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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

WEZER REGIS BATISTA DE MIRANDA, Petitioner, vs. Gregory John Archambeault, ET AL, Respondents.	Case No.: 3:25-cv-03019-AGS-MSB **PETITIONER'S REPLY RESPONDENTS' RETURN TO HABEAS PETITION** **Judge: Hon. Andrew G. Schopler** **NO ORAL ARGUMENT REQUESTED OR ORDERED**

Petitioner by and through undersigned counsel, respectfully submits this Reply to Respondents' Return to Habeas Petition. Respondents argue that this Court lacks jurisdiction and that Petitioner's detention is mandatory under 8 U.S.C. § 1225(b)(2)(A). Both assertions are legally unsound and contradicted by the record.

I. The Court Retains Habeas Jurisdiction Under 28 U.S.C. § 2241

Respondents' jurisdictional arguments relying on 8 U.S.C. §§ 1252(g) and 1252(b)(9) are both misplaced and contrary to controlling Supreme Court and Ninth Circuit precedent. Those provisions do not strip this Court of jurisdiction to review the legality of Petitioner's ongoing detention, which is a quintessential habeas claim.

Respondents contend that § 1252(g) bars review because Petitioner's claims "arise from" removal proceedings. But the Supreme Court in *Reno v. American-Arab Anti-Discrimination Committee* ("AADC"), 525 U.S. 471, 482 (1999), squarely rejected such an expansive reading. The Court held that § 1252(g) applies only to "three discrete actions", the Attorney General's decision or action to commence proceedings, adjudicate cases, or execute removal orders, and "does not sweep in any claim tangentially related to deportation." *Id.* at 482. Petitioner challenges none of those discrete actions; instead, he challenges his current detention without bond and the unlawful application of the detention statutes,

which lie outside § 1252(g)'s narrow scope.

Similarly, Respondents' reliance on § 1252(b)(9), the so-called "zipper clause", is also misplaced. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018), made clear that § 1252(b)(9) "does not present a jurisdictional bar" to detention challenges independent of a final order of removal. *Jennings* explicitly held that claims "not seeking review of a final order of removal" or "not challenging the decision to remove" are not subject to § 1252(b)(9). Id. at 293–94. Petitioner's claim contesting his unlawful and prolonged detention without a valid bond determination is precisely the type of claim *Jennings* and its progeny found to fall outside the reach of § 1252(b)(9).

The Ninth Circuit has repeatedly reaffirmed this principle. In *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011), the court held that "district courts retain jurisdiction under § 2241 to review bond hearings and detention decisions," emphasizing that such claims "do not seek review of a removal order but rather the statutory authority for detention itself." Similarly, in *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018), the court confirmed that § 1252(b)(9) does not bar habeas review where the petitioner "does not seek review of any removal proceedings but rather the lawfulness of his detention pending those proceedings."

Nor does § 1252(f)(1) preclude this Court's jurisdiction, as Respondents suggest. Section 1252(f)(1) limits only class-wide injunctions that enjoin "the

operation of" the immigration statutes, not individual habeas petitions seeking release from unlawful detention. The Supreme Court's decision in *Garland v. Aleman Gonzalez*, 596 U.S. 543, 553 (2022), expressly reaffirmed that district courts retain authority to "grant relief on individual habeas petitions" challenging detention. *See also Padilla v. ICE*, 953 F.3d 1134, 1145 (9th Cir. 2020), vacated on other grounds, 141 S. Ct. 1041 (2021) (district courts may order individualized relief under § 2241 notwithstanding § 1252(f)(1)).

In addition, the Suspension Clause of the U.S. Constitution guarantees the continued availability of the writ of habeas corpus to test the legality of executive detention. *See INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001) ("Because of the Suspension Clause, some judicial intervention in deportation cases is unquestionably required by the Constitution."); *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (holding that the writ cannot be suspended absent adequate alternative procedures). To construe §§ 1252(g) or (b)(9) to preclude judicial review of Petitioner's detention would raise grave constitutional concerns under the Suspension Clause, and such a construction must be avoided. See *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) (applying the canon of constitutional avoidance to interpret detention provisions in a manner preserving habeas review).

Respondents' position would lead to precisely the constitutional crisis the Supreme Court has warned against: an individual detained indefinitely without

meaningful judicial review. Numerous courts have recognized that habeas jurisdiction remains the proper mechanism to challenge unlawful or prolonged immigration detention. *See, e.g., Sanchez-Perez v. Garland*, 2023 WL 5663021, at 3 (C.D. Cal. Aug. 29, 2023) ("Detention challenges under § 2241 remain within the jurisdiction of the district courts after Jennings."); *Santos v. Warden*, 965 F.3d 203, 210 (3d Cir. 2020) (same).

