

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

CARLOS MEJIA-DIAZ

Petitioner,

v.

Samuel OLSON, et al.,

Respondents.

Case No. 3:25-cv-960-CCB-SJF

PETITIONER’S REPLY IN SUPPORT OF THEIR PETITION FOR *HABEAS CORPUS*

Petitioner, **CARLOS MEJIA-DIAZ**, by and through counsel, **WILLIAM A. QICENO**, is a noncitizen detained by Immigration and Customs Enforcement (“ICE”), petitions this Honorable Court for a Writ of *Habeas Corpus* under 28 U.S.C. §2241, alleging his arrest and subsequent detention is illegal and that defendants have violated his right to due process guaranteed by the Fifth Amendment.

I. BACKGROUND

Carlos Mejia-Diaz is a native and citizen of Honduras. He entered the United States over 24 years ago in 2001, when he was 22 years old. He lives in Indianapolis, IL with his wife of over 10 years who is a legal permanent resident and their two U.S. citizen children and their one lawful permanent resident daughter. On November 9, 2025, he was detained by ICE when he was driving his sister home; he was then processed at the ICE correctional facility in Broadview, IL, before being transferred back to Indiana. His habeas petition was filed on November 12, 2025 with the Northern District of Illinois, but was subsequently transferred to the Northern District of Indiana, South Bend Division, once Respondents’ status report stated he was back in Indiana at the time of the initial habeas filing. He is currently detained at the

Miami Correctional Facility pending the outcome of his removal proceedings.

ICE did not have any warrant to arrest Mr. Mejia-Diaz and generated their I-213 Record on November 11, 2025, two days after he was arrested. He has been in removal proceedings since his original Notice to Appear (“NTA”) was served on him in November 2011; that same year he was released on an order of recognizance pending his removal proceedings. *See Respondents’ Brief (“Resp. Br.”)*, Doc. 19-2, page 5.¹ He has complied with the terms of his release and is actively pursuing legal status. His next immigration hearing is not scheduled until July 8, 2027. *Id.* Mr. Mejia-Diaz is a father of two U.S. citizen children and another who is a legal permanent resident All three of his children and wife rely on him for financial and emotional support; his detention has caused both his wife and children extreme stress and anxiety during this traumatic separation.

II. CASE DISCLAIMER

Mr. Mejia-Diaz’s case does not arise in isolation. Over the past two months, ICE and the Department of Homeland Security have repeatedly advanced the same unprecedented theory of mandatory detention under § 1225(b)(2) - a theory that federal courts across multiple jurisdictions have consistently rejected. Despite uniform rulings from this Court and other districts finding that such individuals are properly detained, if at all, under § 1226(a) and entitled to bond hearings, Respondents continue to relitigate the issue as though those decisions do not exist even while they concede that this Court has already granted several habeas petitions on similar grounds. *See Ruiz Garcia v. Olson et al*, Case No. 1:2025cv13621, Doc. 12 (N.D. Ill. Nov. 19, 2025)(Kendall, J.); *Singh v. Bondi et al.*, Case No. 1:25-cv-02101-SEB-TAB (Dkt.21)(Oct.30, 2025)(Barker, J.); *B.D.V.S. v Forestal*, Case 1:25-cv-01968-SEB-TAB

¹Respondents have not provided a copy of Mr. Mejia-Diaz's NTA. Respondents’ submission only reproduces the criminal records and NTA of “Javier De Jesus Aguilar,” copied over from a separate habeas petition from November 10, 2025. *See Resp. Br. Doc. 19-1*, pages 26-34.

(S.D. Ind. Oct 8, 2025); *Campos Leon v. Forestal*, Case No. 1:25-cv-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025).

The result is a troubling pattern: immigrants are detained or re-detained without lawful authority, forced to seek habeas relief, and then the Government simply repeats the same arguments in the next case. This recycling of losing positions wastes judicial resources, undermines public confidence, and, most critically, perpetuates unlawful arrest and unnecessary detention of individuals like Mr. Mejia-Diaz, who have families, homes, and longstanding community ties. His case is not an outlier, but part of a broader pattern of aggressive and arguably unlawful enforcement across Illinois that has upended hundreds of lives in recent weeks. Against that backdrop, and despite Respondents' effort to repackage their same losing arguments as "plain" statutory interpretation and settled precedent, Petitioner's response is as follows:

III. DISCUSSION

A district court may grant a writ of habeas corpus to any person who demonstrates he is "in custody in violation of the Constitution or laws . . . of the United States." 28 U.S.C. §2241. The individual in custody bears the burden of proving that his detention is unlawful. *See, e.g. Walker v. Johnston*, 312 U.S. 275, 286 (1941).

