.S.C. § 1252(e)(3)(A). That section, titled "Challenges on validity of the system," grants exclusive jurisdiction to the District Court of the District of Columbia to hear systemic challenges to the statutory framework of section 1225(b) or its implementing regulations and policies. 8 U.S.C. § 1252(e)(3)(A); *Agarwal v. Lynch*, 610 F.

Supp. 3d 990, 1005–06 (E.D. Mich. 2022). It does not preclude review of challenges to an individual's "unlawful arrest or detention." *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *6-7 (W.D.N.Y. July 16, 2025). Mr. Rahimi is not bringing a systemic challenge to section 1225. Instead, he is challenging the application of section 1225(b)(2)(A) to him alone, so the jurisdictional bar does not apply. *Rojano Gonzalez v. Sterling*, No. 1:25-CV-6080-MHC, 2025 WL 3145764, at *3 (N.D. Ga. Nov. 3, 2025).

Furthermore, section 1252(e)(3)(A) only limits review of claims under section 1225, so it does not apply to Mr. Rahimi's claim that he is detained under section 1226. *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 3033769, at *6 (D. Mass. Oct. 30, 2025). If Mr. Rahimi's argument that he is detained under section 1226 is correct—an issue fully within this Court's power to decide—then section 1252(e)(3)(A) cannot apply. *See id.*

Finally, section 1252(e)(3)(A) bars review of the "process of removal directly" rather than "other circumstances incidental to removal." *Al Otro Lado, Inc. v. McAleenan*, 423 F. Supp. 3d 848, 867 (S.D. Cal. 2019). Mr. Rahimi is challenging his detention—which is incidental to his removal—so the statute does not apply. *See id.*

B. Respondents' other jurisdictional arguments fail because they do not apply to a challenge to detention without bond.

Respondents erroneously assert that Mr. Rahimi's challenge targets his removal proceedings when he is in fact challenging his unconstitutional detention without bond. Resp. at 11; *see Ozturk v. Hyde*, 136 F.4th 382, 399–400 (2d Cir. 2025) (citations omitted); see also 8 C.F.R. § 1003.19(d) (clarifying that consideration of custody or bond "shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding").

Respondent's arguments regarding sections 1252(g) and (b)(9) fail because they ignore binding precedent. The Supreme Court has held that section 1252(g) bars review only of claims

arising from decisions to "commence proceedings, adjudicate cases, or execute removal orders." *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (citations omitted); 8 U.S.C. § 1252(g). Thus, the statute "does not bar courts from reviewing an alien detention order" because a detention order "is not itself a decision to 'execute removal orders.'" *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *3 (W.D. Tex. Oct. 21, 2025) (quoting *Cardoso v. Reno*, 216 F.3d 512, 516–17 (5th Cir. 2000)) (citations omitted).

Similarly, in *Jennings*, the Supreme Court declined to apply an expansive interpretation of the phrase "arising from" in section 1252(b)(9). *Hernandez-Fernandez*, 2025 WL 2976923, at *4 (citing *Jennings*, 583 U.S. at 293); 8 U.S.C. § 1252(b)(9). Thus, section 1252(b)(9) does not bar district court review that "involves neither a determination as to the validity of [a noncitizen's] deportation orders or the review of any question of law or fact arising from their deportation proceedings." *Duarte v. Mayorkas*, 27 F.4th 1044, 1056 (5th Cir. 2022). Therefore, this Court retains jurisdiction over Mr. Rahimi's habeas petition because he is challenging his detention, not his removal proceedings.

Further, contrary to Respondents' position, the Fifth Circuit Court of Appeals has no jurisdiction to review the challenged bail determination. *See* Resp. at 11. "[T]here is no path from the denial of a bond appeal by the BIA to any appellate court." *Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL 2403827, at *6 (D. Mass. Aug. 19, 2025); *see Gudiel Polanco v. Garland*, 839 F. App'x 804, 805 (4th Cir. 2021) (explaining that the appeals court has jurisdiction to review "final orders of removal or deportation," not "request[s] for release on bond").

