**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF TEXAS**
**ABILENE DIVISION**

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| **Victor Alfonzo Gregorio GOYO MARTINEZ,**<br><br>Petitioner,<br><br>v.<br><br>**Marcello Villegas,** Warden, Bluebonnet Detention Facility; **Joshua JOHNSON,** Acting Director of Dallas Field Office, U.S. Immigration and Customs Enforcement; **Todd LYONS,** Acting Director of Immigration and Customs Enforcement; **Kristi NOEM,** Secretary of the U.S. Department of Homeland Security; **Pam BONDI,** Attorney General of the United States; in their official capacities,<br><br>Respondents. | Case No. 1:25-cv-256<br><br>**PETITION FOR WRIT OF HABEAS CORPUS** |

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS**

## I. Introduction

The term "seeking admission" as seen in 8 U.S.C. § 1225(b)(2)(A) has a meaning which is different from the term "applicant for admission." Providing "seeking admission" its appropriate meaning according to the correct plain reading of the statute gives all the terms and subsections in 8 U.S.C. § 1225(b)(2)(A) and 8 U.S.C. § 1226 statutory significance and does not render any parts redundant. Additionally, Petitioner's detention without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process.

## II. Statement of the Facts

Petitioner and Respondent generally agree to the relevant facts.

## III. Arguments in Reply to the Response of Respondents

### A. Petitioner is not properly detained under 8 U.S.C. § 1225(b)(2) but rather he is properly detained under 8 U.S.C. § 1226(a).

According to 8 U.S.C. § 1225(b)(2)(A), "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...." There are two instances in Petitioner's case where Respondents detained him and where they could have determined that he was subject to mandatory detention under 1225(b)(2)(A): (1) at his initial entry on April 20, 2021 at the border, or (2) when he was encountered by ERO on November 9, 2025 at the Carrollton Police Department. And upon examination of the undisputed facts and the correct application of the law, it is clear to see that Petitioner is not subject to 1225(b)(2)(A) in both instances.

#### *1. Petitioner's detention at the border*

Regarding his detention at the border, the governing rules regarding inspecting and examining applicants for admission upon arriving or entering at the border provide insight. At the

border, an examining immigration officer may determine that the alien is not entitled to admission. If an examining immigration officer determines that an alien has a valid, non-fraudulent entry document but is inadmissible for some other reason, then section 1225(b)(2) directs the immigration officer to detain the alien for full removal proceedings. *See* 8 U.S.C. § 1225(b)(2)(A); 8 U.S.C. § 1225(a)(5); 8 C.F.R. § 235.1(f)(1). If an examining immigration officer determines that the alien is inadmissible because they lack a valid entry document, or because their entry document was procured through fraud or willful misrepresentation, then the immigration official may place the alien in "expedited removal" proceedings under § 235(b)(1). *See* 8 U.S.C. § 1225(b)(1)(A)(i); 8 U.S.C. §§ 1182(a)(7), (a)(6)(C). Respondents do not contend that Petitioner should be detained under section 1225(b)(1) expedited removal proceedings. So, there has to be evidence that he was detained pursuant to section 1225(b)(2)(A). In other words, there should at least be evidence in the record that an examining immigration officer made a determination that Petitioner had a valid, non-fraudulent entry document and not entitled to be admitted. But there is no such evidence.

On the contrary, there is only evidence that the examining immigration officer determined that Petitioner was being detained and released pursuant to section 1226(a) through the issuance to Petitioner of the Form I-220A, Order of Release on Recognizance, and Form I-286, Notice of Custody Determination. *See* Dkt. No. 1-3, Exhibits at 5-6. The Form I-220A, which is used by DHS to release an individual on their recognizance, explicitly states: "In accordance with section 236 of the Immigration and Nationality Act [8 U.S.C. § 1226] and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance…." *Id.* The Form I-286 explicitly states: "Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 235 of title 8, Code of Federal Regulations…." *Id.* Indeed, when a person is released on recognizance, even at the border, DHS necessarily makes a

determination that the person falls under the detention and release scheme of § 1226(a), not § 1225(b). If the examining immigration officer had determined that Petitioner was subject to section 1225(b)(2)(A), then they only could have released him through parole. *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018) (recognizing that release on parole as the sole means for release from detention under 1225(b) implies that there are no other circumstances under which aliens detained under that section may be released). But there is no evidence of parole in the record. 8 C.F.R. § 235.1(h)(2) ("Any alien paroled into the United States… *shall* be issued a completely executed Form I-94, endorsed with the parole stamp."). Many courts have agreed with this reasoning. *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025) (concluding that a noncitizen originally detained under § 1225(b) but released on conditional parole under § 1226 and later rearrested on a § 1226 warrant was entitled to bond hearing under § 1226 and its implementing regulations); *see also Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025). Therefore, Petitioner was not subject to detention under section 1225(b)(2) during his encounter at the border, but rather under section 1226(a).

***2. Petitioner's detention at the Carrollton Police Department***

Regarding his detention at the Carrollton Police Department four years after his entry into the United States, Petitioner's basic contention is as follows: an applicant for admission that is present unlawfully in the United States for many years after being allowed to enter is not seeking admission as set forth under 8 U.S.C. § 1225(b)(2)(A).

