November 25th, 2025

Hon. Lawrence J. Vilardo
United States District Judge
Western District of New York
2 Niagara Square
Buffalo, NY 14202

Re: *Alves da Silva v. Bondi, et al.*, Case No. 1:25-cv-01220-LJV

Notice of Recent Authority and Supplemental Information

Dear Judge Vilardo:

Counsel for Petitioner **Macksuel Alves da Silva** respectfully submits this letter to notify the Court of recent, directly relevant authority addressing the same statutory issue raised in the Government's Opposition (ECF No. 7) and to clarify the proper statutory basis for Petitioner's detention.

On **November 20, 2025**, the United States District Court for the Central District of California granted Petitioners' Motion for Partial Summary Judgment in *Lazaro Maldonado Bautista, et al. v. Santacruz, Jr., et al.*, holding that the Department of Homeland Security has been improperly classifying noncitizens encountered in the interior of the United States as "arriving aliens" under **8 U.S.C. § 1225(b)(2)**. The court held that such individuals—including those who entered without inspection—are detained under **8 U.S.C. § 1226(a)**, not § 1225, and are entitled to individualized bond hearings.

On **November 25, 2025**, the same court granted class certification for the **"Bond Eligible Class,"** defining the class as all noncitizens in the United States who **entered without**

inspection and are **not** subject to mandatory detention under §§ 1226(c), 1225(b)(1), or 1231. The court reaffirmed that such individuals fall under **§ 1226(a)** and must receive bond hearings.

Although Respondents' Opposition asserts that Mr. Alves da Silva is subject to mandatory detention as an "arriving alien," these orders directly reject that position. Individuals who entered without inspection and were later placed into § 1229a removal proceedings—including after credible fear—are detained under **§ 1226(a)**, not § 1225(b). This directly contradicts Respondents' argument that Petitioner's detention is mandatory, unreviewable, or jurisdictionally barred.

Copies of both orders are attached for the Court's convenience.

Respectfully submitted,

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Attachments:

- Order Granting Partial Summary Judgment (C.D. Cal., Nov. 20, 2025)
  File: **81 order granting partial MSJ.pdf**

- Order Granting Class Certification (C.D. Cal., Nov. 25, 2025)
  File: **82 Order granting class cert.pdf**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No. 5:25-cv-01873-SSS-BFM Date November 20, 2025

Title *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.*

Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

Irene Vazquez	Not Reported
Deputy Clerk	Court Reporter

Attorney(s) Present for Petitioner(s):	Attorney(s) Present for Respondent(s):
None Present	None Present

Proceedings: (IN CHAMBERS) ORDER GRANTING PETITIONERS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DENYING REQUEST TO ENTER FINAL JUDGMENT [DKT. NO. 42]

Before the Court is Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino's (collectively, "Petitioners") Motion for Partial Summary Judgment as to their First Amended Complaint seeking class relief. [Dkt. No. 42, "Motion"; Dkt. No. 15, "First Amended Complaint" or "FAC"]. Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia ("Respondents") have filed their Opposition to this Motion. [Dkt. No. 60, Opposition or "Opp."]. Petitioners filed their Reply on September 19, 2025. [Dkt. No. 62, "Reply"]. For the following reasons, Petitioners' Motion is **GRANTED**.

I. FACTUAL AND PROCEDURAL BACKGROUND

On June 6, 2025, a series of coordinated immigration raids began across Southern California, resulting in the arrest and detainment of around 2,000

individuals per day that week.[1] This case centers around individuals directly affected by those events.

The Petitioners. Among the arrested were Petitioners, each of whom are foreign nationals arrested pursuant to warrants issued by Homeland Security Investigations ("HSI") and/or Immigration and Customs Enforcement ("ICE") agents on June 6, 2025, in downtown Los Angeles, California. [Dkt. No. 1 at 5–6; Dkt. No. 5-2 at 4, 8, 12, 17].[2] On the day of their arrests, Petitioners were each charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), or as being present without admission in the United States. [Dkt. No. 1 ¶¶ 43, 48, 53, 58].

Each of the Petitioners requested bond hearings, all of which were denied by an Immigration Judge ("IJ") between July 15, 2025, and July 22, 2025. [*Id.* ¶ 5; Dkt. No. 5-2, Exs. E, F, G, H, "Bond Orders"]. In each of the Bond Orders, the IJ cited to Section 235(b) of the INA (*i.e.*, 8 U.S.C. § 1225) as grounds for lack of jurisdiction. [*Id.*]. The Bond Orders were based in a recent change in policy by the Department of Homeland Security ("DHS").

The Policy Change. On July 8, 2025, the Department of Homeland Security (DHS) instituted a notice titled "Interim Guidance Regarding Detention Authority for Applicants for Admission." [Dkt. No. 5-2 at 45–46, "DHS Guidance Notice" or "DHS Policy"]. The Notice communicated DHS's choice, in coordination with the Department of Justice ("DOJ") to "revisit[] its legal position on detention and release authorities," determining that Section 235 of the Immigration and Nationality Act ("INA") would serve as the applicable immigration detention authority rather than Section 236 for all "applicants for admission." [*Id.*]. In other words, the change in policy requires ICE employees to consider anyone arrested in the United States and charged with being inadmissible as an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A). Under § 1225(b)(2)(A), "applicants for admission" are subject to mandatory detention for proceedings under 8 U.S.C. § 1229(a) and not entitled to the due process protections found within § 1226(a).

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[1] *See* Department of Homeland Security, *DHS Releases Statement on Violent Rioters Assaulting ICE Officers in Los Angeles, CA and Calls on Democrat Politicians to Tone Down Dangerous Rhetoric About ICE*, (June 7, 2025) [https://perma.cc/RJE5-PACW].

[2] Petitioner Franco Galdamez was arrested by Border Control agents around June 19, 2025, in Los Angeles during an ICE operation. [Dkt. No. 1 at 6].

Petitioners Seek Relief. Because of the new DHS Policy, Petitioners were denied bond hearings and remained in detention at the Adelanto Detention Center in Adelanto, California.

On July 23, 2025, Petitioners filed a Petition for Writ of Habeas Corpus raising several challenges against the DHS change in policy, including violations of 8 U.S.C. § 1226(a), the Fifth Amendment Right to Due Process, and the Administrative Procedure Act ("APA"). [Dkt. 1 at 20–21]. That same day, Petitioners filed an Application for a Temporary Restraining Order. [*See* Dkt. 5-1, Application for Temporary Restraining Order or "App."]. Petitioners requested that the Court enjoin Respondents from detaining Petitioners unless they are provided with individualized bond hearings before an IJ. [App. at 3]. Petitioners additionally sought an order to prohibit Respondents from relocating Petitioners outside this District pending final resolution of this litigation. [*Id.*]. This Court granted the application on July 28, 2025. [Dkt. No. 1; Dkt. No. 14, "TRO Order"].

Events Following the TRO. In granting the TRO, the Court ordered Respondents to provide Petitioners with an individualized bond hearing or release Petitioners from detention. [*Id.* at 13]. On the same day the Court granted Petitioners' *ex parte* application for a TRO, Petitioners amended their complaint to include class allegations and requests for declaratory relief as to the legality of Respondents' policies relating to denying bond hearings. [*See generally* FAC].

Respondents then filed a response to the Court's order to show cause on August 8, 2025. [Dkt. 40]. This response provided evidence that each of the Petitioners was provided with an individualized bond hearing and subsequently released on bond. [*See id.*].

Current Posture. On August 11, 2025, Petitioners filed this Motion, seeking to declare the new DHS Policy as unlawful. Respondents filed their opposition on September 12, 2025, to which Petitioners have filed a response. [*See generally* Opp.; Dkt. No. 62, "Reply"].

Given the number of threshold issues in this matter, the Court first addresses concerns raised by Respondents regarding justiciability. The Court then considers the issues of statutory interpretation underlying the parties' disputes pertaining to the legality of the DHS Policy and its bearing on Petitioners.

