

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

JUAN JOSE GARCIA RODRIGUEZ,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Civil No. 25-13606

Honorable Terrence G. Berg
Mag. Judge Kimberly G. Altman

**PETITIONER'S REPLY BRIEF
IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS**

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INTRODUCTION

Respondents do not dispute that Mr. Garcia has lived in the United States for 30 years. Nor do Respondents dispute that the government itself for decades interpreted the Immigration and Nationality Act (INA) to provide for bond hearings for people like Mr. Garcia, or that dozens of courts have rejected Respondents' new "strained interpretation" of the INA. *Valencia Zapata v. Kaiser*, No. 25-cv-07492, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025). Instead, Respondents throw up a smokescreen of hyper-technical arguments that have been repeatedly rejected by the courts. None of those arguments have merit.

I. Section 1226(a), Not Section 1225(b)(2)(A), Applies to Petitioner.

A. Respondents Ignore Both Section 1226 and the INA's Structure.

Respondents invite this Court to read §1225 in isolation, ignoring not just §1226, but the INA's overall structure. §1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings," while §1225 authorizes detention of "certain aliens seeking admission into the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).¹ As their titles state, §

¹ Respondents admit that *Jennings* described § 1226(a) as applying to noncitizens "present" in the U.S., but claim that by citing § 1227(a) (referring to admitted non-citizens), *Jennings* "made clear" that § 1226(a) applies only to those both present and admitted. (*See* Resp. Brf, ECF No. 6, PageID.105). Respondents conveniently ignore that the Court cited § 1227(a) just as an "example" of people who are present and can be detained under § 1226(a) pending removal proceedings. *Jennings*, 583 U.S. at 288.

1226 relates to “[a]pprehension and detention” of noncitizens living in the U.S., while § 1225 covers procedures at the border, including “[i]nspection by immigration officers” and “expedited removal of inadmissible arriving aliens.”

Respondents do not respond to the fact that the plain text of § 1226(a) applies here: ICE issued an arrest warrant to Petitioner on the day of his arrest claiming to have served him with it upon his arrest.²ending a decision on whether he should be removed from the United States. Respondents also cannot explain why § 1226 does not render bond-eligible most people who reside here but have not been admitted when it specifically carves out “inadmissible” non-citizens charged or convicted of certain crimes for mandatory detention. 8 U.S.C. §1226(c)(1)(A), (D)-(E). A “plain reading of this exception implies that the default discretionary bond procedures in §1226(a) apply to noncitizens who ... are ‘present in the United States without being admitted or paroled’” unless § 1226(c) applies. *Rodriguez v. Bostock*, -- F. Supp. 3d --, 2025 WL 2782499, *17 (W.D. Wash., Sept. 30, 2025).

Congress just amended § 1226(c) in the Laken Riley Act. If Respondents’ interpretation of § 1225(b)(2) were correct, that “would render the Laken Riley Act a meaningless amendment, since it would have prescribed mandatory detention for noncitizens already subject to it.” *Cordero Pelico v. Kaiser*, 2025 WL 2822876, *12

² Petitioner contests when he received the warrant, but ICE did issue one.

(N.D. Cal., Oct. 3, 2025). Respondents’ only answer to that point is to say the Court should ignore Laken Riley because it does not apply to Petitioner. (*See*, Resp. Brf, ECF No. 6, PageID.104). But the fact that *Petitioner* cannot be detained under Laken Riley doesn’t alter the fact that Respondents’ reading renders Laken Riley meaningless.

The government tries to explain away the conflict between their reading of §1225(b)(2)(A)—that it mandates detention for *all* non-admitted non-citizens—and § 1226—which mandates detention for *some but not all* non-admitted non-citizens—as a mere redundancy. (*See*, Resp. Brf, ECF No. 6, PageID.104). But,

even allowing for some redundancy in statutory drafting, it is a “cardinal rule of statutory interpretation that no provision should be construed to be entirely redundant.” Defendants’ expansive reading of §1225 ... would render §1226(c)(1)(E) “entirely redundant.”

Rodriguez, 2025 WL 2782499, *19 (citing *Kungys v. United States*, 485 U.S. 759, 778 (1988)). *See Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 2809996, *6 (D. Mass., Oct. 3, 2025) (§ 1226(c) “implies that there are no other circumstances under which a noncitizen detained under § 1226 is subject to mandatory detention”).

