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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Hector Rodriguez Plascencia
Petitioner,

vs.

Pamela Bondi, et al.,

Respondents.

Case No.: 2:25-04140-DWL--ASB

File No: [redacted]

PETITIONER'S REPLY TO RESPONDENT'S ANSWER TO HABEAS CORPUS.

I. INTRODUCTION

Respondents' answer confirms that Petitioner's detention is unlawful. The government's response does not meaningfully defend the statutory basis for custody; instead it relies on sweeping jurisdictional theories and an expansive interpretation of 8 U.S.C. § 1225(b)(2) that federal courts across the country have already rejected.

DHS argues that § 1252(g) and § 1252(b)(9) deprive this Court of jurisdiction, that individuals apprehended in the interior may be retroactively treated as "arriving aliens," and that *Matter of Yajure Hurtado* compels mandatory detention. None of these arguments withstand scrutiny.

Federal courts addressing this precise question have held that individuals arrested years after entering the United States are detained under § 1226(a), not § 1225(b)(2), and are therefore entitled to an individualized custody determination rather than mandatory detention. In *Singh v. Lewis*, the Western District of Kentucky granted habeas relief and ordered release, rejecting DHS's reliance on *Yajure Hurtado* and explaining that "an individual is not 'seeking admission' when he never attempted to do so." The court held that detention in such circumstances must proceed under § 1226(a), and it invalidated the government's attempt to use the automatic-stay regulation to override the immigration judge's bond determination. Likewise, in *Beltrán Barrera v. Tindall*, the same district court held that § 1225 applies only to true applicants for admission encountered at the border, not to individuals arrested after years of residence in the interior. The court concluded that DHS's blanket application of § 1225(b)(2) "conflicts with the statutory text and structure of the INA" and ordered the petitioner's release under § 1226(a).

The District of Arizona recently reached the same conclusion in *Benítez-Cornejo v. Cantu*, holding that individuals arrested in Arizona after years of living in the United States fall under § 1226(a) and must receive individualized bond hearings. The court rejected DHS's reliance on *Yajure Hurtado* as inconsistent with Ninth Circuit due-process principles and with the statutory scheme Congress enacted.

The government's jurisdictional arguments fare no better. The federal order Petitioner cites from a separate case squarely rejects DHS's contention that § 1226(e), § 1252(g), or § 1252(b)(9) bar judicial review of a challenge to the statutory basis of detention. As that court recognized, determining which statute governs custody is a pure question of law and well within the core of habeas jurisdiction. The order also recognized that detention-legality challenges do not arise from any of the three discrete actions Congress enumerated in § 1252(g) and therefore fall outside the statute's reach.

The government's response in this case sidesteps each of these authorities, offers no persuasive statutory interpretation of its own, and ignores the growing nationwide consensus that DHS may not reclassify interior arrests under § 1225(b)(2). Instead, DHS attempts to wedge Petitioner into a statutory category that does not apply to him, while simultaneously arguing that this Court is powerless to correct the error.

Nothing in the INA, the Constitution, or the case law supports such an outcome. Because Respondents have not shown that § 1225(b)(2) lawfully governs Petitioner's detention, and because jurisdiction is proper under 28 U.S.C. § 2241 and the Suspension Clause, the Court should grant the writ and order Petitioner's release under § 1226(a) or, at minimum, an individualized custody determination before a neutral adjudicator.

II. ARGUMENT

A. This court has jurisdiction to review the legality of Petitioner's Detention.

Respondents argue that 8 U.S.C. § 1252(g) deprives this Court of jurisdiction, but that argument is contrary to the statutory text and binding precedent. Section 1252(g) is a narrow provision. Courts have repeatedly held that it bars review only of claims arising from three discrete executive actions: the decision to commence proceedings, the decision to adjudicate cases, and the decision to execute removal orders. 8 U.S.C. § 1252(g). The Supreme Court has made clear that § 1252(g) "is specifically directed at the deconstruction, fragmentation, and hence prolongation of removal proceedings," *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 487 (1999), and must not be expanded to cover claims that fall outside those three categories.

Consistent with that instruction, courts have recognized that § 1252(g) "is not to be construed broadly as a 'zipper' clause applying to the full universe of deportation-related claims," *Wallace v. Sec'y DHS*, 616 F. App'x 958, 960 (11th Cir. 2015), but applies only when the claim challenges the commencement, adjudication, or execution of removal. Even though many decisions occur throughout the removal process, only claims directly arising from those three enumerated actions fall within § 1252(g). *Camarena v. ICE*, 988 F.3d 1268, 1272 (11th Cir. 2021).

