UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANGELINA SALVATIERRA MAZARIEGOS,

Petitioner,

v.

KEVIN RAYCRAFT, Field Office Acting Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; THE GEO GROUP INC., facility operators; JOHN DOE, Warden of North Lake Correctional Facility (or his/her successors),

Respondents.
_____/

Case No. 1:25-cv-1470

Hon. Jane M. Beckering
U.S. District Court Judge

Hon. Sally J. Berens
U.S. Magistrate Judge

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Angelina Salvatierra Mazariegos is a noncitizen who was not lawfully admitted to the United States and has no lawful immigration status. The U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), detained Petitioner while it pursues administrative removal proceedings against her. She challenges the agency's decision to detain her under a statutory provision that does not entitle her to a bond hearing until the conclusion of her administrative immigration proceedings. *See* 8 U.S.C. § 1225.

The government respondents—Acting Director of the Detroit ICE Field Office Kevin Raycraft, Secretary of Homeland Security Kristi Noem, the U.S. Department of Homeland Security, and Attorney General Pamela Bondi—acknowledge that the Court recently concluded that 8 U.S.C. § 1226(a), and not § 1225(b)(2)(A), "governs noncitizens . . . who have resided in

the United States for many years and who were already within the United States when apprehended and arrested." *Sanchez Alvarez v. Noem*, No. 1:25-CV-1090, 2025 WL 2942648, at *6 (W.D. Mich. Oct. 17, 2025). However, the government respondents respectfully disagree with the Court's analysis and maintain that aliens like Petitioner properly are detained under 8 U.S.C. § 1225(b)(2). The government respondents further maintain that Petitioner's detention does not violate the Due Process Clause, Petitioner has not exhausted her administrative remedies, and the Western District of Michigan is not the proper venue in which to seek release under the *Castañon Nava* settlement. Accordingly, the Court should decline to issue a writ of habeas corpus to Petitioner. Furthermore, the Court should dismiss the government respondents except the Detroit ICE Field Office Director, because he is the only proper respondent in this habeas suit.

FACTUAL BACKGROUND

Petitioner is a citizen of Guatemala who unlawfully entered the United States in 1994. (Pet., ECF No. 1, ¶¶ 14, 45.) On September 30, 2025, an ICE agent arrested Petitioner for being illegally present in the United States. (Ex. A, Form I-213.) Upon her detention, DHS determined that Petitioner was an applicant for admission seeking admission, and not clearly and beyond doubt entitled to admission, under 8 U.S.C. § 1225. (*Id.*; Ex. B, Notice to Appear; Pet., ECF No. 1, ¶ 3.) DHS detained her at the North Lake Processing Center in Baldwin, Michigan. (Pet., ECF No. 1, ¶ 46; Ex. B, Notice to Appear.)

Petitioner currently is in removal proceedings on the detained docket before the Detroit immigration court. (Ex. B, Notice to Appear.) She is scheduled to appear for a master calendar hearing on November 25, 2025. (Ex. C, Hearing Notice.)

On November 17, 2025, Petitioner filed a petition in federal court seeking a writ of habeas corpus asking the Court to direct Respondents to release Petitioner or provide her with a bond

hearing within five days. Additionally, she asks the Court to bar Respondents from redetaining her during the pendency of her immigration proceedings.

STATUTORY FRAMEWORK

I. The Pre-IIRIRA Framework Gave Preferential Treatment to Aliens Unlawfully Present in the United States.

The Immigration and Nationality Act (INA), as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the government is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically "entered" the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) "dictated what type of [removal] proceeding applied" and whether the alien would be detained pending those proceedings, *Hing Sum v. Holder*, 602 F.3d at 1099.

At the time, the INA "provided for two types of removal proceedings: deportation hearing and exclusion hearings." *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc). An alien who arrived at a port of entry would be placed in "exclusion proceedings and subject to mandatory detention, with potential release solely by means of a grant of parole." *Hurtado*, 29 I. & N. Dec. at 223; *see* 8 U.S.C. § 1225(a)-(b) (1995); *id.* § 1226(a) (1995). In contrast, an alien who physically entered the United States unlawfully would be placed in deportation proceedings. *Id.*; *Hing Sum*, 602 F.3d at 1100. Aliens in deportation proceedings, unlike those in exclusion proceedings, "were

entitled to request release on bond." *Hurtado*, 29 I. & N. Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)).

> The INA's prior framework distinguishing between aliens based on physical "entry" had
>
> the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection . . . were subject to mandatory custody.

Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) ("House Rep.") ("illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection").

II. IIRIRA Eliminated the Preferential Treatment of Aliens Unlawfully Present in the United States and Mandated Detention of all "Applicants for Admission."

Congress discarded the prior regime through enactment of the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996). Among other things, the statute had the goal of "ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA." *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc).

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 at 1100 (similar). IIRIRA also eliminated the exclusion-deportation dichotomy and consolidated both sets of proceedings into "removal proceedings." *Hurtado*, 29 I. & N. Dec. at 223.

