**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

JUCIRLEY ALVES DE ANDRADE,	
Petitioner	Civil Action No. 6:25-cv-01695
v.	Judge David C. Joseph
BRYAN PATTERSON, *et al.*	Magistrate Judge Carol B. Whitehurst
Respondents.	

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE OPPOSING WRIT OF HABEAS CORPUS

TABLE OF CONTENTS

INTRODUCTION **2**

ARGUMENT **3**

I. Respondents Incorrectly Claim This Court Lacks Jurisdiction Over This Matter **3**

II. Respondents' Reading of § 1225(b)(2) Is Contrary to the Statutory Structure and the Supreme Court's Interpretation of "Applicant for Admission" **4**

A. The statutory definition of "applicant for admission" does not erase the distinction between "arriving aliens" and "aliens present in the United States." **4**

III. Respondents' Reading of Jennings Is Incorrect: Jennings Does Not Hold That All Noncitizens Physically Present in the U.S. Fall Under § 1225 .... **5**

IV. Respondents' Interpretation Would Render § 1226 Superfluous and Is Incorrect as a Matter of Statutory Construction **6**

V. The Government's Legislative History Argument Is Not Supported by the Text or Case Law **7**

VI. Respondents Fail to Address the Constitutional Avoidance Concerns That Have Led Courts Nationwide to Reject Their Interpretation **8**

VII. The Government's Case Citations Do Not Control and Are Distinguishable **8**

VIII. Under the Proper Statutory Framework, Petitioner Is Detained Pursuant to § 1226 and Entitled to a Bond Hearing **9**

CONCLUSION **10**

INTRODUCTION

Petitioner Jucirley Alves de Andrade ("Mr. Alves de Andrade") seeks a Writ of Habeas Corpus as the Respondents-Defendants ("Respondents") continue to deny Petitioner a bond hearing under its novel, erroneous interpretation of the Immigration and Nationality Act ("INA"). The DOJ's interpretation directly opposes the INA itself and the Fifth Amendment. (Petitioner's Writ of Habeas Corpus "Pet's HC" at 1)

Respondents continue to detain Petitioner despite his apprehension in the interior of the United States by arguing that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he is "seeking admission" and therefore no viable Fifth Amendment claim. (Respondents' Opposition to Petition for Writ of Habeas Corpus "Resps' Opp" at 8, 10) Respondents also raise jurisdictional arguments.

But Respondent's Opposition did not meaningfully engage with the core issue: that the Petitioner – apprehended in the interior of the United States and placed into removal proceedings under § 1229a – is detained under § 1226, not § 1225; and detention under § 1226 requires a bond hearing.

Instead, Respondents fixate on Petitioner's whereabouts between his entry in May of 2021 and his later interior apprehension on September 12, 2025 (Resps' Opp at 1) – facts that are immaterial and already addressed in the Petition. (Pet's HC at 5.) None of these factual digressions alters the governing statutory framework (§ 1226) or the constitutional requirement for an individualized bond determination.

ARGUMENT

Petitioner respectfully submits this Reply to Respondents' Opposition. Respondents' theory – that any noncitizen who entered without inspection at any moment in the past remains forever an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2) – is legally incorrect, contrary to longstanding statutory structure, and incompatible with constitutional avoidance and binding authority of the Supreme Court and the Fifth Circuit.

Petitioner is detained under § 1226, not § 1225, and is therefore entitled to a bond hearing. Because Respondents' Opposition heavily relies on expansive and unprecedented readings of § 1225 that would erase the line Congress drew between the concept of "arriving applicants for admission" and "noncitizens already present in the United States", Petitioner's writ of Habeas Corpus should be granted.

I. Respondents' Incorrectly Claim This Court Lacks Jurisdiction Over This Matter

Respondents claim this Court lacks jurisdiction over this matter pursuant to 8 U.S.C. § 1252(b)(9) and (g). (Resps' Opp at 22) At first, Respondents contend that § 1252(b)(9) mandates the instant claim to be channeled through the Circuit Court of Appeals. *Id*. Respondents are incorrect. In fact, both this Court and the Supreme Court have confirmed that § 1252(b)(9) does not apply to noncitizens seeking to challenge detention without bond. See *Jennings v. Rodriguez,* 583 U.S. 281, 293 (2018); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at 3 (W.D. La. Sept. 11, 2025)

Respondents then claim that § 1252(g), divests the Court of jurisdiction. (Resps' Opp at 23). However, the Respondents failed to acknowledge where a petitioner "argues that he should

be provided a bond … § 1252(g) does not limit the Court's jurisdiction." See *Lopez Santos*, 2025 WL 2642278, at 3.

