UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

**ALEXI CANAS QUINTANILLA, A[redacted]** **PETITIONER**

**VS.** **CIVIL ACTION NO. 5:25-cv-00115-DCB-BWR**

**RAPHAEL VERGARA, Warden, Adams County Correctional Center** **RESPONDENT**

## RESPONSE IN OPPOSITION TO AMENDED PETITION FOR HABEAS CORPUS

## INTRODUCTION

Petitioner Alexi Canas Quintanilla ("Quintanilla" or "Petitioner") is a native and citizen of El Salvador who illegally entered the United States in May 1995 without inspection. On March 12, 2025, Quintanilla was detained by immigration officials and placed in removal proceedings under 8 U.S.C. § 1229a before an immigration court. In April, Quintanilla was afforded a bond hearing, but he was denied bond because he was found to be a danger to the community if released.

Quintanilla's removal proceedings are ongoing. In October 2025, an immigration judge granted Quintanilla's application to cancel his removal, but that decision is on appeal to the Board of Immigration Appeals. *See* Amended Petition (ECF No. 8) at ¶ 1. There is no final order. Quintanilla's detention status has not changed. Based on a plain

reading of the applicable statutes, Quintanilla is deemed an "applicant for admission," 8 U.S.C. § 1225(a)(1), and detention is mandatory for the duration of his removal proceedings. 8 U.S.C. § 1225(b)(2)(A).

Quintanilla filed his original habeas petition on October 20, 2025, asserting he was entitled to a bond hearing, among other relief, notwithstanding he had had a bond hearing in April. *See* ECF No. 1 at p. 9. Quintanilla then amended his petition on November 20, 2025, and claims detention during the pendency of his removal proceedings violates 8 C.F.R. § 241.4 and his due process rights. *See* ECF No. 8 at pp. 6-7. Neither assertion has merit. Not only does § 241.4 not apply until there is a final order of removal (which there is not yet in this case), but § 1225(b)(2)(A) expressly mandates detention pending the proceedings. Even so, Quintanilla has already been afforded and denied bond pending these proceedings.

For these reasons, Quintanilla's petition should be denied and dismissed.

## BACKGROUND

Quintanilla alleges entered the United States at an unknown location without inspection in May 1995. *See* Amended Pet. at ¶1. Quintanilla acknowledges he was not admitted or paroled after inspection by an immigration officer. *Id.* In fact, the amended petition offers no explanation whatsoever regarding his whereabouts within the United States except that he illegally entered in 1995 and at the time of his detention he lived in Maryland and has eight children. Amended Pet. ¶ 14.

In March 2025, Quintanilla was charged with violating § 212(a)(6)(A)(i) of the Immigration and Nationality Act as an alien present in the United States without being admitted or paroled pursuant to INA, or who arrived in the United States at a time and place other than as designated by the Attorney General.[1] *See* Exhibit "A," Notice to Appear.

Quintanilla was detained pending a final order in his removal proceedings. Quintanilla was afforded a bond hearing. *See* Amended Pet. ¶ 20. Bond was denied. *See* Exh. "B," Order Denying Bond. The denial was upheld on appeal. *See* Exh. "C," BIA decision.

**LEGAL FRAMEWORK**

The Immigration and Nationality Act ("INA"), as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Before 1996, the INA required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings.[2] In 1996, Congress passed the Illegal

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[1] INA section 212(a)(6)(A)(i) refers to 8 U.S.C. 1182(a)(6)(A)(i) and generally provides that an alien who arrives in the United States at any time or place other than as designated by the Attorney General or is present in the United States without admission or parole, is inadmissible.

[2] At the time, the INA "provided for two types of removal proceedings: deportation hearing and exclusion hearings." *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc). An alien who

Immigration Reform and Immigration Responsibility Act ("IIRIRA"), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry.

Among other things, that law had the goal of "ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA." *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc).

To that end, IIRIRA replaced the prior focus on physical "entry" and instead made lawful "admission" the governing touchstone. IIRIRA defined "admission" to mean "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) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. IIRIRA also eliminated the exclusion-deportation dichotomy and consolidated both sets of proceedings into "removal proceedings." *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216,

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arrived at a port of entry would be placed in "exclusion proceedings and subject to mandatory detention, with potential release solely by means of a grant of parole." *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025); *see* 8 U.S.C. § 1225(a)-(b) (1995); *id.* § 1226(a) (1995). In contrast, an alien who physically entered the United States unlawfully would be placed in deportation proceedings. *Id.*; *Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010).

