UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EVANGELINA MORALES, Individually and on behalf of all others similarly situated, *Petitioner/Plaintiff,* *v.* **PAMELA BONDI**, ET AL., Respondents/Defendants.	CASE NO. 1:25-CV-01472 Honorable Hala Y. Jarbou **EXPEDITED CONSIDERATION REQUESTED Pursuant to Local Rule 7.1(e)**

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BRIEF IN SUPPORT OF PETITIONER/PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

I. INTRODUCTION

This case challenges the Executive's imposition of a categorical no-bond policy against a class of noncitizens who have long lived in the interior of the United States and were arrested by immigration agents under civil removal charges. These individuals, many of them parents, workers, and productive community members, have been denied any opportunity to contest their incarceration. Despite being placed in regular § 1229a removal proceedings and charged with longstanding entry violations, they are treated as if they had just arrived at the border, stripped of any chance to seek release on bond, and left to languish in civil detention indefinitely.

The plaintiff, Evangelina Morales, exemplifies the class. Arrested at her Michigan home after over two decades of continuous presence in the United States, she was detained without a bond hearing under the Government's new theory that interior arrests of entry-without-inspection (EWI) noncitizens fall under the mandatory detention scheme of 8 U.S.C. § 1225(b), not the discretionary bond process of § 1226(a). This position, adopted in the wake of the Board of Immigration Appeal's (BIA) decision in *Matter of Yajure-Hurtado*, represents a radical departure from longstanding agency practice and has stripped a swath of noncitizens of the procedural protections Congress afforded in §1226.

This motion for partial summary judgment seeks a declaration that Defendants' categorical denial of bond hearings to the class violates both the Immigration and Nationality Act (INA) and the Due Process Clause. As the Central District of California recently held in granting partial summary judgment on this exact issue, the material facts are undisputed, and the legal question is singular: "Whether the government may detain interior arrestees under § 1225(b)(2) by fiat". That court answered 'no,' finding the government's interpretation 'incompatible with the

plain text and structure of the INA.' This Court should reach the same conclusion. There is no dispute that the Government is uniformly applying this policy. Nor is there any meaningful disagreement about its effects: since mid-2025, immigration judges in jurisdictions across the country have refused to hold, or to meaningfully adjudicate, bond requests for class members. Some IJs have expressly stated on the record that they lack jurisdiction under the new regime; others have held perfunctory "hearings" in which no evidence is considered and the outcome is predetermined. Even in the face of federal court intervention, IJs have declared themselves powerless to grant release, viewing *Matter of Yajure-Hurtado* as binding and conclusive.

This is not a case about a single defective proceeding or an individual discretionary decision. This is a challenge to a structural breakdown: a systemic refusal to conduct hearings that the statute mandates and that due process requires. That breakdown makes administrative redress futile. Plaintiffs do not have to knock on doors that the Executive has barred shut. The federal courts remain the only venue where relief can be meaningfully obtained.

This Court should now do what the law requires and what the administrative system has refused to do: affirm that the Immigration and Nationality Act does not allow the categorical denial of bond hearings to individuals in § 1229a proceedings, and that constitutional due process is not satisfied by a policy of indefinite detention imposed without individualized inquiry. The relevant facts are undisputed. The legal violations are clear. Partial summary judgment is proper.

II. RELEVANT FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Evangelina Morales is a mother of four U.S. citizen children, two with special needs, who has lived continuously in the United States since 2001. On October 28, 2025, she was arrested at her Michigan home by immigration agents and detained without a judicial warrant. She was

transported to the North Lake Processing Center in Baldwin, Michigan, and placed in removal proceedings under 8 U.S.C. § 1229a. The Notice to Appear charged her as present without admission under INA § 212(a)(6)(A)(i), a civil offense. At no point did she receive a bond hearing before an immigration judge. Instead, she was treated as mandatorily detained under 8 U.S.C. § 1225(b), without access to a custody redetermination, despite the fact that she had been continuously residing in the interior of the United States for nearly twenty-five years.

