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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 ANGEL BOLANOS-SUAREZ,
12
13 Petitioner,
14 v.
15 CHRISTOPHER J. LAROSE, et al.
16 Respondents.

Case No.: 25-cv-3075-DMS-KSC

**PETITIONER'S TRAVERSE
SUPPORTING PETITION FOR
WRIT OF HABEAS CORPUS**

Agency Doc. No.



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1 Petitioner Angel BOLANOS-SUAREZ (“Petitioner” or “Mr. BOLANOS-
2 SUAREZ”), replies to Respondents’ Return as follows:

3 **A. Mr. BOLANOS-SUAREZ’s Habeas Claims Are Not Barred by 8 U.S.C. § 1252**

4 Section 1252 does not bar jurisdiction because this action concerns Mr. BOLANOS-
5 SUAREZ’s unlawful detention. More specifically, the misapplications of 8 U.S.C. §§ 1225
6 and 1226 are Respondents’ basis for the detention of Mr. BOLANOS-SUAREZ. The
7 Respondents contend Mr. BOLANOS-SUAREZ is subject to Section 1225(b)(2)’s
8 mandatory detention provisions because he is an “applicant for admission” to the U.S.
9 (Return at 9), although Mr. BOLANOS-SUAREZ has been in the U.S. for nearly two
10 decades.
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13 Here, Mr. BOLANOS-SUAREZ does not make *any cause or claim of action arising*
14 *from any decision to commence or adjudicate removal proceedings or execute removal*
15 *orders.* See Return at 5; 8 U.S.C. § 1252(g). Mr. BOLANOS-SUAREZ does not dispute
16 the commencement or any other aspect of his removal proceedings. Moreover, Mr.
17 BOLANOS-SUAREZ does not have a removal order. Nor does Mr. BOLANOS-SUAREZ
18 make any “*challenges to the method by which the government chooses to commence*
19 *removal proceedings.*” Return at 6 (emphasis added).
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23 In short, Mr. BOLANOS-SUAREZ does not challenge anything related to his removal
24 proceedings—only the Respondents’ denial of his release from immigration custody on the
25 purported basis that Mr. BOLANOS-SUAREZ is subject to mandatory detention under
26 § 1225(b)(2). Therefore, the jurisdictional bar under § 1252(g) does not apply here.
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1 Also, the government’s contention that 8 U.S.C. § 1252(b)(9) bars jurisdiction of this
2 Court is similarly unavailing. Return at 8. Mr. BOLANOS-SUAREZ is not seeking
3 “[j]udicial review of all questions of law and fact . . . arising from any action taken or
4 proceeding brought to remove an alien from the United States.” 8 U.S.C. § 1252(b)(9);
5 Return at 7, 8. Once again, the Mr. BOLANOS-SUAREZ is not challenging anything
6 regarding his removal proceedings—he is challenging his unlawful detention. As previously
7 stated, Mr. BOLANOS-SUAREZ cannot be seeking *judicial review of a final order of*
8 *removal*, because he is not subject to one. Mr. BOLANOS-SUAREZ’s removal
9 proceedings continue to be pending in immigration court. *See* EOIR Online Case
10 Information System corresponding to Mr. BOLANOS-SUAREZ’s Alien Number,
11 accessible at: <https://acis.eoir.justice.gov/en/caseInformation>.
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16 Finally, Mr. BOLANOS-SUAREZ is not challenging the decision to detain him—he is
17 challenging both the authority to do so and his not being provided a bond hearing. District
18 court judges have repeatedly held that § 2241 permits direct review of detention legality,
19 rejecting jurisdictional arguments like the ones Respondents make. *See, e.g., Tut v. Noem*,
20 No. 5:25-cv-02701-DOC-AGR, 2025 U.S. Dist. LEXIS 204616 (C.D. Cal. Oct. 16, 2025);
21 *Carlos v. Noem*, No. 2:25-cv-01900-RFB-EJY, 2025 U.S. Dist. LEXIS 209494 (D. Nev.
22 Oct. 24, 2025).
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25 **B. Mr. BOLANOS-SUAREZ is Not Subject to Mandatory Detention**