IIRIRA effected these changes through several provisions codified 8 U.S.C. § 1225:

Section 1225(a): Section 1225(a) codifies Congress's decision to make lawful "admission," rather than physical entry, the touchstone. That provision states that 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":

> An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.

8 U.S.C. § 1225(a)(1) (emphasis added). "All aliens . . . who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States" are required to "be inspected by [an] immigration officer." *Id.* § 1225(a)(3). The inspection by the immigration officer is designed to determine whether the alien may be lawfully "admitted" to the country or, instead, must be referred to removal proceedings.

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 so-called "expedited removal proceedings." *DHS v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020). Expedited removal proceedings potentially 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). As to these aliens, the immigration officer shall "order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution." *Id.* § 1225(b)(1)(A)(i). In that event, the alien "shall be detained pending a final determination of credible fear or persecution and, if found not to have such fear, until removed." *Id.* § 1225(b)(1)(B)(iii)(IV); *see also* 8 C.F.R. § 235.5(b)(4)(ii). An alien processed for expedited removal who does not indicate an intent to apply for a form of relief from removal is likewise detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(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 § 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. § 253.3(b)(1)(ii) (mirroring § 1225(b)(2) detention mandate); *Jennings*, 583 U.S. at 302 (holding that § 1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin").

While § 1225(b)(2) does not allow for aliens to be released on bond, the INA grants DHS discretion to exercise its parole authority to temporarily release an applicant for admission, but "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Parole, however, "shall not be regarded as admission of the alien." *Id.*;

Jennings, 583 U.S. at 288 (discussing parole authority). Moreover, when the Secretary determines that "the purposes of such parole . . . been served," the "alien shall . . . be returned to the custody from which he was paroled" and be "dealt with in the same manner as that of any other applicant for admission to the United States." 8 U.S.C. § 1182(d)(5)(A).

Section 1226: IIRIRA also created a separate authority addressing the arrest, detention, and release of aliens generally (versus applicants for admission specifically). *See* 8 U.S.C. § 1226. This is the only provision that governs the detention of aliens who, for example, lawfully enter the country but overstay or otherwise violate the terms of their visas, or are later determined to have been improperly admitted. The statute provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." *Id.* § 1226(a). Detention under this provision is generally discretionary: The Attorney General "may" either "continue to detain the arrested alien" or release the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2).

That "default rule," however, does not apply to certain criminal aliens who are being released from detention by another law enforcement agency. *Jennings*, 583 U.S. at 288; *see* 8 U.S.C. § 1226(c). Section 1226(c) provides that "[t]he Attorney General shall take into custody" certain classes of criminal aliens—those who are inadmissible or deportable because the alien (1) "committed" certain offenses delineated in 8 U.S.C. §§ 1182 and 1227; or (2) engaged in terrorism-related activities. 8 U.S.C. § 1226(c)(1). The government must detain these aliens "when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense." *Id.*

Congress recently amended § 1226(c) through the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3, (2025), which requires detention of (and prohibits parole for) aliens who (1) are inadmissible because they are physically present in the United States without admission or parole, have committed a material misrepresentation or fraud, or lack required documentation; and (2) are "charged with, arrested for, [] convicted of, admit[] having committed, or admit[] committing acts which constitute the essential elements of" certain listed offenses. 8 U.S.C. § 1226(c)(1)(E).

For many years after Congress enacted IIRIRA, immigration judges treated aliens who entered the United States without admission and were later detained away from the border as being subject to discretionary detention under 8 U.S.C. § 1226(a) rather than mandatory detention under 8 U.S.C. § 1225(b)(2). *See Hurtado*, 29 I. & N. Dec. at 225 n.6.

However, on September 5, 2025, the Board of Immigration Appeals issued a published decision in *Hurtado*. The Board concluded that § 1225(b)(2)'s mandatory detention regime applies to *all* aliens who entered the United States without inspection and admission:

> Aliens . . . who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer. Remaining in the United State for a lengthy period of time following entry without inspection, by itself, does not constitute an "admission."

29 I. & N. Dec. at 228; *see also id.* at 225 ("Immigration Judges lack authority to hear bond requests or to grant bond to aliens . . . who are present in the United States without admission").

ARGUMENT

The Court should deny Petitioner's request for a writ of habeas corpus. Petitioner has not exhausted her administrative remedies. Even if that failure is excused, she properly is detained under § 1225(b)(2) because the text, structure, and history of the statute demonstrate that it applies to her. Her detention also comports with the Constitution because she has been provided the due process required by law. The Western District of Michigan is not the proper venue for her to seek

relief under the *Castañon Nava* settlement. And because the petition may only be directed to the ICE Field Office Director, the Court should dismiss Secretary Noem, Attorney General Bondi, and DHS as respondents to this action.