The experience of Ms. Morales is not an isolated case. In the wake of *Matter of Yajure-Hurtado*, immigration judges across the country, including those in Michigan, began categorically denying jurisdiction over bond requests from similarly situated noncitizens. In numerous dockets, IJs have expressly stated they lack authority to grant bond, either refusing to hold a hearing at all or conducting nominal proceedings devoid of evidentiary review or any exercise of discretion. Attorneys practicing in the Michigan and broader Midwest immigration courts have attested in sworn declarations that seeking a bond hearing under the current regime is now a futile endeavor. (Exhibit 1). Even where a court has issued a TRO directing a bond hearing, immigration judges have insisted on record that they are bound by the statutory interpretation of § 1225(b) and thus categorically unable to order release, even while acknowledging that, but for that limitation, they would otherwise grant bond. (Exhibit 1-Declaration of Luis Angeles, ¶¶ 6–9).

Plaintiff initiated this action on November 17, 2025, filing a habeas petition and civil complaint in the Western District of Michigan challenging the policy of denying bond hearings to noncitizens like her. (ECF No. 2). On November 23, she moved for class certification, seeking to represent all individuals who, like her, were arrested in the interior, placed in full § 1229a removal proceedings, and denied the opportunity for a custody redetermination. (ECF No. 5). In

response, the Government has not disputed the existence, scope, or implementation of the challenged detention policy. Instead, it affirmatively defends the policy's legality, expressly asserting that every noncitizen who entered without inspection remains an 'applicant for admission' subject to mandatory detention under § 1225(b)(2), and therefore categorically ineligible for bond or release under § 1226(a). (*See* ECF No. 9). That position is the basis for this motion. The material facts are not in dispute. The policy is undisputed. The legal issues are ripe.

III. LEGAL STANDARD AND APPLICABLE ARGUMENT

A. Legal Standard

Under Federal Rule of Civil Procedure 56, any party "may move for summary judgment, identifying each claim or defense . . . on which summary judgment is sought." Fed. R. Civ. P. 56(a). "The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Id.* In ruling on a motion for summary judgment, the court must draw all reasonable inferences in favor of the nonmoving party. *McLean v. 988011 Ontario Ltd.*, 224 F.3d 797, 800 (6th Cir. 2000). A fact is material if it would affect the suit's outcome under the governing substantive law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) ("As to materiality, the substantive law will identify which facts are material. Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.").

A party asserting the presence or absence of genuine issues of material facts must support its position either by "citing to particular parts of materials in the record," including depositions, documents, affidavits or declarations, stipulations, or other materials, or by "showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse

party cannot produce admissible evidence to support the fact." Fed. R. Civ. P. 56 (c)(1). When ruling on a motion for summary judgment, the Court must view the facts contained in the record and all inferences that can be drawn from those facts in the light most favorable to the nonmoving party. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986); *Nat'l Satellite Sports, Inc. v. Eliadis Inc.*, 253 F.3d 900, 907 (6th Cir. 2001). The Court cannot weigh the evidence, judge the credibility of witnesses, or determine the truth of any matter in dispute. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249 (1986).

The moving party bears the initial burden of demonstrating that no genuine issue of material fact exists. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The moving party may discharge this burden either by producing evidence that demonstrates the absence of a genuine issue of material fact or simply "by 'showing' - that is, pointing out to the district court - that there is an absence of evidence to support the nonmoving party's case." *Id.* at 325. Where the movant has satisfied this burden, the nonmoving party cannot "rest upon its . . . pleadings, but rather must set forth specific facts showing that there is a genuine issue for trial." *Moldowan v. City of Warren*, 578 F.3d 351, 374 (6th Cir. 2009) (citations omitted).

The nonmoving party must present sufficient probative evidence supporting its claim that disputes over material facts remain and must be resolved by a judge or jury at trial. *Anderson*, 477 U.S. at 248-49 (citing *First Nat'l Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253 (1968)); *see also White v. Wyndham Vacation Ownership, Inc.*, 617 F.3d 472, 475-76 (6th Cir. 2010). A mere scintilla of evidence is not enough; there must be evidence from which a jury could reasonably find in favor of the nonmoving party. *Anderson*, 477 U.S. at 252; *Moldowan*, 578 F.3d at 374. If the nonmoving party fails to make a sufficient showing on an essential element of its case with

respect to which it has the burden of proof, the moving party is entitled to summary judgment. *Celotex*, 477 U.S. at 323.