Petitioner's habeas claim does not implicate any of those actions. Petitioner does not challenge the initiation of removal proceedings, the adjudication of his case, or the execution of any removal order. He challenges only the legality of his present detention, specifically whether DHS is using the correct statutory provision to hold him. Courts have consistently held that such claims are outside the scope of § 1252(g). See *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1257–58 (11th Cir. 2020) (claim not barred where it did not fall into the three categories).

Multiple district courts have reaffirmed that habeas petitions challenging the legality of detention remain reviewable because they do not interfere with removal adjudication or execution. See *Maldonado*, 2025 WL 2374411, at *6; *Vazquez*, 2025 WL 2676082, at *8; *Leal-Hernandez*, 2025 WL 2430025, at *5; *Sanchez v. LaRose*, 2025 WL 2770629, at *2; *Campos Leon*, 2025 WL 2694763, at *1–2.

The same conclusion was adopted in the United States District Court for the Southern District of Florida, Case No. 25-24292-CV-WILLIAMS. In that order, the court held that § 1252(g) does not bar review of a habeas petition challenging the statutory basis of detention because such a claim does not arise from one of the three discrete actions Congress identified. The court further explained that adopting DHS's broad reading would effectively eliminate judicial review of unconstitutional or unauthorized detention.

Because Petitioner's claim does not arise from the commencement, adjudication, or execution of removal proceedings, § 1252(g) does not bar jurisdiction. Habeas jurisdiction remains proper under 28 U.S.C. § 2241 and the Suspension Clause. The Court may therefore determine whether DHS is detaining Petitioner under the correct statutory provision.

B. **Section §1226, not §1225 governs Petitioner's Detention because he is not "seeking admission".**

Respondents argue that Petitioner must be treated as an "applicant for admission" under 8 U.S.C. § 1225(b)(2), even though he was arrested inside the United States and was not in the process of seeking entry. That position cannot be reconciled with the text, structure, or history of the Immigration and Nationality Act. Section 1225 governs the inspection and processing of individuals encountered at the border or

port of entry who affirmatively seek admission. It does not govern the detention of persons already inside the United States. Congress enacted a separate and distinct detention statute—8 U.S.C. § 1226—to apply to noncitizens arrested in the interior.

The term "applicant for admission" is a defined term. It applies to noncitizens who are seeking entry. 8 U.S.C. § 1225(a)(1). Nothing in the statute authorizes DHS to retroactively convert a person found in the interior into an arriving alien. Courts addressing this issue have made the same observation: an individual apprehended inside the United States, long after an entry, is not "seeking admission" within the meaning of § 1225. The distinction is foundational to the statutory scheme. Congress codified two different detention authorities because the circumstances and legal posture of border arrivals and interior arrests are fundamentally different. Reading § 1225 to include people who are not seeking admission would collapse those distinct categories and expand mandatory detention far beyond the limits Congress enacted.

Respondents argue that because Petitioner is charged under inadmissibility provisions, § 1225(b)(2) must apply. But Congress did not equate the statutory ground of removability with the legal status of "arriving alien." The INA explicitly contemplates that individuals inside the United States may be charged under inadmissibility grounds, yet Congress still placed their detention under § 1226. The operative statutory distinction is not the nature of the charge; it is whether the

individual is seeking admission. The government cannot bypass § 1226 by simply labeling an interior arrestee an "applicant for admission." This point is underscored by *Singh v. Lewis*, No. 4:25-cv-96 (W.D. Ky. Sept. 22, 2025), which addressed the precise statutory question presented here. The court held unequivocally that:

"Singh, who has been present in the United States for more than 12 years, is not 'seeking admission' into the United States. Thus, Section 1226, not Section 1225, should apply to his detention."

This reasoning reflects the plain meaning of the statute: time-extended physical presence and interior arrest are legally incompatible with the status of "applicant for admission." That conclusion applies equally here. Petitioner was not encountered at a border, did not present himself for admission, and was not in the process of seeking entry. DHS's attempt to impose § 1225(b)(2) on him is therefore unlawful.

Respondents attached the affidavit from Officer Kevin S., stating that Petitioner's date of entry is "unknown," does not assist their position. It is DHS's burden and not Petitioner's to justify the statutory authority under which it detains an individual. The government cannot cure the unlawful application of § 1225(b)(2) by pointing to its own lack of evidence regarding when Petitioner entered. DHS chose to detain Petitioner as an "arriving alien"; it therefore bears the obligation to establish facts that would bring him within that statutory category.. When the government cannot

meet its burden to justify detention under a mandatory detention statute, the statute does not apply. Section 1226(a) therefore governs as a matter of law.