223 (BIA 2025). IIRIRA effected these changes through several provisions codified in Section 1225 of Title 8:

**Section 1225(a):** Section 1225(a) codifies Congress's decision to make lawful "admission," rather than physical entry, the touchstone. That provision states that an alien "present in the United States who has not been admitted or who arrives in the United States" "shall be deemed ... an applicant for admission":

> 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) shall be deemed for purposes of this chapter an applicant for admission.

8 U.S.C. § 1225(a)(1) (emphasis added). "All aliens ... who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States" are required to "be inspected by [an] immigration officer[]." *Id.* § 1225(a)(3). The inspection by the immigration officer is designed to determine whether the alien may be lawfully "admitted" to the country or, instead, must be referred to removal proceedings.

**Section 1225(b):** IIRIRA also divided removal proceedings into two tracks—expedited removal and non-expedited "Section 240" proceedings—and mandated that applicants for admission be detained pending those proceedings. 8 U.S.C. §§ 1225(b)(1)-(2).

Section 1225(b)(1) provides for so-called "expedited removal proceedings," *DHS v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020), which can potentially be applied to a subset

of aliens—those who (1) are "arriving in the United States," or who (2) have "not been admitted or paroled into the United States" and have "not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(i)-(iii). As to these aliens, the immigration officer shall "order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum ... or a fear of persecution." *Id.* § 1225(b)(1)(A)(i). In that event, the alien "shall be detained pending a final determination of credible fear or persecution and, if found not to have such fear, until removed." *Id.* § 1225(b)(1)(B)(iii)(IV); *see also* 8 C.F.R. § 235.5(b)(4)(ii). An alien processed for expedited removal who does not indicate an intent to apply for a form of relief from removal is likewise detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(iii).

Section 1225(b)(2) is a "catchall provision that applies to all applicants for admission not covered by [subsection (b)(1)]." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). It requires that those aliens be detained pending Section 240 removal proceedings:

> 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 [Section 240].

8 U.S.C. § 1225(b)(2)(A) (emphasis added).[3] *See* 8 C.F.R. § 253.3(b)(1)(ii) (mirroring Section 1225(b)(2) detention mandate); *Jennings*, 583 U.S. at 302 (holding that Section 1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin").

While Section 1225(b)(2) does not allow for aliens to be released on bond, the INA grants DHS discretion to exercise its parole authority to temporarily release an applicant for admission, but "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Parole, however, "shall not be regarded as admission of the alien." *Id.*; *Jennings*, 583 U.S. at 288 (discussing parole authority). Moreover, when the Secretary determines that "the purposes of such parole ... been served," the "alien shall ... be returned to the custody from which he was paroled" and be "dealt with in the same manner as that of any other applicant for admission to the United States." 8 U.S.C. § 1182(d)(5)(A).

**Section 1226:** IIRIRA also created a separate authority addressing the arrest, detention, and release of aliens generally (versus applicants for admission specifically). *See* 8 U.S.C. § 1226. This is the only provision that governs the detention of aliens who, for example, lawfully enter the country but overstay or otherwise violate the terms of their visas, or are later determined to have been improperly admitted. The statute

[3] Subsection (b)(2) does not apply to (1) aliens subject to expedited removal, (2) crewmen, (3) stowaways, or (4) aliens who "arriv[e] on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States." 8 U.S.C. § 1225(b)(2)(B)-(C).

provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." *Id.* § 1226(a). Detention under this provision is generally discretionary: The Attorney General "may" either "continue to detain the arrested alien" or release the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2).[4] Moreover, § 1226(c) specifies a class of aliens who cannot be released and shall be detained in custody during the pendency of removal proceedings (i.e. the determination of whether the alien is to be removed from the United States), encompassing aliens who have committed certain criminal acts or acts of terror.[5]

In this case, there is no dispute that Quintanilla is an "applicant for admission" under Section 1225(a). That provision specifically provides that any "alien present in the United States who has not been admitted ... shall be deemed for purposes of this chapter an applicant for admission." § 1225(a)(1). Because Quintanilla entered the country without inspection, however, he was never "admitted" and thus unambiguously remains

[4] Conditional parole under Section 1226(a) is broader than parole under Section 1182(d)(5)(A).

[5] The Laken Riley Act amended §1226 to add subsection (c). However, the Laken Riley Act's addition of § 1226(c) does not invalidate §1225(b)'s mandatory detention requirement merely because it could appear redundant. As the Supreme Court has acknowledged, "redundancies are common in statutory drafting ... redundance in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute..." *Barton v. Barr*, 590 U.S. 222, 229 (2020).

an "applicant for admission." Nor does Quintanilla contest that he was never admitted into the United States.