B. Applicable Law

For nearly three decades, the federal government consistently applied § 1226(a) as the governing detention authority for individuals apprehended within the United States, regardless of whether they had been formally admitted at the border. The regulations promulgated under the 1996 Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") expressly confirmed that "[a]liens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). The same regulatory framework clarified that whether a person qualifies as an "arriving alien" turns on whether the individual has "established physical presence" inside the United States. Id. at 10313 ("Aliens who have not yet established physical presence on land in the United States cannot be considered as anything other than arriving aliens[.]" (emphasis added)).

This practice aligned with Congress's deliberate distinction between those detained upon arrival at the border, who may be subject to § 1225(b), and those long-settled in the interior, whose detention falls under § 1226(a) and requires individualized justification. *See Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (contrasting §§ 1225 and 1226). As *Jennings* explains, § 1226(a) constitutes the "default rule" governing discretionary detention of noncitizens "already present in the United States." *Id.* Under that provision, the Department of Homeland Security may initially determine custody, but the detainee may seek redetermination before an immigration judge. 8 C.F.R. § 1236.1(c)(8), (d)(1). At such a hearing, the noncitizen "may secure his release if he can convince the officer or immigration judge that he poses no flight risk and no

danger to the community." *Nielsen v. Preap*, 586 U.S. 392, 397–98 (2019) (citing 8 C.F.R. §§ 1003.19(a), 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006)).

In contrast, § 1225 governs the detention of those "seeking admission." The statute defines such individuals as including a noncitizen "present in the United States who has not been admitted or who arrives in the United States." § 1225(a)(1). These noncitizens fall into two categories: those subject to expedited removal under § 1225(b)(1) and those subject to full removal proceedings under § 1225(b)(2). Jennings, 583 U.S. at 288. For the latter group, the statute requires mandatory detention if "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Unlike § 1226(a) detainees, individuals held under § 1225(b) may only be released "for urgent humanitarian reasons or significant public benefit." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

Indeed, the statutory definition of "applicant for admission" under 8 U.S.C. § 1225(a)(1) must be read in harmony with § 1226(a). While the statute provides that a noncitizen "present in the United States who has not been admitted" is "deemed" an applicant for admission, courts have rejected the notion that this deeming provision swallows the entire detention framework. To accept that interpretation would render § 1226(a) meaningless, collapsing the statutory scheme into a single, mandatory regime in tension with congressional structure and purpose.

That balance was disrupted in mid-2025, when DHS and DOJ jointly adopted an "Interim Guidance Regarding Detention Authority for Applicants for Admission," purporting to reclassify *all* persons who entered without inspection—regardless of how long ago—as "applicants for admission." The BIA's *Matter of Yajure-Hurtado* decision followed, transforming what had been an internal enforcement memorandum into binding precedent nationwide. Under this policy, ICE

officers now routinely apply § 1225(b)(2)(A) to individuals arrested deep in the interior of the United States, detaining them without bond eligibility and instructing Immigration Judges that they lack jurisdiction to conduct custody hearings. The result has been a surge in habeas filings across the country; courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the text of the INA. Most importantly, on November 18, 2025, this Court definitively rejected Respondents' position. See Mendez v. Raycraft, No. 1:25-cv-1323, Slip Op. at 9 (W.D. Mich. Nov. 18, 2025) (Jarbou, C.J.) (holding that "§ 1226(a), not § 1225(b)(2)(A), governs noncitizens.... who have resided in the United States and were already within the United States when apprehended"). This aligns with the growing consensus of federal courts rejecting the government's position. *See, e.g., Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) ("There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border."); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM, 2025 WL 208438 (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19,

2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Aguilar Merino v. Ripa et al.*, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Sanchez Alvarez v. Noem et al.*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025).

Consistent with the text, structure, and settled precedent, noncitizens like Plaintiff, who were arrested in the interior, placed into § 1229a proceedings, and charged solely under § 212(a)(6)(A)(i), fall squarely within § 1226(a). They are entitled to individualized bond hearings with a presumption of release unless the government establishes flight risk or danger. The Government's effort to sidestep this framework by unilaterally invoking § 1225(b) is not only ultra vires but unconstitutional. The INA does not permit indefinite civil detention without process for long-residing members of our communities.