I. Petitioner Has Not Exhausted Her Administrative Remedies.

Petitioner may request a bond hearing. Should she request and the immigration court decline to grant her bond, she would have the right to appeal any unfavorable decision to the Board of Immigration Appeals (BIA). *Hernandez Torrealba v. U.S. Dep't of Homeland Sec.*, No. 1:25CV01621, 2025 WL 2444114, at *9 (N.D. Ohio Aug. 25, 2025); *Rabi v. Sessions*, No. 19-3249, 2018 U.S. App. LEXIS 19661, at *1-2 (6th Cir. July 16, 2018) (unpublished order). Accordingly, Petitioner has yet to exhaust her administrative remedies within the immigration courts before seeking a writ of habeas corpus from this Court.

"When a petitioner does not exhaust administrative remedies, a district court ordinarily should either dismiss the [habeas] petition without prejudice or stay the proceedings until the petitioner has exhausted remedies, unless exhaustion is excused." *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011) (citations omitted). In *Leonardo*, the petitioner pursued habeas review of an immigration judge's (IJ) adverse bond determination before he appealed to the Board of Immigration Appeals. *Id.* The Ninth Circuit determined that filing a habeas petition in federal district court was "improper" because the petitioner "should have exhausted administrative remedies by appealing to the BIA before asking the federal district court to review the IJ's decision." *Id.* (citing *Rojas-Garcia v. Ashcroft*, 339 F.3d 814, 819 (9th Cir. 2003)). The Sixth Circuit has endorsed this procedure for challenging bond determinations. *See Rabi v. Sessions*, No. 19-3249, 2018 U.S. App. LEXIS 19661, at *1-2 (6th Cir. July 16, 2018) (citing *Leonardo*, 646 F.3d at 1160) (unpublished order). Additionally, some lower courts in this circuit have applied a

three-factor test for determining whether prudential exhaustion applies. *See, e.g.*, *Hernandez Torrealba v. U.S. Dep't of Homeland Sec.*, No. 1:25CV01621, 2025 WL 2444114, at *9 (N.D. Ohio Aug. 25, 2025). The test considers whether:

> (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Id. (quoting *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007)).

The government respondents acknowledge that the Court previously declined to require prudential exhaustion for aliens contesting detention under § 1225(b)(2). *See, e.g.*, *Sanchez Alvarez*, 2025 WL 2942648, at *3. Here, however, the three-factor test weighs in favor of requiring Petitioner to exhaust her administrative remedies. First, although Petitioner alleges that that Respondents violated the INA and the Due Process Clause, the latter claim likewise hinges on the INA and Respondents' allegedly wrongful interpretation of the statute. "In other words, any determination regarding detention here turns on interpretation and application of the governing removal regime," a review that in the first instance "should proceed before the Board of Immigration Appeals to 'apply its experience and expertise without judicial interference.'" *Monroy Villalta v. Greene*, — F. Supp. 3d —, 2025 WL 2472886, at *2 (N.D. Ohio Aug. 5, 2025) (quoting *Khalili v. Holder*, 557 F.3d 429, 435 (6th Cir. 2009) (abrogated on other grounds)); *see also Hernandez*, 2025 WL 2444114, at *10 (applying *Monroy Villalta* to find that the first factor weighs in favor of requiring exhaustion of claims premised on the statutory interpretation of the INA); *Ba v. Dir. of Detroit Field Office, U.S. Immigr. and Customs Enf't*, No. 4:25-CV-02208, 2025 WL 2977712, at *2-3 (N.D. Ohio Oct. 22, 2025) ("Because of the expertise the Board of Immigration Appeals and the immigration courts more generally have in the statutory and

administrative regimes governing the admission and removal of foreigners, many of the purposes for requiring exhaustion may be served by permitting agency review in the first instance." (quotation omitted)).

Second, "relaxing the exhaustion requirement would encourage the deliberate bypass of the administrative scheme in favor of what may be perceived as a potentially more favorable and/or timely reviewing body, i.e., federal court." *Hernandez*, 2025 WL 2444114, at *10. Petitioner has not even begun the process of seeking relief through the administrative process provided by the immigration courts and already seeks the Court's "interference in agency affairs." *Id.* Waiving administrative exhaustion in this context would undermine the authority of the agency and the "important purposes served by exhaustion" in the immigration context, *id.*, including "protecting the authority of administrative agencies" and "developing the factual record to make judicial review more efficient," *Ba*, 2025 WL 2977712, at *3 (quoting *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003)).

Third, allowing the immigration court and, if necessary, the BIA to evaluate Petitioner's bond motion "would permit the agency to correct its own mistakes, if any, and preclude the need for judicial review if Petitioner is successful." *Id.* at *10. If Petitioner applies for and the immigration court grants her bond, there will be no need for judicial review of her claims. Likewise, if the immigration court denies her motion, Petitioner may appeal the decision to the BIA, where she may seek a new bond hearing and request release.