## ARGUMENT

### I. Court should deny petition for failing to exhaust administrative remedies and for lack of jurisdiction

#### a. The agency decision regarding Quintanilla's status is not administratively final

The Court should dismiss the petition for writ of habeas corpus for lack of jurisdiction as Petitioner has failed to exhaust administrative remedies. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012) (holding that a federal prisoner seeking habeas relief under § 2241 must first exhaust all available administrative remedies); *Hinojosa v. Horn*, 896 F.3d 305, 314 (5th Cir. 2018) (same); *United States v. Cleto*, 956 F.2d 83, 84 (5th Cir. 1992) (same); *accord Lee v. Gonzales*, 410 F.3d 778, 786 (5th Cir. 2005) ("[A] petitioner must exhaust available avenues of relief and turn to habeas only when no other means of judicial review exists.").

The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, protect the authority of administrative agencies, and otherwise conserve judicial resources by limiting interference in agency affairs, developing the factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary." *Gutierrez Cupido v. Barr*, 2019 WL 4861018, *1 (S.D.N.Y. Oct. 2, 2019).

Quintanilla's proceedings are currently pending before the BIA and the administrative appellate process should be allowed to play out. *See* Notice of Appeal, attached as Exh. "D." DHS has appealed the IJ's decision as to Quintanilla's removal status. Quintanilla can respond to DHS's brief on appeal to the BIA, and the BIA will issue a final administrative order on bond. By regulation, the BIA has authority to review IJ custody determinations. *See* 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f), 1003.38, 1236.1(d)(3).

Quintanilla does not have a final administrative order and his petition should be dismissed for lack of administrative exhaustion.

**II. Even on the merits, Quintanilla is properly detained under 8 U.S.C. §1225(b)(2) and is not entitled to release.**

**a. Quintanilla's reliance on 8 C.F.R. § 241.4 is misplaced because there is no final order**

First, Quintanilla asserts the Respondent's alleged "failure to conduct detention reviews" pursuant to 8 C.F.R. § 241.4(d) amounts to a due process violation and that the "regulation requires that ICE outline to the alien the reasons for continued detention." *See* Amended Pet. at p. 6.

Quintanilla's reliance on this regulation is misplaced. Section 241.4 only applies after there is a final order of removal. *See, e.g., Mashai v. INS*, 256 F. Supp.2d 371, 375, n.3 (E.D. Penn. 2003) ("This section governs continued detention or release of aliens subject to a final order of removal, after the ninety-day removal period has expired...."). Section 241.1 expressly provides the section applies to "Final order of removal." Section 241.4

involves the removal period after a mandatory detention period. Here, there is no dispute there is no final order.[6] DHS has appealed the immigration judge's order regarding Quintanilla's status. *See* Exh. "D." Briefing and a ruling on that decision is pending. Thus, Quintanilla's reliance on this regulation is misplaced as it does not apply to Quintanilla's detention status.

The applicable detention statute, 8 U.S.C. § 1225(b)(2)(A), is simple and unambiguous. When engaging in statutory interpretation, "[w]e begin, as always, with the text." *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). "If the statutory language is plain, we must enforce it according to it term." *King v. Burwell*, 576 U.S. 473, 486 (2015); *see also Restaurant Law Center v. U.S. Dep't of Labor*, 120 F. 4th 163, 177 (5th Cir. 2024) ("As usual, we start with the statutory text.").

As noted above, the statute expressly provides "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). The first relevant term is "applicant for admission," which is statutorily defined. *See* 8 U.S.C. § 1225(a)(1). The statute deems any alien (a person who is not a

[6] A final order of removal is defined at 8 C.F.R. § 1241.1. An order is final upon dismissal of an appeal by the Board of Immigration Appeals, upon waiver by the respondent, upon expiration of time allotted for an appeal, upon certification by the Attorney General, upon an immigration judge's order of removal in the alien's absence, and if an immigration judge issues an order in connection with a grant of voluntary departure. *Id.* None apply here.

citizen or national of the United States, 8 U.S.C. § 1101(a)(3)) "present in the United States who has not been admitted" to be an "applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, under its plain terms, all unadmitted foreign nationals in the United States are "applicants for admission," regardless of their proximity to the border, the length of time they have been present here, or whether they ever had the subjective intent to properly apply for admission. *See id.* While this may seem like a counterintuitive way to define an "applicant for admission," "[w]hen a statute includes an explicit definition, [courts] must follow that definition, even if it varies from a term's ordinary meaning." *Digital Realty Tr., Inc. v. Somers*, 583 U.S. 149, 160 (2018) (cleaned up). Thus, under the plain text of the statute, Quintanilla is unambiguously an "applicant for admission" because he is a foreign national, he was not admitted, and he was present in the United States when he was apprehended by ICE.