C. Maldonado *Bautista v. Santacruz*

The material facts here mirror those in a recent district court decision granting partial summary judgment in *Lazaro Maldonado Bautista v. Santacruz*. *See* Exhibit 2 - Order Granting Partial Summary Judgment, *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. (C.D. Cal. Nov. 20, 2025). In *Bautista* the Court first noted:

> Petitioners' Motion for Partial Summary Judgment seeks to declare the new DHS Policy unlawful[.] Opposition argues, beyond the jurisdictional issues already discussed, Petitioners are not entitled to summary judgment where Congress has directed Petitioners and those similarly situated to be subject to mandatory detention. Because the parties appear to agree that there are no genuine disputes as to any material facts, the Court focuses on whether Petitioners are entitled to judgment as a matter of law. As reflected in the briefings, this is a question of statutory interpretation.

Id., at 9.

As judge noted in *Bautista*, summary judgment thus depends on a pure statutory question, the same one presented here, whether whether § 1225(b)(2) or § 1226(a) provides the governing detention authority for long-term interior residents:

> Based on the undisputed facts, Petitioners were not inspected by immigration officers when arriving in the United States, and were already in the United States at the time of their arrest and being charged as inadmissible. . . Petitioners argue that § 1226(a)—not § 1225(b)(2)—applies to them and those similarly situated. Respondents again argue that § 1225(b)(2) is the governing authority for "applicants for admission", which includes Petitioners. In simpler terms, the parties dispute whether Petitioners are "applicants for admission," a category dispositive of whether Petitioners are subject to mandatory detention pending their removal proceedings. If Petitioners are "applicants for admission," § 1225 governs, and they would not be entitled to bond hearings under § 1226(a).

Id. at 11–12 (cleaned up).

After considering the statutory characteristics of an "applicant for admission" that would render the Government's interpretation consistent with the INA's statutory scheme, the court then concluded as follows:

> Individuals who have not been inspected and authorized by an immigration officer lack the trait to be categorized as "applicants for admission." The statutory language of § 1225(b)(2) contemplates a determination by an "examining immigration officer" regarding a noncitizen's admissibility. See § 1225(b)(2). Nowhere in the record supports the existence of an examining immigration officer or a requisite determination of inadmissibility that would result in mandatory detention, as Respondents insist. When considering the statutory definitions of the INA and the plain text of § 1225, it is unambiguous that "applicants for admission" do not include noncitizens already in the United States like Petitioners— individuals that were not determined inadmissible by an "examining immigration officer."
>
> What category, then, do Petitioners fall under? Individuals who are present in the United States and have not been inspected and authorized by an immigration officers are merely part of the broadly defined term "[noncitizen]": any person not a citizen or national of the United States. § 1101(a)(4). As the plain language of § 1226(a) supports Petitioners' interpretation, and "no insuperable textual barrier" hinders this reading, *the Court finds that § 1226(a) is the appropriate governing authority over Petitioners' detention. See Utility Air Regulatory Group v. E.P.A.*, 573 U.S. 302, 321 (2014).

Id. at 14 (emphasis added).

The district court also explicitly found that the Government's strained interpretation violated separation of powers principles, and that only the Plaintiff's interpretation could harmonize the various provision of the INA:

> Thus, Respondents' expansive interpretation of "applicants for admission" would effectively nullify a portion of the INA through the DHS's legislative or interpretive exercise of power. Neither is appropriate under the separation of powers. See Loper Bright Enterprises v. Raimondo, 603 U.S. 369, 386 (2024) (establishing that "[t]he views of the Executive Branch could inform the judgment of the Judiciary, but [do] not supersede it."). Meanwhile, Petitioners' interpretation—that § 1226(a) is the governing authority and that they are not "applicants for admission—is not contrary to the statutory scheme of the INA. See generally § 1226. Nowhere in § 1226 is the phrase "applicants for admission," "admission," or "admitted" used in the context raised in § 1225.
>
> Where statutory language is unambiguous and "the statutory scheme is coherent and consistent," the Court must end its inquiry. *United States v. Ron Pair Enterprises, Inc.*, 489 U.S. 235, 240 (1989). Because the Court finds the statutory provisions to be unambiguous and consistent with only Petitioners' interpretation, there is no need to engage with canons of construction, legislative history and intent, implementing regulations, or agency practice.