Thus, as in *Leonardo*, 646 F.3d at 1160, "prudential principles of exhaustion counsel that Petitioner pursue her administrative remedies before seeking a writ of habeas corpus," *Monroy Villalta*, 2025 WL 2472886, at *2 (requiring administrative exhaustion where habeas petitioner challenged his bond determination based on the statutory interpretation of 8 U.S.C. §§ 1225(b) and

1226(a)); *see also Ba*, 2025 WL 2977712, at *3 (same). Petitioner should continue pursuing her claims before the immigration court and, if necessary, the Board of Immigration Appeals before seeking relief from this Court.

II. Petitioner Properly is Detained Under § 1225(b)(2).

Petitioner unambiguously meets every element for detention under § 1225(b)(2). *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) ("Our analysis begins and ends with the text."). Moreover, even if the text of § 1225(b)(2) were ambiguous, its structure and history support the government respondents' interpretation of the statute.

A. Section 1225(b)(2) mandates detention of aliens like Petitioner who are present in the United States without having been lawfully admitted.

Under the plain language of § 1225(b)(2), DHS is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured.

1. Applicant for admission.

Section 1225(a) defines "applicant for admission" to encompass an alien who either "arrives in the United States" or who is "present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1); *Mejia Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025). And "admission" under the INA means not physical entry, but lawful entry after inspection by immigration authorities. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien's presence in the United States or the alien's distance from the border. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) ("For these

purposes, '[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .)' is deemed 'an applicant for admission.'" (quoting § 1225(a)(1))); *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) ("an alien who 'arrives in the United States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission'" (quoting § 1225(a)(1))). "An alien can have physically entered the country many years before and still be an applicant for lawful entry, seeking legal 'admission.'" *Mejia Olalde*, 2025 WL 3131942, at *1 (citing *Matter of Lemus*, 25 I&N Dec. 734, 743 n.6 (BIA 2012)).

Section 1225(b)(2) in turn provides that "an alien who is an applicant for admission" "shall be detained" pending removal proceedings if the "alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). The statute's use of the term "shall" makes clear that detention is mandatory, and the statute makes no exception for the duration of the alien's presence in the country or where in the country she is located. *See Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998). Therefore, the statute's plain text mandates that DHS detain all "applicants for admission" who do not fall within one of its exceptions.

Petitioner falls squarely within the statutory definition. She was "present in the United States," and there is no dispute that he has "not been admitted." 8 U.S.C. § 1225(a). She did not present herself at a port of entry, and she was not admitted after inspection by an immigration officer. 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1. Moreover, Petitioner cannot—and did not—establish that she is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Therefore, Petitioner "shall be detained for a proceeding under" 8 U.S.C. § 1229a. 8 U.S.C. § 1225(b)(2)(A).

2. Seeking admission.

Section 1225(b)(2) further requires the detention of an "applicant for admission, if the examining officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statutory text and context show that being an "applicant for admission" is a means of "seeking admission"—no additional affirmative step is necessary. 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.

Section 1225(a) provides that "[a]ll aliens . . . who are applicants for admission *or otherwise* seeking admission or readmission . . . shall be inspected." 8 U.S.C. § 1225(a)(3) (emphasis added). The word "[o]therwise' means 'in a different way or manner.'" *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster's Third New International Dictionary 1598 (1971)); *see also Att'y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024) (same); *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) ("or otherwise" means "the first action is a subset of the second action"); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019). Being an "applicant for admission" thus is a particular "way or manner" of seeking admission, such that an alien who is an "applicant for admission" *is* "seeking admission" for purposes of Section 1252(b)(2)(A). No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I & N. Dec. 734, 743 (BIA 2012) ("[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws").

This reading is consistent with the everyday meaning of the statutory terms. One may "seek" something without "applying" for it—for example, one who is "seeking" happiness is not "applying" for it. But one *applying* for something is necessarily *seeking* it. *Compare* Webster's New World College Dictionary 69 (4th ed.) ("apply" means "To make a formal request (*to* someone *for* something)"), *with id.* at 1299 ("seek" means "to request, ask for"). For example, a person who is "applying" for admission to a college or club is "seeking" admission to the college or club. *See* The American Heritage Dictionary of the English Language 63 (1980) ("American Heritage Dictionary") ("apply" means "[t]o request or *seek* employment, acceptance, or *admission*") (emphasis added). Likewise, an alien who is "applying" for admission to the United States (*i.e.*, an "applicant for admission") is "seeking admission" to the United States. That is true even when the alien has been physically present in the country for many years, as they can "still be an applicant for lawful entry, seeking legal 'admission.'" *Mejia Olalde*, 2025 WL 3131942, at *3. "If Congress meant to say that an alien no longer is 'seeking admission' after some amount of time in the United States, Congress knew how to do so." *Id.* at *4.