II. JUSTICIABILITY

Article III "requires a federal court to satisfy itself of its jurisdiction over the subject matter before it considers the merits of a case." *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). Once again, Respondents argue that provisions of the Immigration and Nationality Act ("INA") bar this Court from reviewing this matter. [Opp. at 18–20; *see also* Dkt. No. 8 at 6–11].

Moreover, ensuring subject-matter jurisdiction is an "independent obligation" on all courts, even in the absence of a challenge from any party. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 501 (2006). Thus, the Court considers *sua sponte* any questions of the applicability of mootness.

A. Statutory Restrictions on Judicial Review

Respondents' Opposition argues that the INA "entrusts the Executive branch to remove inadmissible and deportable [noncitizens][3] and to ensure that [noncitizens] who are removable are in fact removed from the United States." [Opp. at 17]. The Court has no doubts that the INA confers the executive branch with the powers to faithfully execute the statute's aim. Indeed, Congress expressly precluded judicial review of certain matters within the INA. *See e.g.*, 8 U.S.C. §

[3] This Order uses the term "noncitizenship" in place of "alienage" and "noncitizen" in place of "alien." The Court follows the U.S. Supreme Court and Ninth Circuit, where the use of the term "noncitizen" has become a common practice. *See Patel v. Garland*, 596 U.S. 328 (2022) (Barrett, J.); *United States v. Palomar-Santiago*, 593 U.S. 321 (2021) (Sotomayor, J.); *Barton v. Barr*, 590 U.S. 222, 226 n.2, (2020) (Kavanaugh, J.) ("This opinion uses the term 'noncitizen' as equivalent to the statutory term 'alien.'" (citing 8 U.S.C. § 1101(a)(3))); *Avilez v. Garland*, 69 F.4th 525 (9th Cir. 2023); *Arce v. United States*, 899 F.3d 796 (9th Cir. 2018). Additionally, this Court thinks it is prudent to "avoid language that reasonable readers might find offensive or distracting—unless the biased language is central to the meaning of the writing." *Chicago Manual of Style Online* 5.253, https://www.chicagomanualofstyle.org/book/ed17/part2/ch05/psec253.html. As noted by the Ninth Circuit, "[t]he word alien can suggest 'strange,' 'different,' 'repugnant,' 'hostile,' and 'opposed[.]'" *Avilez*, 69 F.4th at 527 n.1 (citing *Alien, Webster's Third New International Dictionary* 53 (2002)). Accordingly, because the word "noncitizen" is synonymous and does not encompass such negative connotations, the Court finds "noncitizen" is a better word choice. *See Alien* and *Noncitizen, American Heritage Dictionary of English Language* 44, 1198 (5th ed. 2011).

1252(a)(2), § 1252(b)(9), § 1252(e)(3)(A). However, the issues presented in this case fall outside the areas in which the INA has stripped courts of jurisdiction.

The Court examines each subsection raised by Respondents in turn.

1. Section 1252(a) and Section 1252(b)(9)

Respondents argue that when reading § 1252(a) and § 1252(b)(9) together, the INA divests district courts of jurisdiction to review both direct and indirect challenges to removal orders. [Opp. at 19].[4] This is incorrect as to each of the sections of the INA read individually as well as read together.

As discussed in the TRO Order, Section 1252, titled "Judicial Review of Orders of Removal," contains a provision detailing "[m]atters not subject to judicial review." *See* 8 U.S.C. § 1252, § 1252(a)(2). Section 1252(a)(2) contains four subsections, which outlines categories of claims that are not subject to judicial review. § 1252(a)(2)(A)–(D). None of these subsections precluding judicial review apply to this matter, as the specified statutory provisions do not cite to § 1225(b)(2)(A) or § 1226(a), which are the two statutory provisions that the Parties agree are at the heart of this matter. Thus, it remains that no part of § 1252 deprives this Court of jurisdiction.

Similarly, Respondents' jurisdictional challenge based in § 1252(b)(9) presents no new circumstances from the previous challenge raised in its opposition to Petitioners' TRO. [Opp. at 18–19]. As of the date of this Order, nothing in the record indicates that any orders of removal have been issued for any of the Petitioners. Consistent with this Court's TRO Order, § 1252(b)(9) channels review of "*final orders of removal*" to federal courts of appeals. [Reply at 5 (emphasis added); *see also* TRO Order at 4–5]. Without an order of removal, § 1252(b)(9)

[4] In doing so, Respondents cite to *J.E.F.M. v. Lynch* for the proposition that "[t]aken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the PFR process." [Opp. at 18 (citing *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016)]. However, this fails to acknowledge the next sentence of that very opinion cites to another Ninth Circuit opinion that clarifies that "jurisdiction over removal proceedings is limited to review of final orders of removal." J.E.F.M., 837 F.3d 1031 (citing *Viloria v. Lynch*, 808 F.3d 764, 767 (9th Cir. 2015)).

alone does not bar this Court from reviewing Petitioners' Motion for Partial Summary Judgment regarding the legality of the new DHS Policy.

Therefore, these two sections of the INA do not independently nor jointly preclude judicial review.

2. Section 1252(e)(3)(A)

Finally, Respondents suggest § 1252(e)(3)(A) operates as a bar to review by this Court. [Opp. at 19–20]. Section 1252(e)(3)(A) provides that "[j]udicial review of determinations under section 1225(b) of this title and its implementation is available in an action instituted in the United States District Court for the District of Columbia" and limits challenges to the constitutionality of a section or regulation, or whether certain regulations, policies, or procedures are inconsistent with the INA or violates other laws. *See* § 1252(e)(3)(A).

According to Respondents, because Petitioners "challenge an alleged policy of detaining applicants for admission under § 1225(b)," any challenges must be brought within the District Court for the District of Columbia. [Opp. at 20]. Petitioners correctly argue that this argument misunderstands Petitioners' claims, as they maintain they are detained under § 1226 and are therefore entitled to receive bond hearings rather than remain in mandatory detention. [Reply at 6].

Because the premise of Petitioners' claim is that the proper governing authority over their detention is § 1226 rather than § 1225, the Court does not find § 1252(e)(3)(A) to strip this Court of jurisdiction.

B. Mootness

Moreover, ensuring subject-matter jurisdiction is an "independent obligation" on all courts, even in the absence of a challenge from any party. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 501 (2006). Thus, the Court considers *sua sponte* any questions of the applicability of mootness to Petitioners' Motion.

The doctrine of mootness applies "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90 (2013). A case that becomes moot no longer presents a case or controversy, and thus cannot be properly before a federal court.

Respondents previously suggested Petitioners' Motion, as well as the entire case, is moot because Petitioners lost their stake in this litigation when they received bond hearings. [Dkt. No. 69 at 3–4]. Specifically, Respondents suggest

Petitioners' reliance on *Nielson v. Preap*, 586 U.S. 392, is improper. [*Id.* at 5–6]. According to Respondents, because Justices Thomas and Gorsuch declined to join in the jurisdictional portion of the majority opinion, this renders *Preap*'s mootness discussion as a non-binding discussion by a plurality. [*Id.* at 5].

But *Preap* presents little relevance here. In *Preap*, the parties disputed mootness where the district court had certified a class that comprised of individuals in the district subject to mandatory detention under 8 U.S.C. § 1226(c). *Preap*, 586 at 400. Because the named plaintiffs had received relief, the Government argued in *Preap* that the class action was mooted. *Id.* at 403–04.

Here, the Court has not yet considered Petitioners' class certification motion. Thus, *Preap*'s discussion of mootness presenting jurisdictional barriers there does not provide clear guidance here. Rather, the portion of *Preap* that resonates here is that some of the plaintiffs in *Preap* "faced the threat of re-arrest and mandatory detention." *Preap*, 586 U.S. at 403.

