

UNITED STATES DISTRICT COURT  
FOR SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MARIA DEL CORAL LEAL GARCIA,

Petitioner,

v.

KRISTI LYNN NOEM, *et al.*

Respondents.

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Civil Action No.: 4:25-cv-5387

**RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS  
AND MOTION TO DISMISS AND, IN THE ALTERNATIVE,  
FOR SUMMARY JUDGMENT**

Respectfully submitted,

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**RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS  
AND MOTION TO DISMISS AND, IN THE ALTERNATIVE,  
FOR SUMMARY JUDGMENT**

The Government<sup>1</sup> hereby responds to Petitioner’s habeas petition and respectfully requests that this Court deny her petition under 28 U.S.C. § 2241 and grant summary judgment for the Government under Federal Rule of Civil procedure 56.

First, Petitioner has failed to exhaust administrative remedies. This is enough, by itself, to deny her § 2241 petition. Second, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), based on the statute’s plain language and structure, the history of the Immigration and Nationality Act (INA), the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and persuasive decisions from other district courts, including the recent decision in *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge).

Accordingly, this Court should deny Petitioner’s § 2241 petition and grant summary judgment for the Government.

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<sup>1</sup> The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

## I. INTRODUCTION AND BACKGROUND

Before 1996, the federal immigration laws 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. Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”) 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.

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. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been *lawfully* admitted.” House Rep., *supra*, at 226 (emphasis added); *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010).

As relevant here, Congress enacted what is now 8 U.S.C. § 1225, which requires the detention of any alien “who is an applicant for admission” and defines that term to encompass any “alien present in the United States who has not been admitted” following inspection by immigration authorities. 8 U.S.C. § 1225(a). With respect to the alien, the terms “admission” and “admitted” 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).

The statute makes no exception for how far into the country the alien traveled or how long the alien managed to evade detection. Unless the Secretary exercises the narrow and discretionary parole authority, mandatory detention is the rule for aliens who have never been lawfully admitted.

Under 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 “expedited removal proceedings,” which can 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).

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). *See* 8 C.F.R. § 235.3(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”).

Section 1226(a), on the other hand, applies to numerous aliens *not* subject to Section 1225(b)(2)(A), including all **admitted** aliens who are now removable—such as the *millions* of aliens in the United States that were lawfully admitted but then overstayed their visas. For those aliens, Section 1226 continues to govern detention.

Section 1226(c) is the exception to Section 1226(a)'s discretionary detention regime. It requires the Executive to detain "any alien" who is deportable or inadmissible for having committed specified offenses or engaged in terrorism-related actions "when the alien is released" from another entity's custody. *See* 8 U.S.C. § 1226(c)(1)(A)-(E). Like Section 1226(a), subsection (c) applies to significant groups of aliens *not* encompassed by Section 1225(b)(2), such as visa overstayers or aliens who are lawfully present but have committed certain crimes.

Although Section 1226(c) and Section 1225(b)(2) overlap for some aliens, each provision has independent effect. Section 1226(c) has substantial independent effect beyond aliens that entered without admission, and Section 1225(b)(2) covers circumstances beyond release from another entity's custody. Mere overlap is no basis for re-writing clear statutory text.

Petitioner's interpretation is not only contrary to the plain statutory text, but it would reimpose the same perverse regime that IIRIRA was meant to eliminate—requiring the detention of aliens who present at a port of entry as the law requires but authorizing the release of those aliens who enter the United States in violation of law. The Court should not endorse such a backwards outcome—particularly one that is so plainly subversive of congressional intent.

## II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Mexico who entered that United States without inspection. *Dkt. 1*. On June 19, 2025, Petitioner was arrested by ICE. She was charged with entering the United States illegally in violation of INA 212(a)(6)(A)(i). *Dkt 1, Ex. B*. On June 23, 2025, ICE served Petitioner with a Notice to Appear ("NTA") charging her with removability pursuant to Immigration and Nationality Act ("INA") section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.* In the NTA, the examining immigration official denied Petitioner admission into the

United States, explained the basis for charging Petitioner with being subject to removal, and ordered Petitioner to appear in immigration court. *Id, Ex A*. On July 17, 2025, an immigration judge denied Petitioner's request for a change in custody status on the ground that the court lacked jurisdiction to set a bond. *Id*.