Mr. Mejia-Diaz claims violations of the Nava Settlement (Count I); Immigration and Nationality Act ("INA") (Count II); and the Due Process clause of the Fifth Amendment (Count III). *See Petition*, Pages 10-11. In opposition to Mr. Mejia-Diaz's petition, Respondents make three substantive arguments: They claim (1) this Court lacks jurisdiction under 8 U.S.C. § 1252 sections (e)(3)(A)(ii), (b)(9), and (g); (2) this Court is wrong to apply §1226(a) to immigrants like Mr. Mejia-Diaz who have been in the United States for many years and he instead should be held pursuant to §1225; and (3) Mr. Mejia-Diaz has limited due process

rights given his unlawful status.

A. EXHAUSTION OF REMEDIES

In other cases and districts across the United States, as in the attached brief submitted by the Respondents, there is often an argument that petitioners such as Mr. Mejia-Diaz must first exhaust their administrative avenues before bringing a habeas petition. *Resp. Br.*, Doc. 9-1, Page 3, footer page 2.² This claim seeks to severely limit this Court’s authority, and the Seventh Circuit has made clear, “sound judicial discretion governs” whether exhaustion should be required in a habeas case. *Gonzalez v. O’Connell*, 355 F.3d 1010, 1016 (7th Cir. 2004). Congress has imposed no statutory exhaustion requirement for petitions brought under 28 U.S.C. § 2241, and the general rule that a party must exhaust administrative remedies before seeking judicial relief is “not absolute.” *Id.*

Under *Iddir v. INS*, exhaustion may be excused where:

- (1) requiring exhaustion of administrative remedies causes prejudice, due to unreasonable delay or an indefinite timeframe for administrative action;
- (2) the agency lacks the ability or competence to resolve the issue or grant the relief requested;
- (3) appealing through the administrative process would be futile because the agency is biased or has predetermined the issue; or
- (4) where substantial constitutional questions are raised.

Iddir v. INS, 301 F.3d 492, 498 (7th Cir. 2002); *Gonzalez*, 355 F.3d at 1016–19. Each factor favors excusing exhaustion here.

First, requiring Mr. Mejia-Diaz to seek a bond hearing before the Immigration Court would be futile. Respondents maintain that he is detained under § 1225(b)(2), and Immigration Judges are bound by *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 225 (BIA 2025), which holds that they “lack authority to hear bond requests or to grant bond to [noncitizens] who are

² Respondents’ attached brief (Exhibit A, Doc 19-1) included the stamped headers from their prior case, which overlap with the headers from this current filing. For clarity, references to exhibit pages will use the footer pages of the original case when present.

present in the United States without admission.” As the Seventh Circuit noted in *Gonzalez*, there is “nothing to indicate the BIA would change its position” when the agency has already “predetermined the statutory issue.” *Id.* at 1019 (cleaned up); *see also Ceballos Ortiz v. Olson*, Case No. 2:25-cv-00548 (S.D. In. Nov. 20, 2025) (excusing exhaustion where the BIA had predetermined the same issue).

Second, the central question presented by Petitioner’s § 2241 petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to Petitioner. That determination relies upon a purely legal question of statutory interpretation and does not require the record that would be developed should the Court require Mr. Mejia-Diaz to exhaust his administrative remedies. Moreover, this Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 413 (2024) (noting that “courts need not and under the [Administrative Procedure Act (APA)] may not defer to an agency interpretation of the law simply because a statute is ambiguous.”).

Third, Mr. Mejia-Diaz raises substantial constitutional issues concerning the legality of his continued detention without bond. The Seventh Circuit has recognized that judicial review is available in such circumstances, including where “substantial constitutional issues” or “bizarre miscarriages of justice” are presented. *Singh v. Reno*, 182 F.3d 504, 507, 509–10 (7th Cir. 1999); *LaGuerre v. Reno*, 164 F.3d 1035, 1040 (7th Cir. 1998); *Bhatt v. Reno*, 204 F.3d 744, 746 (7th Cir. 2000).