26 Further, Mr. BOLANOS-SUAREZ is not lawfully detained under § 1225(b)(2)(A), as
27 the government contends (*See* Return at 9-13) because 1) the text of §§ 1225(b)(2) and
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1 1226(a) demonstrate that Mr. BOLANOS-SUAREZ is not subject to mandatory detention;
2 2) the legislative history further supports the application of § 1226(a) to Mr. BOLANOS-
3 SUAREZ; and 3) the record in this case and longstanding agency practice reflect that
4 § 1226 governs Mr. BOLANOS-SUAREZ’s detention.
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6 **1. The text of §§ 1225(b)(2) and 1226(a) demonstrate that Mr. BOLANOS-**
7 **SUAREZ is not subject to mandatory detention.**

8 First, the plain text of § 1226 demonstrates that subsection (a) applies to Mr.
9 BOLANOS-SUAREZ. Section 1226(a) concerns anyone who is detained “pending a
10 decision on whether the [noncitizen] is to be removed from the U.S.” 8 U.S.C. § 1226(a).
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12 This finds support in recent congressional amendments. The Laken Riley Act added
13 language to § 1226 referencing noncitizens who have entered without inspection and those
14 who are inadmissible because they are present without admission. *See* Laken Riley Act
15 (LRA), Pub. L. No. 119-1, 139 Stat. 3 (2025). Specifically, under the LRA amendments,
16 persons charged as inadmissible under §§ 1182(a)(6) (the inadmissibility ground for
17 presence without admission) or 1182(a)(7) (the inadmissibility ground for lacking valid
18 documentation to enter the U.S.) and who have been arrested, charged with, or convicted
19 of certain crimes are subject to § 1226(c)’s mandatory detention provisions. *See* 8 U.S.C.
20 § 1226(c)(1)(E). By including such persons under § 1226(c), Congress further clarified that
21 § 1226(a) encompasses those charged under §§ 1182(a)(6) or (a)(7).
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23 In other words, if someone is only charged as inadmissible under §§ 1182(a)(6) or
24 (a)(7) and the additional crime-related provisions of § 1226(c)(1)(E) do not apply—as is true
25 for Mr. BOLANOS-SUAREZ—then § 1226(a) governs that person’s detention. *See*
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1 *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1259 (W.D. Wash. 2025) (explaining
2 these amendments explicitly provide that § 1226(a) encompasses persons like Petitioner
3 because the “‘specific exceptions’ [in the LRA] for inadmissible noncitizens who are
4 arrested, charged with, or convicted of the enumerated crimes logically leaves those
5 inadmissible noncitizens not criminally implicated under § 1226(a)’s default rule for
6 discretionary detention.”); *Martinez v. Hyde*, Civil Action No. 25-11613-BEM, 2025 U.S.
7 Dist. LEXIS 141724, at *17 (D. Mass. July 24, 2025) (“if, as the Government argue[s],
8 ... a non-citizen’s inadmissibility were alone already sufficient to mandate detention under
9 § 1225(b)(2)(A), then the 2025 amendment would have no effect.”); *Gomes v. Hyde*, No.
10 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, at 17-18 (D. Mass. July 7, 2025)
11 (similar); *see also Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393,
12 400 (2010) (observing that a statutory exception would be unnecessary if the statute at issue
13 did not otherwise cover the excepted conduct); *see also Shulman v. Kaplan*, 58 F.4th 404,
14 410–11 (9th Cir. 2023) (“[C]ourt[s] ‘must interpret the statute as a whole, giving effect to
15 each word and making every effort not to interpret a provision in a manner that renders
16 other provisions of the same statute inconsistent, meaningless or superfluous.’” (internal
17 citation omitted)).

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24 In sum, § 1226’s plain text demonstrates that § 1225(b)(2) does not apply to
25 noncitizens who are present and residing within the U.S., but rather only to those at the
26 border seeking admission. As the Supreme Court recognized, § 1225 is concerned
27 “‘primarily [with those] seeking entry,” *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018),
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1 including cases “at the Nation’s borders and ports of entry, where the Government must
2 determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Id.* at 287.

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4 The Supreme Court went on to explain that § 1226 is the “default rule” and “applies to
5 aliens already present in the United States.” *Id.* at 288, 301. By contrast, § 1225(b) “applies
6 primarily to aliens seeking entry into the United States” and authorizes DHS to “detain an
7 alien without a warrant at the border.” *Id.* at 297, 302.