### III. ARGUMENT

#### A. PETITIONER FAILED TO EXHAUST HER ADMINISTRATIVE REMEDIES PRIOR TO FILING THE PETITION.

As a threshold matter, the Court should dismiss the habeas petition because Petitioner has not administratively exhausted her claims. In accord with the general rule that parties seeking relief against federal agencies must exhaust administrative remedies prior to seeking judicial relief, it is well-taken that a habeas petitioner must exhaust all administrative remedies prior to filing a federal habeas petition under § 2241. *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).

On July 17, 2025, an immigration judge denied Petitioner's request for a change in custody status on the ground that the court lacked jurisdiction to set a bond. *Dkt. 1*. Petitioner appealed the decision on July 17, 2025, and requested an expedited determination which is still pending. *Id*. Therefore, she has failed to exhaust her administrative remedies. Therefore, her habeas petition is premature and must be denied for failure to exhaust administrative remedies.

#### B. PETITIONER IS SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225

Petitioner's habeas petition should be denied because she falls under the plain language of the mandatory detention provisions in 8 U.S.C. § 1225. Section 1225 governs the inspection, detention and removal of aliens seeking admission into the United States. Section 1225(a)(1)

broadly defines which aliens are “applicants for admission,” stating: “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.*” 8 U.S.C. § 1225(a)(1) (emphasis added).

Here, Petitioner (1) is an alien (2) present in the United States (3) who has not been admitted or paroled. *Dkt. 1*. Thus, Petitioner is an “applicant for admission” and must be subject to mandatory detention. *See* 8 U.S.C. § 1225(b)(2)(A) (instructing that “the alien *shall* be detained” in the case of “an alien seeking admission” who “is not clearly and beyond a doubt entitled to be admitted” (emphasis added)).

### **1. The Plain Language and Statutory Structure of the INA**

“As usual, we start with the statutory text.” *Restaurant Law Center v. U.S. Dep’t of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

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 [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an “applicant for admission,” then they are subject to mandatory detention. The INA defines “applicant for admission” as “an alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). The term “admitted” is, in turn, defined 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). Here, there is no question that Petitioner was not previously admitted into the United States, and the Petitioner is therefore subject to mandatory detention and is not eligible for a bond.

Petitioner incorrectly argues, and other courts have mistakenly held, that there is separate requirement: that Petitioner also be “seeking admission.” But, in the context of § 1225(b)(2), “seeking admission” and “applying for admission” are plainly synonymous. Congress has linked these two variations of the same phrase in Section 1225(a)(3), which requires all aliens “who are

applicants for admission or otherwise seeking admission” to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word “or” here “introduce[s] an appositive—a word or phrase that is synonymous with what precedes it (‘Vienna or Wien,’ ‘Batman or the Caped Crusader’).” *United States v. Woods*, 571 U.S. 31, 45 (2013). Read properly, a person “seeking admission” is just another way of describing a person applying for admission, meaning he is an applicant for admission, which includes both those individuals arriving in the United States and those already present without admission. 8 U.S.C. § 1225(a)(1).

Section 1225(b)(2)(A) applies to an alien who is present in the United States unlawfully, even for years. Although the alien may not have been affirmatively seeking admission during those years of illegal presence, Section 1225(b)(2) is not concerned with the alien’s pre-inspection conduct. Rather, the statute’s use of present tense language (“seeking” and “determines”) shows that its focus is a specific point in time—when “the examining immigration officer” is making a “determin[ation]” regarding the alien’s admissibility. 8 U.S.C. § 1225(b)(2)(A). At *that* point, the alien is “seeking”—*i.e.*, presently “endeavor[ing] to obtain,” *The American Heritage Dictionary of the English Language* 1174 (1980) - admission into the United States; if it were otherwise, the applicant would not attempt to show that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A).