II. Respondents' Reading of § 1225(b)(2) Is Contrary to the Statutory Structure and the Supreme Court's Own Interpretation of the Term "Applicant for Admission."

Respondents ask this Court to accept a theory that would collapse the INA's bifurcated detention scheme—§ 1225 for arriving noncitizens and § 1226 for interior enforcement—into a single, universal mandatory-detention statute covering virtually every removable noncitizen in the United States. That cannot be what Congress intended, and it is not the law.

A. The statutory definition of "applicant for admission" does not erase the distinction between "arriving aliens" and "aliens present in the United States."

Respondents argue that because § 1225(a)(1) includes any person "present in the United States who has not been admitted," it necessarily follows that such a person is *permanently* an "applicant for admission" subject to mandatory detention under § 1225(b)(2). But the Supreme Court has already rejected the notion that this definition automatically places every unadmitted noncitizen into § 1225 detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018)

Thuraissigiam – the very case Respondents rely on – makes clear that § 1225 applies in the inspection context. The Court repeatedly describes § 1225 as governing noncitizens *seeking initial entry* or *arriving* at the border, which is distinguishable from the Petitioner's case considering that he was apprehended on September 12, 2025, and served with a new Notice to Appear on that same day after termination of his initial proceedings on June 26, 2024. Petitioner's apprehension on

September 12, 2025 (Pet's HC at 5) and placement in removal proceedings (Resps' Opp Exhibit 1) is a product of interior enforcement and not initial entry. See *Dep't of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 115–16 (2020)

The government's attempt to graft § 1225(b)(2)'s mandatory detention onto every noncitizen who entered without inspection—regardless of when, how, or under what circumstances – is contrary to that structure, and it would produce exactly the "perverse incentives" Respondents accuse Petitioner of urging: it would grant the government unfettered, indefinite detention authority over millions of long-term residents. Congress did not write such a statute, and courts do not infer such sweeping authority through implication.

In fact, the distinction between § 1225(b)(2) and § 1226 becomes evident with the analysis of the Petitioner's immigration history. He entered the United States on May 10, 2021, and was placed in removal proceedings which were subsequently terminated on June 26, 2024, in an unopposed Motion to Terminate by Respondent's counsel. Proceedings were only reinitiated upon service of a new Notice to Appear on September 12, 2025, after the Petitioner was apprehended by ICE when exiting Home Depot (Resps' Opp Exhibit 1)

III. Respondents' Reading of *Jennings* Is Incorrect: *Jennings* Does Not Hold That All Noncitizens Physically Present in the U.S. Fall Under § 1225.

Respondents rely heavily on *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), but their reading is backwards. *Jennings* did not decide whether § 1225 or § 1226 applies to a noncitizen detained long after an unlawful entry; the Court simply assumed the statutory categories applicable to the specific petitioners based on the government's representations. The petitioner in *Jennings* was a

lawful permanent resident, and the Court analyzed him under § 1226 because he was indisputably an admitted noncitizen.

Respondents attempt to stretch away the Court's own language about § 1225 covering "arriving" aliens arguing it was "imprecise." (Resp's Opp at 13) It was not. It appropriately reflects the INA's core design.

In fact, courts in this district have repeatedly rejected the government's attempt to stretch *Jennings* to transform every long-term resident who entered without inspection into a § 1225 detainee. See, e.g., *Kostak v. Garland*, 2025 WL 2472136, at *4 (W.D. La. 2025)*; *Barrera v. ICE*, No. 6:24-cv-1212 (W.D. La. 2024).

Respondents' theory collapses § 1226 entirely, even though *Jennings* itself confirms that § 1226 must apply to large categories of interior arrests, including the Petitioner's.

IV. Respondents' Interpretation Would Render § 1226 Superfluous and Is Therefore Incorrect as a Matter of Statutory Construction.

Respondents insist their reading does not erase § 1226. But it does. Under Respondents' theory, anyone who ever entered without inspection is automatically an "applicant for admission." (Resp' Opp at 8) Thus, anyone detained after any interior arrest without a prior lawful admission is subject only to § 1225. (Resp' Opp at 13) Therefore, under Respondents' theory, DHS could detain millions of people indefinitely, without bond, simply because they once crossed a border unlawfully.

This would leave § 1226 applicable only to already-admitted noncitizens – an interpretation Congress demonstrably did not adopt. The INA distinguishes between arriving applicants for admission (who are handled under § 1225), and noncitizens within the U.S. subject to arrest and detention "pending a decision on removal" (who are handled under § 1226).