The Petitioner does not dispute that he is an applicant for admission. But the analysis of whether he is an applicant for admission is not the only requirement to conclude that he should be detained under 1225(b)(2)(A), as Respondents seem to suggest. Otherwise, the other terms, such as "seeking admission" in the subsection, would be meaningless. Indeed, if Congress intended for

the analysis to stop at whether a person is an "applicant for admission", it could have simply written 1225(b)(2)(A) in a different manner. And Congress did indeed write another statute in a different way to show that the analysis can stop there if that were Congress's intent. Regarding burdens of proof in removal proceedings, section 8 U.S.C. § 1229a(c)(2)(A) states "the alien has the burden of establishing, if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted." Congress did not place the term "seeking admission" in this subsection of 1229a and so Congress knew how to include or exclude such a term from the statutes. Because Congress did place the term "seeking admission" into section 1225(b)(2)(A), then it intended to give it meaning which can be derived by reading the statute plainly.

In *Covarrubias v. Vergara*, the district court, using interpretive tools like the presumption of consistent usage and the principle that words are to be given the meaning that proper grammar and usage would assign them (and not considering the fact that "applicant for admission" has a statutory definition, a point which is addressed below), contends that "applicant for admission" and "seeking admission" must have different meanings and that the latter is "a present-tense, or current, ongoing action, and varies materially from the passive state of being an applicant [for admission]." *Covarrubias v. Vergara*, 2025 U.S. Dist. LEXIS 206523, 2025 WL 2950097, at *7-8 (S.D. Tex. Oct. 8, 2025). And like in the *Covarrubias* case, Petitioner in this case was not actively seeking admission, "as that phrase is commonly used and understood," when he was detained by Respondents at the Carrollton Police Department after having entered and resided in the United States for years. *Id.* at *8. Petitioner "cannot be described as 'seeking admission' because he was not currently and actively seeking to be admitted to the United States when he was apprehended." *Id.*

Since he was allowed to enter the United States, on the contrary, Petitioner has been actively seeking to remain, apply for relief from removal and avoid removal as demonstrated by

his application for asylum. *See* Dkt. No. 1-3, Exhibits at 10. Under the removal proceedings statute, an immigration judge ultimately decides "whether an alien is *removable* from the United States." 8 U.S.C. § 1229a(c)(1). But the removal process does not end there. An alien can still apply for "relief or protection from removal." 8 U.S.C. § 1229a(c)(4). A foreign national can request asylum in order to remain in the United States if they are present in the United States, even if present after an unlawful entry. *See* 8 U.S.C. § 1158(a) ("Any alien who is physically present in the United States…irrespective of such alien's status, may apply for asylum…"). So the removal proceedings statute clearly shows that the removal process does not exist so that an alien can seek admission, but rather to decide the issue of removability and relief from removal. As stated above, whether an alien is seeking admission or not is not an issue at all in the removal process. *See* 8 U.S.C. § 1229a(c)(2)(A) (omitting the term "seeking admission" when placing the burden of proof on the applicant for admission). Thus, because he is not seeking admission, he does not fit within the categories in Section 1225(b), and must fit within Section 1226(a), the default provision for noncitizens 'already present' in the country and arrested by ICE who do not fit within Section 1225(b)." *Covarrubias* at *8-9 (citing *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018)).

**B. The decision of *Garibay-Robledo* should not be followed after further reasoning**

As stated above, Petitioner does not deny that he is an applicant for admission. But as the court in *Garibay-Robledo* recognizes, an applicant for admission is statutorily defined as an alien "present in the United States who has not been admitted" and this recognition is important not only because of what it says but what it does not say. *Garibay-Robledo v. Noem*, 1:25-CV-00177, 2025 U.S. Dist. LEXIS 231074 at *5-6 (N.D. Tex. Oct. 24, 2025); 8 U.S.C. § 1225(a)(1). Rather significantly, an applicant for admission is not defined as an "alien seeking admission," and cannot be later redefined that way because the statutory definition was the "one that Congress

enacted into law." *Garibay-Robledo* at *6. This is the case even if in "ordinary English usage," an applicant for admission is one who requests or seeks admission. *Id.* at *11. And although courts generally construe statutory terms according to their ordinary meaning, "'[w]hen a statute includes an explicit definition, [the Court] must follow that definition,' even if it varies from a term's ordinary meaning." *Id.* at *6. Therefore, an applicant for admission is not an alien who seeks admission and the term "seeking admission" must have its own meaning and implications when determining whether section 1225(b)(2)(A) applies to Petitioner as shown above. *Supra* III.A.2.