Before this Court are exclusively the legal issues presented by the named Petitioners regarding the legality of the new DHS Policy. The focus of the mootness inquiry is on whether Petitioners present a live controversy—not the Petitioners' relationship to the putative class.

Petitioners in this case have not received complete relief due to the real risk of re-arrest and mandatory detention. [Dkt. No. 63 at 9]. Petitioners cite to four instances since their Motion in which Respondents have again arrested and re-detained similarly situated individuals and subjected them to mandatory detention. [*Id.*]. Moreover, it has now become binding precedent in immigration courts that the DHS Policy is lawful. *See Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025),

This Court finds Petitioners still maintain a live controversy, by virtue of the exceptions to the mootness doctrine, namely, concerns regarding voluntary cessation. *See Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000).

Respondents suggest Petitioners cannot establish any exception to mootness because any threat of re-detention is "completely speculative and premised on the assumption that [Respondents] will violate this Court's order." [Dkt. No. 69 at 7]. The underlying basis for Respondents' argument is self-defeating. As Respondents will have it, the threat of Petitioners' re-detention is "speculative," even though

Petitioners cite to cases indicating the exact circumstances from which they seek relief, because those cases are "distinct" in that those individuals "should have been subject to mandatory detention under § 1225(b)(2)." [*Id.* at 6–7]. But Respondents argue in their Opposition for that exact proposition: that "Petitioners are subject to detention under § 1225(b)(2) because they are applicants for admission." [Opp. at 20]. At Respondents' perhaps involuntary admission, these facts present a prototypical example of voluntary cessation.

As the Supreme Court stated, "a defendant cannot automatically moot a case simply by ending its unlawful conduct once sued." *Already*, 568 U.S. at 91. This doctrine supports the premise that "a party should not be able to evade judicial review, or to defeat a judgment, by temporarily altering questionable behavior." *City News & Novelty, Inc. v. City of Waukesha*, 531 U.S. 278, 284 n.1 (2001). By seeking to view this case as moot ignores the reality that Respondents have acted upon and maintain their position that Petitioners are applicants for admission, and thus should be subject to mandatory detention under § 1225(b)(2). This case is very much still live, as Respondents have not demonstrated there is no reasonable expectation that Petitioners will not be re-arrested and re-detained.

* * *

Having established no jurisdictional barriers exist to adjudicating this Motion, the Court now considers Petitioners' Motion for Partial Summary Judgment.

III. LEGAL STANDARD

Summary judgment is appropriate when "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" Fed. R. Civ. P. 56(a). A fact is material if the dispute over that fact may affect the outcome of the lawsuit under governing law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A court need not consider irrelevant and unnecessary factual disputes. *Id.* A dispute is genuine if a reasonable jury could return a verdict for the non-moving party based on the evidence. *Id.* The movant bears the initial burden of demonstrating the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

To do so, the moving party must present evidence that either negates an essential element of the non-movant's case or demonstrates the non-movant does not have evidence sufficient to support its case. *Id.* If the movant has met its burden, the non-movant must set forth specific facts showing there is a genuine

issue for a trial. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). In deciding a summary judgment motion, a court must believe the non-movant's evidence and draw all justifiable inferences in its favor. *Anderson*, 477 U.S. at 255.

IV. DISCUSSION

Petitioners' Motion for Partial Summary Judgment seeks to declare the new DHS Policy unlawful, and asks the Court to enter final judgment pursuant to Rule 54(b). [*See generally* Motion].[5] Respondents' 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. [Opp. at 20–30].

Because the parties appear to agree that there are no genuine disputes as to any material facts[6], 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.

Before examining the statutory text at issue, the Court first provides a primer regarding the statutes, relevant developments to the statutes, and how they operate. Such background provides necessary context to evaluating the text of the statutory provisions. *See Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 ("The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.").

A. The INA and IIRIRA

The Immigration and Nationality Act of 1952 ("INA"), codified in Chapter 12 of Title 8 of the United States Code, governs all aspects of immigration law. *See* 8 U.S.C. §§ 1101 *et seq*. Forming the basis of current immigration laws of the United States, the INA addresses issues of admission qualifications for noncitizens,

[5] The Motion further argues that prudential exhaustion is not required in this scenario. [*See* Motion at 36–41]. Respondents do not raise any objection to this argument, and the Court finds that prudential exhaustion may be waived for the same reasons discussed in its TRO Order. [*See* TRO Order].

[6] *See* Dkt. No. 60-1 (reflecting that Respondents only raises disputes to immaterial facts or "to the extent Plaintiffs make any mischaracterization of the law").

naturalization and loss of nationality, refugee assistance, and removal procedures for noncitizen terrorists. *Id.* *See also* Margaret C. Jasper, *The Immigration and Nationality Act of 1952*, LEGAL ALMANAC: THE LAW OF IMMIGRATION (2012).

As reflected in the subchapters of the INA, immigration law involves the interplay between the manifold issues arising from any noncitizen's arrival, stay, departure, or removal from the United States. *See e.g.*, § 1181(c) (cross-referencing the admission of refugees with the admission of immigrants); § 1201(b) (differentiating registration requirements for noncitizens based on classes enumerated in § 1101); § 1229(a) (cross-referencing grounds of inadmissibility as affecting removal proceedings); § 1301 (conditioning the issuance of visas in accordance with § 1201).

In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), which "substantially amended" portions of the INA's judicial review scheme with a "new (and significantly more restrictive) one." *Nken v. Holder*, 556 U.S. 418, 424 (2009). Along with its changes to the availability of judicial review, IRRIRA added § 1225 to the INA, which outlines expedited removal of a certain class of noncitizens. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 (2020). *See also Biden v. Texas*, 597 U.S. 785, 804 (2022). In contrast, the predecessor to the current language of § 1226 existed in the original INA. *See* INA of 1952, Pub. L. No. 414 (66 Stat. 200) (current version at 8 U.S.C. § 1226). Recently, Congress amended portions of § 1226 through the passage of the Laken Riley Act. Pub. L. No. 119-1, January 29, 2025, 139 Stat. 3 (2025).

B. Evaluating Inadmissible Noncitizens

8 U.S.C. § 1225 and § 1226 govern how the executive branch evaluates inadmissible noncitizens. Logically speaking, inspection or apprehension of the noncitizen is a necessary precondition of removal. Only after a noncitizen is identified as inadmissible can removal proceedings happen.

Indeed, the Supreme Court has already differentiated these two sections, distinguishing their application by the category of noncitizens to which their provisions apply. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). *Jennings* held the Government may "detain certain [noncitizens] seeking admission into the country" under § 1225(b) while § 1226 "authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings." *Id.* (emphasis added).

In particular, the statutory language of § 1225 details the process by which immigration officers inspect noncitizens arriving in the United States, refer them for hearings, and initiate procedures for expedited removal. *See* § 1225(a) (defining the categories of individuals that immigration officers are to inspect and statements these individuals may provide at inspection); § 1225(b) (detailing the process for conducting inspections, including screening, interviews, and referrals); § 1225(c) (providing grounds for expedited removal involving security concerns); § 1225(d) (outlining immigration officers' authority relating to inspection). On the other hand, § 1226 describes how noncitizens may be apprehended and detained. *See* § 1226(a) (supplying an exhaustive list of scenarios noncitizens may face pending a removal decision, including being released on bond); § 1226(b) (describing the Attorney General's authority to revoke bond or parole); § 1226(c) (detailing the category of noncitizens that the Attorney General must take into custody); § 1226(d) (directing the Attorney General to create a system to identify criminal noncitizens); § 1226(e) (limiting judicial review of the Attorney General's discretionary decisions).

