

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOSE ALVARO FLORES URIBE,

Petitioner,

v.

DON JONES, et al.,

Respondents.

Case No. 5:25-cv-1376-G

PETITIONER'S REPLY

The Court should hold that Petitioner should be granted a bond hearing, or in the alternative, be immediately released from detention. Petitioner incorporates by reference all arguments made in his Petition for Habeas Corpus and adds the following in reply.

I. PETITIONER'S DETENTION IS GOVERNED BY SECTION 1226, NOT 1225, PURSUANT TO THE PLAIN LANGUAGE OF THE STATUTE.

Courts across this circuit and the nation have interpreted the plain language of the mandatory detention statute in question, 8 U.S.C. § 1225(b)(2)(A), to require *both* an “applicant for admission” who is *also* “seeking admission.” *See Escarcega v. Olson*, No. CIV-25-1129-J, 2025 U.S. Dist. LEXIS 228528, at * 3 (W.D. Okla. Nov. 20, 2025); *See also Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 LX 441269 (D. Colo. Oct. 22, 2025). In doing so, these courts have patently rejected the notion that “application for admission” and “seeking admission” mean the same thing, as such a reading of the wording

of the statute would violate the canon of statutory interpretation against rendering any parts of a statute “superfluous.” *See Fuller v. Norton*, 86 F.3d 1016, 1024 (10th Cir. 1996).

While Respondents argue that Petitioner is now “seeking admission” since he applied for cancellation of removal before the immigration court, courts have also found the basis of this argument unavailing. The District of Colorado held in a similar noncitizen’s habeas case,

Respondents also try to argue that Petitioner is "seeking admission" because he has applied for a U-Visa . . . This argument is a nonstarter. Mr. Gutierrez's U-Visa application may make him an "applicant for admission." But being an "applicant for admission" is not synonymous with "seeking admission" under § 1225(b)(2) because such a reading of the statute "would render the phrase ‘seeking admission’ in § 1225(b) superfluous." *ORTIZ Donis*, 2025 U.S. Dist. LEXIS 200565, 2025 WL 2879514, at *8.

Gutierrez v. Baltasar, No. 25-CV-2720-RMR, 2025 U.S. Dist. LEXIS 208448, at *19 (D. Colo. Oct. 17, 2025).

Similarly, in the case of a habeas petitioner who entered the country without permission and later applied for lawful status, the Southern District of New York helpfully explained why such a person is not “seeking admission”:

For example, 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. Even if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as "seeking admission" (or "seeking" "lawful entry") at that point—one would say that they had entered unlawfully but now seek a lawful means of remaining there. As § 1225(b)(2)(A) applies only to those noncitizens who are actively "seeking admission" to the United States, it cannot, according to its ordinary meaning, apply to Mr. Lopez Benitez, because he has already been residing in the United States for several years.

Benitez v. Francis, No. 5:25-civ-5937 (DEH), 2025 U.S. Dist. LEXIS 157214, at *21 (S.D.N.Y. Aug. 8, 2025).

Both the clear language of the Immigration and Nationality Act and the weight of authority of courts across the nation support a holding that section 1225(b) is inapplicable to noncitizens like Petitioner who entered the country years ago and did not apply for lawful admission to enter the United States. As a result, section 1226(a) governs, rendering Petitioner eligible for a bond hearing pursuant to that section.

CONCLUSION

This Court should order Petitioner's immediate release, or in the alternative, find that Respondents must provide him with a prompt bond hearing within five days of the order.

Respectfully submitted this 10th day of December, 2025.

/s/ Elissa Stiles
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