UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

JOSE ANGEL CRUZ VALERA,	
Petitioner,	Case No.
v.	
	PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
JUAN BALTAZAR, *in his official capacity* as Warden of the Aurora ICE Processing Center;	
ROBERT HAGAN, *in his official capacity* as Field Office Director of the Aurora Field Office of Enforcement and Removal Operations, U.S. Immigrations and Customs Enforcement;	**A #** [redacted]
TODD M. LYONS, *in his official capacity* as Acting Director, Immigration and Customs Enforcement,	
KRISTI NOEM, *in her official capacity* as Secretary, U.S. Department of Homeland Security; and	
PAMELA JO BONDI, in her official capacity as Attorney General of the United States;	
Respondents.	

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Petitioner, by and through undersigned counsel, submits this Petitioner's Reply to Respondent's Response to Petitioner's Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief. It is Petitioner's position that the Respondents are misinterpreting the Court's statements in *Jennings v. Rodriguez, 583 U.S. 281 (2018)* and improperly cite *Jennings* with their "term of art" argument regarding the Court's statements on applicants for admission. Further, Petitioner is a class member of the "Bond Eligible Class" as certified by the U.S. District Court Central District of California.

ARGUMENT

I. The Government's argument is flawed in that The Supreme Court's decision in *Jennings v. Rodriguez* does not support the overbroad conclusion that Section 1225(b)(2)(A) applies to all noncitizens who entered without inspection and are unlawfully present.

In *Jennings*, the Court had, in large part, three main holdings, none of which provide support for the argument that the Government implies from Jennings. First, (1) the Court held that Section 1225(b)(1) and (b)(2) mandate detention of certain noncitizens throughout the completion of applicable proceedings; Petitioner does not contend that holding. Second, the Court held that Section 1226(c) mandated detention of certain noncitizens that fall within that statute's scope; Petitioner does not contend that holding. Lastly, the Court reversed a lower-court's ruling that noncitizens had a "statutory right to periodic bond hearings" under the constitutional interpretation of Sections 1225(b)(1), (b)(2), and 1226(c) as a whole; again, Petitioner does not contend that holding regarding periodic bond hearings. Therefore, *Jennings* does not support the Government's argument that Section 1225(b)(2)(A) broadly applies to noncitizens who entered without inspection and are unlawfully present. This Court should find that the Petitioner is very clearly not an applicant for admission as the Government contends.

1. The Statutory Definition of "applicants for admission" in Section 1225 covers only certain other noncitizens, not Petitioner.

The plain language of the statute and its subsections show that there are *certain other* individuals who entered without inspection or admission that are considered "applicants for admission" under Section 1225; Petitioner is not one of those individuals. The government argues that Section 1225(b)(2)(A) applies to all noncitizens (who entered without inspection or admission) who are apprehended in the interior, even years after they have entered. This interpretation is unsupported by the statutory text. The Government, relying on *Jennings,* contends that all these individuals are considered "applicants for admission" regardless of any other circumstance. A proper reading of *Jennings* shows that the Court never made such a holding. The plain language of Section 1225(b) and its subsection show that the government misunderstands 1225(b)(1).

To have a better understanding, one could look at the title of the statute: "Inspection of Aliens Arriving in the United States AND *Certain Other Aliens Who Have Not Been Admitted or Paroled.*" (emphases added). The title of the statute itself implies admittedly that it can apply to individuals who have not been admitted or paroled, such as Petitioner. However, the title itself makes clear that this statute only applies to certain other individuals who have not been admitted or paroled, Congress defined who those "certain other aliens" are in the subclauses of the statute.

Section 1225(b)(1)(A)(iii) outlines the "application to certain other aliens" and states that the Attorney General *may* apply clauses (i) and (ii) to "any or all aliens" described in subclause (II). Subclause (II) covers the "Aliens described", which are the *certain other aliens* mentioned in the title of Section 1225. Subclause (II), upon further reading, clearly describes which individuals fall under this "description" of *certain other aliens who have not been admitted or paroled.* Congress carved out a specific subset group of individuals who are not subject to

1225(b)(1), specifically those who "are not described in subparagraph (F), (2) who have not been admitted or paroled into the United States, (3) and who have not affirmatively shown that they have been physically present in the United States continuously for the 2-year period prior to the date of the determination of inadmissibility." This statutory carveout demonstrates that Congress did not intend Section 1225 to sweep in all noncitizens who entered without inspection. Instead, it identifies a narrow subset who meet each of the three criteria above.