Moreover, the waiver of exhaustion here should be warranted because bond denial appeals “typically take six months or more to be resolved at the BIA.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wa. 2025). And such a timeline for an administrative remedy is unreasonable or indefinite such that courts may waive the exhaustion requirement. *See Pizarro Reyes*, 2025 WL 2609425, at *3 (citing *United States v. Alam*, 960 F.3d 831, 836

(6th Cir. 2020)). Indeed, the “delays inherent” in the BIA’s administrative process “would result in the very harm that the bond hearing was designed to prevent[:]” prolonged detention without due process. *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019). Requiring Mr. Mejia-Diaz to exhaust his administrative remedies through a BIA appeal would force him to spend unnecessary months in prison. It is unmistakable that “depriving [Petitioner] of his liberty while awaiting a BIA appeal decision certainly equates to hardship. And any delay results in the very harm [Petitioner] is trying to avoid . . . –detention.” *Lopez-Campos v. Raycraft*, 2025 WL 2496379, 5 (E.D. Mich. Aug. 29, 2025). As such, this Court should waive any exhaustion requirements as far as they are raised in the referenced brief and review the merits of Mr. Mejia-Diaz’s petition.

B. JURISDICTION

Respondents first contend, via their recycled brief, that this Court has no jurisdiction over matters of immigration under 8 U.S.C. § 1252(a)(2)(B)(ii), § 1252(b)(9), and § 1252(g). In certain immigration matters, the INA does limit the jurisdiction that district courts may exercise. *See Jennings v Rodriguez*, 583 U.S. 281, 292-96(2018). This Court has held that none of these apply. *See De Jesus Aguilar v. English et al*, Case No. 3:2025cv00898, Doc. 16 (N.D. Ind. Nov. 25, 2025)(Leichty, J.). For the sake of thoroughness, they will each be addressed here.

1. 8 U.S.C. § 1252(e)(3)

The government first argues that the court lacks subject matter jurisdiction because § 1252(e)(3), entitled “[c]hallenges on validity of the system,” provides that “[j]udicial review of determinations under section 1225(b) of this title and its implementation” must be filed in the District of Columbia, with determinations then limited to the following:

- (i) whether such section, or any regulation issued to implement such section, is

constitutional; or (ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Attorney General to implement such section, is not consistent with applicable provisions of this subchapter or is otherwise in violation of law.

8 U.S.C. § 1252(e)(3)(A).

The government would re-argue that, like Mr. De Jesus Aguilar in his case, Mr. Mejia-Diaz challenges DHS's determination that all aliens who entered the United States without inspection are subject to mandatory detention under § 1225(b)(2). The government contends that this amounts to judicial review of a written policy or guideline implementing § 1225(b), which falls under § 1252(e)(3)(A)(ii) and must be brought in the District of Columbia. *Resp. Br. Doc 19-1, Page Footer 5*. They are misguided due to the fact that § 1252(e)(3) applies only to facial or systemic challenges to the constitutionality or legality of the expedited removal system or its implementing regulations, and this does not to foreclose individualized habeas petitions challenging whether a particular petitioner fits the statutory criteria to be detained under § 1225(b). See *De Jesus Aguilar*, No. 3:25-cv-00898, Doc. 16.

This Court has also concluded that § 1252(e)(3) does not apply to cases such as Mr. Mejia-Diaz, or divest jurisdiction. *Id.* By its plain language, § 1252(e)(3) concerns § 1225(b) determinations, including orders of removal, referrals for asylum, and referrals for proceedings that concern applicants for admission, including the implementation of the expedited removal provisions found there, as adopted by Congress in 1996 when it enacted the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Notwithstanding the title that might inform an ambiguity (not present here), see *City & Cnty. of San Francisco v. Env't Prot. Agency*, 604 U.S. 334, 345 (2025); *Dubin v. United States*, 599 U.S. 110, 120-21 (2023), Congress knew how to limit § 1252(e)(3) if in fact it wanted this statute to cover only § 1225(b)(1) decisions and not also those under § 1225(b)(2), and Congress plainly did not do so. Compare 8 U.S.C. § 1252(e)(1)(A), (e)(2), with 8 U.S.C. § 1252(e)(3)(A).

Ultimately, this Court – along with dozens of other Courts across the United States – has taken this same issue of whether someone falls within the category of “applicant for admission” under § 1225(b)(2) or an alien arrested or detained in the United States interior pending a removal decision under § 1226(a) and agreed that this is precisely a question of law designed for the court, and not seemingly barred by any provision offered by the government today. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) (“Where Congress intends to preclude judicial review of constitutional claims its intent to do so must be clear. And, where a provision precluding review is claimed to bar habeas review, the [law requires] a particularly clear statement that such is Congress’ intent.”) (citation modified).