Respondents' reliance on *Matter of Yajure Hurtado* does not cure this defect. That decision is not binding on this Court and is inconsistent with the statutory framework. It rests on the unsupported premise that a person removable on inadmissibility grounds must automatically be treated as if he were seeking admission. But the Board's reasoning ignores the statutory definition of "applicant for admission," disregards the structure of the INA, and improperly expands § 1225 beyond its terms. Courts have already rejected the government's reliance on *Yajure Hurtado* in the context of interior arrests, concluding that the decision conflicts with both the statute and due process. The same flaw exists here: the government cannot justify mandatory detention by invoking a decision that itself misreads the statute.

Because Petitioner does not fall within § 1225(b)(2), DHS has placed him in the wrong detention category. His ongoing custody is therefore unauthorized by the INA. Section 1226(a) governs, and under § 1226(a) Petitioner is entitled to an individualized custody determination rather than mandatory detention.

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C. This court has previously rejected Echevarria and held that it does Not Support Respondents' Position and Does Not Apply to Petitioner's Detention.

Respondents rely on *Echevarria v. Bondi* to argue that Petitioner should be treated as an "applicant for admission" under § 1225(b)(2). But *Echevarria* does not apply here. That decision addressed only DHS's ability to charge inadmissibility grounds; it did not decide whether an individual arrested inside the United States is governed by § 1226 or § 1225. *Echevarria* did not analyze the statutory definition of "applicant for admission," did not interpret § 1225(b)(2), and did not authorize the detention of interior arrestees as "arriving aliens."

This Court has already rejected Respondents' interpretation of *Echevarria*, and Respondents acknowledge as much in their own filing. The District of Arizona's decision in *Benítez-Cornejo v. Cantu* squarely addressed this issue and held that Judge Lanza's reasoning in *Echevarria* confirms that individuals arrested in the interior are not "arriving aliens" and therefore fall under § 1226(a) rather than § 1225(b)(2). The Court explicitly adopted *Echevarria*'s interpretation and applied it to the statutory question presented here, concluding that § 1225(b)(2) does not govern interior arrests.

In *Benitez*, the Court explained that Respondents were merely repeating "the arguments considered and rejected in *Echevarria*," including their assertion that a

noncitizen remains an "applicant for admission" until inspected. This Court rejected that theory as inconsistent with the INA, and Respondents offer no new reasoning to alter that conclusion. Indeed, their acknowledgment that the argument has already been rejected only underscores that *Echevarria* does not support their position and cannot justify mandatory detention under § 1225(b)(2).

The statute reinforces this conclusion. Section 1225 applies to individuals seeking admission. A person encountered inside the United States is not seeking admission and cannot be placed into § 1225(b)(2) by DHS's unilateral labeling. (*Singh v. Lewis*: holding that Singh…is not 'seeking admission' into the United States. Thus, Section 1226, not Section 1225, should apply to his detention.")

Nothing in *Echevarria* expands § 1225(b)(2) to cover interior arrests, and this Court has already held in *Benítez-Cornejo* that Respondents' interpretation is incorrect. Because *Echevarria* does not control and because this District has already rejected Respondents' reading of it, which Respondents themselves concede , their reliance on that case is unavailing. Section 1226 governs Petitioner's detention.

D. Petitioner's Habeas claim is proper.

This Court has habeas corpus jurisdiction under 28 U.S.C. § 2241 and federal question jurisdiction under 28 U.S.C. § 1331, as protected by the Suspension Clause. The Suspension Clause provides that "[t]he privilege of the Writ of Habeas Corpus

shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. This constitutional guarantee ensures judicial review of the legality of federal detention, including immigration custody. Petitioner invokes § 2241 to challenge DHS's authority to detain him under the wrong statute, not to challenge the merits of removal proceedings or any discretionary determination.

Petitioner's claim is a classic § 2241 challenge. He alleges that DHS is detaining him under a statute—§ 1225(b)(2)—that does not apply to individuals arrested inside the United States who are not seeking admission. That question of which statute authorizes detention is a pure question of law that lies at the heart of habeas review. As the District of Arizona recognized in *Benítez-Cornejo*, courts retain jurisdiction to determine whether DHS is relying on the correct statutory authority because that inquiry involves statutory interpretation, not discretionary immigration judgment.

Respondents argue that the APA bars review, but that mischaracterizes the claim. Petitioner is not seeking APA review of an administrative decision. He challenges his ongoing detention as unlawful under the INA and the Constitution. Nevertheless, even if the APA were relevant, the Government's position would still fail because the APA does not insulate actions taken in excess of statutory authority. The APA requires that agency action not be "arbitrary, capricious, an abuse of discretion, or

otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). DHS's unilateral reclassification of interior arrests as "arriving aliens" under § 1225(b)(2), in contravention of statutory text and without explanation, is precisely the type of agency action courts find contrary to law.