Although Petitioner was not admitted or paroled, he can affirmatively show that he was physically present in the U.S. for the 2-year period prior to the determination of his inadmissibility, meaning that he does not fall under the *certain other aliens* as described in Section 1225 as an applicant for admission.

2. **Section 1225(b) may include those who have not been admitted or paroled as an "applicant for admission" but that applies only to *certain* individuals that are "described" in the section and Petitioner is not included in that category of "described" individuals.**

As explained above, Section 1225(b)(1) also applies to *certain other* individuals who were not inspected or admitted and the Petitioner clearly does not fall into that category.

3. **The Court in *Jennings* states that Section 1226 very clearly applies to individuals already present in the United States and the plain language does not exclude those who entered without inspection or admission.**

The Court in *Jennings* stated that the language of Sections 1225(b)(1) and (2) is quite clear that "they unequivocally mandate that aliens falling within their scope 'shall' be detained." 583 U.S. at 300-303. As discussed above, that group of people is clearly defined throughout the subsections and subclauses. Petitioner is not included in that description.

The Court said that although Sections 1225(b)(1) and (2) are "quite clear," the Court held that the plain language of Section 1226(c) is "even clearer." *Id.* "As noted," the Court stated,

"Section 1226 applies to aliens *already present in the United States*." (emphasis added). *Id* at 303. A proper reading of that would imply that noncitizens who entered without inspection or admission but are already "present" in the United States are governed by Section 1226 and eligible for bond. That interpretation is quite clear and to suggest otherwise contradicts the Court's ruling.

4. Because Petitioner Is Not an Applicant for Admission Under Section 1225, Congress Intended that the Petitioner Receive a Bond Hearing Under Section 1226

As explained in the sections above, there are certain individuals who have entered without inspection or admission and are still classified as "applicants for admission" under Section 1225; Petitioner is not one of those individuals. The plain language and statutory construction of the statutes lay out a very clear definition and description of which individuals are applicants for admission under that statute and Petitioner very clearly does not fall within that category. Therefore, he is not an applicant for admission and is eligible for relief under Section 1226, if he meets all other requirements.

Congress created Section 1226, authorizing release on bond, for all noncitizens alike so long as they meet the requirements. There is no distinction between those who are inadmissible or deportable under the Act. In fact, the only distinction between Sections 1182 and 1227 mentioned in Section 1226 is that certain inadmissibility offenses make you subject to mandatory detention and certain deportability offenses make you subject to mandatory detention. If Congress had intended for Section 1226 not to apply to noncitizens who entered without inspection, it would have said so expressly. Congress has long demonstrated its ability to distinguish between noncitizens who entered without inspection and are therefore subject to grounds of inadmissibility, and those who entered with inspection and are subject to

deportability. Congress expressly relied on this distinction when identifying which inadmissibility and deportability offenses trigger mandatory detention. Had Congress intended to exclude individuals who entered without inspection from Section 1226, it would not have created or depended upon this clear statutory distinction. For the reasons above, Petitioner does not argue that all noncitizens have a right to bond hearing, but that he is not an applicant for admission and is therefore eligible for a bond hearing as a form of relief.

II. Petitioner's inclusion in the Bond Eligible Class under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025) and the Legislative History of Section 1226 further supports Petitioner's argument, that Section 1226 does apply to Petitioner, that he is entitled to a bond hearing, that he has shown he has a due process right to that hearing, and would suffer prejudice if that hearing is denied.

1. Petitioner is a class member under Maldonado Bautista v. Santacruz and therefore should be granted a bond hearing.

Recently, on November 25, 2025, the U.S. District Court Central District of California certified a class-action from a named-Petitioner who represents a class known as the "Bond Eligible Class" which this Petitioner is a class-member of. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025) also attached as *Exhibits* 1 and 2.

The U.S. District Court Central District of California held:

> 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. U.S. District Court Central District of California *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al.* (November 25, 2025):

Based on those parameters, Petitioner is clearly a class-member represented in this Bond Eligible Class that seems to be eligible for bond even though they entered without inspection or admission, which undercuts the entirety of the government's argument.

2. The legislative history surrounding Section 1226 supports the finding that Petitioner is not an applicant for admission.

Further, the legislative history surrounding Section 1226(c) supports the argument that Congress could have explicitly written that noncitizens who entered without inspection or admission are not eligible for bond. Even in the most recent amendment with the Laken Riley Act in January 2025, the only amendments that Congress made were to add more grounds of inadmissibility that would subject someone to mandatory detention. The refusal to simply state "all inadmissible offenses" leads to mandatory detention is quite loud. This Court should find that the statutory interpretation, the constitutional construction, the District Court's class-action, and the legislative history surrounding Section 1226 all support the argument that Petitioner is not an applicant for admission, and he is entitled to a bond hearing.