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9 Thus, the BIA’s decision in *Matter of Yajure Hurtado* and the district court’s decision
10 in *Chavez v. Noem*, No. 3:25-cv-02325-CAB-SBC, 2025 U.S. Dist. LEXIS 192940 (S.D.
11 Cal. Sep. 24, 2025), conflict not only with *Jennings*, but also Ninth Circuit precedent. A
12 person submits an “application for admission” only at “the moment in time when the
13 immigrant actually applies for admission into the U.S.” *Torres v. Barr*, 976 F.3d 918, 927
14 (9th Cir. 2020) (en banc). Indeed, in *Torres*, the en banc Ninth Circuit rejected the theory
15 that § 1225(a)(1) means that anyone who is presently in the U.S. without admission or
16 parole is someone “deemed to have made an actual application for admission.” *Id.*
17 (emphasis omitted). Only those who take affirmative acts, like submitting an “application
18 for admission,” can be said to be “seeking admission” within § 1225(b)(2)(A). Otherwise,
19 that language would not serve any purpose, violating a key rule of statutory construction.
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21 *See Shulman*, 58 F.4th at 410-11.

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25 The plain language of subsections (b)(1) and (b)(2) of § 1225 further support this
26 interpretation. Paragraph (b)(1)—which concerns “expedited removal of inadmissible
27 arriving [noncitizens]”—encompasses only the “inspection” of certain “arriving”
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1 noncitizens and other recent entrants the Attorney General designates, and those who are
2 “inadmissible under § 1182(a)(6)(C) or § 1182(a)(7).” *See* § 1225(b)(1)(A)(i). These
3 grounds of inadmissibility apply to persons who misrepresent information to an examining
4 immigration officer or do not have adequate documents to enter the U.S.
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6 Thus, Subsection (b)(1)’s text demonstrates that it is focused only on people arriving
7 at a port of entry or who have recently entered the U.S. subsection (b)(2) is similarly limited
8 to people applying for admission when they arrive in the U.S. The title explains that this
9 addresses the “[i]nspection of other [noncitizens],” including those noncitizens who are
10 “seeking admission,” but (b)(1) does not address. §§ 1225(b)(2), (b)(2)(A). By limiting
11 (b)(2) to those “seeking admission,” Congress confirmed that it did not intend to sweep
12 into this subsection persons like Mr. BOLANOS-SUAREZ, who has already entered and
13 is now residing in the U.S.
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16 Further, subprovision § 1225(b)(2)(C) addresses the “[t]reatment of [noncitizens]
17 arriving from contiguous territory,” including those who are “arriving on land.” 8 U.S.C.
18 § 1225(b)(2)(C). This language further underscores Congress’s focus in § 1225 on those
19 who are arriving to the U.S. – not those already residing here. Similarly, the title of § 1225
20 refers to the “inspection” of “inadmissible arriving” noncitizens. *See Dubin v. U.S.*,
21 599 U.S. 110, 120–21 (2023) (relying on section title to help construe statute).
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25 That Section 1225 is premised on an application for admission occurring at or near
26 the border shortly after arrival is further evident from the statute’s repeatedly referring to
27 “examining immigration officer[s],” 8 U.S.C. §§ 1225(b)(2)(A), (b)(4), or officers
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1 conducting “inspection[s]” of people “arriving in the U.S.,” §§ 1225(a)(3), (b)(1), (b)(2),
2 (d); *see also King v. Burwell*, 576 U.S. 473, 492 (2015) (looking to an Act’s “broader
3 structure . . . to determine [the statute’s] meaning”).
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5 Neither *Matter of Yajure Hurtado* nor *Chavez v. Noem* addresses how being “an
6 applicant for admission” is only part of the inquiry regarding being subject to mandatory
7 detention under § 1225(b)(2). Instead, the language “applicant for admission” in
8 § 1225(b)(2)(A) is further qualified by only those “seeking admission” – in other words,
9 those who are in the process of seeking admission to the United States (not someone
10 already here). Thus, because Mr. BOLANOS-SUAREZ is neither an “applicant for
11 admission” nor in the process of “seeking admission” into the U.S., he is not subject to
12 mandatory detention under § 1225(b)(2).
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15 Finally, to the extent the statute is ambiguous, it should be read to provide a right to a
16 bond hearing under § 1226(a) to comport with procedural due process, which requires one
17 absent an explicit statement to the contrary. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678,
18 697 (2001) (requiring release for post-final order detention cases to meet constitutional
19 concerns because of textual ambiguity).
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22 **2. The legislative history further supports the application of § 1226(a) to**
23 **Mr. BOLANOS-SUAREZ’s detention.**

