

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

RAMILABEN D. PATEL,	:	NO. 3:25-CV-02181
Petitioner,	:	
	:	(SAPORITO, D.J.)
v.	:	
	:	(CAMONI, M.J.)
ANGELA HOOVER,	:	
Respondent.	:	

REPORT AND RECOMMENDATION

Indefinite, unreviewable executive detention is anathema to a functional democracy. Respondent argues that Petitioner is subject to mandatory detention, of no specified duration, and that no district court can review that detention for any reason. But where “a person is detained by executive order, rather than, say, after being tried and convicted in a court, the need for collateral review is most pressing.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008). Because habeas corpus is a core constitutional guarantee, placing a check on what would otherwise be unfettered executive authority to restrain an individual’s liberty, “the writ must be effective.” *Id.* And, because Petitioner has satisfied her burden to show that the government is detaining her unlawfully, the undersigned respectfully recommends that the Court grant the writ of habeas corpus and order her released immediately.

I. BACKGROUND

The facts underlying this petition are not in dispute. Petitioner, Ramilaben D. Patel, is an immigration detainee currently held at the Clinton County Correctional Facility in McElhattan, Pennsylvania, and she has filed a counseled Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Habeas Petition, Doc. 1. Petitioner is a native and citizen of India. *Id.* ¶ 17. She entered the United States without inspection near San Ysidro, California, on June 25, 2022. *Id.* ¶ 2. Shortly thereafter, she was apprehended by Customs and Border Patrol (“CBP”) and detained for approximately 24 hours. *Id.* The day after Patel was detained, the Department of Homeland Security (DHS) released her on her own recognizance and issued a Notice to Appear (NTA) in Immigration Court, charging her as being an alien present in the United States without admission or parole. *Id.* In February 2023, Petitioner’s husband timely filed an I-589 Application for Asylum with U.S. Citizenship and Immigration Services (“USCIS”), listing Petitioner and their children as derivatives, that is currently pending. *Id.* ¶ 3. As asylum applicants, Petitioner and her family have work authorization and social

security numbers. *Id.* There are no allegations of any criminal conduct or convictions.¹

In November 2025, Immigration and Customs Enforcement (“ICE”) officers arrested Petitioner at her place of employment in Bloomsburg, Pennsylvania, and charged her with entering the United States without admission or inspection. *Id.* ¶ 4. DHS refused to release Petitioner from immigration custody in accordance with a new DHS policy issued on July 8, 2025, that instructed all ICE employees to regard all non-citizens who unlawfully entered the United States to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and thus ineligible to be released on bond. *Id.* ¶ 5.

Petitioner is detained at Clinton County Correctional Facility in McElhattan, Pennsylvania, and is in the physical custody of Respondent.² *Id.* ¶ 10. After arresting Petitioner, ICE did not set bond

¹ Respondent claims that Patel is detained while appealing a “removal order,” but provides no evidence that she has ever been ordered removed. Doc. 7 at 1. Respondent also later responds to arguments about an “automatic stay” provision that Petitioner has not made and that have no bearing here. *Id.* at 2, 45-47.

² Petitioner lists multiple officials as Respondents, while the government, without explanation or argument, lists only CCCF Warden Angela Hoover. In previous similar cases, the government has asserted that, pursuant to the “immediate custodian rule,” the only proper respondent

and Petitioner did not attempt to seek review by an immigration judge of her custody, due to the decision of the Board of Immigration Appeals (“BIA” or “Board”) in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which held that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *Id.* ¶¶ 6, 17.

Petitioner seeks a writ of habeas corpus requiring that she be immediately released, or, in the alternative, ordering Respondent to

in a case such as this is the warden of the facility where the Petitioner is detained. “The federal habeas statute straightforwardly provides that the proper respondent to a habeas petition is ‘the person who has custody over [the petitioner].’” *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) (quoting 28 U.S.C. § 2242); 28 U.S.C. § 2243 (“[t]he writ, or order to show cause shall be directed to the person having custody of the person detained”); see *Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 444 (3d Cir. 2021) (“if a § 2241 petitioner does not adhere to the immediate custodian rule, then the district court lacks jurisdiction to entertain the petition”). As Patel is detained at the Clinton County Correctional Facility, Hoover is the proper respondent. (Doc. 1, ¶ 1). All other respondents should be dismissed. However, as Hoover is acting as an agent of the federal government by detaining Patel on behalf of Immigration and Customs Enforcement (“ICE”), the government will be bound by the Court’s judgment. See *Madera v. Decker*, 18 Civ. 7314, 2018 WL 10602037, at *9-*10 (S.D.N.Y. Sep. 28, 2018) (finding the warden acts as an agent of the ICE regional director when ICE makes initial custody determinations including setting of a bond and review of conditions of release). It amounts to a distinction without a practical difference.

provide a bond hearing under § 1226(a) within seven days. *Id.* ¶ 9. The parties have fully briefed the issues, and the petition is ripe. Docs. 1, 7, 8.

II. JURISDICTION

As explained further below, this Court has jurisdiction under 28 U.S.C. § 2241(c)(3) to grant a writ of habeas corpus to a person in custody in violation of the Constitution, laws, or treaties of the United States. *Demore v. Kim*, 538 U.S. 510, 517 (2003). “[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004), citing U.S. Const., art. I, § 9, cl. 2. Petitioner was detained within this Court’s jurisdiction and by a custodian within this Court’s jurisdiction when she filed the Petition, and she asserts that her continued detention violates due process. Therefore, this Court has jurisdiction over her claims. *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (per curiam) (noting jurisdiction for “core habeas petitions” lies in the district of confinement).