Beyond *how* noncitizens are identified as inadmissible, another distinction between these two sections is that noncitizens detained under § 1226(a) are entitled to receive bond hearings at the outset of detention. 8 C.F.R. §§ 236.1(d)(1). *See also Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018). As articulated by the Ninth Circuit, "§ 1226(a) stands out from the other immigration detention provisions in key respects." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (observing that § 1226(a) and its implementing regulations "provide extensive procedural protections that are unavailable under other detention provision"). Not only does § 1226(a) provide several layers of review of the agency's initial custody determination, but it also confers "an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing when circumstances materially change." *Id.*

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. [Dkt. No. 60-1 ¶¶ 18, 25, 26, 34, 42, 48].

Maintaining the position underlying their TRO, Petitioners argue that § 1226(a)—not § 1225(b)(2)—applies to them and those similarly situated.

[Motion at 23–36]. Respondents again argue that § 1225(b)(2) is the governing authority for "applicants for admission", which includes Petitioners. [Opp. at 20–29]. 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).

But who is an "applicant for admission," and is that phrase relevant as to Petitioners?

C. Plain Language of the INA

Both parties assert that the plain language of the INA supports their interpretation. [Motion at 23, 29–30; Opp. at 20–21; Reply at 13]. Petitioners state the application of § 1226(a) "does not turn on whether someone has been previously admitted," and affords access to bond to noncitizens that are inadmissible. [Motion at 23]. Moreover, Petitioners argue that the text of § 1225 "reflects a limited temporal scope." [*Id.* at 29]. Because § 1225(b)(2)(A) requires an "active construction" of the phrase "seeking admission" for "applicants for admission," it cannot apply to Petitioners. [*Id.* at 30].

In response, Respondents argue Petitioners are "applicants for admission" because § 1225(b)(2) is a "catchall provision" that applies to all applicants for admission not covered by § 1225(b)(1). [Opp. at 21, (citing *Jennings*, 583 U.S. at 287)]. According to Respondents, "applicants for admission" "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." [Opp. at 21 (citing *Jennings*, 583 U.S. at 297)]. Such an argument relies on the assumption that "applicants for admission" encompasses *all* noncitizens coming into and already in the United States. If this assumption is true, then Respondents are correct. But this cannot be correct.

Respondents' argument is at odds with the plain language of the INA. Neither party contends with the definition section of the INA, which readily resolves this dispute over statutory interpretation.

1. The INA's Definition Section

The preeminent canon of statutory interpretation requires courts to "presume that [the] legislature says in a statute what it means and means in a statute what it says there." *Connecticut Nat. Bank v. Germain,* 503 U.S. 249, 253–54 (1992).

Thus, even where the parties have advanced various arguments to support their competing interpretations, the Court must "begin[] with the statutory text, and ends there as well if the text is unambiguous." *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004). Barring unusual cases, "[s]tatutory definitions control the meaning of statutory words." *Lawson v. Suwannee Fruit & S.S. Co.*, 336 U.S. 198, 201 (1949).[7]

Found in § 1101 is the INA's definition section. *See* § 1101(a)–(h). Relevant here, the INA defines "[noncitizen]" as "any person not a citizen or national of the United States"; "application for admission" as "the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa"; and "admission" and "admitted" as "the lawful entry of the [noncitizen] into the United States after inspection and authorization by an immigration officer. *See* §§ 1101(a)(3), (a)(4), (a)(13)(A).[8]

Later in the INA, § 1225(a)(1) provides that "[a noncitizen] present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." § 1225(a)(1). "Applicants for admission"—when replacing "admitted" with its definition from § 1101(a)(13)(A)—are noncitizens who have not "lawful[ly entered] into the United States *after inspection and authorization by an immigration officer*.'" *See* § 1101(a)(13)(A) (emphasis added); § 1225(a)(1).

In suggesting § 1225(b)(2) nevertheless encompasses Petitioners as "applicants for admission," Respondents ignore a crucial portion of *Jennings*. [Opp. at 21]. It is true that § 1225(b)(2) applies to "other [noncitizens]" who "is an applicant for admission, if the examining immigration officer determines that [a

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[7] The Court's holding would not create "obvious incongruities in the [statutory] language" or erase from the statute an entire subsection. *See Lawson*, 336 U.S. at 201. In fact, the Court's interpretation of the INA effectuates the provisions of *both* § 1225 and § 1226, where Respondents' position would render the latter superfluous.

[8] *Torres v. Barr* has already clarified that "applicant for admission" and "application for admission" are not interchangeable. *Torres v. Barr*, 976 F.3d 918, 926–27 (9th Cir. 2020). The Ninth Circuit concurred with the BIA, which had held that "the term 'applicant for admission' in the deeming provision of § 1225(a)(1) 'merely' determines [a noncitizen's] legal status for purposes of removal proceedings." *Id.* at 929.

noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted." § 1225(b)(2). But *Jennings* considered § 1226 as existing in harmony with § 1225(b)(2), where § 1226(a) "authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings." 583 U.S. at 289.

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."

This is further supported by the heading under which § 1225(a)(1) falls. This subsection falls under § 1225, which addresses "[i]nspection by immigration officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing." § 1225.

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).

2. The INA's Statutory Scheme

Where neither § 1225 nor § 1226 are ambiguous, only Petitioners' interpretation of these statutes "produces a substantive effect that is compatible with the rest of the law." *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 372 (1988). "[R]easonable statutory interpretation must account for both 'the specific context in which . . . language is used" and the 'broader context of the statute as a whole.'" *Utility Air Regulatory Group*, 573

U.S. at 321 (citing *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)). The Ninth Circuit previously recognized that INA is a "dense statute" that is to be read "against the backdrop of our constitutional principles, administrative law, and international treaty obligations." *Torres v. Barr*, 976 F.3d 918, 923 (9th Cir. 2020) (citations omitted).

Petitioners argue that § 1225 and § 1226 are distinct regimes meant to address separate categories of noncitizens. The latter provides the "default detention authority" for all persons detained pending a removal decision, while the former has a limited temporal scope that concerns "inspection" and "expedited removal of inadmissible arriving [noncitizens]". [Motion at 24–29]. *See also Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499 at *17 (W.D. Wash. Sept. 30, 2025) (concluding that a "plain reading of [section 1226] implies that default discretionary bond procedures in section 1226(a) apply to noncitizens who . . . are 'present in the United States without being admitted or paroled' under section 1182(a)(6)(A) but *have not been* implicated in any crimes as set forth in section 1226(c)."). *See id.* (evaluating the language of § 1226 as "lend[ing] strong textual support that 'inadmissible' noncitizens . . . are included within section 1226").

Meanwhile, Respondents endorse an interpretation of § 1225 that effectively removes § 1226 from existence. Respondents attempt to downplay the consequences of their proposed position, stating that § 1226 is a mere redundancy in statutory drafting, or that it is "'congressional effort to be doubly sure' that such unlawful [noncitizens] are detained." [Opp. at 28]. Not so. If the Court were to accept Respondents' position that all noncitizens already in the country (regardless of whether they were inspected and authorized by an immigration officer) were "applicants for admission," then there would be no possible set of noncitizens to which § 1226(a) would apply. Put in another way, Respondents' proposed interpretation requires that any and all inadmissible noncitizens are also "applicants for admission." Such a premise cannot be harmonized with other portions of the INA. *See United States v. Castleman*, 572 U.S. 157, 178, (2014) (Scalia, J., concurring in part and concurring in the judgment) (explaining that the "presumption against ineffectiveness" means "that Congress presumably does not enact useless laws"). *See also* Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts 174–79 (2012) (regarding the rule against surplusage).

There must be an appreciable or meaningful distinction between § 1225 and § 1226.[9] The text of these subsections reveals a crucial difference in their treatment of detention. Detention under § 1226 is permissive; detention under § 1225 is mandatory. The Ninth Circuit previously concluded "permissive and mandatory descriptions are in harmony, as they apply to different situations." *Fifty-Six Hope Rd. Music, Ltd. v. A.V.E.L.A., Inc.*, 778 F.3d 1059, 1081 (9th Cir. 2015).

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.