For these reasons, this Court has jurisdiction over Mr. Rahimi's habeas petition and motion for preliminary injunction.

II. Mr. Rahimi is Not Subject to Mandatory Detention Under the Plain Text of the INA.

Mr. Rahimi is properly detained under 8 U.S.C. § 1226(a), which governs the detention of noncitizens found within the United States and allows bond. Respondents' arguments that Mr. Rahimi is properly detained under section 1225(b)(2)(A) fail because that section applies only to those who are "seeking admission" to the United States, and Mr. Rahimi is not. *See* 8 U.S.C. § 1225(b)(2)(A). Accordingly, his detention is unlawful.

Mr. Rahimi's detention is illegal because the government purports to detain him under a statute that does not apply to him. Section 1225(b)(2)(A) applies to a noncitizen "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." 8 U.S.C. 1225(b)(2)(A). Under this plain language, a person must be both an "applicant for admission" ***and*** "seeking admission" for the statute to apply. *Id.* Mr. Rahimi is not "seeking admission" so the statute cannot apply to him.

Respondents treat the phrase "applicant for admission" as the only substantive requirement for the application of section 1225(b)(2)(A), not meaningfully contending with the requirement of "seeking admission." At different points, Respondents conflate it with the meaning of "applicant for admission" or claim without any textual support that the meaning can be dictated unilaterally by the Department of Homeland Security. *See* Resp. at 1, 5, 7–8. But section 1225(b)(2)(A)'s use of "applicant for admission" and "seeking admission" does not render the terms coextensive. *See Pulsifer v. United States*, 601 U.S. 124, 149, 144 (2024) ("In a given statute, . . . different terms usually have different meanings."). That is because "[e]quating the terms 'applicant for admission' and 'seeking admission' ignores the plain meaning of the latter phrase, which . . . implies some present action." *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996, at *7 (D. Mass. Oct. 3, 2025).

Respondents also ignore the plain text of the statute by repeatedly claiming that immigration officers have authority to determine who is "seeking admission" under section 1225(b)(2)(A). *See* Resp. at 5, 7–8. The statute applies "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). The language thus charges the officer with determining whether or not the person is "clearly and beyond a doubt entitled to be admitted," not whether they are "an alien seeking admission." *Id.* Rather, such questions of statutory interpretation are historically within the province of courts. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024). And courts around the country have rejected Respondents' understanding of "seeking admission." *See e.g. Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 at *6–7 (S.D.N.Y. Aug. 13, 2025) ("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.").

The statutory context of the INA also demonstrates that Mr. Rahimi is detained under section 1226. Section 1225 "applies primarily to aliens seeking entry into the United States" while section 1226 governs the detention of noncitizens "already present in the United States." *Jennings* 583 U.S. at 297, 303. Respondents muddle this distinction by importing unrelated distinctions from other statutory provisions. The confusion begins with Respondents' claims that section 1225 applies to all of those who are "inadmissible" under 8 U.S.C. § 1182 and section 1226 applies only to those who are "removable" under 8 U.S.C. § 1227. Such a construction ignores the plain text of section 1226, which provides authority to detain both people who are "inadmissible" under section 1182 and those who are "removable" under section 1227. 8 U.S.C. § 1226(a); § 1226(c).