An alien like Petitioner who is identified by immigration authorities as unlawfully present, and who does not choose to depart from the United States voluntarily, is “seeking admission” under any interpretation of that phrase particularly since she could only remain in the United States by gaining admission. In other words, every “applicant for admission” is inherently and necessarily “seeking admission,” at least absent a choice to pursue voluntary withdrawal or voluntary departure.

Further, a comparison of Section 1225's mandatory-detention provisions against the discretionary detention provisions of Section 1226 also supports the Government's interpretation. A basic canon of statutory construction is that a specific provision should govern over a more general provision encompassing that same matter. *See Matter of GFS Indus., L.L.C.*, 99 F.4th 223 (5th Cir. 2024). Here, Section 1226(a) is the general provision, applicable to aliens "arrested and detained pending a decision" on removal. 8 U.S.C. § 1226(a). Section 1225(b), by contrast, is much more specific, applying particularly to aliens who are "applicants for admission"—a specially defined subset of aliens that explicitly includes those "present in the United States who ha[ve] not be admitted." *Id.* § 1225(a). So, while the general rule might be that aliens detained pending removal may be detained, the specific rule for aliens who have not been admitted is that this subset of aliens must be detained.<sup>2</sup>

The Court should be loath to eviscerate the specific text of Section 1225(b)(2)(A) in favor of the more general text of Section 1226(a). *See, e.g., United States v. Menasche*, 348 U.S. 528, 538-39 (1955) ("It is our duty to give effect, if possible, to every clause and word of a statute, rather than to emasculate an entire section[.]"). Because Petitioner falls squarely within the definition of individuals deemed to be "applicants for admission," the specific detention authority under § 1225(b) governs over the general authority found at § 1226(a).

## **2. The BIA's Decision in *Matter of Hurtado***

The text of the INA requires that aliens like Petitioner already present in the United States are applicants for admission and thus subject to mandatory detention under § 1225(b)(2). To be

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<sup>2</sup> To be clear, there remains a large population of aliens who remain subject to § 1226 discretionary detention (and not § 1225 mandatory detention). For example, aliens who were admitted to the United States via a tourist visa, but who overstayed that visa, are subject to § 1226 detention.

sure, while this interpretation is straightforward, that is not to say there are no colorable counterarguments. However, the Government would point to the BIA's decision in *Hurtado*, which thoughtfully and meticulously considered and rejected a myriad of counterarguments. *See* 29 I. & N. at 221–27 (discussing and rejecting no fewer than six distinct legal counterarguments). *Hurtado* is a unanimous, published decision from the BIA and binding on immigration courts. Here, the BIA utilized its immigration expertise and gave a lengthy, comprehensive account as to why the Government's position in this case is not only correct, but comfortably so. This Court should thus accord great weight to the persuasiveness of *Hurtado*.

The BIA's interpretation of § 1225(b)(2) is not undermined by the passage of the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025). The BIA's *Hurtado* decision specifically addressed the issue of whether its interpretation of § 1225(b)(2) rendered the recent Laken Riley Act superfluous. *Hurtado*, 29 I. & N. Dec. at 221. The BIA first pointed out that nothing in the Laken Riley Act purported to alter or amend § 1225(b)(2)'s mandatory detention requirement. *Id.* Moreover, the BIA noted that the fact that the Laken Riley Act required mandatory detention for a subset of illegal aliens that are also subject to mandatory detention under § 1225(b)(2) is not a basis to ignore the mandatory detention requirement of § 1225(b)(2). *Id.* at 222. In support of this holding, the BIA cited the Supreme Court's *Barton* decision. *Id.* (citing *Barton v. Barr*, 590 U.S. 222, 239 (2020) (holding that because “redundancies are common in statutory drafting--sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication,”-- “[r]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text”). Thus, the BIA correctly concluded that both § 1225(b)'s and the Laken Riley Act's mandatory detention requirements should be given effect.