District Courts also have jurisdiction in “all civil actions arising under the Constitution, laws, or treaties of the United States” pursuant to 28 U.S.C. § 1331, and the ability to grant equitable relief in the absence

of an exclusive statutory review scheme. *Semper v. Gomez*, 747 F.3d 229, 242 (3d Cir. 2014). The district court has referred this case to the undersigned pursuant to 28 U.S.C. § 636, which authorizes, among other things, the undersigned Magistrate Judge to prepare reports and recommendations on potentially dispositive matters.

III. ANALYSIS

Petitioner argues that DHS's newly instituted application of mandatory detention under § 1225(b)(2), as set forth in *Hurtado*, violates the plain language of the INA. Doc. 1 ¶ 7. Respondent counters first that, pursuant to 8 U.S.C. §§ 1252(g) and (b)(9), and because Petitioner failed to exhaust her administrative remedies, this Court lacks jurisdiction over Petitioner's claims. Response to Petition, Doc. 7 at 1-2. Next, Respondent maintains that Petitioner's detention under § 1225(b)(2) is proper here. *Id.* Petitioner has "the burden of sustaining [her] allegations by a preponderance of evidence." *Walker v. Johnston*, 312 U.S. 275, 286 (1941).

For the reasons set forth below, the undersigned respectfully recommends that the Court reject Respondent's arguments as to both

jurisdiction and the lawfulness of detention, and order Petitioner released.

A. This Court has jurisdiction to review Petitioner's detention

1. Section 1252(g) Does Not Strip This Court of Jurisdiction.

Respondent contends that the INA strips jurisdiction from district courts over challenges to administrative detention, and therefore this Court cannot entertain this petition. A plain reading of the statutes does not support Respondent's argument, as the Supreme Court has agreed. Even if the statutes could be read to purport to preclude review of this petition, Respondent fails to address how such an outcome would not run afoul of the Suspension Clause.

Respondent first argues that:

Section 1252(g) specifically deprives courts of jurisdiction, including habeas corpus jurisdiction, to review "any cause or claim by or on behalf of an alien arising from the decision or action by the Attorney General to [1] commence proceedings, [2] adjudicate cases, or [3] execute removal orders against any alien under this chapter." 8 U.S.C. § 1252(g). Section 1252(g) eliminates jurisdiction "[e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title."

Doc. 7 at 15.

Nothing in § 1252(g) precludes district courts from exercising habeas jurisdiction over the detention of individuals in administrative immigration proceedings. “The provision applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or *execute* removal orders.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original).³ Petitioner does not ask this Court to review the decision or action to commence immigration proceedings against her, nor to adjudicate her case, nor to impose or eventually execute a removal order. Petitioner only seeks review of her ongoing detention, a heartland habeas corpus claim. Section 1252(g) does not prevent the Court from exercising jurisdiction under § 2241 over such a claim.

Respondent next argues that jurisdiction is also barred by 8 U.S.C. § 1252(b)(9):

Second, under § 1252(b)(9), “judicial review of all questions of law . . . including interpretation and application of statutory provisions . . . arising from any action taken . . . to remove an

³ Respondent cites to *Reno* (Doc. 7 at 17), but ignore the Court’s limited reading of § 1252(g), and do not attempt to square the case with their contention that the provision strips jurisdiction over far more than the “three discrete actions” specified by the Court.

alien from the United States” is only proper before the appropriate federal court of appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. § 1252(b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999). Section 1252(b)(9) is an “unmistakable ‘zipper’ clause” that “channels judicial review of all [claims arising from deportation proceedings]” to a court of appeals in the first instance.

Doc. 7 at 17.

Again, on its face, Section 1252(b)(9) does not purport to deprive the courts of jurisdiction over petitions like the one before the Court that seek a writ of habeas corpus and challenge the legality of detention. Petitioner does not ask this Court to interfere with any “action taken to remove” her from the United States. *See* Traverse, Doc. 8 at 6. She challenges only the statute under which she is being detained and to the denial of a bond hearing. *Id.*; *see Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018) (“For present purposes, it is enough to note that Respondents are not asking for review of an order of removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined. Under these circumstances, § 1252(b)(9) does not present a jurisdictional bar.”).

Respondent points to the Supreme Court’s “guidance” in *Jennings* to support their position:

The Court found that “§ 1252(b)(9) [did] not present a jurisdictional bar” in situations where “respondents . . . [were] not challenging the decision to detain them in the first place.” [*Jennings*, 583 U.S.] at 294–95. In this case, Petitioner *does* challenge the government’s decision to detain her in the first place. Though Petitioner may attempt to frame this challenge as one relating to detention authority, rather than a challenge to DHS’s decision to detain her pending her removal proceedings in the first instance, such creative framing does not evade the preclusive effect of § 1252(b)(9).