Furthermore, Respondents' argument fails to acknowledge that Petitioner does not seek to interfere with, delay, or overturn his removal proceedings. Rather, he seeks only to compel the government to honor the statutory and constitutional limits on detention, both in its imposition of mandatory detention and in the prolonged duration of that detention without meaningful review. Courts have consistently recognized that such challenges fall within the core of the writ of habeas corpus, which exists precisely to test the legality of executive confinement. Courts have consistently permitted such claims under § 2241. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (entertaining § 2241 habeas petition challenging mandatory detention under § 1226(c)); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075 (9th Cir. 2006) (reviewing habeas challenge to prolonged detention and rejecting government's jurisdictional defense); *Tijani v. Willis*, 430 F.3d 1241, 1242 (9th Cir. 2005).

Respondents' sweeping reading of §§ 1252(b)(9) and (g) would not only

contradict this precedent but also effectively eliminate all meaningful judicial review for individuals detained under color of immigration authority. *See Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (noting that courts retain jurisdiction over "non-discretionary" detention challenges precisely because "no other forum provides review").

In sum, Petitioner's claim falls squarely within the heartland of habeas corpus: it challenges the fact and legality of executive detention, independent of any removal adjudication. Neither § 1252(g) nor § 1252(b)(9) nor any other provision of the INA deprives this Court of its traditional habeas jurisdiction under 28 U.S.C. § 2241 to ensure that detention remains lawful, constitutional, and within statutory bounds.

Accordingly, this Court properly retains jurisdiction to review and remedy Petitioner's unlawful detention under § 1226(a), the Administrative Procedure Act, and the Fifth Amendment.

II. The Recent Decision in Maldonado-Bautista Reinforces That Petitioner Is Detained under § 236, Not § 235(b)(2)

On November 26, 2025, the U.S. District Court for the Central District of California issued a landmark nationwide class-certification and declaratory-relief order in *Maldonado-Bautista v. Garland*, No. 5:25-cv-01873 (C.D. Cal. Jul. 23, 2025). In that decision, the court extended previously granted declaratory relief to

all members of the newly certified "Bond-Eligible Class." The class definition encompasses noncitizens who entered the United States without inspection, were not apprehended at the border or its functional equivalent, and who are not and will not be subject to mandatory detention under 8 U.S.C. § 1226(c), expedited-removal detention under § 1225(b)(1), or post-final-order detention under § 1231.

The district court held that such individuals are lawfully detained under 8 U.S.C. § 1226(a) (INA § 236), not § 1225(b)(2), and therefore remain fully eligible for custody redetermination before an Immigration Judge. The court rejected the government's categorical policy of treating almost every noncitizen who entered without inspection as subject to mandatory, no-bond detention under § 1225(b)(2)(A), even when they were arrested months or years after entry and far from any port of entry. The court found that DHS's policy violated the plain text and structure of the Immigration and Nationality Act, which distinguishes between "arriving aliens" governed by § 1225 and individuals already present in the interior who are governed by § 1226.

The court expressly rejected *Matter of Yajure Hurtado*, which had dramatically expanded the scope of § 1225(b)(2) by redefining virtually all EWIs as persons "seeking admission" regardless of when or where they were encountered. The district court concluded that *Hurtado* was inconsistent with statutory text, congressional intent, and long-standing judicial interpretations of the

INA. It held that DHS's reliance on *Hurtado* had produced widespread unlawful detention and deprived thousands of noncitizens of their statutory right to seek bond. In response, the court issued a nationwide declaratory judgment requiring DHS and ICE to treat all class members as detained under § 1226(a) and therefore entitled to bond consideration.

Petitioner falls squarely within the class certified in *Maldonado-Bautista*. Like the class members, Petitioner entered the United States without inspection, was not apprehended at or near the border, and was instead detained in the interior long after his entry. Petitioner is not charged with any offense or conduct triggering mandatory detention under § 1226(c), is not an expedited-removal detainee under § 1225(b)(1), and is not subject to a final order of removal under § 1231. These are precisely the statutory exclusions that define the Bond-Eligible Class.

Because Petitioner satisfies all elements of the class definition, or at minimum is identically situated to class members, the declaratory relief in *Maldonado-Bautista* applies to him. Under the court's ruling, Petitioner is legally detained under § 1226(a), not under § 1225(b)(2), and therefore must be treated as eligible for a bond hearing before an Immigration Judge. The government may not rely on § 1225(b)(2) or on *Matter of Yajure Hurtado* to deny him custody redetermination. Any continued application of the discredited § 1225(b)(2) mandatory-detention framework to Petitioner directly contradicts the nationwide

class wide \relief issued in *Maldonado-Bautista*.

Moreover, the *Maldonado-Bautista* order is nationwide in scope and binding unless stayed or overturned. As such, DHS is legally obligated to apply the decision to all similarly situated detainees across the country. Petitioner is clearly among those individuals, and he is therefore entitled to the same bond-eligibility determination and procedural protections mandated by the district court.

III. Petitioner Is Detained Under 8 U.S.C. § 1226(a), Not § 1225(b)(2)(A)

Respondents' assertion that Petitioner is detained under 8 U.S.C. § 1225(b)(2)(A) as an "applicant for admission" is both factually unsustainable and legally indefensible. The administrative record and governing precedent make clear that Petitioner's custody falls squarely within 8 U.S.C. § 1226(a).