The next relevant portion of the statute is whether an examining immigration officer determined that Petitioner was "seeking admission." *See* 8 U.S.C. § 1225(b)(2)(A). 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)[7].

[7] § 1101(a)(13) also contains subsection (B), which addresses humanitarian parole and specifies that these parolees will not be considered admitted, and subsection (C), which addresses categories of certain aliens present in the United States are nonetheless regarded as "seeking an admission" and includes an alien "attempting to enter at a time and place other than as designated by immigration officers OR *has not been admitted to the United States after inspection and authorization by an immigration officer*". *See* § 8 U.S.C. 1101(a)(13)(C)(vi) (emphasis added). This

Therefore, the inquiry is whether an immigration officer determined that Petitioner was seeking a "lawful entry." *See id.* A foreign national's past unlawful physical entry has no bearing on this analysis. *See id.* This element of "lawful entry" is important here for two reasons. First, a foreign national cannot legally be admitted into the United States without a lawful entry. *See* 8 U.S.C. §§ 1101(a)(13), 1225(a)(3); *see also Sanchez v. Mayorkas*, 593 U.S. 409, 411–12 (2021)(recognizing that "admission" means "lawful entry"). Second, a foreign national cannot *remain* in the United States without a lawful entry because a foreign national is removable if he or she did not enter lawfully. *See* 8 U.S.C. §§ 1182(a)(6), 1227(a)(1)(A). Indeed, the charges of removal against Petitioner are based on his unlawful entry. *See* Exh. "A." So, unless Petitioner obtains a lawful admission in the future, he will be subject to removal in perpetuity. *See* 8 U.S.C. §§ 1101(a)(13), 1182(a)(6), and 1227(a)(1)(A).

The INA provides two examples of foreign nationals who have not yet been admitted but are not "seeking admission." The first is someone who withdraws his or her application for admission and "depart[s] immediately from the United States." 8 U.S.C. § 1225(a)(4); *see also Matushkina v. Nielsen* 877 F.3d 289, 291 (7th Cir. 2017) (providing a relevant example of this phenomenon). The second is someone who agrees to voluntarily depart "in lieu of being subject to proceedings under § 1229a . . . or prior to the completion

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subsection further reiterates a clear statutory intent that aliens present in the United States without inspection and admission are considered to be "seeking admission."

of such proceedings." 8 U.S.C. § 1229c(a)(1). This means even in removal proceedings, a foreign national can concede removability and accept removal, in which case he will no longer be "seeking admission." 8 U.S.C. § 1229a(d). Foreign nationals present in the United States for more than two years who have not been lawfully admitted and who do not agree to immediately depart are seeking admission and must be referred for removal proceedings under § 1229a. *See* 8 U.S.C. §§ 1225(a)(1), (b)(2)(A). Notably, this is *not* the same as an expedited removal under § 1225(b)(1). Instead, under the clear provisions of §1225(b)(2), removal proceedings must proceed as outlined under § 1229a. Accordingly, Quintanilla is still "seeking admission" under § 1225(b)(2) because he has not agreed to depart, and he has not yet conceded his removability or allowed his removal proceedings to play out – he wants to be admitted via his removal proceedings. *See Dep't of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 108–09 (2020) (discussing how "[a]n 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)" is deemed "an applicant for admission").

Quintanilla is still "seeking admission" to the United States. Quintanilla has not agreed to immediately depart, and he is seeking to remain in this country, which requires an "admission" (i.e. a "lawful entry" as discussed above). To consider Quintanilla as not subject mandatory detention as an alien "seeking admission" would reward him for violating the law, provide him, with better treatment than a foreign national who lawfully presented themselves for inspection at a port of entry, and encourage others to enter

unlawfully - defying the intent reflected in the plain text of the statute. *See* 8 U.S.C. § 1225; *see also Thuraissigiam*, 591 U.S. at 140 (avoiding interpretation that might create a "perverse incentive to enter at an unlawful rather than a lawful location").