Moreover, Congress's use of the present participle—"seeking"—in 8 U.S.C. § 1225(b)(2)(A) should not be ignored. *United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes."). By using the present participle "seeking," § 1225(b)(2)(A) "signal[s] present and continuing action." *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.*, 48 F.4th 1298, 1307 (11th Cir. 2022). The phrase "seeking admission" "does not include something in the past that has ended or something yet to come." *Shell v. Burlington N. Santa Fe Ry. Co.*, 941 F.3d 331, 336 (7th Cir. 2019); *see also Pena v. Hyde,* No. CV 25-11983-NMG, 2025 WL 2108913, at *1-2 (D. Mass. July 28, 2025) (finding that, in the absence of the receipt of lawful immigration status, an alien who was unlawfully present in the

U.S. for 20 years and had an approved U-130 Petition for Alien Relative "remains an applicant for admission" subject to mandatory detention under § 1225(b)(2)).

Of course, "seeking admission" also has meaning beyond being an "applicant for admission." As § 1225(a)(3) shows, being an "applicant for admission" is only *one* "way or manner" of "seeking admission"—not the exclusive way. For example, lawful permanent residents returning to the United States are not "applicants for admission" because they are already admitted, but they still may be "seeking admission." *See* 8 U.S.C. § 1103(A)(13)(C). But for purposes of § 1225(b)(2) and its regulation of "applicants for admission," the statute unambiguously provides that an alien who is an "applicant for admission" is "seeking admission," even if the alien is not engaged in some separate, affirmative act to obtain lawful admission. *See Mejia Olalde*, 2025 WL 3131942, at *1 ("it makes no sense to describe an active applicant for admission as somebody who is not 'seeking' admission"); *Pena v. Hyde*, No. CV 25-11983-NMG, 2025 WL 2108913, at *1-2 (D. Mass. July 28, 2025) (because alien did not have lawful status, he remained an applicant for admission subject to mandatory detention under § 1225(b)(2)); *Barrios Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926, at *5 (W.D. La. Oct. 31, 2025) (holding that "the plain statutory language of § 1225(a)(1) that defines 'applicants for admission' . . . also applies to those who are 'present in the United States who ha[ve] not been admitted'" (quoting 8 U.S.C. § 1225(a)(1)).

Here, Petitioner is "seeking admission" under § 1225(b)(2) because she is an applicant for admission who is present without admission and is seeking to remain in the United States. She has not agreed to depart, so logically she must be seeking to remain—a legal action that requires "admission," i.e., a lawful entry. 8 U.S.C. §§ 1101(a)(13), 1182(a)(6), and 1225(a)(3). Nor has she conceded her removability and allowed her removal in her administrative immigration

proceedings. Noncitizens present in the United States who have not been lawfully admitted and who do not agree to immediately depart must be referred for removal proceedings under § 1229a. *See* 8 U.S.C. §§ 1225(a)(1), (b)(2)(A). In removal proceedings, if an unlawfully admitted noncitizen does not accept removal, she can seek a lawful admission. *See, e.g.*, 8 U.S.C. § 1229b. For instance, if Petitioner does not concede removability and allow her immediate removal at her upcoming hearing in immigration court, she may apply to cancel her removal and adjust her status under 8 U.S.C. § 1229b. *See Moctezuma-Reyes v. Garland*, 124 F.4th 416, 419 (6th Cir. 2024); *Lopez-Soto v. Garland*, 857 F. App'x 848, 854 (6th Cir. 2021). If her application is successful, she will be granted lawful status and the agency "shall record the alien's lawful admission for permanent residence as of the date of the . . . cancellation of removal." 8 U.S.C. § 1229b(b)(3).

Petitioner is seeking admission to the United States within the meaning of § 1225(b)(2)(A).

B. Section 1226(c) does not support Petitioner's interpretation of the statute.

Petitioner also argues that Respondent's interpretation of § 1225(b)(2) would render superfluous § 1226, which is a separate mandatory detention provision for certain inadmissible and criminal aliens. That, too, is wrong. Although § 1226(c) and § 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 § 1225(b)(2) covers circumstances beyond release from another entity's custody. Moreover, mere overlap is no basis for re-writing clear statutory text.

To begin, there is no colorable argument that the government respondents' interpretation of § 1225(b)(2)(A) renders § 1226(a)'s discretionary detention authority superfluous. Section 1226(a) authorizes the government to "arrest[] and detain[]" *any* "alien" pending removal proceedings but provides that the government also "may release the alien" on bond or conditional

parole. 8 U.S.C. § 1226(a). Section 1226(a) provides the detention authority for the significant group of aliens who are *not* "applicants for admission" subject to § 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now removable. *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) ("the specific governs the general"). For example, the detention of any of the millions of aliens who have overstayed their visas will be governed by § 1226(a), because those aliens (unlike Petitioner) *were* lawfully admitted to the United States.

Likewise, the government respondents' reading of § 1225(b)(2)(A) does not render § 1226(c) superfluous. As described above, § 1226(c) is the exception to § 1226(a)'s discretionary detention regime. It requires the government 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 § 1226(a), subsection (c) applies to significant groups of aliens *not* encompassed by § 1225(b)(2), such as visa overstayers or aliens who are lawfully present but have committed certain crimes.