Mr. Mejia-Diaz isn’t challenging any written policy or guidance; he is presenting an individualized challenge to his detention—namely whether he has been classified properly as an “applicant for admission” under § 1225(b)(2) and subject to mandatory detention without a bond hearing, or alternatively whether he must receive a bond hearing under § 1226(a) as a long-term resident apprehended in the interior. The relief to be granted concerns neither certain barred decisions related to the removal system nor its implementing regulations or agency policies, just his relief from detention. Nowhere in § 1252(e)(3) is there evidence of congressional intent to provide immigration authorities unreviewable discretion to decide which noncitizens are subject to § 1225(b)(2) and which are subject to § 1226(a). As such, this Court should retain jurisdiction.

2. 8 U.S.C. § 1252(g).

Respondents then assert that § 1252(g) strips the court of jurisdiction over any challenge to a noncitizen’s detention in relation to removal proceedings, including in relation to a decision to detain. *Resp.Br.*, Doc.19-2, footer page 6. The provision states that “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or

action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.” § 1252(g). But section 1252(g)’s sweep is narrow— “[o]nly challenges to the three listed decisions or actions . . . are insulated from judicial review.” *E.F.L. v. Prim*, 986 F.3d 959, 964 (7th Cir. 2021).

Here, Mr. Mejia-Diaz does not challenge the “commencement” of his removal proceedings (that is, being issued an NTA); the “adjudication of his case” (as EOIR has not yet granted any form of relief, issued a removal order, or otherwise terminated his proceedings apart from relief he has already been granted); or the “execution” of a removal order (again, as EOIR has not entered one). §1252(g). He challenges only his unlawful detention without a bond hearing.

Bond proceedings are “separate and apart from” and “form no part of [] any deportation or removal hearing or proceedings. 8 C.F.R. §1003.19(d); see also 8 C.F.R. §§ 1236.1, 1003.17(a); *Angeles-Moran v. Lynch*, 655 F. App’x 504, 506 (7th Cir. 2016)(noting that bond and removal cases maintain separate records of proceedings and do not share filings). Respondents’ limitless reading of §1252(g) fails, especially because Mr. Mejia-Diaz is not challenging the Immigration Judge’s adjudication of his bond case; he has not had a bond hearing to begin with.

Respondents also rely on inapposite cases where individuals sought not habeas relief but damages claims under Bivens or the Federal Tort Claims Act. *E.g., Khorrami v. Rolince*, 493 F. Supp. 2d 1061, 1069 (N.D. Ill. 2007) (noting that petitioner “could have raised his challenges in a petition for habeas corpus”). In 2020, the Supreme Court “rejected” as “implausible” any claims that §1252(g) covers “all claims arising from deportation proceedings.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020) (quoting *Reno v. AACD*, 525 U.S. 471, 482 (1999)). Because “nothing in §1252(g) precludes review of the decision to confine,” it cannot apply here. *Carrera-Valdez v. Perryman*, 211 F.3d 523, 532 (7th Cir. 2000)(holding that the provision did not preclude judicial review of a

noncitizen's habeas petition challenging an action unspecified in §1252(g)); *De Jesus Aguilar*, No. 3:25-cv-00898, Doc. 16.) (concluding that §1252(g) did not apply to habeas challenging an ongoing detention); *Guerrero Orellana v. Moniz*, 2025 WL 2809996 (D. Mass. Oct. 3, 2025) (concluding that §1252(g) did not apply to habeas challenging of ongoing detention without a bond hearing); *D.S. v. Bondi*, 2025 WL 2802947 (D. Minn. Oct. 1, 2025) (same). *See also*, *H.G.V.U.*, 2025 WL 2962610 (N.D. Ill. Oct. 20, 2025) (same); *Mariano Miguel*, No. 25-cv-11137 (N.D. Ill. Oct. 21, 2025) (same); and *G.Z.T.*, No. 25-cv-12802 (N.D. Ill. Oct. 21, 2025) (same). In light of this, this Court is not barred by §1252(g) and can consider Mr. Mejia-Diaz's habeas petition.

3. Section 1252(b)(9)

Lastly, Respondents contend that Mr. Mejia-Diaz's habeas petition constitutes an impermissible collateral attack on his removal proceedings that triggers § 1252(b)(9), which provides that "no court shall have jurisdiction, by habeas corpus . . . or by any other provision of law," to review any questions of law or fact "arising from any action taken or proceeding brought to remove an alien from the United States" except via judicial review of a final order of removal. *Resp. Br.*, Doc. 19-1, Footer Page 7.