In addition, 8 U.S.C. § 1101(a)(13)(A) defines "admission" as used in Chapter 12, which includes section 1225(b)(2)(A). "Under this statutory definition, 'admission' is the lawful *entry* of an alien after inspection, something quite different, obviously, from post-entry adjustment of status . . . . " *Martinez v. Mukasey*, 519 F. 3d 532, 544 (5th Cir. 2008) (emphasis in original). Further, Mr. Rahimi's now reopened asylum case cannot be considered "seeking admission" because a grant of asylum is not considered admission. In *Matter of V-X-*, the Board of Immigration Appeals held that a grant of asylum is not an "admission" into the United States because "nothing in the language" of the INA indicates that "Congress understood a grant of asylum to be a form of 'admission.'" 26 I. & N. Dec. at 150–52. Federal courts have reached the same conclusion. *See, e.g. Sanchez v. Sec'y United States Dep't of Homeland Sec.*, 967 F.3d 242, 246 (3d Cir. 2020), *aff'd sub nom. Sanchez v. Mayorkas*, 593 U.S. 409 (2021) (citations omitted). This means that Mr. Rahimi, who has been present in the United States for over twenty years, cannot be seeking admission, as required under section 1225(b)(2)(A), and is instead detained under section 1226(a).

The Laken Riley Act confirms that section 1226 encompasses people who are "inadmissible." The Act added an exception to section 1226(a)'s default rule, which allows detained people to be released on bond. Under the added exception, inadmissible noncitizens who are arrested for or charged with certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c)(1)(E). "When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1256–57 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). And while statutory drafting can include some redundancies, courts "must presume" Congress intends amendments "to have real and substantial effect." *Ross v. Blake*, 578 U.S. 632, 641–42 (2016) (citation and internal quotations omitted).

Respondents' reading of section 1226 fails because it would deprive the Laken Riley Act of the "real and substantial effect" presumed in statutory amendments. *See id.*

The text and structure of sections 1225 and 1226 make clear that Mr. Rahimi is detained under 1226, and his ongoing detention without bond is illegal.

III. Respondents' Arguments Conflate the Right to Due Process in Removal and in Detention.

Mr. Rahimi asks the Court to protect "the most elemental of liberty interests—the interest in being free from physical detention. . . ." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (citation omitted). Respondents erroneously conflate this right to be free from unjustified detention with Mr. Rahimi's right to due process in removal proceedings. In reality, these are distinct rights. *See Trump v. J. G. G.*, 604 U.S. 670, 672–73 (2025) (per curiam) (separately addressing petitioners' challenges to their detention and assertion of due process rights prior to removal); *compare Zadvydas v. Davis*, 533 U.S. 678, 690, 696–99 (2001) (holding that due process interest in freedom from detention survives after due process for removal exhausted), *with Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020) (addressing due process interest only in removal proceedings). Respondents are therefore violating Mr. Rahimi's constitutional due process rights by continuing to detain him under section 1225(b).

Respondents also mistakenly rely on *Thuraissigiam* for the proposition that Mr. Rahimi is entitled to no more process than is provided by section 1225(b)(2). *Thuraissigiam* is inapplicable here. First, Mr. Rahimi is properly detained under section 1226, not section 1225(b). Second, unlike the petitioner in *Thurassisigiam*, "[Mr. Rahimi] is not challenging his removal, but rather his detention during removal, and . . . he was not detained at the border on the threshold of initial entry, but rather after living in the United States for years." *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *4 (W.D. Tex. Oct. 16, 2025) (granting a writ of habeas

corpus and ordering a bond hearing in a *Yajure Hurtado* challenge); *see also Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 at *7–10 (W.D. Tex. Sept. 22, 2025) (distinguishing the facts of *Thuraissigiam* from those a *Yajure Hurtado* habeas petitioner and ordering a bond hearing).

IV. This Court Should Exercise Its Power to Grant Appropriate Preliminary and Habeas Relief.

In the context of his habeas petition, Mr. Rahimi's immediate release is appropriate because he challenges the fact of his detention under a statute that does not apply to him. *See* Verified Pet. ¶¶ 69–94. Where there is "no legal basis" for a detention, courts can always order release pursuant to a writ of habeas corpus. *See e.g.*, *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *13–14 (W.D. Tex. Oct. 2, 2025); *see also Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he traditional function of the writ is to secure release from illegal custody."). However, federal courts retain "flexibility" in formulating specific habeas relief, *Burnett v. Lampert*, 432 F.3d 996, 999 (9th Cir. 2005), and some district courts reviewing *Yajure Hurtado* challenges have ordered a timely agency bond hearing. *See, e.g.*, *Erazo Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *1, *5 (W.D. Tex. Oct. 30, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *11 (W.D. Tex. Oct. 21, 2025). Therefore, contrary to Respondents' arguments, immediate release is the most appropriate remedy.