Finally, the text provides that Quintanilla "***shall be detained*** for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). As explained above, Quintanilla is not in expedited removal at all. He has instead been placed in full removal proceedings where he will receive the benefits of the procedures in immigration court (motions, hearings, testimony, evidence, and appeals) provided in § 1229a. Therefore, he also meets this textual element within § 1225(b)(2)(A) because he is in § 1229a removal proceedings and is thus subject to mandatory detention during the pendency of these proceedings.

In sum, the plain text of § 1225(b)(2) unambiguously applies to Quintanilla. "Where the language is plain and admits of no more than one meaning, the duty of interpretation does not arise, and the rules which are to aid doubtful meanings need no discussion." *Caminetti v. United States*, 242 U.S. 470, 485 (1917). This principle applies even where a petitioner contends that the plain application of the statute would lead to a harsh result. *See, e.g., Jay v. Boyd*, 351 U.S. 345, 357 (1956) (courts "must adopt the plain meaning of a statute, however severe the consequences"). Therefore, no further exercise in statutory interpretation is necessary or permissible in this case and the court should conclude that Petitioner's detention under § 1225(b)(2) is lawful.

**b. Quintanilla relies on *Zadvydas* for his due process claim, but *Zadvydas* examined release after a final order removal, not mandatory detention under § 1225 while removal proceedings are pending.**

As explained above, Congress provided that mandatory detention pending removal proceedings is the norm—not the exception—for those who enter the country without inspection and who lack documents sufficient for admission or entry. *See* 8 U.S.C. § 1225(b)(2). And for good reason: detention pending removal proceedings is the historical norm and, in this context, reflects the reality that aliens have avoided inspection by sneaking into the United States. *See Demore v. Kim*, 538 U.S. 510, 523 (2003) (citing *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)). When Congress enacted 8 U.S.C. § 1225(b) as part of the immigration reforms of 1996, it determined that treating all unadmitted aliens similarly in terms of detention and removal eliminated unintended consequences and perverse incentives that pervaded the prior system, under which undocumented aliens who entered without inspection received more procedural protections—including the ability to seek release on bond—than those who presented themselves for inspection at ports of entry. In essence, the pre-1996 law favored those that entered the U.S. illegally and clandestinely, which Congress sought to end. Through mandatory detention of applicants for admission, Congress further ensured that the Executive Branch can give effect to the provisions for removal of aliens. *See Demore*, 538 U.S. at 531.

Other district courts have recognized that mandatory detention of inadmissible aliens for the duration of their removal proceedings is required by 1225(b)(2): *Valencia v.*

*Chestnut, et. al.*, 2025 WL 3205133 (E.D. Calif. Nov. 17, 2025)(denying TRO, explaining the statutory text of 1225(b)(2) applies for mandatory detention) ("The statutory language may cover a pro-active engagement with the process of becoming a lawful entrant, ***but courts both in this circuit and elsewhere have recognized that the term also functions as a legal designation --describing an individual's legal status for purposes of the statutory removal scheme*** -- rather than a description of present conduct.") (emphasis added); *Alonzo v. Noem, et. al.*, 2025 WL 3208284 (E.D. Calif. November 17, 2025); *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Kum v. Ross, et al*, No. 25-cv-451, ECF 15, (W.D. La. Nov. 6, 2025) (adopting report and recommendation, ECF 14, Oct. 22, 2025), correctly applied the definition of "applicant for admission" to a petitioner who was present in the United States without having been admitted or paroled under § 1225(a)(1); *Oliveria v. Patterson, et. al.*, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (denying habeas relief to inadmissible alien present in the country without admission or parole for 9 years because the alien is an "applicant for admission" subject to mandatory detention under §1225(b)(2)); *Barrios Sandoval v. Acuna, et. al.*, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Lopez v. Trump, et. al.*, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (denying habeas relief to inadmissible alien in the country for 12 years based on § 1225(b)(2)) (petition "an alien within the 'catchall' scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a."). *Chavez v. Noem, et. al.*, 2025 WL 2730228 (S.D. Calif. September 24, 2025) (denying injunctive relief to inadmissible

alien based on § 1225(b)(2)); *Pena v. Hyde,* 2025 WL 2108913 (D. Mass. July 28, 2025) (denying habeas relief for inadmissible alien in the country for 20 years based on § 1225(b)) ("Because petitioner remains an applicant for admission, his detention is authorized so long as he is 'not clearly and beyond doubt entitled to be admitted' to the United States. 8 U.S.C. § 1225(b)(2)(A)).[8]