Most obvious, § 1226(c)(1) requires the government to detain aliens who *have been admitted* to the United States and are now "deportable." *See* 8 U.S.C. § 1226(c)(1)(B)-(C). By contrast, § 1225(b)(2) has no application to admitted aliens. Moreover, § 1226(c)(1) requires detention of aliens who are "inadmissible" on certain grounds. *See* 8 U.S.C. § 1226(c)(1)(A), (D), (E). Those provisions, too, sweep more broadly than § 1225(b)(2), because they cover aliens who are inadmissible but were erroneously admitted. *See* 8 U.S.C. § 1227(a), (a)(1)(A) (providing for the removal of "[a]ny alien . . . in *and admitted to* the United States," including "[a]ny alien who at the time of entry or adjustment of status was within one or more of the classes of aliens

inadmissible by the law existing at the time . . . ." (emphasis added)). In this respect, § 1226(c)(1) applies to admitted aliens, who are not covered by § 1225(b)(2).

Finally, § 1225(b)(2)(A) does "not apply to an alien . . . who is a crewman," "a stowaway," or "is arriving on land . . . from a foreign territory contiguous to the United States." 8 U.S.C. 1225(b)(2)(B)-(C). Section 1226(c) would apply to those aliens, too, if they were inadmissible or deportable on one of the specified grounds.

Section 1225(b)(2) also does not render superfluous Congress's recent amendment of § 1226(c) through the Laken Riley Act. That law requires mandatory detention of criminal aliens who are "inadmissible" under 8 U.S.C. § 1182(a)(6)(A), (a)(6)(C), or (a)(7). *See* 8 U.S.C. § 1226(c)(E)(i)-(ii). As with the other grounds of "inadmissibility" listed in § 1226(c), both (a)(6)(C) and (a)(7) apply to inadmissible aliens who were admitted in error, as well as those never admitted. That means there is no surplusage, as § 1225(b)(2) has no application to aliens who were admitted in error.

To be sure, the Laken Riley Act's application to aliens who are inadmissible under §1182(a)(6)(A)—for being "present . . . without being admitted or paroled"—overlaps with § 1225(b)(2)(A). Both statutes mandate detention of "applicants for admission" who fall within the specified grounds of inadmissibility. However, "[r]edundancies 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." *Barton v. Barr*, 590 U.S. 222, 223 (2020). That is particularly true here, where this portion of the Laken Riley Act overlaps with § 1225(b)(2)(A) even under Petitioner's reading, which recognizes that applicants for admission who are "seeking admission" must be detained under § 1225(b)(2)(A). *See Microsoft Corp. v. I4I Ltd. P'ship*, 564 U.S. 91, 106

(2011) ("[T]he canon against superfluity assists only where a competing interpretation gives effect to every clause and word of a statute").

Besides, Sections 1225(b)(2) and 1226(c) use different language that reflects the distinct obligations each section imposes. Section 1226(c), which applies "when [a criminal] alien is released" from another entity's custody, specifies that the "Attorney General shall take into custody" the alien. That provision therefore directs the government to take affirmative steps to apprehend covered aliens when they are released from state or federal custody. *Id.*; *see Nielson v. Preap*, 586 U.S. 392, 414 (2019) (explaining that "the duty to arrest is triggered[] upon release from criminal custody"). Section 1225(b)(2), by contrast, applies "if an examining officer determines" that the alien "is not clearly and beyond a doubt entitled to be admitted," and directs that the alien "shall be detained." That distinct language does not itself impose an obligation on the Executive to apprehend such an alien; it applies once an examining officer has encountered an applicant for admission. *Id.* Each provision thus has independent application—one states that the Executive "shall take into custody" certain aliens in specified circumstances, insisting that the Executive prioritize certain criminal aliens for apprehension; the other states that an alien "shall be detained" once encountered by immigration officials. Because "Section 1226(c) regulates not only what the Attorney General must do (take aliens into custody), but also when the Attorney General must do so," while § 1225 "does not specify a timeline," the Government's reading of Section 1225 "does not render the Laken Riley Act superfluous." *Mejia Olalde*, 2025 WL 3131942, at *4.

Moreover, § 1226(c) does additional independent work, despite any overlap, by narrowing the circumstances under which aliens may be *released* from mandatory detention. Again, for aliens subject to mandatory detention under § 1225(b)(2), IIRIRA allows the government to

"temporarily" parole them "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(b)(5). Section 1226(c)(1) takes that option off the table for aliens who have also committed the offenses or engaged in the conduct specified in § 1226(c)(1)(A)-(E). As to those aliens, § 1226(c) *prohibits* their parole and authorizes their release only if "necessary to provide protection to" a witness or similar person "and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding." 8 U.S.C. § 1226(c)(4). So even as to aliens who are already subject to mandatory detention under § 1225(b)(2), § 1226(c) is not superfluous: It significantly narrows the government's parole power with respect to those individuals.