Doc. 7 at 20. But Petitioner does not, in fact, challenge “the government’s decision to detain her in the first place.” She challenges the government’s *continuing* detention of her. Nowhere does she contend that her arrest by DHS was unlawful, nor that her initial detention was illegal. Respondent’s own “creative framing” misses the mark and misconstrues both Petitioner’s arguments and *Jennings*.⁴

⁴ Respondent also highlights portions of *Khalil v. President, U.S.*, Nos. 25-2162 & 25-2357, 2026 WL 111933 (3d Cir. Jan. 15, 2026), in their Notice of Supplemental Authority (Doc. 10) to support their argument that, like the Petitioner in *Khalil*, Petitioner in the instant case challenges her removal and not simply her detention. However, unlike Petitioner in *Khalil*, Petitioner here is not challenging the legality of her arrest or detention, but rather the statute under which she is being detained and her entitlement to a bond hearing. In fact, *Khalil* reaffirms that, when challenges are limited to the legality of detention, such habeas

As the Supreme Court explained, “It may be argued that” Petitioner’s claims regarding detention arise from deportation proceedings “in the sense that if those actions had never been taken, [she] would not be in custody at all. But this expansive interpretation of § 1252(b)(9) would lead to staggering results.” *Jennings*, 583 U.S. at 293. The Court reviewed certain claims that might be said to “arise from” removal proceedings under the construction the Respondent offers here, including conditions of confinement, and found that “cramming judicial review of those questions into the review of final removal orders would be absurd.” *Id.*

Interpreting ‘arising from’ in this extreme way would also make claims of prolonged detention effectively unreviewable. By the time a final order of removal was eventually entered, the allegedly excessive detention would have already taken place. And of course, it is possible that no such order would ever be entered in a particular case, depriving that detainee of any meaningful chance for judicial review.

Id.

Indeed, the “staggering results” of such an interpretation of § 1252(b)(9) are easy to imagine. Under such a regime of unreviewable,

petitions are still properly brought “in federal district court despite § 1252(b)(9).” *Khalil* at 29.

indefinite executive detention, any person could be taken into custody and held for any amount of time, without recourse. If, as the Respondent contends, the government need only recite that it detains a person subject to deportation proceedings to preclude the courts from reviewing that detention, then the executive has unlimited authority to detain anyone, for any amount of time, without review. And if the only review becomes available when a final order is entered, the government could simply refrain from issuing a final order, and detention could last indefinitely. In response to this precise hypothetical, the Court of Appeals for the Third Circuit recently reaffirmed in *Mahmoud Khalil v. President, United States of America*, that “if the government did detain an alien and then tried to evade judicial review by refusing to enter a final order of removal for a long time. . . the alien could bring a prolonged detention challenge in federal district court despite § 1252(b)(9).” Nos. 25-2162 & 25-2357, 2026 WL 111933, at 29 (3d Cir. Jan. 15, 2026).

This is precisely why the writ of habeas corpus exists, and why the Founders guaranteed the availability of the writ, which can only be suspended as specified in the Suspension Clause. U.S. Const., Art. I, § 9, cl. 2 (“The Privilege of the Writ of Habeas Corpus shall not be suspended,

unless when in Cases of Rebellion or Invasion the public Safety may require it.”); *see also Boumediene*, 553 U.S. at 732 (“[T]he constitutional privilege of habeas corpus [is] not to be withdrawn except in conformance with the Suspension Clause[.]”).

Confronted with a similar argument by the government that indefinite executive detention was unreviewable by the courts because of a jurisdiction-stripping statute, the Supreme Court recalled the words of Alexander Hamilton, who summed up the importance of the writ of habeas corpus to the preservation of a limited government:

[T]he practice of arbitrary imprisonments, have been, in all ages, the favorite and most formidable instruments of tyranny. The observations of the judicious Blackstone . . . are well worthy of recital: “To bereave a man of life . . . or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government.” And as a remedy for this fatal evil he is everywhere peculiarly emphatical in his encomiums on the habeas corpus act, which in one place he calls “the bulwark of the British Constitution.”

Boumediene, 553 U.S. at 744, quoting *The Federalist* No. 84.

As the Court then explained, “In our own system the Suspension Clause is designed to protect against these cyclical abuses.”

The Clause protects the rights of the detained by a means consistent with the essential design of the Constitution. It ensures that, except during periods of formal suspension, the Judiciary will have a time-tested device, the writ, to maintain the ‘delicate balance of governance’ that is itself the surest safeguard of liberty. The Clause protects the rights of the detained by affirming the duty and authority of the Judiciary to call the jailer to account.

Id. at 745, quoting *Hamdi*, 542 U.S. at 536.

Thus, even if Respondent’s reading of the statutes was correct, habeas jurisdiction would still lie because the elimination of jurisdiction under the circumstances presented here would violate the Suspension Clause.

To determine whether a jurisdiction-stripping statute violates the Clause, the Court applies a two-step analysis. *Osorio-Martinez v. Att’y Gen.* U.S., 893 F.3d 153, 166 (3d Cir. 2018), citing *Boumediene*, 553 U.S. at 723. The Court first determines “whether a given habeas petitioner is prohibited from invoking the Suspension Clause due to some attribute of the petitioner or to the circumstances surrounding his arrest or detention.” *Id.*, citing *Castro v. U.S. Dep’t of Homeland Sec.*, 835 F.3d 422, 445 (3d Cir. 2016). Then, if the petitioner is not prohibited from invoking the Suspension Clause, we “turn to the question whether the

substitute for habeas is adequate and effective to test the legality of the petitioner's detention." *Id.*, quoting *Castro*, 835 F.3d at 445.