Id. at 16–17.

Moreover, the government has already demonstrated that it will attempt to evade the *Bautista* ruling. In recent filings in the Western District of Louisiana, the government argued that the *Bautista* nationwide class certification and summary judgment order are **not binding** because that court did not yet enter a 'final judgment' under Federal Rule of Civil Procedure 54(b). *See* Respondents' Response to Petitioner's Motion, *[Redacted] v. Noem*, No. [Case No.] (W.D. La. Nov. 26, 2025) (Exhibit 3). By claiming the California ruling 'does not constitute a judgment,' the government is effectively asserting a right to ignore it. This confirms that partial summary judgment from *this* Court is not merely academic, it is the only way to compel compliance in this District.

IV. ARGUMENT

Respondents have conceded the dispositive facts. They do not dispute that Petitioner entered without inspection in 2001. They do not dispute she was arrested in the interior in 2025. They do not dispute she is charged under § 212(a)(6)(A)(i). And they do not dispute that she has been denied a bond hearing solely because of their policy reclassifying her under § 1225(b)(2). These are the only facts necessary to decide the legal question. As in *Bautista*, "the parties appear to agree that there are no genuine disputes as to any material facts," and the sole question is whether the Government's reading of the INA is legally correct. Slip op. at 9, 11. Under Rule 56, when the dispositive issue is one of law, summary judgment is appropriate so long as the moving party demonstrates that the opposing interpretation is contrary to the statutory text and structure. Plaintiff has met that burden. The Government's position is not just wrong, it is incompatible with the plain language, the statutory scheme, and the settled understanding of § 1226(a).

The Government's refusal to provide bond hearings to noncitizens apprehended in the interior of the United States, such as Ms. Morales and the proposed class, is unlawful under the plain terms of the INA and binding precedent. The facts are undisputed: Plaintiff was arrested within the United States, placed in § 1229a removal proceedings, and charged solely under § 212(a)(6)(A)(i). Under these circumstances, she is entitled to the procedural protections of § 1226(a), including a bond hearing before an immigration judge. The Government's contrary position, that § 1225(b)(2)(A) governs instead, is irreconcilable with the statutory structure and judicial interpretations reaffirming the significance of physical presence and individualized process.

The record confirms that the Government has adopted a policy of treating all individuals present without admission, including those like Plaintiff with decades of residence, as "applicants for admission" subject to mandatory detention under § 1225(b). This approach is not only contrary to the statute's text and purpose, it has rendered bond hearings categorically unavailable. Immigration Judges across the country have declared themselves without jurisdiction to conduct bond hearings for noncitizens arrested in the interior, irrespective of their equities or years of residence. For example, attorney Luis Angeles recounts that even after obtaining a federal court order requiring a bond hearing, the presiding IJ refused to consider bond, stating on the record that *Matter of Yajure-Hurtado* foreclosed any jurisdiction to grant relief even while expressly noting he would have granted a $5,000 bond if permitted to do so (Declaration of Luis Angeles, ¶¶ 6–9). Attorney Carolyn A. Marks similarly attests that courts in Cleveland and Memphis categorically denied bond jurisdiction based solely on classification under § 1225(b)(2), irrespective of the respondent's long-term residence or equities (Declaration of Carolyn A. Marks, ¶¶ 6–9). Attorney Marlon Bayas recounts that Immigration Judges routinely dismiss factual submissions as irrelevant and proceed directly to final orders, without considering custody redetermination, under the same rationale (Declaration of Marlon Bayas, ¶¶ 6–8). Attorney Nazly Mamedova confirms the same pattern across multiple jurisdictions including Cleveland, Conroe, Memphis, and Indianapolis—IJ's citing Matter of Yajure-Hurtado as stripping them of any authority to redetermine custody, regardless of whether the respondent entered years earlier (Declaration of Nazly Mamedova, ¶¶ 6–8). Attorney Steven Planzer describes in detail how IJs no longer entertain bond requests for noncitizens apprehended in the interior, as the new DHS guidance is understood to eliminate § 1226(a) jurisdiction altogether (Declaration of Steven Planzer, ¶¶ 7–11). The combined effect of these consistent declarations is

inescapable: under the new policy, bond hearings for this class of individuals have become procedurally unavailable as a matter of course. The pattern is systemic, not episodic. Administrative remedies are futile, and judicial intervention is required.