B. Respondents Misunderstand How Section 1225 Works.

Respondents say that Section 1225 distinguishes “between recently arrived noncitizens (‘arriving aliens’) and those like Garcia Rodriguez who were successfully able to evade apprehension for many years (‘applicants for admission’).” (*See*, Resp. Brf, ECF No. 6, PageID.101. Respondents assert that

§1225(b)(1) covers “arriving aliens”, while § 1225(a) and (b)(2) apply to “applicants for admission.” Not so.

First, the distinction Respondents invent between “arriving aliens” (i.e. people at the border) and “applicants for admission” (i.e. people already in the U.S.) is entirely divorced from the statutory text. §1225(a)(1) defines “applicants for admission” to *include* non-citizens arriving in the U.S. Meanwhile, in describing “arriving aliens,” Respondents themselves cite provisions in § 1225(b)(2) about “crewmen, “stowaways” and people arriving from contiguous territory, even though Respondents contend that § 1225(b)(2) only concerns “applicants for admission.” (*See*, Resp. Brf, ECF No. 6, PageID.99). There is no plausible way to read §1225(b)(2) as covering only people who have lived in the U.S. for years.

Second, Respondents misunderstand the structure of §1225. Section 1225(b)(1) provides for expedited removal and detention of certain non-citizens. Section 1225(b)(2) applies to other “applicants for admission” who are “seeking admission” who are *not* subject to expedited removal but instead are in full removal proceedings. Depending on their circumstances, people arriving at the border may fall under either (b)(1) or (b)(2). *See Jennings*, 583 U.S. at 287 (“applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” with (b)(2) serving “as a catchall provision” that applies to those not covered by (b)(1)).

Recognizing that § 1225 is a border inspection scheme—as dozens of courts have done—does not nullify § 1225(b)(2), which continues to apply to non-citizens arriving at the border who are not subject to expedited removal. In other words:

§ 1225(b)(2) applies to arriving noncitizens who are inadmissible on grounds other than ... the grounds that put an arriving noncitizen on the track for expedited removal[]. The statute governing inadmissibility lists ten grounds for inadmissibility... There are thus arriving noncitizens inadmissible on these other bases who would fall under Section 1225(b)(2), as opposed to Section 1225(b)(1).

Cordero Pelico, 2025 WL 2822876, at* 13. *See Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J., Sept. 26, 2025) (unpublished) (examples of non-citizens at border not subject to expedited removal, such as certain lawful residents returning from abroad who must be inspected by immigration officials). The argument that § 1225(b)(2) is meaningless unless applied to Petitioner is wrong.

C. Respondents Misinterpret Section 1225(b)(2).

Even if one reads § 1225(b)(2) in complete isolation without regard to the statutory structure, it does not support Respondents' reading. Respondents entirely ignore § 1225(b)(2)'s requirement for a determination by an "examining immigration officer." *See*, Pet. Brf, ECF No. 2, PageID.52 (explaining that Mr. Garcia is seeking relief before an immigration judge, not examination by an immigration officer). Instead, Respondents focus on whether Mr. Garcia is an "applicant for admission" who is "seeking admission." Oddly, Respondents point to the definition of "admission"—which is "the lawful entry of the alien into the United States after

inspection and authorization by an immigration officer.” (*See*, Resp. Brf, ECF No. 6, PageID.95). (citing 8 U.S.C. § 1101(a)(13)(A)). Not only does this definition take us right back to inspections by immigration officers, but “[c]onstruing section 1225(b)(2) to apply to noncitizens already residing in the country would read the word ‘entry’ out of the definition[.]” *Chafila v. Scott*, 2025 WL 2688541, *6 (D. Me., Sept. 22, 2025).

Respondents—constrained by the present tense nature of “seeking admission”—engage in verbal gymnastics to obfuscate the obvious: “the active language implies that the noncitizen is actively engaged in the exercise of being admitted to the United States, rather than currently residing here and seeking to stay.” *Id.* Respondents say seeking immigration relief that would allow Mr. Garcia to *remain* is the same as seeking to *enter*. (*See*, Resp. Brf, ECF No. 6, PageID.97). But Mr. Garcia is not seeking permission to enter from an immigration officer, but rather adjustment of status from an immigration judge. For example, if Petitioner obtains cancellation of removal (which is a form of relief available both to people who were and were not lawfully admitted, 8 U.S.C. § 1229b(b)(1)), that would result in adjustment of their legal status, not an entry into the U.S., which is where Petitioner already is.