In assessing the first factor, the *Boumediene* Court considered three sets of factors to determine whether detainees at Guantanamo Bay may seek the writ: "(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner's entitlement to the writ." 553 U.S. at 766. Like the "status of the detainees" at Guantanamo Bay, Petitioner's "status" as a detainee in DHS custody "militates against denial of the writ." *Osorio-Martinez*, 893 F.3d at 166 n.10. Similarly, "Petitioner [was] not apprehended or detained outside United States territory, nor are there serious practical obstacles to permitting habeas corpus proceedings besides the kind of 'incremental expenditure of resources' that the Supreme Court deemed not dispositive to the question of granting the writ." *Id.*, citing *Boumediene* and *Johnson v. Eisentrager*, 339 U.S. 763, 777 (1950). Thus, the first step in the *Boumediene* test weighs in favor of Petitioner, and the Court moves to step two.

With respect to the second step in the analysis, the Court of Appeals for the Third Circuit has recognized:

In *Boumediene*, the Supreme Court took care to explain that habeas review is “most pressing” in the case of executive detention, as opposed to where “relief is sought from a sentence that resulted from the judgment of a court of record.” For the writ to be effective in such a case, “[t]he habeas court must have sufficient authority to conduct a meaningful review of both the cause for detention and the Executive’s power to detain.” More specifically, the Court declared it “uncontroversial . . . that the privilege of habeas corpus entitles the prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law.”

Osorio-Martinez, 893 F.3d at 177; see also *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.”). These are the exact circumstances now before the Court: Petitioner is subject to executive detention, not to detention resulting from a judgment of a court of record. Thus, any proposed substitute for habeas review must be robust enough to satisfy the “historical core” purposes of the writ.

Here, even under Respondent’s reading of the statutes, “the INA’s jurisdiction-stripping provisions do not provide even this

‘uncontroversial’ baseline of review.” *Osorio-Martinez*, 893 F.3d at 177.

Section 1252(b)(9) provides:

Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this title shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

And Section 1252(g) provides for no substitute review but only precludes any court from reviewing the Attorney General’s decisions or actions to “commence proceedings, adjudicate cases, or execute removal orders.”

The statutes Respondent relies on to argue that the Court lacks jurisdiction offer no adequate or effective substitute for habeas “to test the legality of the petitioner’s detention,” (*Osorio-Martinez*, 893 F.3d at 166), and Respondent offers no other alternative substitutes. Thus, what Respondent proposes would be an unconstitutional suspension of the writ of habeas corpus. To be clear, a plain reading of the statutes does not support Respondent’s reading of them; nothing in 8 U.S.C. §§ 1252(g) or (b)(9) purports to eliminate jurisdiction of this Court over a petition for

writ of habeas corpus challenging only the legality, duration, or conditions of detention, as explained by the Supreme Court in *Jennings* and *Reno*. But even if the Court agreed with Respondent as to the interpretation of those two provisions, they would be unconstitutional as applied to the Petitioner. See *Osorio-Martinez*, 893 F.3d at 178 (holding that a different provision under § 1252 violated the Suspension Clause as applied to petitioners and that the District Court therefore retained jurisdiction to consider petitioners' claims).

Other judges in this district to have considered the question have also found that this Court has habeas jurisdiction under identical circumstances. See, e.g., *Santana-Rivas v. Warden of Clinton Cty. Corr. Facility*, No. 3:25-CV-01896, 2025 U.S. Dist. LEXIS 252409, at *4 (M.D. Pa. Dec. 8, 2025) (adopting report and recommendations, finding district court jurisdiction); *Quispe v. Rose*, No. 3:25-CV-02276, 2025 U.S. Dist. LEXIS 255209, at *9 (M.D. Pa. Dec. 10, 2025) (same); *Centeno v. Lowe*, No. 3:25cv2518, 2026 U.S. Dist. LEXIS 6654, at *5 (M.D. Pa. Jan. 13, 2026) (same, and collecting cases); *Samassa v. Lowe*, No. 1:25-CV-02197, 2025 U.S. Dist. LEXIS 260251, at *3 (M.D. Pa. Dec. 17, 2025) (same);

Patel v. O'Neil, No. 3:25-cv-2185, 2025 U.S. Dist. LEXIS 252347, at *6 (M.D. Pa. Dec. 8, 2025) (same).

2. *Exhaustion here would be futile.*

Additionally, Respondent argues that this matter should be dismissed or stayed because Petitioner failed to exhaust her administrative remedies. Doc. 7 at 21-23. She asserts that the BIA's decision to not hold bond hearings "should not nullify the entire administrative process, nor should it allow an alien in Petitioner's position the ability to skip the process entirely and proceed directly to the district court for immediate review." *Id.* at 21. Instead of first challenging her lack of bond determination at the district court, Respondent suggests that Petitioner should have sought review from an immigration judge. *Id.* at 22-23. Doing so, however, would have been futile.