Quintanilla appears to argue that he is entitled to a bond hearing under *Zadvydas v. Davis,* 533 U.S. 678 (2001). Yet *Zadvydas* examined the detention of an alien *after* the entry of a final order of removal, and after the mandatory 90-day detention for removal under 8 U.S.C. § 1231. *Id.* at p. 682. *Zadvydas* concluded that an alien subject to a final order of removal after the post-removal statutory period expired could be detained for a period "reasonably necessary" to secure the removal. *Id.*

Neither *Zadvydas* nor § 1231 are applicable here because Quintanilla is not subject to a final order of removal. Instead, his removal proceedings are ongoing. The proceedings are currently on appeal. *See* Exh. "D." Quintanilla is being detained pursuant to § 1225.

Congress directed that aliens like Quintanilla shall be detained during their removal proceedings. 8 U.S.C. § 1225(b)(2)(A); *Jennings,* 583 U.S. at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded."). In so doing, Congress made a legislative

[8] This list is not exhaustive and new cases are being reported almost daily. While many of these cases examined the interplay between §§ 1225 and 1226, Quintanilla has not raised that issue in his amended petition.

judgment to detain undocumented aliens during removal proceedings, as they—by definition—have crossed borders and traveled in violation of United States law. That is the prerogative of the legislative branch serving the interest of the government and the United States.

The Supreme Court has recognized this profound interest. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) ("Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control."). And with this power to remove aliens, the Supreme Court has recognized the United States' longtime Constitutional ability to detain those in removal proceedings. *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure."); *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) ("Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation."); *Demore v. Kim*, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."); *Jennings*, 583 U.S. at 286 ("Congress has authorized immigration officials to detain some classes of aliens during the course of certain immigration proceedings. Detention during those proceedings gives immigration officials time to determine an alien's status without running the risk of the alien's either absconding or engaging in criminal activity before a final decision can be made.").

Likewise, Quintanilla is detained for the limited purpose of removal proceedings. His detention is not punitive or for other reasons than to address his removability from the United States. His detention under § 1225(b)(2) is also not indefinite, as it will end upon the conclusion of his removal proceedings. A period of detention for the purpose of removal proceedings or to effectuate removal does not violate the constitution. The *Jennings* Court, while examining a constitutional challenge, refused to put a six-month deadline on a 1225(b)(2) detention. *Jennings*, 583 U.S. at 302.

Furthermore, notwithstanding 1225 does not require a bond hearing, Quintanilla received a bond hearing and it was denied on this basis he was a danger to the community. *See* Exhs. "B" and "C." His continued detention during the pendency of his removal proceedings is proper.

**III. The Petitioner is not entitled to EAJA fees.**

Should he prevail, Quintanilla asks this Court to award his costs and reasonable attorneys' fees in this action as provided under the Equal Access to Justice Act, 28 U.S.C. § 2412. Pet. P. 32, ¶ 5. However, Petitioner is not entitled to such relief in this matter. "EAJA is a limited waiver of sovereign immunity allowing for the imposition of attorney's fees and costs against the United States in specific civil actions." *Barco v. Witte*, 65 F.4th 782, 784 (5th Cir. 2023) (citing *Ardestani v. I.N.S.*, 529 U.S. 129, 137, 112 S.Ct. 515, 116 L.Ed.2d 496 (1991)). The "threshold issue" in *Barco* was whether "EAJA expressly and unequivocally waives the United States' sovereign immunity regarding attorney's fees in

immigration habeas corpus actions." *Barco*, 65 F.4th at 785. Finding that habeas corpus proceedings are not purely civil proceedings, but are hybrid" cases, the Court concluded that EAJA's limited waiver of sovereign immunity does not extend to immigration habeas corpus actions. *Id.* Therefore, regardless of the resolution of Petitioner's substantive claims, the Court should reject his request for EAJA fees.

## CONCLUSION

For the reasons explained above, Petitioner's petition for writ of habeas corpus, and to the extent he seeks declaratory and injunctive relief, should be denied and Petitioner's detention should remain undisturbed for the duration of his removal proceedings. As an inadmissible alien seeking admission, he is subject to mandatory detention for the duration of his removal proceedings pursuant to 8 U.S.C. § 1225(b)(2).

Date: December 4, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Gregg Mayer, Assistant U.S. Attorney, hereby certify that, on this day, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notice to all counsel of record.

December 4, 2025

GREGG MAYER
Assistant United States Attorney