Courts have repeatedly held that when DHS invokes the wrong detention statute, the resulting custody is unlawful and reviewable. The question here is not whether DHS should exercise discretion to release Petitioner, but whether DHS *may lawfully detain him at all under § 1225(b)(2)*. That determination is not "committed to agency discretion," nor is it barred by § 1252. It is a straightforward legal question of whether authorizes this detention.

Because Petitioner's habeas petition challenges the legal authority for his detention and not the removal process, not the exercise of discretion, and not an administrative rule, the Court has jurisdiction under § 2241 and the Suspension Clause to review the claim and grant relief.

E. **Respondents' Conduct Constitutes a State-Created Danger in Violation of the Fifth Amendment**

The Due Process Clause protects "every person within the nation's borders," regardless of immigration status. Lopez-Valenzuela v. Arpaio, 770 F.3d 772, 781 (9th Cir. 2014) (en banc). Due process prohibits the government from depriving a person of liberty except as authorized by statute and in a manner consistent with

fundamental fairness. Mandatory detention under the wrong statute violates both requirements.

By treating Petitioner as an "arriving alien" under § 1225(b)(2), even though he was arrested in the interior and is not seeking admission, Respondents have placed him into the harshest and most restrictive form of immigration custody without lawful authority. This misclassification eliminates the individualized custody determination that Congress expressly granted to noncitizens arrested inside the United States under § 1226(a). The result is a form of mandatory, prolonged confinement that Congress never authorized and that the Constitution does not tolerate.

Courts across the country, including this District Court have rejected the government's position that individuals arrested in the interior may be reclassified as "arriving aliens" to impose mandatory detention. See *Benítez-Cornejo v. Cantu*, No. CV-25-03672-PHX-JJT (ESW) (D. Ariz. 2025). Respondents nevertheless continue to detain Petitioner under § 1225(b)(2), despite clear notice that the statute does not apply to him. This disregard of statutory limits constitutes the type of arbitrary and unjustified liberty deprivation that the Fifth Amendment forbids.

The harm from this misclassification is not theoretical. By placing Petitioner in § 1225(b)(2) custody, the government has subjected him to mandatory detention

with no possibility of release, applied the automatic stay regulation that keeps him confined even after an immigration judge finds him suitable for release, and prolonged his detention without the individualized custody determination Congress expressly required for individuals arrested inside the United States. This is not an incidental or administrative consequence; it is an affirmative government action that imposes greater and unnecessary restraint on Petitioner's liberty than the statutory framework allows.

When DHS knowingly places a noncitizen into an unlawful detention category and continues to confine him despite clear statutory authority and multiple federal decisions holding that § 1225(b)(2) does not apply to interior arrests, it demonstrates deliberate disregard for the individual's constitutional rights. The result is a form of prolonged, automatic, and procedurally barren detention that Congress never authorized and that the Fifth Amendment does not permit.

Because Respondents are detaining Petitioner under a statute that does not apply to him, in a manner Congress did not authorize, and without the procedural safeguards required by due process, his continued confinement violates the Fifth Amendment. Such detention cannot be sustained.

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CONCLUSION

For the reasons set forth above, Petitioner's continued detention is unlawful. DHS has not shown that § 1225(b)(2) governs his custody, nor has it provided any statutory basis for imposing mandatory detention on an individual arrested inside the United States who is not seeking admission. Because Petitioner is properly detained under § 1226(a), he is entitled to an individualized custody determination before a neutral decisionmaker, not automatic and indefinite confinement. His current detention based solely on DHS's misclassification is unauthorized by statute and violates the Fifth Amendment. Petitioner respectfully requests that this Court grant the writ and order his release, or, in the alternative, direct Respondents to provide him with an immediate, constitutionally adequate custody hearing.

Respondents implicitly acknowledge that this Court has already rejected the very argument they advance here, recognizing in *Echevarria* that the government's expansive view of "applicant for admission" is incorrect.

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Respondents nevertheless repeat the same argument: that a person is an applicant for admission "until an immigration official has inspected that person and determined that he or she is admissible."

That position was unpersuasive when previously presented to this Court, and Respondents offer no authority or reasoning to revive it now.

Dated: November 17, 2025,

Tucson, AZ,

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CERTIFICATE OF SERVICE

I, Siovhan Ayala, hereby certify that on November 17, 2025, I electronically filed the foregoing Opening Brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case that require service are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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