A petitioner challenging agency action must generally first exhaust administrative remedies; however, in habeas proceedings, "exhaustion exists as a judicially created doctrine applied at the Court's discretion." *Kashranov v. Jamison*, No. 2:25-cv-05555, 2025 U.S. Dist. LEXIS 224644, 2025 WL 3188399, at *3 (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); see also *Vadel v. Lowe*, No. 3:25-CV-02452, 2025 U.S. Dist. LEXIS

268386, at *6-7 (M.D. Pa. Dec. 31, 2025). No statute requires administrative exhaustion in habeas proceedings under § 2241. *See id.*

In instances where a court requires petitioners to exhaust their administrative remedies, the court may excuse such a requirement when either “waiver, estoppel, tolling or futility” applies. *United States v. Dohou*, 948 F.3d 621, 628 (3d Cir. 2020) (citation modified). Here, further administrative review would serve no purpose. According to Respondent, Patel is detained pursuant to § 1225(b)(2), under which immigration judges lack authority to hear bond requests. Doc. 7 at 23; *see also Hurtado*, 29 I&N Dec., at 225. There is no question that Patel would be precluded from obtaining a bond hearing if she did seek further administrative review, and these circumstances constitute good cause to excuse exhaustion. *See Vadel v. Lowe*, 2025 U.S. Dist. LEXIS 268386, at *7.

Accordingly, this Court should exercise its jurisdiction and consider the petition.

B. The Court should grant the Petition and order Petitioner released immediately.

Petitioner contends that DHS’s newly instituted application of mandatory detention under § 1225(b)(2) violates the INA. Doc. 1 ¶ 49.

Respondent disagrees. *See* Doc. 7 at 45. As hundreds of other courts have found, including multiple judges in this district, the undersigned concludes that Respondent’s detention of Petitioner under § 1225 is unlawful.

1. Section 1225 has no application to Petitioner.

Petitioner argues that Respondent incorrectly applied § 1225 to hold her in mandatory detention without bond, and that she should instead be detained pursuant to § 1226, with the possibility of release on bond. Doc. 8 at 1, 6.

Section 1225 of Title 8 of the U.S. Code is entitled “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.”⁵ Section 1225(a)(1) defines “applicant for

⁵ The title and preamble of an act can provide insight into its meaning. *See* A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* § 34, at 218 (2012) (Preambles “set forth the assumed facts and the purposes that the majority of the enacting legislature . . . had in mind, and these can shed light on the meaning of the operative provisions that follow”); *Almendarez-Torres v. United States*, 523 U.S. 224, 234, 118 S. Ct. 1219, 140 L. Ed. 2d 350 (1998), quoting *Trainmen v. Baltimore & Ohio R. Co.*, 331 U.S. 519, 528-29 (1947) (“We also note that ‘the title of a statute and the heading of a section’ are ‘tools available for the resolution of a doubt’ about the meaning of a statute.”); *I.N.S. v. Nat’l Ctr. for Immigrants’ Rights, Inc.*, 502 U.S. 183, 189 (1991) (“[T]he title of a statute or section can aid in resolving an ambiguity in the legislation’s text.”).

admission” as “[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 and including an alien who is brought to the United States after having been interdicted in international or United States waters).” The remaining provisions under subsection (a) deal with “stowaways,” inspection of aliens, including alien crewmen, seeking admission to the United States, withdrawal of applications for admission with immediate departure, and the compulsion of statements during admission interviews. *See* § 1225(a)(2)–(5). Section 1225(b)(2) states that if an examining immigration officer determines that an alien “seeking admission” is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for removal proceedings under § 1229a. Thus, on its face, § 1225 applies only at the borders or at other ports of entry, where individuals are “seeking admission” to the country. *See Del Cid v. Bondi*, No. 25-304, 2025 U.S. Dist. LEXIS 209136, at *39-40 (W.D. Pa. Oct. 23, 2025), quoting *Jennings*, 583 U.S. at 287-88 (“[T]he Supreme Court has tethered § 1225 to ‘the Nation’s borders and ports of entry,’ noting that aliens detained pursuant to those provisions are typically detained during removal proceedings.”)

Respondent contends that Section 1225(b)(2) requires the detention of Petitioner until the conclusion of removal proceedings because, as set forth in internal DHS guidance and *Hurtado*, the government now views all aliens present without parole in the United States as “applicants for admission,” who are actively “seeking admission.” Doc. 7 at 26. Nearly every court to have considered this reading of the statute—and there are many—has rejected it outright. *See, e.g., Belsai D.S. v. Bondi*, No. 25-3682, 2025 U.S. Dist. LEXIS 194262, at *13 (D. Minn. Oct. 1, 2025); *Quispe v. Crawford*, No. 25-1471, 2025 U.S. Dist. LEXIS 194070, at *9-15 (E.D. Va. Sept. 29, 2025); *Savane v. Francis*, No. 25-6666, 2025 U.S. Dist. LEXIS 194889, at *23-24 (S.D.N.Y. Sept. 28, 2025); *Zumba v. Bondi*, No. 25-14626, 2025 U.S. Dist. LEXIS 190052, at *27-30 (D.N.J. Sept. 26, 2025); *Salazar v. Dedos*, No. 25-835, 2025 U.S. Dist. LEXIS 183335, *12-13 (D.N.M. Sept. 17, 2025); *Lepe v. Andrews*, No. 25-1163, 2025 U.S. Dist. LEXIS 187233, at *9-10 (E.D. Cal. Sept. 23, 2025); *Roman v. Noem*, No. 25-1684, 2025 U.S. Dist. LEXIS 186389, *12-13 (D. Nev. Sept. 23, 2025); *Reyes v. Lyons*, No. 25-4048, 2025 U.S. Dist. LEXIS 188085, at *3-6 (N.D. Iowa Sept. 23, 2025); *Singh v. Lewis*, No. 25-96, 2025 U.S. Dist. LEXIS 185696, at *7 (W.D. Ky. Sept. 22, 2025); *Barrera*