Respondents' reading would collapse these categories, violating the canon that statutes should be read to give effect to every provision, not to render one a nullity.

V. The Government's Legislative History Argument Is Not Supported by the Text or Case Law.

Respondents rely on legislative history and a recent BIA decision (*Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025)) to argue that § 1225(b)(2) applies to anyone who entered without inspection, regardless of circumstances. (Resps' Opp at 16) But legislative history cannot override clear statutory structure. And even the cited history does not show Congress intended to authorize indefinite, no-bond detention of individuals long after they entered the country. *Id.*

Moreover, district courts are not bound by a BIA interpretation of a detention statute. *See Jennings*, 138 S. Ct. at 840 (rejecting Ninth Circuit deference to agency interpretation of detention authority).

Even taken at face value, the government's legislative excerpts show Congress intended to prevent *different treatment* of two groups of arriving noncitizens – not to convert all interior arrests into admission-process cases. (Resps' Opp at 16)

Congress did not intend, through a definition in § 1225(a)(1), to silently authorize mandatory detention for every unadmitted person encountered in the interior, Petitioner included.

VI. Respondents Fail to Address the Constitutional Avoidance Concerns That Have Led Courts Nationwide to Reject Their Interpretation.

Respondents do not meaningfully engage with the due-process implications of their reading of § 1225(b)(2). Under their theory, a person who entered without inspection 20 years ago, built a family, and has been law-abiding could be detained without any individualized custody review and without a statutory path to bond.

Multiple courts have held that interpreting § 1225(b)(2) to permit such detention raises serious constitutional concerns, triggering the canon of constitutional avoidance and favoring the narrower reading placing interior arrests under § 1226. See, e.g.: *Arroyo v. Jennings*, 2024 WL 472365 (C.D. Cal. 2024) and *Diaz v. Garland*, 2024 WL 2630999 (D. Colo. 2024)

Respondents' silence on these constitutional questions is itself revealing.

VII. The Government's Case Citations Do Not Control and Are Distinguishable.

Respondents cite several district court decisions from outside the Fifth Circuit, and a handful from within it, that adopted their view. (Resps' Opp 8-11) However, Respondents failed to acknowledge that such cases are a distinct minority, and none are binding. Many of the decisions cited by the Respondents were issued without full briefing, without adversarial development of constitutional concerns, or based on agency interpretations that conflict with Supreme Court guidance.

More importantly, other courts – including courts in this district – have held exactly the opposite. See *Kostak v. Garland*, 2025 WL 2472136 (W.D. La. 2025), *Barrera v. ICE*, No. 6:24-cv-1212 (W.D. La. 2024), *Medina v. Garland*, 2024 WL 2993802 (S.D. Tex. 2024) and *Buenrostro-Mendez v. Bondi, No. CV H-25-3726,* 2025 WL 2886346, at 3 n.3 (S.D. Tex. Oct. 7, 2025) (noting that "almost every district court to consider this issue" has rejected DOJ's interpretation).

The government cannot ask this Court to elevate out-of-district decisions above both the statutory structure and constitutional requirements. Nonetheless, the Petitioner urges this Court to follow the majority.

VIII. Under the Proper Statutory Framework, Petitioner Is Detained Pursuant to § 1226 and Entitled to a Bond Hearing.

Petitioner is not an "arriving" noncitizen seeking initial admission at the border. He was arrested in the interior, long after entry, and placed into ordinary removal proceedings under § 1229a (Resp's Opp at 2) – the hallmark of a § 1226(a) case.

Detention under § 1226(a) is discretionary and requires an individualized bond hearing. *See Jennings*, 138 S. Ct. at 847; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Respondents cannot evade Congress's deliberate choice to provide bond hearings for people like Petitioner by overly stretching § 1225 beyond recognition.

CONCLUSION

Respondents' interpretation of § 1225(b)(2) contradicts the plain statutory structure, eliminates § 1226's core function, conflicts with Supreme Court precedent, and raises grave constitutional concerns. Petitioner is detained pursuant to § 1226 and is entitled to a bond hearing.

For these reasons, and those stated in the Petition for Writ of Habeas Corpus, this Court should grant the writ and order Petitioner's immediate release or, at minimum, an individualized bond hearing before the Immigration Judge.

Dated: November 19, 2025.

/s/ Nathalia Dickson
Nathalia Rocha Dickson / LA Bar# 37448
Dickson Law Firm, LC
18405 E Petroleum Drive, Suite C
Baton Rouge, LA 70809
nrd@dicksonlawfirm.com
p: 225-369-9922
m: 225-364-9435

Counsel for Petitioner