C. Congress intended for the detention of aliens like Petitioner under § 1225(b)(2).

Petitioner's reading of the statute not only is textually baseless; it also subverts IIRIRA's express goal of eliminating preferential treatment for aliens who enter the country unlawfully. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes."). Her interpretation would reward her for knowingly violating the law, entitling her to more favorable treatment than a noncitizen who lawfully presented himself at a port of entry. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA Sept. 5, 2025). Nowhere does the INA state that, "after some undefined period of time residing in the interior of the United States without lawful status, . . . an applicant for admission is no longer 'seeking admission,' and has somehow converted to a status that renders him or her eligible for" consideration under 8 U.S.C. § 1226(a). *Id.* at 221.

To the contrary, as noted above, one of IIRIRA's express objectives was to dispense with the pre-1996 regime under which aliens who entered the United States unlawfully were given

"equities and privileges in immigration proceedings that [were] not available to aliens who present[ed] themselves for inspection" at the border, including the right to secure release on bond. House Rep., *supra*, at 225. Petitioner's interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law, yet grant bond hearings to aliens like Petitioner who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years or even decades until an involuntary encounter with immigration authorities. That is *exactly* the "perverse incentive to enter" unlawfully that IIRIRA sought to eradicate. *Thuraissigiam*, 591 U.S. at 140. The Court should reject any interpretation that is so transparently subversive of Congress's stated objective. *King*, 576 U.S. at 492.

The government respondents' interpretation, by contrast, not only adheres to the statute's text and congressional intent, but it also brings the statute in line with the longstanding "entry fiction" that courts have employed for well over a century to avoid giving favorable treatment to aliens who have not been lawfully admitted. Under that doctrine, all "aliens who arrive at a port of entry . . . are treated for due process purposes as if stopped at the border," and that also includes aliens "paroled elsewhere in the country for years pending removal" who have developed significant ties to the country. *Thuraissigiam*, 591 U.S. at 139 (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). For example, *Kaplan v. Tod*, 267 U.S. 228 (1925), held that an alien who was paroled for nine years into the United States was still "regarded as stopped at the boundary line" and "had gained no foothold in the United States." *Id.* at 230; *see also Mezei*, 345 U.S. at 214-15. The "entry fiction" thus prevents favorable treatment of aliens who have not been admitted—including those who have "entered the country clandestinely." *The Yamataya v. Fisher*, 189 U.S. 86, 100 (1903). IIRIRA sought to implement that same principle

with respect to detention. The government respondents' interpretation of § 1225(b)(2) is true to that purpose.

In sum, the text, structure, and history of § 1225(b)(2) demonstrate that DHS properly has detained Petitioner under the statute. Nevertheless, the government respondents concede that the Court and other district courts have declined to find that § 1225(b)(2) applies to noncitizens who have already entered the United States unlawfully. *Sanchez Alvarez*, 2025 WL 2942648, at *6 n.1. However, not all decisions have been resolved against the government on the issue of properly interpreting 8 U.S.C. § 1225(b)(2). *See, e.g.*, *Mejia Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *1 (E.D. Mo. Nov. 10, 2025) (finding petitioner, as an applicant for admission, "is governed by § 1225(b)(2) and is ineligible to receive a bond hearing" under the "plain language" of the statute); *Vargas Lopez v. Trump*, — F. Supp. 3d —, 2025 WL 2780351, at *10 (D. Neb. Sept. 30, 2025) (holding that "the plain language of § 1225(b)(2) and the 'all applicants for admission' language of *Jennings*" permit DHS to detain similarly-situated aliens § 1225(b)(2)); *Barrios Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926, at *5 (W.D. La. Oct. 31, 2025) (same); *Chavez v. Noem*, — F. Supp. 3d —, 2025 WL 2730228, at *4-5 (S.D. Cal. Sept. 24, 2025); *Pena v. Hyde*, No. CV 25-11983-NMG, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025) ("Because petitioner remains an applicant for admission, his detention is authorized so long as he is 'not clearly and beyond doubt entitled to be admitted' to the United States." (quoting 8 U.S.C. § 1225(b)(2)(A))). Moreover, no circuit court, including the Sixth Circuit, has considered whether DHS properly is construing § 1225(b)(2) to apply to aliens like Petitioner. Consequently, this Court is left to apply "all relevant interpretive tools" to conclude which interpretation of the statute is best. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024). The best

interpretation of § 1225(b)(2) permits Petitioner's detention under the statute, for the reasons stated above.

III. Petitioner's Detention Comports with Due Process.

The Fifth Amendment's Due Process Clause protects against the deprivation of life, liberty, or property "without due process of law." U.S. const. amend. V. That includes freedom from government detention unless "adequate procedural protections" are applied. *Zadvydas v. Davis*, 533 U.S. 690, 701 (2001).

In the immigration context, the Supreme Court has held that the process due under the constitution is coextensive with the removal procedures provided by Congress. *Thuraissigiam*, 591 U.S. at 138-40. *See also United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) ("Whatever the procedure authorized by Congress is, it is due process[.]"). It has confirmed that statutory provisions denying bond during administrative removal proceedings do not violate the due process clause. *Demore v. Kim*, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."). And it has held that even after a noncitizen is ordered removed, detention for up to six months is presumptively valid under the due process clause. *Zadvydas*, 533 U.S. at 701.