v. Tindall, No. 25-541, 2025 U.S. Dist. LEXIS 184356, at *14 (W.D. Ky. Sept. 19, 2025); *Hasan v. Crawford*, No. 25-1408, 2025 U.S. Dist. LEXIS 184734, at *17-18 (E.D. Va. Sept. 19, 2025); *Vazquez v. Feeley*, No.25-1542 2025 U.S. Dist. LEXIS 182412, at *37-38 (D. Nev. Sept. 17, 2025); *Cortes v. Noem*, No. 25-2677, 2025 U.S. Dist. LEXIS 181582, at *6 (D. Colo. Sept. 16, 2025); *Santos v. Noem*, No. 25-1193, 2025 U.S. Dist. LEXIS 183412, at *9-13 (W.D. La. Sept. 11, 2025); *Perez v. Kramer*, No. 25-3179, 2025 U.S. Dist. LEXIS 177428, at *7 (D. Neb. Sept. 11, 2025); *Reyes v. Raycraft*, No. 25-12546, 2025 U.S. Dist. LEXIS 175767, at *15-20 (E.D. Mich. Sept. 9, 2025); *Hinestroza v. Kaiser*, No. 25-7559, 2025 U.S. Dist. LEXIS 176133, at *4 (N.D. Cal. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-326, 2025 U.S. Dist. LEXIS 176165, at *12 (D.N.H. Sept. 8, 2025); *Jose J.O.E. v. Bondi*, No. 25-3051, 2025 U.S. Dist. LEXIS 166326, at *21 (D. Minn. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 25-2428, 2025 U.S. Dist. LEXIS 165015, at *20-27 (D. Md. Aug. 24, 2025); *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 U.S. Dist. LEXIS 169423, at *24-26 (E.D. Mich. Aug. 29, 2025); *Benitez v. Francis*, No. 25-5937, 2025 U.S. Dist. LEXIS 157214, at *22-23 (S.D.N.Y. Aug. 8, 2025).

Every court within the Third Circuit that has considered this issue has likewise rejected Respondent's application of § 1225(b)(2) to individuals in circumstances like Petitioner's. *See, e.g., A.D. v. Oddo*, No. 25-460J, 2026 WL 101476 (W.D. Pa. Jan. 14, 2026); *Centeno v. Lowe*, No. 25-2518, 2026 WL 94642, at *2 (M.D. Pa. Jan. 13, 2026); *Vadel v. Lowe*, No. 25-02452, 2025 WL 3772059, at *3 (M.D. Pa. Dec. 31, 2025); *Samassa v. Lowe*, No. 25-02197, 2025 WL 3653751, at *1 (M.D. Pa. Dec. 17, 2025); *Quispe v. Rose*, No. 25-02276, 2025 WL 3537279, at *3 (M.D. Pa. Dec. 10, 2025); *Patel v. O'Neil*, No. 25-2185, 2025 WL 3516865, at *4, n.7 (M.D. Pa. Dec. 8, 2025); *Juarez v. O'Neill*, No. 25-6191, 2025 WL 3473363, at *3 (E.D. Pa. Dec. 3, 2025); *Santana-Rivas v. Warden of Clinton Cnty. Corr. Facility*, No. 25-1896, 2025 WL 3522932, at *7 (M.D. Pa. Nov. 13, 2025), *report and recommendation adopted in relevant part*; *Soto v. Soto, et al.*, No. 25-16200, 2025 U.S. Dist. LEXIS 207818, at *15 (D.N.J. Oct. 22, 2025); *Lomeu v. Soto*, No. 25-16589, 2025 U.S. Dist. LEXIS 209240, at *20-23 (D.N.J. Oct. 23, 2025); *Zumba*, 2025 U.S. Dist. LEXIS 190052, at *2; *Smit Patel v. Almodovar*, No. 25-15345, 2025 U.S. Dist. LEXIS 212112, at *9 (D.N.J. Oct. 28, 2025); *Lopez v. Sec'y Kristi Noem*, No. 25-16890, 2025 U.S. Dist. LEXIS 218088, at *7-8 (D.N.J. Nov. 5, 2025);

Mboup v. Field Office Dir. of N.J. Immigr. & Customs Enft, No. 25-16882, 2025 U.S. Dist. LEXIS 216326, at *2 (D.N.J. Nov. 3, 2025); *Del Cid*, 2025 U.S. Dist. LEXIS 209136, at *34-36; *Castillo v. Lyons*, No. 25-16219, 2025 U.S. Dist. LEXIS 205664, at *2 (D.N.J. Oct. 10, 2025); *Buestan v. Chu*, No. 25-16034, 2025 U.S. Dist. LEXIS 211879, at *2 (D.N.J. Oct. 21, 2025); *Del Cid v. Bondi*, No. 25-304, 2025 U.S. Dist. LEXIS 209136, at *39-40 (W.D. Pa. Oct. 23, 2025); *see also C.B. v. Oddo*, No. 25-00263, 2025 U.S. Dist. LEXIS 208250, at *8 (W.D. Pa. Oct. 22, 2025) (alien originally detained “upon arrival” properly held under § 1225(b)(2)(A), but unduly prolonged detention without bond hearing violated due process).