Absent Congressional action that repeals and revises § 1226(a), the directive that the Attorney General must either continue to detain the noncitizen or release the noncitizen on bond or parole persists. Respondents unacceptably collapse § 1226 into nonexistence under a wide-reaching interpretation of "applicants for admission." [*See* Reply at 8 (arguing Respondents' view would render § 1226(a) meaningless in despite a recent legislative amendment)].

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

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[9] The Court acknowledges certain other district courts disagree with this Court's interpretation. *Barrios Sandoval v. Acuna, et al.*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (holding that the "plain text" of § 1225(a)(1) includes "any [noncitizen] physically present in the United States who has not been admitted"). *Cirrus Rojas v. Olson, et al.*, No. 25-CV-1437-BHL, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025) (same); *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (same). *See also Chavez v. Noem*, No. 3:25-CV-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (denying a preliminary injunction on those grounds).

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. [*See* Motion at 32–42; Opp. at 25–29].[10]

Accordingly, the Court **GRANTS** Petitioners' Motion for Partial Summary Judgment.

V. PETITIONER'S REQUEST FOR FINAL JUDGMENT

Petitioners also request the Court to enter final judgment pursuant to Rule 54(b). [Motion at 40–41]. Although the Opposition does not provide argument as to this request, the Court **DENIES** this request.

Rule 54(b) provides that "[w]hen an action presents more than one claim for relief . . . the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. Proc. 54(b). Because Petitioners have filed a pending motion for class certification, the Court finds final judgment would be inappropriate. [*See* Dkt. No. 41].

VI. CONCLUSION

Consistent with the discussion above, Petitioners' Motion for Partial Summary Judgment is **GRANTED**. [Dkt. No. 42]. The Court further **DENIES** Petitioners' Request to enter final judgment.

IT IS SO ORDERED.

[10] Even if the Court were to consider the parties' alternative arguments, Petitioners' interpretation still presents more meritorious arguments. *See Rodriguez v. Bostock*, 2025 WL 2782499 at *21–26 (considering arguments regarding canons of construction, legislative history, and agency practice and concluding the same).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No. 5:25-cv-01873-SSS-BFM Date November 25, 2025

Title *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*

Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

Irene Vazquez	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s): None Present	Attorney(s) Present for Defendant(s): None Present

Proceedings: (IN CHAMBERS) ORDER GRANTING PLAINTIFF PETITIONERS' MOTION FOR CLASS CERTIFICATION [DKT. NO. 41]

Before the Court is Plaintiff Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino's (collectively, "Petitioners") Motion for Class Certification. [Dkt. No. 41, "Motion"; Dkt. No. 15]. Defendant Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia ("Respondents") have filed their Opposition to this Motion. [Dkt. No. 59, Opposition or "Opp."]. Petitioners filed their Reply on September 19, 2025. [Dkt. No. 61, "Reply"]. For the following reasons, Petitioners' Motion is **GRANTED**.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Court will not repeat the facts of this case for the sake of brevity. For reference to the factual background, please refer to the Prior Order on the Motion for Partial Summary Judgment, the First Amended Complaint ("FAC"), and the pleadings papers related to this motion. [*See* Dkt. No. 15, "First Amended Complaint" or "FAC"; Dkt. No. 81, "MSJ Order". *See generally* Dkt. Nos. 41, 59, 61].

On August 11, 2025, Petitioners filed this Motion, seeking declaratory relief and vacatur against Respondents' policies for two proposed classes:

- **Bond Eligible Class**: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

- **Adelanto Class**: All noncitizens in the United States without lawful status who (1) have or will have proceedings before the Adelanto Immigration Court; (2) have entered or will enter the United States without inspection; (3) were not or will not be apprehended upon arrival; and (4) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a bond hearing.

[*See* Motion at 14].

On November 14, 2025, the Court heard argument from the parties on the Motion. At the hearing, the parties agreed to proceed with the Bond Eligible Class only consistent with their briefing on the redundancy of the Adelanto Class. [*See also* Opp. at 24; Reply at 4 n.1]. With the scope of the Motion limited to the Bond Eligible Class only, the Court now considers whether class certification is proper.

II. LEGAL STANDARD

"A party seeking class certification must satisfy the requirements of Federal Rule of Civil Procedure 23(a) and the requirements of at least one of the categories under Rule 23(b)." *Wang v. Chinese Daily News*, 737 F.3d 538, 542 (9th Cir. 2013).

In determining whether to certify a class, a district court "take[s] the substantive allegations of the complaint as true," however, "the court also is required to consider the nature and range of proof necessary to establish those allegations." *In re Coordinated Pretrial Proceedings in Petroleum Prods. Antitrust Litig.*, 691 F.2d 1335, 1342 (9th Cir. 1982).

A. Rule 23(a) Prerequisites

"Rule 23(a) ensures that the named plaintiffs are appropriate representatives of the class whose claims they wish to litigate." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 (2011). A party seeking class certification must demonstrate the following prerequisites under Rule 23(a): "(1) numerosity of plaintiffs; (2) common questions of law or fact predominate; (3) the named plaintiff's claims and defenses are typical; and (4) the named plaintiff can adequately protect the interests of the class." *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir.1992) (citing Fed.R.Civ.P. 23(a)). The party may not rest on mere allegations, but must provide facts to satisfy these requirements. *Doninger v. Pac. Northwest Bell, Inc.*, 564 F.2d 1304, 1309 (9th Cir.1977).

The district court must conduct a "rigorous analysis" and conclude that all four requirements—commonly shorthanded as numerosity, commonality, typicality, and adequate representation—are satisfied. *Wang*, 737 F.3d at 542–43 (quoting *Wal-Mart*, 564 U.S. at 349).

B. Rule 23(b)(2) Requirements

"In addition to the requirements of Rule 23(a), a proposed class must also meet the requirements of one or more of the 'three different types of classes' set forth in Rule 23(b)." *Senne* v. *Kan. City Royals Baseball Corp.*, 934 F.3d 918, 927 (9th Cir. 2019). Here, Petitioners seek certification under Rule 23(b)(2). [Motion at 36–39].

Rule 23(b)(2) requires that "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2).

III. DISCUSSION

As a threshold matter, Respondents oppose class certification, arguing that statutory limits preclude the requested method of relief. [Opp. at 14–15]. Respondents further challenge the propriety of class certification by arguing that

Petitioners cannot demonstrate commonality and typicality, and that the proposed classes do not qualify for Rule 23(b)(2) relief. [Opp. at 15–24].[1]

A. 8 U.S.C. § 1252

Respondents suggest 8 U.S.C. § 1252(e)(1)(B) precludes class certification in this action. [Opp. at 14]. Section 1252(e)(1)(B) limits judicial review by preventing courts from "certify[ing] a class under Rule 23 . . . in any action for which judicial review is authorized under a subsequent paragraph of this subsection." § 1252(e)(1)(B). Respondents are correct that § 1252(e)(3)(A) limits "[j]udicial review of determinations under section 1225(b) of this title and its implementation is available in an action instituted in the United States District Court for the District of Columbia," and limits challenges to the constitutionality of a section or regulation, or whether certain regulations, policies, or procedures are inconsistent with the INA or violates other laws. [Opp. at 14–15]. *See* § 1252(e)(3)(A). However, invoking § 1252(e)(1)(B) as a bar to relief is illusory.

Respondents' argument assumes that Petitioners "challenge an alleged new policy that all [noncitizens][2] who entered the United States without inspection are

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[1] The Opposition further contends that the Adelanto Class is redundant and should not be certified. [Opp. at 24]. Petitioners concede this argument, and maintain that a nationwide Bond Eligible Class suffices. [Reply at 4 n.1].