D. Respondents Misunderstand the Legislative History.

Respondents ignore the legislative history and contemporaneously-issued

regulations showing that § 1226(a) applies here. *See* Pet. Brief, ECF No. 2, PageID.43-45). Instead, they argue that in enacting IIRIRA, Congress wanted to ensure that people seeking to enter lawfully are not treated worse than those who entered without inspection. (*See*, Resp. Brf, ECF No. 6, PageID.106-107). But the government “err[s] in its analysis by identifying *one* of Congress’s concerns in enacting IIRIRA and then treating it as Congress’s sole concern driving the statute.” *Cordero Pelico*, 2025 WL 2822876 at 13. While Congress was concerned about “placing noncitizens on equal footing in *removal* proceedings” (and IIRIRA thus imposes a greater burden of proof on non-citizens in the U.S. in defending against removal), that “says nothing about detention.” *Rodriguez*, 2025 WL 2782499, *24 (cleaned up). Respondents cannot

enlarge Congress’s stated concern that noncitizens living in the United States had an advantage during *removal* proceedings pre-IIRIRA to an unarticulated aim to mandate *detention* for all such noncitizens post-IIRIRA. It is easy to conceive of reasons Congress would distinguish between these concepts; for one, noncitizens who have lived for years in this country are more likely to be working in critical industries, parenting U.S. citizen children, or otherwise serving their communities If Congress had wished to enact the transformation of the immigration detention system that Defendants contend it did—requiring the detention of millions of people currently living and working in the United States—then it would have said so more clearly.

Id.

To adopt Respondents’ interpretation would violate the “no-elephants-in-mouseholes canon,” which “recognizes that Congress does not alter the fundamental

details of a regulatory scheme in vague terms or ancillary provisions.” *Bostock v. Clayton County*, 590 U.S. 644, 680 (2020). If Congress intended to upend its prior scheme and mandate that thousands, if not millions, of people who have lived here for years be held without bond hearings, then (1) Congress would have clearly said so; and (2) it is inconceivable that immigration authorities would have simply carried on for three decades without implementing that Congressional directive. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024) (“longstanding practice of the government” can inform court’s interpretation of statutory provisions).

II. Due Process Requires a Bond Hearing.

Respondents do not even try to show a special justification for detaining Mr. Garcia without a bond hearing. Nor do they weigh the factors of *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976), or identify a single case where courts have found it constitutional to deprive long-time residents of their liberty without any consideration of flight risk, dangerousness, or criminal history. Rather, Respondents argue that because procedural protections exist in *removal* proceedings (i.e., hearings on immigration relief), Mr. Garcia has no right to due process on *detention*. But Mr. Garcia has a liberty interest in freedom from detention that is distinct from his liberty interest in remaining in the U.S. Deprivation of either requires due process.

Respondents also point to inapposite cases concerning the more limited due

process protections for people apprehended upon entry or with significant criminal history. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), concerned the “due process rights of an alien seeking initial entry” and governmental control over who crosses our borders. *Id.* at 107; *see id.* at 139 (discussing the due process rights of “an alien at the threshold of initial entry” who lack “established connections in this country”). Mr. Garcia is not “at the threshold of initial entry,” and has “established connections” here – which include, significantly, his three United States citizen children, the youngest of which is just starting high school. *See Cordero Pelico*, 2025 WL 2822876, at *6 (distinguishing government’s cases on exactly this basis).

Respondents’ reliance on *Demore v. Kim*, 538 U.S. 510 (2003), is similarly misplaced. *Demore* rejected a facial challenge to 8 U.S.C. § 1226(c), which requires mandatory detention of certain noncitizens with criminal convictions. Based on the presumption that such people are a danger/flight risk, the Court found the government’s interest in detaining them for “a very limited time” outweighed their interest in liberty. *Id.* at 529, n.12. *Demore* does not create an irrebuttable presumption of dangerousness/flight risk even for people with significant criminal history³, much less for people who—as here—have been living law-abiding lives in

³ Non-citizens detained under § 1226(c) remain free to bring as-applied constitutional challenges to their detention. *See Nielsen v. Preap*, 586 U.S. 392, 420 (2019); *Black v. Decker*, 103 F.4th 133, 151-155 (2d Cir. 2024).

the community. And *Zadvydas v. Davis*, 533 U.S. 678 (2001), contrary to Respondents’ depiction, emphasizes that immigration detention must be tied to the civil purposes of preventing flight and protecting the public. *Zadvydas* held that even where non-citizens (unlike here) had already been ordered removed (such that the government had specific interests around accomplishing removal), there were “serious constitutional problem[s]” with reading the INA to allow for prolonged detention. *Id.* In short, Respondents’ cited cases do not support their claim. *Id.*, at 690.

III. Requiring Administrative Exhaustion Would Be Futile.

Respondents admit that administrative exhaustion would be futile. (*See*, Resp. Brf, ECF No. 6, PageID.92). (admitting that *Yajure Hurtado* bars administrative relief).