24 The legislative history of the Illegal Immigration Reform and Immigrant
25 Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat.
26 3009-546, 3009–582 to 3009–583, 3009–585, also demonstrates that § 1226(a) applies to
27 Mr. BOLANOS-SUAREZ.
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1 Before the IIRIRA, persons like Mr. BOLANOS-SUAREZ were not subject to
2 mandatory detention. *See* 8 U.S.C. § 1252(a)(1)(1994). Had Congress intended to make
3 such a profound shift in immigration law (potentially subjecting millions of people to
4 mandatory detention), it would have so stated. *See Whitman v. Am. Trucking Ass'ns*,
5 531 U.S. 457, 468–69 (2001). But instead, Congress noted the new § 1226(a) merely
6 “restates the current provisions in [INA] § 242(a)(1) regarding the authority of the Attorney
7 General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the
8 U.S.” H.R. Rep. No. 104- 469, pt. 1, at 229; *see also* H.R. Rep. No. 104-828, at 210 (same).
9 Indeed, the legislative history states that “aliens who are present without having been
10 admitted or paroled (formerly referred to as aliens who entered without inspection) will be
11 eligible for bond and bond redetermination.” *See* Inspection and Expedited Removal of
12 Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
13 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

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18 **3. The record and longstanding agency practice reflect that § 1226 governs**
19 **Mr. BOLANOS-SUAREZ’s detention.**

20 That the BIA has a long practice of considering people like Mr. BOLANOS-SUAREZ
21 detained under §1226(a) further supports this reading of the statute. Even as recently as
22 June 30, 2025, the BIA held in *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025), that an
23 immigration judge had jurisdiction under 8 U.S.C. § 1226(a) to conduct a bond
24 redetermination hearing for a noncitizen who was charged with entering the U.S. without
25 inspection or admission. For decades, and across presidential administrations, the BIA has
26 acknowledged that § 1226(a) applies to persons who are present without admission after
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1 entering the U.S. unlawfully, but who were later apprehended here long after their entry.
2 *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025); *Matter of R-A-V-P-*,
3 27 I. & N. Dec. 803, 806 (BIA 2020); *In Re: Hugo Leonel Lacan-Batz*, No. : AXXX XX3
4 200 - BOS, 2009 Immig. Rptr. LEXIS 1377 at 1-2 (BIA June 19, 2009) (unpublished).
5 Such a longstanding and consistent interpretation “is powerful evidence that interpreting
6 the Act in [this] way is natural and reasonable.” *Abramski v. U.S.*, 573 U.S. 169, 203 (2014)
7 (Scalia, J., dissenting); *see also Bankamerica Corp. v. U.S.*, 462 U.S. 122, 130 (1983)
8 (relying in part on “over 60 years” of government interpretation and practice to reject
9 government’s new proposed interpretation of the law at issue).
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13 In sum, § 1226 governs this case. Section 1225 and its mandatory detention provision
14 applies only to persons arriving to the U.S., while § 1226 applies to those who have
15 previously entered without inspection and are now present and residing in the U.S.
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17 **C. Mr. BOLANOS-SUAREZ’s Detention Violates the Due Process Clause and**
18 **the APA**

19 Mr. BOLANOS-SUAREZ has been living within the U.S., accruing significant due
20 process rights along the way, for the past eighteen years. *See Exhibit A*. Noncitizens
21 present within the United States – as opposed to noncitizens present at a border and
22 seeking admission – have constitutional rights. “[T]he Due Process Clause applies to all
23 ‘persons’ within the United States, including aliens, whether their presence here is lawful,
24 unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. Moreover, immigration
25 detention cannot be punitive in nature, nor can it be arbitrary and capricious per the APA.
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28 *Id.* at 694-95. Nothing in Respondents’ return shows that Mr. BOLANOS-SUAREZ is a

1 danger to the community or a flight risk – the latter is especially true given his U.S.
2 citizen children and substantial community ties. As such, Mr. BOLANOS-SUAREZ’s
3 detention without a pre-deprivation bond hearing or any individualized assessment
4 violates Mr. BOLANOS-SUAREZ’s due process rights and the APA.
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6 Dated: November 14, 2025

Respectfully submitted
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