[2] This Order uses the term "noncitizen" in place of "alien." The Court follows the U.S. Supreme Court and Ninth Circuit, where the use of the term "noncitizen" has become a common practice. *See Patel v. Garland*, 596 U.S. 328 (2022) (Barrett, J.); *United States v. Palomar-Santiago*, 593 U.S. 321 (2021) (Sotomayor, J.); *Barton v. Barr*, 590 U.S. 222, 226 n.2, (2020) (Kavanaugh, J.) ("This opinion uses the term 'noncitizen' as equivalent to the statutory term 'alien.'" (citing 8 U.S.C. § 1101(a)(3))); *Avilez v. Garland*, 69 F.4th 525 (9th Cir. 2023); *Arce v. United States*, 899 F.3d 796 (9th Cir. 2018). Additionally, this Court thinks it is prudent to "avoid language that reasonable readers might find offensive or distracting—unless the biased language is central to the meaning of the writing." *Chicago Manual of Style Online* 5.253, https://www.chicagomanualofstyle.org/book/ed17/part2/ch05/psec253.html. As noted by the Ninth Circuit, "[t]he word alien can suggest 'strange,' 'different,' 'repugnant,' 'hostile,' and 'opposed[.]'" *Avilez*, 69 F.4th at 527 n.1 (citing *Alien, Webster's Third New International Dictionary* 53 (2002)). Accordingly, because the word "noncitizen" is synonymous and does not encompass such negative connotations, the Court finds "noncitizen" is a better word choice. *See Alien* and

subject to mandatory detention under § 1225(b)(2)(A)." [Opp. at 14]. However, as discussed in the Order on the Motion for Partial Summary Judgment, Petitioners have maintained their position that they are detained under § 1226 and are therefore entitled to receive bond hearings rather than remain in mandatory detention. [Reply at 6].

Because the premise of Petitioners' claim is that the proper governing authority over their detention is § 1226 rather than § 1225, the Court does not find § 1252(e)(3)(A) prohibits this Court from ruling on this Motion.

B. Rule 23(a)

The Court now considers whether the proposed class meets the requirements of Rule 23(a).

1. Numerosity

Numerosity is satisfied if "the class is so large that joinder of all members is impracticable." *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998)). Generally, courts find the numerosity requirement satisfied "when a class includes at least 40 members." *Rannis v. Recchia*, 380 Fed. Appx. 646, 651 (9th Cir. 2010)).

Respondents do not dispute that Petitioners have satisfied numerosity. [*See generally* Opp.]. The Court finds numerosity is satisfied given the factual circumstances surrounding the putative class members and geographic scope of the proposed class. [Motion at 28 (suggesting that "at a minimum there are thousands of Bond Eligible Class members")].

The Bond Eligible Class includes individuals that were detained following "Operation At Large," which entailed a 3,000 daily arrest quota of putative class members in Los Angeles, California. [Motion at 27]. Where the Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE") continue to increase immigration-related arrests in cities across the country, the Court finds that Petitioners have demonstrated by a preponderance of evidence that numerosity is satisfied. [*See* Department of Homeland Security, *ICE Launches Operation Midway Blitz in Honor of Katie Abraham to Target Criminal Illegal [Noncitizens] Terrorizing Americans in Sanctuary Illinois* (Sept. 8, 2025)

Noncitizen, American Heritage Dictionary of English Language 44, 1198 (5th ed. 2011).

(documenting "Operation Midway Blitz" in Chicago, Illinois); Department of Homeland Security, *DHS Launches Operation Charlotte's Web to Target Criminal Illegal [Noncitizens] Terrorizing Americans in Charlotte, North Carolina* (Nov. 15, 2025) (indicating "surging resources for Operation Charlotte's Web in North Carolina")].

Based on data from the Executive Office of Immigration Review ("EOIR") and DHS's reports of its operations, the Court finds the Bond Eligible class satisfies the numerosity requirement. [*See* Motion at 2628].

2. Commonality

The second Rule 23(a) requirement is commonality. This prong requires "a plaintiff . . . show that 'there are questions of law or fact common to the class.'" *Dukes*, 564 U.S. at 349 (quoting Fed. R. Civ. Proc. 23(a)(2)). The proposed class's claims must "depend upon a common contention." *Id.* And the common contention "must be of such a nature that it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke." *Id.* Accordingly, "what matters to class certification ... is not the raising of common questions—even in droves—but rather, the capacity of a classwide proceeding to generate common answers apt to drive the resolution of the litigation." *Id.* at 350.

Commonality is "construed permissively." *Hanlon*, 150 F.3d at 1019. Thus, "[a]ll questions of fact and law need not be common to satisfy the rule." *Id.*; *see also Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1029 (9th Cir. 2012) ("Where the circumstances of each particular class member vary but retain a common core of factual or legal issues with the rest of the class, commonality exists").

Rather, the "standard is "readily met" when plaintiffs seek prospective relief "challeng[ing] a system-wide practice or policy that affects all of the putative class members." *Mansor*, 345 F.R.D. at 204. Indeed, the Ninth Circuit has held that "in a civil-rights suit . . . commonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects all of the putative class members." *Gonzalez*, 975 F.3d at 808 (citations omitted).

There is little question here that Petitioners seek declaratory relief to challenge a newly adopted DHS policy that affects all putative class members. [Motion at 28–32]. Nevertheless, Respondents argue the proposed class lacks

commonality because there are "obvious differences between purported class members," which would require "different answers depending on individualized circumstances." [Opp. at 16].

However, the Court does not find the difference among putative class members so obvious. Although it is possible that individuals may have differing charges of inadmissibility when they are arrested, the deprivation of their right to a bond hearing is a common injury. Such common injury can be resolved in a single stroke upon the determination that the new DHS policy is in violation of their due process rights. *See Rodriguez v. Hayes*, 591 F.3d 1105 (9th Cir. 2010) (describing commonality as "look[ing] only for some shared legal issue or a common core of facts").

The Court's MSJ Order rejected Respondents' proposed interpretation of the INA, which subjected Petitioners and those similarly situated to mandatory detention. [MSJ Order at 1017]. As a matter of law, Respondents' interpretation runs counter to the plain language of the INA, foundational principles of statutory interpretation, and the INA's statutory scheme. [*Id.*]. In other words, the interpretive consequences of Respondents' interpretation and corresponding agency practices stemming from that interpretation injure Petitioners and putative class members in a common manner.

Where the class definition outlines an adequate basis to define this kind of injury, the Court finds commonality has been satisfied.

3. Typicality

The third requirement of Rule 23(a) is typicality. "The claims of the representative party must be typical of the class claims." *Gonzalez*, 975 F.3d at 809 (citing Fed. R. Civ. P. 23(a)(3)). "[R]epresentative claims are 'typical' if they are reasonably co-extensive with those of absent class members; they need not be substantially identical." *Hanlon*, 150 F.3d at 1020; *Schwartz v. Harp,* 108 F.R.D. 279, 282 (C.D.Cal.1985). Typicality looks to "whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct." *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992).

"Typicality refers to the nature of the claim or defense of the class representative, and not to the specific facts from which it arose or the relief

sought." *Hanon*, 976 F.2d at 508. Typicality is a "permissive standard," *Staton v. Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003), but class certification is inappropriate "if there is a danger that absent class members will suffer if their representative is preoccupied with defenses unique to it." *Hanon*, 976 F.2d at 508.

Together, commonality and typicality "serve as guideposts for determining whether under the particular circumstances maintenance of a class action is economical" and whether the class representative's and class claims are "so interrelated that the interests of the class members will be fairly and adequately protected in their absence." *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982)

Respondents contest typicality by suggesting that "half of [the named Petitioners] will be subject to mandatory detention if and when they apply for immigration benefits." [Opp. at 18]. But Petitioners and the putative class members face essentially identical factual circumstances that satisfy typicality.