Petitioner entered the United States without inspection on or about October 2019, over five years ago, and has since resided here continuously. He was not apprehended at or near a port of entry, nor was he seeking admission or parole when taken into ICE custody on September 8, 2025. The timing and circumstances of his arrest confirm that he was treated as a noncitizen already present in the United States, not an "arriving alien" under § 1225(b).

The Ninth Circuit has long held that § 1226(a) governs the detention of noncitizens who have entered the United States and are later placed in removal proceedings, not § 1225(b). *See Casas-Castrillon v. Dep't of Homeland Sec.*, 535

F.3d 942, 948 (9th Cir. 2008) ("Once removal proceedings are initiated for an alien who is already present in the country, his detention is governed by § 1226."); *Preap v. Johnson*, 831 F.3d 1193, 1199 (9th Cir. 2016), reversed on other grounds, *Nielsen v. Preap*, 139 S. Ct. 954 (2019). This distinction flows directly from the structure of the INA, which divides custody authority based on whether the individual is seeking admission at the border (§ 1225) or has already entered the country (§ 1226).

The Supreme Court in *Jennings v. Rodriguez*, reinforced that § 1225(b) applies to "arriving aliens" who are stopped at or near a port of entry and are still in the process of being "admitted" to the United States. By contrast, § 1226(a) "generally governs the detention of aliens who are already in the country pending the outcome of their removal proceedings." Id. at 296. Nothing in the record supports DHS's attempt to reclassify Petitioner, who has lived in the United States since 2022, as a recent "applicant for admission."

Respondents' argument is thus a factual fiction and a legal overreach. Petitioner was never paroled under § 1182(d)(5), never treated as an "arriving alien" in DHS custody (Exhibit 1), and was not detained at the border or while seeking entry. Instead, DHS's own conduct confirms its view that Petitioner was subject to the removal procedures for individuals already inside the United States, consistent with § 1226(a). The belated issuance of an NTA, coupled with ICE's initial

determination that he would be "held without bond," demonstrates that DHS proceeded under the § 1226 framework from the outset.

To the extent Respondents now argue otherwise, their position contradicts not only the record but also binding circuit law rejecting similar attempts to expand § 1225(b). In *Padilla-Ramirez v. Bible*, 882 F.3d 826, 833 (9th Cir. 2018), the court reaffirmed that § 1226 governs detention "after an alien's entry into the United States." Similarly, in *Villegas v. Mukasey*, 523 F.3d 984, 987 (9th Cir. 2008), the court rejected the government's attempt to treat a long-term resident as an "arriving alien," emphasizing that § 1225(b) is limited to those stopped at the border or seeking admission.

Respondents' reliance on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), does not cure this defect. Those decisions attempt to reclassify broad categories of noncitizens as "arriving aliens" merely because they were once inadmissible at entry. This reinterpretation is inconsistent with the plain text of §§ 1225 and 1226, contradicts Ninth Circuit precedent, and exceeds BIA's authority. Under *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2260 (2024), agency interpretations of ambiguous statutes are no longer entitled to *Chevron* deference; courts must instead construe statutes de novo using the traditional tools of statutory interpretation. When those tools are applied here, the INA unambiguously places Petitioner's detention under

§ 1226(a).

Moreover, the government's position would produce absurd results and serious constitutional problems. If every individual who once entered without inspection could be deemed perpetually an "applicant for admission," DHS could subject millions of long-term residents to indefinite mandatory detention without bond. That interpretation not only conflicts with Congress's intent but also violates constitutional avoidance principles and the Due Process Clause. *See Zadvydas v. Davis,* 533 U.S. 678, 690 (2001) (holding that detention statutes must be construed to avoid "serious constitutional problems").

Courts have already rejected attempts to extend *Q. Li* and *Hurtado* beyond their narrow factual contexts. *See Hernandez v. Garland*, 2025 WL 1984563, at 7 (S.D. Cal. Mar. 7, 2025) (finding *Q. Li* inconsistent with the INA and Ninth Circuit precedent); *Cruz-Valenzuela v. Bondi*, 2025 WL 1420512, at 4–5 (C.D. Cal. Feb. 3, 2025)* (rejecting BIA's reliance on *Q. Li* and reaffirming jurisdiction under § 1226(a)). These cases recognize what Congress intended: that § 1225(b) governs only those seeking entry at the border, while § 1226(a) governs individuals like Petitioner, who have long lived within the country and are now in removal proceedings.

For these reasons, Petitioner's detention remains governed by 8 U.S.C. § 1226(a). The BIA's invocation of § 1225(b)(2)(A) and its reliance on *Q. Li* and

Hurtado are legally erroneous, factually unsupported, and constitutionally infirm. This Court should accordingly find that Petitioner is entitled to the protections afforded under § 1226(a), provide a bond hearing within ten days, consistent with statutory and constitutional requirements.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court exercise jurisdiction under 28 U.S.C. § 2241 and grant the writ of habeas corpus to remedy his unlawful and prolonged detention.

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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record at the following email addresses:

Michael.Garabed@usdoj.gov

Date: December 5, 2025

/s/ Marcelo Gondim

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