A. Courts regularly grant preliminary injunctions where the relief is the same as the ultimate relief requested.

Respondents' argument that a preliminary injunction ("PI") is inappropriate where the requested relief is the same relief that would be granted after a successful petition is inapposite. This argument conflicts with the Court's broad power to issue preliminary relief to preserve the status quo and prevent irreparable harm—such as the denial of Mr. Rahimi's constitutional rights—until a decision can be reached on the merits. *Sambrano v. United Airlines, Inc.*, No. 21-

11159, 2022 WL 486610, at *4 (5th Cir. Feb. 17, 2022). Indeed, Courts assessing similar cases, including in the Fifth Circuit, have frequently granted PIs where the preliminary relief is the same as the ultimate relief requested *See, e.g.*, *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *4 (W.D. La. Aug. 27, 2025); *Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379 at *5–6 (W.D. Tex. Sept. 8, 2025).

B. Ordering Mr. Rahimi's immediate release would preserve the last uncontested status quo and avoid irreparable injury.

Respondents briefly argue that Mr. Rahimi's ongoing unconstitutional detention represents the status quo and is therefore the only state of affairs that can be preserved by a PI. To the extent that the status quo is relevant, it is defined as the "last uncontested status" between the parties. *United States v. F.D.I.C.*, 881 F.2d 207, 210 (5th Cir. 1989). In this case, Mr. Rahimi contests Respondents' illegal reinterpretation of the INA in *Matter of Yajure Hurtado* and his resulting detention. The last uncontested status quo, then, is the state of affairs where Mr. Rahimi is detained under section 1226(a), as he was prior to the issuance of *Matter of Yajure Hurtado* on September 5, 2025.

Moreover, in assessing the appropriate preliminary relief, "the focus of the court's inquiry must be prevention of injury by a proper order, not merely preservation of the status quo." *Canal Auth. of State of Fla. v. Callaway,* 489 F.2d 567, 576 (5th Cir. 1974). In this case, the ongoing deprivation of Mr. Rahimi's constitutional rights constitutes immediate and ongoing harm that will be most effectively remedied by immediate release. *See Kostak,* No. CV 3:25-1093, 2025 WL 2472136, at *3 n.43 (W.D. La. Aug. 27, 2025) (quoting *Opulent Life Church v. City of Holly Springs, Miss.*, 697 F.3d 279, 295 (5th Cir. 2012)).

Finally, Respondents claim that Mr. Rahimi would experience "no net gain" from release and imply that detention is preferable because it may accelerate Mr. Rahimi's immigration court

proceedings. Resp. at 2, 3, 13. First, this argument is disingenuous. *Respondents* betrayed this position when they prevented Mr. Rahimi from attending a court hearing while in detention. Verified Pet. ¶¶ 42–43.

But at bottom, the Court should resist the government's argument that Mr. Rahimi receives "no net gain" from his liberty. His net gain is watching his daughter grow up. It is helping her recover from the trauma of being forcibly separated from her father. It is being able to meet with his immigration attorneys freely and on his terms to plan his immigration case. It is taking his wife out to dinner at Sarita's restaurant where they first met eighteen years ago. *See* Verified Pet., Ex. 1 ¶ 2. The government has chosen to take this, and much more, away from Mr. Rahimi in violation of his rights. This Court has both a mandate and an opportunity to correct that.

Conclusion

For these reasons, the Court should grant Mr. Rahimi's motion for preliminary junction and writ of habeas corpus and order his immediate release.

Dated: November 14, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certified that on November 14, 2025, I filed this document electronically through CM/ECF system, which will serve a copy on all counsel of record.

/s/ Daniel Woodward
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