Petitioners arrived in the United States without inspection. [Dkt. No. 1 at 6–7]. They were later arrested and detained at an ICE Processing Center and were denied bond hearings by an IJ, who claimed a lack of jurisdiction. [*See id.*; Dkt. No. 5]. At the time of their arrest, Petitioners were charged inadmissible under grounds that did not place them under mandatory detention as required by § 1225(b)(1), § 1226(c), or § 1231. [Dkt. No. 1 ¶¶ 43, 48, 53, 58]. Despite this, Petitioners remained in detention until the Court granted their TRO. [*See* Dkt. No. 5; Dkt. No. 14, "Prior Order"]. After the TRO, Petitioners were granted individualized bond hearings.

A named plaintiff is not typical if "there is a danger that absent class members will suffer if their representative is preoccupied with defenses unique to it." *DZ Rsrv. v. Meta Platforms, Inc.*, 96 F.4th 1223, 1238 (9th Cir. 2024). Respondents posit that Petitioners cannot show typicality because "if and when [named Petitioners] apply for a U-visa and cancellation of removal, respectively, they will . . . be subject to mandatory detention under § 1225(b)(2)." [Opp. at 18]. Not only does the record fail to support the premise that Petitioners will take such a course of action, but the Court also has doubts as to whether such action would necessitate mandatory detention. [*See* Reply at 7].

Much like the Petitioners, putative class members are noncitizens who already arrived in the United States without inspection, or will enter the United States and not face inspection. [Motion at 14]. In other words, putative class

members are inadmissible, but not subject to mandatory detention under § 1225(b)(1), § 1226(c), or § 1231. Where those individuals are subject to mandatory detention due to Respondents' improper interpretation of the INA, Petitioners' claims present the same circumstances as those of the Bond Eligible Class. Therefore, Petitioners' claims can be considered typical of Bond Eligible Class's.

The Court thus finds that Petitioners have satisfied the typicality requirement for the Bond Eligible Class.

4. Adequacy

The final requirement of Rule 23(a) is adequacy. Adequacy looks at whether "the representative parties will fairly and adequately protect the interests of the class." *See Hanlon*, 150 F.3d at 1020 (quoting Fed. R. Civ. P. 23(a)(4)). To evaluate adequacy, the Court looks to whether (1) the named plaintiffs and their counsel have any conflicts of interest with other class members and (2) whether named plaintiffs and their counsel prosecute the action vigorously on behalf of the class" *See Lerwill v. Inflight Motion Pictures, Inc.*, 582 F.2d 507, 512 (9th Cir. 1978)). The named plaintiffs and their counsel must have "sufficient 'zeal and competence' to protect the interests of the rest of the class." *Doe v. Wolf*, 424 F. Supp. 3d 1028, 1043 (S.D. Cal. 2020) (quoting *Fendler v. Westgate-Cal. Corp.*, 527 F.2d 1168, 1170 (9th Cir. 1975)).

Respondents do not appear to contest adequacy. Nevertheless, the Court evaluates whether there are any conflicts of interest or concerns associated with named Petitioners and their counsel.

i. Named Petitioner's Adequacy

The Court turns first to the adequacy of the named Plaintiff Petitioner: Lazaro Maldonado Bautista.

Bautista has lived in Los Angeles, California since 2021 and has no criminal history. [Dkt. No. 41-14 ¶¶ 3, 6, "Declaration of Lazaro Maldonado Bautista"]. He was arrested on June 6, 2025 during an ICE operation in Los Angeles, California. [Dkt. No. 1 at 5–6]. Following his arrest, ICE detained Bautista at Adelanto ICE Processing Facility. [Declaration of Lazaro Maldonado Bautista ¶ 7]. Upon requesting a bond hearing before an immigration court, Bautista attended a hearing at which an IJ concluded that he was subject to mandatory detention and that the IJ lacked jurisdiction to consider his request for release on bond. [*Id.* ¶ 9].

Bautista, along with the other named Petitioners, received a bond hearing only after this Court granted their Application for a TRO. [*Id.* ¶ 12; *see also* Dkt. No. 5].

Having now been released on bond, Bautista expresses his interest in representing the class and his understanding of the responsibilities of doing so. In a declaration submitted to the Court, Bautista explains he "want[s] to be a named plaintiff in this case." [Declaration of Lazaro Maldonado Bautista at ¶ 13]. Furthermore, Bautista indicates his understanding that he "would represent a large number of people who have entered the United States without inspection" and "ICE is not considering [those people] for bond." [*Id.*]. The declaration further states he understands he "would represent people who are currently in detention and who have been denied consideration for bond for the same reason as [himself]." [*Id.* ¶ 14]. As part of his role as class representative, Bautista declares that his role would require representing "the interests of all class members in this lawsuit and that it is [his] responsibility to represent the interests of each class as a whole and not just [his] own personal interests." [*Id.* ¶ 15].

Based on his declaration, Bautista asserts that he is an adequate representative of the class; he seeks for the putative class members the same relief he received, and, as of the filing of the complaint, shares the same interests as absent class members. *See Doe v. Wolf*, 424 F. Supp. 3d 1028, 1043-44 (S.D. Cal. 2020). Nothing in the record suggests that Bautista has any conflicts of interest. Bautista has a "mutual goal" with the other class members to challenge the allegedly unlawful practices and to "obtain declaratory . . . relief that would not only cure this illegality but remedy the injury suffered by all current and future class members." [Motion at 35 (quoting *Nightingale v. U.S. Citizenship & Immigr. Servs.*, 333 F.R.D. 449, 462 (N.D. Cal. 2019))].

The Court finds he is an adequate representative of the Bond Eligible Class.

ii. Class Counsel's Adequacy

Counsel for the proposed class have shown that they have experience litigating class actions on immigration matters. The two attorneys from the USC Gould School of Law Immigration Clinic—Mr. Niels W. Frenzen and Ms. Jean E. Reisz—have litigated and presented arguments in immigration cases in numerous federal district courts and represented clients in approximately fifty petitions before two Circuit Courts of Appeals. [Dkt. 41-21 ¶¶ 2–4]. Moreover, the attorneys from the Northwest Immigrant Rights Project (NWIRP) have a decade or

more of experience working in immigration law. [*See* Dkt. No. 44-19 (explaining that Adams has many years of experience); *id.* ¶ 5 (explaining that Madrid has worked for NWIRP since 2013); *id.* ¶ 6 (explaining that Kang has worked for NWIRP since 2014); *id.* ¶ 7 (explaining that Korthius has worked for NWIRP since 2018). Notably, Mr. Matt Adams has litigated "hundreds of cases and personally argued on behalf of immigrants before immigration judges, the Board of Immigration Appeals, federal district courts, the Ninth Circuit Court of Appeals, and the United States Supreme Court." [Dkt. No. 41-19 ¶ 3]. He has "successfully moved for class certification and been approved by federal courts as class counsel in sixteen different class actions on behalf of immigrants." [*Id.*].

The Motion further mentions the qualification of counsel from the American Civil Liberties Union, given their deep knowledge of immigration law and experience litigating class actions and complex federal cases. [Motion at 35–36]/ The combined experience of class counsel is more than adequate.

Finally, the Court finds nothing in the record to suggest that the attorneys have any conflicts of interest with other class members. Accordingly, the Court concludes that counsel meet Rule 23(a)(4)'s adequacy requirement.

C. Rule 23(b)(2)

Because the proposed class has met the requirements of Rule 23(a), the Court now turns to Rule 23(b). Petitioners seek class certification under Rule 23(b)(2), "which permits the Court to certify a class if 'the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.'" *Jane Doe 1 v. Nielsen*, 357 F. Supp. 3d 972, 991 (N.D. Cal. 2018).

The Ninth Circuit has previously concluded that "[n]either [Rule 23] nor due process necessarily requires that the district court rule on class certification before granting or denying a motion for summary judgment." *Wright v. Schock*, 742 F.2d 541, 545 (9th Cir. 1984). *See also Estakhrian v. Obenstine*, 859 F. App'x 121, 122 (9th Cir. 2021). As a preliminary matter, the Court's MSJ Order already determined that Respondents' interpretation of the INA cannot be squared with the statutory text and statutory scheme, and articulated the proper interpretation of the INA that applies to Petitioners. [*See* MSJ Order]. The MSJ Order, therefore, makes clear that this proposed class is appropriate for certification under Rule 23(b)(2). However, because the MSJ Order precedes this ruling on the class

certification motion, the Court addresses Respondents' concerns regarding certification and further articulates why Rule 23(b)(2)'s standards are met.