Additionally, contrary to the reasoning in *Garibay-Robledo*, the statutory history supports the interpretation that section 1226(a) applies in Petitioner's case and supports a limited reading of 1225(b)(2)(A)'s reach. Prior to passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), the statutory authority for such hearings was found at 8 U.S.C. § 1252(a). That statute provided for a noncitizen's detention during deportation proceedings, as well as authority to release them on bond. *See* 8 U.S.C. § 1252(a) (1994). Such proceedings governed the detention of anyone in the United States, regardless of manner of entry. *Id.* IIRIRA maintained the same basic detention authority in the provision codified at 8 U.S.C. § 1226(a). Indeed, when passing IIRIRA, Congress explained that the new § 1226(a) merely "restates the current provisions in [8 U.S.C. § 1252(a)] regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229 (1996); *see also* H.R. Rep. No. 104-828, at 210 (1996) (Conf. Rep.) (same). Furthermore, when Congress amended § 235(b)'s predecessor statute—which authorized detention only of arriving noncitizens—to include individuals who had not been admitted, legislators expressed concerns about recent arrivals to the United States who lacked the documents to remain in the country. There was no suggestion in the legislative history

that Congress intended to subject all people present in the United States after an unlawful entry to mandatory detention and thereby transform immigration detention and sweep millions of noncitizens into § 235(b). *See* H.R. Rep. No. 104-469, pt. 1, at 157–58, 228–29 (1996); H.R. Rep. No. 104-828, at 209 (1996) (Conf. Rep.).

Furthermore, this interpretation is supported by recent amendments to § 1226 which reinforce that the section applies to Petitioner and that he is therefore eligible for a bond hearing before an immigration judge. The Laken Riley Act (LRA) added language to § 1226 that directly references people who have entered without inspection or who are present without authorization. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Pursuant to these amendments, people charged as inadmissible under § 1182(a)(6)(A) (the inadmissibility ground for entry without inspection) or (a)(7)(A) (the inadmissibility ground for lacking valid documentation to enter the United States) and who have been arrested, charged with, or convicted of certain crimes are subject to § 1226(c)'s mandatory detention provisions. *See* 8 U.S.C. § 1226(c)(1)(E). By including such individuals under § 1226(c), Congress reaffirmed that § 1226 covers persons charged under § 1182(a)(6)(A) or (a)(7). "When Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850, at *12 (W.D. Wash. Apr. 24, 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Additionally, "[t]he Supreme Court has explained that its reluctance to treat statutory terms as surplusage 'increases when Congress amends a statute, as we ordinarily presume that when Congress does so, 'it intends its amendment to have real and substantial effect.'"" *Covarrubias*, at *9-10 (citing *Bufkin v. Collins*, 604 U.S. 369, 386 (2025) and *Van Buren v. United States*, 593 U.S. 374, 393 (2021)). Based on Respondents' interpretation, "noncitizens to whom the Laken Riley Act would apply would already be subject to mandatory detention under

Section 1225, rendering Congress's new amendment redundant." *Id.* at *10. Section 1226 therefore leaves no doubt that it applies to people like Petitioner who face charges of being inadmissible to the United States, including those who are present without admission or parole.

Finally, although *Garibay-Robledo* sees that there is an issue with broadly interpreting 1125(b)(2)(A) because it renders certain subsections of section 1226 superfluous, the court reasoned that this was "an insufficient basis to depart from the clear text of the statute" because sometimes "'the better overall reading of [a] statute contains some redundancy.'" *Garibay-Robledo* at *11. Petitioner's plain reading of the statutes, as shown above, is the best reading because it gives all terms in the subsections their proper place and does not leave any redundancies in sections 1225(b) or 1226; Petitioner's interpretation does not rewrite or eviscerate any portions of the statutes or inject ambiguity, as cited in *Garibay-Robledo*, but rather brings both sections into a harmonious whole. *Id.* at *11-12. It is only Respondents' proposed reading of sections 1225(b)(2)(A) and 1226 that results in all sorts of redundancies and eviscerations.

**C. Petitioner's mandatory detention violates due process**

Petitioner argues that the holding and reasoning of the Texas district court case of *Lopez-Arevelo v. Ripa* should be followed for its persuasive reasoning. 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828, at *18-33 (W.D. Tex. Sept. 22, 2025). And the facts of Petitioner's case closely follow the facts of the *Lopez-Arevelo* case. First, Petitioner also is challenging his detention, not his removability, and he was detained after years of presence in the United States after being released on own recognizance, rather than on the threshold of initial entry. *Id.* at *26-28. Second, Petitioner fulfills the *Mathews* test as well for the same reasons as *Lopez-Arevelo*. Petitioner has a cognizable interest in his freedom from detention because he has spent years at liberty in the United States. *Id.* at *29-30. Because Respondents' novel interpretation of 1225(b)(2)(A) strips jurisdiction away from immigration judges to consider

requests for bonds from individuals in Petitioner's circumstances, there also is a high risk that Petitioner has been and will continue to be erroneously deprived of his liberty. *Id.* at *30-32. And finally, Respondents also "do not identify a countervailing interest" and "the decision to release [Petitioner] on his own recognizance three years ago, in and of itself, 'reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.'" *Id.* at *32-33.

## IV. Conclusion

For the reasons explained above, Petitioner's writ of habeas corpus requires his immediate release from custody or, in the alternative that he be provided a bond hearing under § 1226(a) in which DHS bears the burden of establishing the necessity of Petitioner's continued detention.

DATED this 22nd of December 2025.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

On December 22, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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Attorney for Petitioner