The plain text of § 1226(a) governs detention for noncitizens "already present in the United States," and allows them to seek release on bond unless DHS shows flight risk or danger. *See Jennings*, 583 U.S. at 303. Regulations confirm that persons "present without having been admitted or paroled" are eligible for bond and redetermination. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). That interpretation is also supported by *Jennings*, which describes § 1226(a) as the "default rule" for the discretionary detention of noncitizens "already present in the United States." 583 U.S. at 303.

The Government argues that § 1225(a)(1) 'deems' all unadmitted aliens to be applicants. However, §1225(b)(2)(A), the *mandatory detention* provision, contains a specific textual trigger: it applies only 'if the **examining immigration officer determines**' inadmissibility. As *Bautista* held, this language requires a contemporaneous inspection by an officer. For Petitioner and the class, who entered years ago without inspection, no such officer ever made such a determination at the time of entry. DHS cannot invent an 'examining officer' determination twenty years later to trigger a mandatory detention statute that was never meant to apply to them.

That result is not only textually indefensible but constitutionally suspect. The Government cannot use a strained definition to expand mandatory detention and eliminate individualized hearings that have been a bedrock of immigration procedure. The district court in Bautista rejected the Government's reading on precisely this basis, holding that it would "effectively nullify a portion of the INA" and violate the separation of powers. *Id.* at 17 (citing

Loper Bright Enters, 603 U.S. at 386). Instead, it reaffirmed that § 1226(a) applies to individuals already present in the United States, even if they have not been formally admitted. *Id.*

The facts here mirror *Bautista*. Ms. Morales was not inspected upon arrival, was not apprehended at the border, and was not subject to an admissibility determination by an examining officer. She was arrested in her home, in the heart of the interior, decades after arriving. She and those similarly situated are not "arriving aliens" and cannot be lawfully subjected to detention under § 1225(b)(2)(A). They are entitled to the protections of § 1226(a), including a bond hearing.

Because the policy deprives Plaintiff and the proposed class of these statutory and constitutional rights, and because the administrative record confirms that no bond hearings are available under the current regime, the Government's policy is unlawful as a matter of law. There is no material dispute of fact. Summary judgment is proper.

V. CONCLUSION

The Government's policy of categorically denying bond hearings to noncitizens arrested in the interior of the United States—individuals who have lived in this country for years and are placed in § 1229a proceedings—is flatly inconsistent with the Immigration and Nationality Act and violates fundamental principles of due process. The statute does not permit the Executive to sidestep the individualized hearing requirements of § 1226(a) by reclassifying long-settled residents as if they were standing at the border. Nor does it allow immigration judges to abdicate their duty to adjudicate custody merely because the agency has announced a new interpretive position. This Court has already made clear in Mendez, that § 1226(a), not § 1225(b), governs detention in these circumstances. The material facts are undisputed. The question is legal. The answer is clear.

For the foregoing reasons, Plaintiff respectfully requests that the Court grant her motion for partial summary judgment and declare that she—and all class members similarly situated—are entitled to bond hearings under § 1226(a) as a matter of law.

Summary judgment on Count I (Statutory Violation) and Count VI (Due Process) is warranted now. As Respondents' filings in other districts confirm, they view the *Bautista* order as non-binding because it lacks a Rule 54(b) final judgment. This cynical strategy leaves thousands of class members in limbo as though they are technically victorious in California, they are yet practically detained without recourse. This Court should therefore issue an Order granting Partial Summary Judgment that establishes, as a matter of law, that § 1226(a) governs the detention of the Class, closing the enforcement gap Respondents are currently exploiting.

Dated: November 30, 2025

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