"Class certification under Rule 23(b)(2)" requires that "the primary relief sought is declaratory or injunctive." *Rodriguez v. Hayes*, 591 F.3d 1105, 1125 (9th Cir. 2010). Petitioners "seek declaratory relief and vacatur for [the Bond Eligible Class]." [Motion at 38]. Respondents raise two arguments to oppose class certification: (1) that § 1252(f)(1) prohibits the requested classwide relief, and (2) that the requested relief will not address the Bond Eligible Class's injuries as a whole. [Opp. at 19–23].

1. Section 1252(f)'s Prohibition of Class Actions

The Ninth Circuit's recent decision in *Al Otro Lado v. Executive Office for Immigration Review* addresses Respondents' first argument. *See Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 120 F.4th 606, 625–26 (9th Cir. 2024). In this case, the Ninth Circuit rejected the Government's argument that classwide declaratory relief was prohibited by § 1252(f). 120 F.4th at 1123–24. Nevertheless, Respondents insist that the requested declaratory relief would interfere with the Government's efforts to detain noncitizens under § 1225(b)(2), and that is "impermissibly coercive." [Opp. at 20–21]. However, the Supreme Court has acknowledged that a declaratory judgment, "[t]hough it may be persuasive, . . . is not ultimately coercive." *Steffel v. Thompson*, 415 U.S. 452, 471 (1974).

The Court further notes that the statutory text further supports the availability of classwide declaratory relief. *Compare* § 1252(e)(1)(A) (prohibiting courts from entering "declaratory, injunctive, or other equitable relief" in any action to exclude under § 1225(b)(1) *with* § 1252(f)(1) (specifically noting that this subsection is a "[l]imit on injunctive relief"). Therefore, the requested relief for the Bond Eligible Class authorized by Rule 23(b)(2) is not incompatible with § 1252(f).

2. Whether Classwide Relief is Appropriate

Respondents next argue that classwide declaratory relief is not appropriate, as "the relief sought would not be uniform and applicable to all class members." [Opp. at 22]. Respondents suggest the class definition "draw[s] no clear distinctions between [noncitizens] entering without inspection and [noncitizens] present without inspection such that no single declaratory judgment would cover all putative class members." [*Id.* at 22–23]. In other words, Respondents take

issue with an overbroad class definition, and further argue that due process may call for dissimilar procedural protections. [*Id.*].

The Court recognizes that Respondents could not benefit from the Court's reasoning in the MSJ Order at the time of submitting their Opposition. However, the MSJ Order has now clarified two important concerns in this matter: (1) that Respondents' interpretation of the INA is incorrect; and (2) the relief requested by Petitioners would merely make available to Petitioners and putative class members the statutory protections imbued by the INA. [MSJ Order at 11, 16]. The accessibility of the INA's statutory protections to noncitizens is therefore uniform.

Rule 23(b)(2) "does not require [courts] to examine the viability or bases of class members' claims for declaratory and injunctive relief, but only to look at whether class members seek uniform relief from a practice applicable to all of them." *Rodriguez v. Hayes*, 591 F.3d 1105, 1125 (9th Cir. 2010); *see also Parsons v. Ryan*, 754 F.3d 657, 688 (9th Cir. 2014). This inquiry "does not require an examination of the viability or bases of the class members' claims for relief, does not require that the issues common to the class satisfy a Rule 23(b)(3)-like predominance test, and does not require a finding that all members of the class have suffered identical injuries.". *Parsons*, 754 F.3d at 688. Thus, "'it is sufficient' to meet the requirements of Rule 23(b)(2) that 'class members complain of a pattern or practice that is generally applicable to the class as a whole.'" *Rodriguez*, 591 at 1125 (citations omitted).

Consistent with the MSJ Order, Petitioners indeed clarify that the requested declaratory relief is generally applicable to all members of the Bond Eligible Class. According to Petitioners, the new DHS policy applies to the members of the proposed Bond Eligible Class. Where the DHS policy renders all of the Bond Eligible Class subject to mandatory detention under § 1225(b)(2), the putative class members have been deprived of their right to a bond hearing under § 1226(a). [Motion at 37–38]. The declaratory relief requested—a ruling that the policy violates Petitioners' and putative class members' statutory and constitutional rights—would provide the entire class with relief from continued deprivation of their rights. [*Id.* at 13, 38]. Petitioners explain that "[a] single declaratory judgment requiring [IJs] to provide individualized custody determinations at bond hearings" would apply to the class as a whole." [*Id.* at 38].

Crucially, a classwide order declaring the DHS policy in violation of the class members' rights would not ensure their release on bond; it merely secures a

right to an individualized hearing. Any differences that may exist in class members' entitlement to be released is a different matter than their entitlement to a hearing. Respondents' concerns regarding uniform relief does not speak to the latter.

"The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the [defendant's] conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them." *Dukes*, 564 U.S. at 360. The MSJ Order has already found Respondents' interpretation of the INA to be contrary to the statutory text and statutory scheme, and mutually exclusive of Petitioners' interpretation. Because the proper interpretation of the INA preserves a noncitizen's right to an individualized bond hearing after arrest, the MSJ Order illustrates the indivisible nature of the relief. The Court finds similar cases from this judicial district instructive.

In *Franco-Gonzales v. Napolitano*, the Court found a class action under Rule 23(b)(2) was maintainable where the plaintiffs claimed that the defendants "[had] failed, on a systemic basis, to have adequate procedures in place to both identify mentally incompetent [noncitizens] and provide them with necessary safeguards." *Franco-Gonzales*, No. CV 10-02211 DMG DTBX, 2011 WL 11705815 (C.D. Cal. Nov. 21, 2011). Petitioners present very similar circumstances here. Respondents have failed, on a systemic basis, to provide Petitioners and putative class members with the necessary safeguards imbued by the INA in violation of their rights.

Moreover, in *Inland Empire-Immigrant Youth Collective v. Nielsen*, the Court found class certification under Rule 23(b)(2) was appropriate because "to certify a class that is *not* nationwide in scope might result in the application of unlawful practices based solely on geographic location, a piecemeal situation that would lead to arbitrary results." *Inland Empire-Immigrant Youth Collective v. Nielsen*, No. EDCV172048PSGSHKX, 2018 WL 1061408 at *12 (C.D. Cal. Feb. 26, 2018). With this in mind, the Court finds a nationwide Bond Eligible Class is appropriate.

Accordingly, Petitioners satisfy Rule 23(b)(2). When considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.

IV. CONCLUSION

For these reasons, Petitioners' Motion for Class Certification is **GRANTED** as to the Bond Eligible Class and **DENIED** as to the Adelanto Class. [Dkt. No. 41]. The Court **ORDERS** that the following class be certified:

The Bond Eligible Class is **CERTIFIED** as to Petitioners' claims that the DHS Policy violates the INA and Due Process. The class certified is defined as follows:

- **Bond Eligible Class:** All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

The Court appoints Lazaro Maldonado Bautista as the representative for the Bond Eligible Class. The Court appoints attorneys Niels W. Frenzen and Jean E. Reisz of the USC Gould School of Law Immigration Clinic and Matt Adams, Glenda M. Aldana Madrid, Leila Kang, and Aaron Korthuis of the Northwest Immigrant Rights Project as class counsel.

The Court **SETS** a status conference for **January 16, 2026**, and **ORDERS** parties to submit a Joint Status Report on **January 9, 2026**, which shall include how the parties will proceed with this matter.

IT IS SO ORDERED.