The reasoning employed in these cases is comprehensive and persuasive. Particularly compelling here, courts have noted that Respondent’s interpretation of the phrase “seeking admission” “violates the rule against surplusage and negates the plain meaning of the text.” *See, e.g., Soto*, 2025 U.S. Dist. LEXIS 207818, at *9; *Martinez v. Hyde*, No. 25-11613, 2025 U.S. Dist. LEXIS 141724, at *6 (D. Mass. July 24, 2025); *Zumba*, 2025 U.S. Dist. LEXIS 190052, at *8; *Benitez*, 2025 U.S. Dist. LEXIS 157214, at *16. The phrase “seeking admission” in § 1225(b)(2)(A) necessarily connotes some affirmative, present-tense

action. The verb “seeking” is a present participle, and the “present participle is used to signal present and continuing action.” *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.*, 48 F.4th 1298, 1307 (11th Cir. 2022); *see also, e.g., D.L. Markham DDS, MSD, Inc. 401(K) Plan v. Variable Annuity Life Ins. Co.*, 88 F.4th 602, 610 (5th Cir. 2023) (“The word ‘providing,’ used here as a present participle, most commonly describes a person who is currently providing services.”) (emphasis in original); *United States v. Hull*, 456 F.3d 133, 145 (3d Cir. 2006) (Ackerman, Sr. Dist. J., sitting by designation, concurring) (“Congress’s use of the present participle ‘committing’ connotes present, continuing action.”).

The INA defines the term “admission” as, “with respect to an alien, 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). Thus, the INA’s own definition of the term “admission” supports the limited application of § 1225 to encounters with aliens along the borders and at ports of *entry*. Respondent contends that, because Petitioner has not been lawfully admitted to the country, she must be “seeking admission.” Doc. 7 at 25. But there is no indication that Petitioner is presently “seeking

admission” as defined in § 1101(a)(13)(A), that is, “lawful *entry* . . . into the United States[.]” Petitioner “has already “entered” the country’— [she] is no longer seeking to enter the United States (lawfully or otherwise).” *Jimenez*, 2025 U.S. Dist. LEXIS 176165, at *22, citing *Benitez*, 2025 U.S. Dist. LEXIS 157214, at *19. And while Petitioner “has applied for asylum, that application does not seek “lawful entry” to the United States, but [rather] a lawful means to remain here.” *Id.*

As such, Respondent’s argument that Petitioner is “seeking admission” under § 1225(b)(2)(A), despite taking no affirmative action, and despite already having entered the country years ago, is contrary to the plain, ordinary meaning of the words “seeking admission.” “Seeking admission” clearly requires an act, currently underway, to enter a space from without, and not a static condition of one currently present within that space. *See, e.g., Zumba*, 2025 U.S. Dist. LEXIS 190052, at *23; *Benitez*, 2025 U.S. Dist. LEXIS 157214, at *14.

For example,

one could deem every person in the country a “potential homebuyer,” but they are not “seeking to buy a home,” without taking some affirmative action towards that goal. Nor is every “employable adult” in the country “applying for a job,” simply because jobs exist. Or, as Judge Ho explained in *Benitez*, “someone who enters a movie theater without

purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as ‘seeking admission’ to the theater. Rather, that person would be described as already present there.” Further, “[e]ven if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as ‘seeking admission’ . . . at that point—one would say that they had entered unlawfully but now seek a lawful means of remaining there.”

Soto, 2025 U.S. Dist. LEXIS 207818, at *16-17, quoting *Benitez*, 2025 U.S. Dist. LEXIS 157214, at *21. Petitioner entered Judge Ho’s proverbial theater more than three years ago. She is not seeking admission (“lawful entry”) because she is already inside; she seeks only to be allowed to stay.

Respondent’s reading of § 1225 also violates the rule against surplusage. Removing the words “seeking admission” from § 1225(b)(2)(A) would not alter its meaning under Respondent’s theory: “[I]n 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[.]” That result is inconsistent with the principle that courts must interpret a statute to give meaning to “every clause and word of a statute” that Congress chose to include. *United States ex rel.*

Polansky v. Exec. Health Res., Inc., 599 U.S. 419, 432 (2023), quoting *Montclair v. Ramsdell*, 107 U. S. 147, 152 (1883).

Here, as in other cases, “Petitioner was not detained until more than a year after her initial encounter. At that point, it cannot be denied that she was ‘already in the country,’ after having ‘effected an entry[.]’” *Martinez*, 2025 U.S. Dist. LEXIS 141724, at *21, first quoting *Jennings*, 583 U.S. at 289; and then quoting *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Because Petitioner had already been residing in the country for more than two years when she was detained, she was not “seeking admission” at that time, and therefore, Section 1225(b)(2)(A) simply has no application to her case. *See, e.g., id.*; *Benitez*, 2025 U.S. Dist. LEXIS 157214, at *16; *Jimenez*, 2025 U.S. Dist. LEXIS 176165, at *22 (“Because § 1225(b)(2)(A) applies to applicants for admission who are seeking to enter the United States, it cannot apply to [Petitioner], who has already entered the country and has been residing here for over two years.”).