As noted above, Supreme Court precedents indicate that foreign nationals who entered illegally by evading detection while crossing the border should be treated the same as those who were stopped at the border in the first place. *See Thuraissigiam*, 591 U.S. at 138-40. While foreign nationals who have been *admitted* may claim due-process protections beyond what Congress has provided even when their legal status changes (such as a foreign national who overstays a visa, or is later determined to have been admitted in error), *see Wong Yang Sung v. McGrath*, 339 U.S. 33, 49–50 (1950), the Supreme Court has never held that foreign nationals who have "entered the

country clandestinely" are entitled to such additional rights, *see Yamataya v. Fisher*, 189 U.S. 86, 100 (1903). Congress instead codified this distinction by treating all foreign nationals who have not been admitted—including unlawful entrants who have evaded detection for years—as "applicant[s] for admission." 8 U.S.C. § 1225(a)(1).

In light of this precedent, Petitioner does not present a plausible due process claim. She admits that she entered the country without inspection and evaded detection for more than three decades. (Pet., ECF No. 1, ¶ 14.) Petitioner has received notice of the charges against her, has access to counsel, is scheduled to attend hearings with an immigration judge, may request bond, has the right to appeal the denial of any request for bond, and has been detained by ICE for less than two months. (*See* Ex. B, Notice to Appear; Ex. C, Hearing Notice.) No further due process is due to her at this time. *Thuraissigiam,* 591 U.S. at 138-40.

Because Petitioner has received the due process to which she is entitled, she cannot assert a viable claim under the Due Process Clause.

IV. This is Not the Proper Venue in Which to Allege *Castañon Nava* Violations.

The 2022 settlement agreement in *Castañon Nava v. Department of Homeland Security* resolved a class action challenging ICE's practice of conducting warrantless civil immigration arrests within the Chicago Field Office Area of Responsibility. The *Castañon Nava* settlement ensures that ICE complies with its statutory obligations when conducting warrantless arrests of persons who have not obtained lawful immigration or citizenship status in the United States. *Castañon Nava v. Dep't of Homeland Sec.*, — F. Supp. 3d. —, 2025 WL 2842146, at *1 (N.D. Ill. Oct. 7, 2025). It imposes documentation and disclosure requirements on ICE and, among other things, provides that a class member arrested contrary to its terms "shall be released from custody on their own recognizance without posting bond as soon as practicable." *Id.* at *5.

The *Castañon Nava* settlement may provide grounds for certain aliens to seek release from custody "in an action *outside of habeas*." *Nava Ibarra v. Noem*, No. 1:25-CV-1335, 2025 WL 3223765, at *9 (W.D. Mich. Nov. 19, 2025) (emphasis in original). However, a habeas action brought in the Western District of Michigan "is not the proper avenue for Petitioner to seek such relief." *Id.* Individuals who wish to join the *Castañon Nava* class can follow the procedure set out in the agreement. *Id.* And alleged violations of *Castañon Nava* should be brought in the Northern District of Illinois, not this Court.

V. The Detroit ICE Field Office Director is the Only Proper Respondent.

A writ of habeas corpus may only be issued "to the person having custody of the person detained." 28 U.S.C. § 2243. Except in extraordinary circumstances, the only proper respondent in a habeas corpus case is the detainee's immediate custodian. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). *Cf. Hernandez Garcia*, 2025 WL 3122800, at *7-8 (applying an exception to decline to dismiss the Secretary of Homeland Security as a respondent to a habeas action). In the immigration context, that is the ICE Field Office Director. *Id.*

Here, the Secretary of the Department of Homeland Security, Attorney General, and DHS are not proper respondents to this habeas action. Petitioner acknowledges that she named the Secretary because she "is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE." (Pet., ECF No.1, ¶ 16.) She further states that she named DHS as a respondent because it "is the federal agency responsible for implementing and enforcing the INA," and Attorney General Bondi because she is "responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency." (*Id.* ¶¶ 17-18.) These are not proper reasons for naming respondents to this action. *See Roman*, 340 F.3d at 322 (reasoning that "adopting a broader

definition of 'custodian'" that encompasses any official with control over an alien's detention and release "would complicate and extend the duration of habeas corpus proceedings"); *Escobar-Ruiz v. Raycraft,* No. 1:25-CV-1232, 2025 WL 3039255, at *8 (W.D. Mich. Oct. 31, 2025) (dismissing the Attorney General as an improper respondent to a habeas petition). Therefore, Secretary Noem, Attorney General Bondi, and DHS should be dismissed from this litigation, leaving the Detroit ICE Field Office Director as the proper respondent. *Id.*

CONCLUSION

The government respondents respectfully request that the Court deny Angelina Salvatierra Mazariegos's petition for a writ of habeas corpus because she is not detained in violation of federal law or the Constitution.

Respectfully submitted,

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Dated: November 24, 2025

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