As above, the Supreme Court has rejected the argument that § 1252(b)(9) bars review of legal questions concerning detention pursuant to §§ 1225 and 1226, holding that it "does not present a jurisdictional bar" where those bringing suit "are not asking for review of an order of removal," "the decision to detain them in the first place or to seek removal," or "the process by which their removability will be determined." *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018). In evaluating what § 1252(b)(9) precludes, the *Jennings* Court analyzed the arguments that Respondents raise here, concluding that "questions of law" as to whether "certain statutory provisions requires detention without a bond hearing" (or in Mr. Mejia-Diaz's case, permits

such detention) cannot be said to “arise from” an action taken to remove a noncitizen. *Id.* at 292–93. Nor is detention itself such an action. *Id.* at 295 n. 3. Indeed, *Jennings* observed that adopting this “extreme” interpretation of § 1252(b)(9)—requiring any claims testing the legality of detention to be “cramm[ed] . . . into the [judicial] review of final removal orders”—“would be absurd.” *Id.* at 293.

The provision does not bar “claims challenging the conditions or scope of detention of aliens in removal proceedings,” which is precisely what Mr. Mejia-Diaz is doing. Therefore, § 1252(b)(9) does not apply here. *See, e.g., De Jesus Aguilar*, No. 3:25-cv-00898, Doc. 16.(holding that § 1252(b)(9) did not apply to habeas challenge of ongoing detention without a bond hearing); *Giron Reyes v. Lyons*, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025) (same); *Guerrero Orellana*, 2025 WL 2809996 (same).

C. BASIS FOR DETENTION § 1225 vs § 1226

Immigration detention is governed by two statutory sections: 8 U.S.C. §§ 1225 and 1226. Section 1225 “authorizes the Government to detain certain aliens *seeking admission into the country*,” while §1226 “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings,” including noncitizens “who were inadmissible at the time of entry.” *Jennings*, 583 U.S. at 288-289 (emphasis added). Respondents, via their response, have declared that Mr. Mejia-Diaz is being detained under §1225(b)(2). *Resp. Br.*, Doc. 19, Page 1. Respondents seek to ignore years of precedent and lean into a statutory “interpretation” that seeks to upend 30 years of reasoned statutory interpretation. They regurgitate arguments already rejected by “[a]t least a dozen federal courts,” who have reached the opposite conclusion upon reviewing the statutory text, statutory history, congressional intent, and statutory application for the last three decades. This also stands in direct opposition to what this Court and nearly all other courts have already

determined. *See De Jesus Aguilar*, No. 3:25-cv-00898, Doc. 16; *Ceballos-Ortiz v. Olson, et al.*, Case No. 2:25-cv-00548-MPB-MJD (S.D. Ind.); *Ruiz Mejia*, No. 1:25-cv-01227 (W.D. Mich.); *De Jesus Ramirez*, No. 1:25-cv-01261 (W.D. Mich.); *Pizarro Reyes*, 2025 WL 2609425, at *3 (collecting cases); *see also Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM, 2025 WL 208438 (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv -11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Aguilar Merino v. Ripa et al.*, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Case 2:25-cv-13086-SKD-DRG ECF No. 6, PageID.186 Filed 10/21/25 Fla. Oct. 15, 2025); *Sanchez Alvarez v. Noem et al.*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025).

Section 1226(a) sets out a “default rule” for the discretionary detention of noncitizens “already present in the United States.” *Jennings*, 583 U.S. at 303. Under §1226(a), immigration authorities may make an initial determination as to detention, but noncitizens may then request a bond hearing before an Immigration Judge. 8 C.F.R. §1236.1(c)(8), (d)(1). At that hearing,

the noncitizen “may secure his release if he can convince the officer or immigration judge that he poses no flight risk and no danger to the community.” *Nielsen v. Preap*, 586 U.S. 392, 397-98 (2019)(citing 8 C.F.R. §§1003.19(a), 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006)).