IV. There Are Multiple Proper Respondents.

Respondents initially suggest that the only proper respondent in a “core” habeas corpus case challenging a petitioner’s detention is the detainee’s immediate physical custodian – in this case, the warden of the North Lake facility in Baldwin, Michigan. Since the facility is located in Western Michigan, Respondents seem to suggest that jurisdiction for this case is only proper in Western Michigan. However, Respondents go on to acknowledge that the ICE Field Office Director is vested with the “immediate legal control of [Mr. Garcia’s] detention”. (*See*, Resp. Brf, ECF No.

6, PageID.89). Therefore, it seems clear that the Parties are in agreement that the ICE Field Office Director is Mr. Garcia’s “immediate custodian” and thus a proper respondent. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). But it does not necessarily follow, as Respondents assert, that because the director is *a* proper respondent, he is the *only* proper respondent.

First, Petitioner is not just seeking a writ of habeas corpus, but also declaratory relief, an injunction on transfer, fees and any other just and proper relief. *See*, Pet. Prayer for Relief. This Court has jurisdiction both in habeas (28 U.S.C. § 2241; U.S. Const. art. I, § 9, cl. 2), and over federal questions (28 U.S.C. § 1331). It can grant relief under 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. *See* Pet.. at ¶¶ 12, 13.

Second, Petitioner is detained under a new ICE directive issued in coordination with DOJ. If Respondents Noem, Bondi and the Department of Homeland Security (DHS) rescinded the directive, Petitioner could be released, either based on ICE setting bond, 8 C.F.R. § 236.1(8), or through bond hearings. Bond hearings are held in immigration courts, which are under the Executive Office of Immigration Review (EOIR), itself a component agency of DOJ. Respondents EOIR and Bondi can—but have failed to—ensure that Petitioner gets a bond hearing.

Third, Secretary Noem and DHS are proper Respondents with respect to the requested injunction on transfer, over which they have ultimate authority. Because

detained aliens may be transferred to detention facilities in other districts, and such transfers may be used to deny aliens any meaningful opportunity to seek habeas relief, *id.* (quoting *Roman*, 340 F.3d at 326), courts have allowed an alien to “name a respondent other than his immediate custodian. A petition naming a higher level official, such as the Attorney General, could be adjudicated without interruption in the event of a transfer.” *Roman*, 340 F.3d at 326. To ensure that Respondents maintain authority to enforce the Court’s order here, the Court should allow all Respondents to remain in this proceeding. See *Sanchez Alvarez*, 2025 WL 2942648, at *9; see also *Lee v. Ashcroft*, 216 F. Supp. 2d. 51, 55 (E.D.N.Y.2002) (transfer of immigration detainees under the control of the Attorney General). See also *Gimenez Gonzalez v. Raycraft*, No. 25- CV-13094, 2025 WL 3006185 (E.D. Mich. Oct. 27, 2025.)

V. Petitioner’s Convictions Do Not Affect The Legal Issues Raised in this Petition

After filing this habeas Petition, and after having received Respondent’s Response, counsel for Petitioner learned that Petitioner had three previous convictions: one DUI conviction in 2012, for which he received and completed probation, and two for driving on a revoked or suspended license in 2014. In these cases, Petitioner was convicted of Driving Under the Influence under 625 ILCS

5/11-501(A), and under 625 ILCS 5/6-303-(A), respectively.⁴ Petitioner submits this information now so as to be forthcoming with the Court, and to clarify that representations made in the Petition regarding his criminal background were made before counsel learned of these convictions. Nevertheless, these convictions do not affect the legal issues raised in the Petition. Neither Petitioner's 2012 Illinois DUI conviction nor his 2014 Illinois Driving on a Suspended or Revoked license convictions have been found to be deportable or inadmissible offenses under the mandatory detention provisions found in 8 U.S.C. § 1226(c)(1)(A), (D)-(E), 8 U.S.C. § 1182(a)(2), or 8 U.S.C. § 1227(a)(2). Therefore, the legal issues raised in the Petition should be unaffected by this new information.

CONCLUSION

Petitioner requests that the Court grant the relief requested in the Petition.

Respectfully submitted,

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⁴ Petitioner communicated this new information to Assistant U.S. Attorney Zac Toomey immediately upon learning of it and, together, Petitioner's counsel and Mr. Toomey agreed that Petitioner would submit this information in his Reply Brief. Respondents' counsel also agreed to Petitioner's request to exceed the page limit for this Reply brief.

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