**3. Persuasive decisions from other district courts.<sup>3</sup>**

In the absence of controlling authority, the Court should follow those district courts that have applied the plain language of the INA and found aliens like the Petitioner subject to mandatory detention under § 1225(b)(2). Although the Government acknowledges that there are district court decisions that hold to the contrary,<sup>4</sup> several district courts have adopted the Government's and the BIA's interpretation, and more are likely to follow. *See Vargas Lopez v. Trump*, No. 8:25-CV-00526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) and *Chavez v. Noem*, No. 3:25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

Most recently, a district court in the Western District of Louisiana recently agreed with the BIA's reading of the INA. *See Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025). In denying the habeas petition, the court held that “[b]ecause Petitioner crossed the United States-Mexico border without being inspected by an immigration officer, [Petitioner was] therefore also appropriately categorized as an inadmissible alien . . . [and thus concluded] that § 1225(b)(2)'s plain language and the ‘all applicants for admission language’ of *Jennings* permits [DHS] to detain Petitioner under § 1225(b)(2).” (citations omitted). *Id.* The court reasoned that “to conclude that an alien who has unlawfully entered the United States and managed to remain

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<sup>3</sup> The Court should be aware that a court in the Central District of California recently certified a class of aliens who are being detained under § 1225(b)(2). *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). The *Bautista* court granted class certification and partial summary judgment for the plaintiffs in that case, but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction. As such, although the matter is still being reviewed by the Department of Justice, the *Bautista* court's decision does not have preclusive effect with respect to this case.

<sup>4</sup> This includes decisions from other courts in the Southern District of Texas. *See, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025)(on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. October 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. October 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. October 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Texas October 8, 2025).

in the country for a sufficient period of time is entitled to a bond hearing, while those who seek lawful entry and submit themselves for inspection are not, not only conflicts with the unambiguous language of the governing statutes, but would also seemingly undermine the intent of Congress in enacting the IIRIRA.” *Id.* at \*6.

Finally, another court in the Southern District of Texas decided *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge), in the Government’s favor. In denying the habeas petition and granting the Government’s motion for summary judgment, the *Cabanas* Court held “[t]he text of § 1225(b)(2)(A) supports the Government’s position.” The *Cabanas* Court reasoned that “[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn’t dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies.” *Id.* at \*4 (emphasis in original). Thus, the *Cabanas* Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government’s favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at \* 5.

The Government urges this Court to follow the reasoning of *Cabanas* and the Government’s other proffered authorities.

### C. PETITIONER’S REMAINING CLAIMS FAIL

In addition to the statutory arguments, Petitioner asserts a Due Process claim and a violation of the APA. *Dkt. I*. Neither has merit. First, the APA provides no separate cause of action here. With the APA, Petitioner is merely recharacterizing her §§ 1225/1226 statutory argument. *Id.* at p. 13. Because Petitioner can assert her statutory arguments via habeas, the APA does not provide a separate remedy. *See Martinez v. Unknown Party*, No. 1:25-CV-1298, 2025 WL 3223774, at \*7 (W.D. Mich. Nov. 19, 2025) (in case involving similar claims, holding that, because habeas provides an adequate remedy, habeas corpus, not the APA, is the proper vehicle to assert a

challenge) (citing *Trump v. J. G. G.*, 604 U.S. 670, 674 (2025)). With respect to Due Process, Petitioner argues that her detention without a bond violates Due Process. *Dkt. 1 at p. 13*. This type of conclusory assertion, which merely reasserts a disagreement with the Government's application of § 1225(b)(2), does not establish a valid Due Process claim. *See Cabanas*, 2025 WL 3171331, at \*7. With respect to the claim for injunctive relief, the expedited briefing schedule moots the claim.

#### IV. CONCLUSION

For the foregoing reasons, the Government respectfully request that the Court deny Petitioner's request for habeas relief and grant the instant motion. The Court should enter judgment as a matter of law finding that Petitioner is lawfully subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2).

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Instrument was sent via ECF on December 4, 2025, to all counsel of record.

*/s/Elizabeth F. Karpati* \_\_\_\_\_

ELIZABETH F. KARPATI

Assistant United States Attorney