3. Petitioner has a due process right to a bond hearing.

The government argues that Petitioner has not shown that he has a due process right to a bond hearing; this argument is misplaced because the statutes enacted by Congress clearly show that Petitioner has a statutory right to a bond hearing. The relevant statute, Section 1226, authorizes the arrest, detention, and release on bond or conditional parole; the right to have a bond hearing is available to those not subject to mandatory detention under Section 1226(c) and Petitioner does not fall under one of the grounds for mandatory detention. Therefore, he has a due process right to a bond hearing.

4. **Petitioner has shown prejudice by not being granted a bond hearing.**

The government argues that Petitioner has not shown prejudice and cites *Duran-Hernandez v. Ashcroft*, 348 F.3d 1158, 1163 for the proposition that "where a noncitizen failed to show 'that additional procedural safeguards would have changed' the immigration court's decision, this 'failure to prove prejudice leads us to reject [his] due process claim.'" This argument is misplaced because Duran was an individual with a very different factual background than Petitioner; Duran was an individual facing reinstatement of a removal order and the facts in question were whether Duran was subject to a prior order of removal, whether he was the same person previously removed, and whether he had reentered the United States illegally. *Id.* Because Duran contested none of those facts, the Court held that "he cannot prove that additional safeguards would have the result in this case." *Id.* Petitioner's case is clearly distinguishable from Duran.

In this case, the prejudice suffered by Petitioner is clear: he was detained, without notice, while on release from a previous immigration bond; he was detained despite having committed no new crimes or offenses that would make him subject to mandatory detention; he was detained despite his numerous family ties in the United States, including his U.S. citizen children, family members, and close friends; he was detained despite the fact that he has a young child who requires medical care and extra attention. Petitioner's detention and denial of a bond hearing have caused him prejudice and continue to cause him prejudice.

Further, the government cites Bonilla *Espinoza v. Ceja*, Civil Action No. 25-cv-01120-GPG (D. Colo. May 21, 2025) for the argument that ongoing detention and continued custody throughout the immigration proceedings is permissible; however, the government misstates the holdings in *Bonilla*. The issue in that case was whether a detainee under Section 1225(b) was

required an individualized bond hearing under due process; the Court held, in that situation regarding a Section 1225(b) detainee, there was no bond requirement under the current law. Petitioner is very clearly not a detainee under Section 1225(b) and the *Bonilla* holding does not apply to his case.

The government argues that the continued detention of Petitioner has been "sufficiently short" and "presumptively constitutional" because the detention has been around two months and cites *Demore v. Kim*, 538 U.S. 510, 512 (2003) in support of its argument. The reliance on *Demore* is misplaced because the individuals in that case were convicted of certain crimes that allowed for their detention throughout the removal proceedings; in this case, Petitioner does not have a criminal history that would subject him to mandatory detention throughout his proceedings. The government argues that his detention is and will be short, but the record does not support that claim. The facts instead show an uncertain future and uncertain amount of time in detention for Petitioner. As of today, he does not have a bond hearing, he does not have a decision on his appeal, as the Board of Immigration Appeals has not even issued a briefing schedule. Petitioner does not have an idea of when he will be released and allowed to see his family. Petitioner was living in the United States as a model citizen, as a hard worker, as a family man and member of his community before he was unceremoniously arrested and detained by ICE without notice. The two months that he has been in detention are two months too long.

Finally, for all the reasons above, this Court should reject the Government's premature argument that "Petitioner's removal proceedings are moving toward a definite endpoint." As of this moment, the case is on appeal to the Board of Immigration Appeals and could very possibly be remanded back to the Immigration Court for one of many reasons. The Government's position

that this case is moving toward a definite endpoint is mere speculation. The Petitioner has shown that he is entitled to a bond hearing while he awaits the conclusion of his removal proceedings.

CONCLUSION

For the reasons discussed above, the Petitioner prays that this Court will grant his original Prayer of Relief.

Date: December 3, 2025

Respectfully Submitted,

/Maria G. Monclova
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CERTIFICATE OF SERVICE

I certify that on December 3, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following recipients by e-mail:

Timothy.jafek@usdoj.gov

and I certify that on the same date I am causing the foregoing to be delivered to the following non-CM/ECF participants in the manner (mail, email, hand delivery, etc.) indicated by the nonparticipant's name:

/Maria G. Monclova
MARIA G. MONCLOVA