“[T]he plain text of Sections 1225 and 1226, together with the structure of the larger statutory scheme, indicates that Section 1225(b)(2) does not apply to noncitizens who are arrested on a warrant

issued by the Attorney General while residing in the United States.” *Gomes v. Hyde*, No. 25-11571, 2025 U.S. Dist. LEXIS 128085, at *19-20 (D. Mass. July 7, 2025); see *Martinez*, 2025 U.S. Dist. LEXIS 141724, at *8. “In reaching this conclusion, it is unnecessary to define the precise outer boundaries of when mandatory detention under § 1225 applies because it clearly does not apply to someone who has resided in the country for two years like [Petitioner].” *Benitez*, 2025 U.S. Dist. LEXIS 157214, at *15.

Respondent’s reading of § 1225 would also render redundant § 1226(c)’s mandatory detention provision applicable to persons who have committed certain crimes. As Petitioner points out, that would also mean Congress’s enactment of the Laken Riley Act last year to amend § 1226(c) would be entirely meaningless because § 1225 mandatory detention would apply to all aliens, regardless of whether they have committed an enumerated crime or not. Doc. 8 at 17; Laken Riley Act of 2015, Pub. L. No. 119-1, 139 Stat. 3 (codified as amended at 8 U.S.C. § 1226(c)). Given all of this analysis, it becomes evident that the reasoning of *Hurtado* is mistaken.

Thus, the Court should hold that Petitioner cannot be held under the authority of § 1225. Instead, her current detention fits squarely under § 1226(a). She entered the United States without inspection on June 25, 2022, and has lived in the United States for more than three years. Doc. 1 ¶ 2. DHS issued her a Notice to Appear in Immigration Court and released her on her own recognizance pursuant to § 1226(a). *See id.*; Doc. 1-3 at 1; Doc. 8 at 25. Petitioner is an “alien . . . arrested and detained pending a decision on whether [she] is to be removed from the United States,” (§ 1226(a)), therefore, the Court should hold that she is being held subject to the provisions of § 1226(a), not § 1225(b)(2)(A).

2. *The Court should grant relief.*

Most of the cases reviewing the application of *Hurtado* have involved detainees who were never afforded a bond hearing, and thus some courts, in fashioning relief, ordered a bond hearing. Many others, after finding that detention of a petitioner under § 1225(b)(2)(A) was unlawful, ordered immediate release and permanently enjoined the government from re-detaining them under § 1225. *See, e.g., Soto*, 2025 U.S. Dist. LEXIS 207818, at *22. In that case, the District of New Jersey court reasoned that because “Respondents have not argued in the

alternative that Petitioner should be detained under § 1226(a), the Court cannot construe the record to authorize his continued detention on that basis.” *Id.* The court further ordered that, “Should Respondents elect to later detain him under § 1226(a) and fail to provide him with a timely bond hearing, at which an immigration judge assesses whether he is a danger or a flight risk, Petitioner may move to reopen” his habeas case. *Id.*

Here, as in *Soto*, Respondent has not argued in the alternative that, should the Court find Patel’s detention under § 1225 unlawful, she should be held under § 1226, so the reasoning of *Soto* is persuasive. Indeed, Respondent remains adamant that all non-citizens in Petitioner’s circumstances are to be held without bond or review. Additionally, other judges in this district have ordered immediate release under the circumstances presented here. *See, e.g., Vadel*, 2025 U.S. Dist. LEXIS 268386, *16-17 (granting petition, ordering release of Petitioner, permanently enjoining Respondent from re-detaining Petitioner under § 1225(b)(2)(A)); *Patel v. O’Neil*, 2025 U.S. Dist. LEXIS 252347, *18 (same, and ordering Respondent to “file a declaration or affidavit pursuant to 28 U.S.C. § 1746 confirming that [Petitioner] has been

released from custody.”); *Centeno*, 2026 U.S. Dist. LEXIS 6654, *11 (same, and temporarily barring re-arrest for 14 days and requiring bond hearing within 10 days if Petitioner detained under § 1226 in the future).

IV. RECOMMENDATION

Based on the foregoing, it is respectfully recommended that the Court:

- (1) GRANT Petitioner’s Petition (Doc. 1), and enter judgment for the Petitioner and against the Respondent;
- (2) ORDER Respondent to immediately release Petitioner;
- (3) ORDER that, within 48 hours, Respondent shall file a declaration or affidavit pursuant to 28 U.S.C. § 1746 confirming that Patel has been released from custody;
- (4) ORDER Respondent not to re-arrest Petitioner for fourteen days to ensure that this habeas remedy is effective;
- (5) ENJOIN Respondent from re-arresting or re-detaining Patel under 8 U.S.C. § 1225, permanently;
- (6) ORDER that, if, in the future, Respondent does detain Petitioner pursuant to 8 U.S.C. § 1226(a), Respondent shall, within ten days, afford her notice and an opportunity to be heard at a bond hearing before an immigration judge, who shall provide an individualized assessment as to whether Patel poses a flight risk or a danger to the community;
- (7) DIRECT Petitioner that, if Respondent seeks to detain her under § 1226(a) and fails to schedule a timely bond hearing, or seeks to detain her under § 1225 in violation of this Court’s order, she may move to reopen this matter to seek expeditious relief; and
- (8) DIRECT the Clerk of Court to close this case.

NOTICE

Further, given the unique circumstances of this case and the liberty interests at issue, the undersigned ORDERS that, notwithstanding Local Rule 72.3, any objections must be filed **no later than January 28, 2026**. The parties are further placed on notice that, pursuant to Local Rule 72.3:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions.

Date: January 21, 2026

s/Sean A. Camoni
Sean A. Camoni
United States Magistrate Judge