By contrast, § 1225 governs the detention of those “seeking admission.” An applicant for admission is defined as a noncitizen “present in the United States who has not been admitted or who arrives in the United States,” § 1225(a)(1), and “fall[s] into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 288. The second category creates a catchall mandatory detention provision: “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [full removal proceedings under § 1229].” 8 U.S.C. § 1225(b)(2)(A). Unlike noncitizens detained under § 1226(a), those detained under § 1225 may only be released “for urgent humanitarian reasons or significant public benefit.” *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

Respondents’ argument that § 1225(b)(2)(A) applies to all noncitizens present in the United States without admission, fails. It cites no binding authority and does not grapple with *Jennings*. As many other district courts have concluded, “Respondents’ interpretation of the statute (1) disregards the plain meaning of § 1225(b)(2)(A); (2) disregards the relationship between §§ 1225 and 1226; (3) would render a recent amendment to § 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice.” *Alejandro v. Olson*, 2025 WL 2896348, at *6 (S.D. Ind. Oct. 11, 2025); *see, e.g., Lopez Benitez v. Francis*, 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025) (“[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens ‘seeking admission into the country,’

whereas section 1226 governs detention of non-citizens ‘already in the country.’”) (cleaned up) (citing *Jennings*, 583 U.S. at 288-89); *Diaz Martinez v. Hyde*, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (“The idea that a different detention scheme would apply to non-citizens ‘already in the country,’ as compared to those ‘seeking admission into the country,’ is consonant with the core logic of our immigration system.”) (cleaned up) (citing *Jennings*, 583 U.S. at 289).

According to Respondents, § 1225(b)(2)(A) authorizes Mr. Mejia-Diaz’s detention. They argue, as they have in countless briefs across the country, that Mr. Mejia-Diaz is an “applicant for admission” because he is “present without admission.” *Resp. Br.*, Doc. 19, Page 2. Since both §§ 1225 and 1226 discuss the detention of noncitizens who have not been admitted—for instance, those who inadmissible and subject to mandatory detention under § 1226(c) as an exception to § 1226(a)—the term “applicant for admission” alone does not mean that § 1225 governs detention here. *See Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. Apr. 24, 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)) (“When Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.”); see also, e.g., *Gomes v. Hyde*, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025) (noting that without the criminal conduct criterion, “inadmissibility on one of the three grounds specified in Section 1226(c)(1)(E)(i) is not by itself sufficient to except [a noncitizen] from Section 1226(a)’s discretionary detention framework”.

Second, and most importantly, “‘seeking’ implies action and that those who have been present in the country for years are not actively ‘seeking admission.’” *Beltran Barrera v. Tindall*, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025); see also *Ochoa Ochoa*, 2025 WL 6324179. Here, Mr. Mejia-Diaz entered the United States in 2001, 23 years **before** his

detention in Indianapolis, over 1,200 miles away from the southern border.

Respondents argue that because Mr. Mejia-Diaz has not been admitted to the United States, he continues to be a noncitizen “seeking admission.” *Resp. Br.*, Doc. 19, Page 5. But this interpretation would render the phrase “seeking admission” in § 1225(b)(2)(A) mere surplusage by equating it to “applicant for admission.” See *United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (“[E]very clause and word of a statute should have meaning.”); *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (“[N]o clause, sentence, or word shall be superfluous, void, or insignificant.”) (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)). Moreover, “the phrase ‘seeking admission[,]’ [though] undefined in § 1225(b)(2)(A)[,] necessarily implies some sort of present-tense action.” *Diaz Martinez*, 2025 WL 2084238, at *4; see *Matter of M-D-C-V-*, 28 I. & N. Dec. 18, 23 (B.I.A. 2020) (“The ‘use of the present progressive, like use of the present participle, denotes an ongoing process.’”) In agreement with other district courts, this Court should reject Respondents’ expanded reading of § 1225(b)(2) and the term “seeking admission.” See, e.g., *De Jesus Aguilar*, No. 3:25-cv-00898, Doc. 16; *Ceballos-Ortiz v. Olson, et al.*, Case No. 2:25-cv-00548-MPB-MJD (S.D. Ind.); *Singh v. Bondi et al.*, Case No. 1:25-cv-02101-SEB-TAB (Dkt.21)(Oct.30, 2025)(Barker, J.); *B.D.V.S. v Forestal*, Case 1:25-cv-01968-SEB-TAB (S.D. Ind. Oct 8, 2025); *Campos Leon v. Forestal*, Case No. 1:25-cv-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025). See also, *Ochoa Ochoa v. Crowley*, No. 25-cv-10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Garcia Cortes v. Noem*, 2025 WL 2652880, at *3 (D. Colo. Sept. 16, 2025); *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025). In this Court’s opinion, the phrase “seeking admission” refers to an action that is currently occurring and that would occur at the United States’ border when the alien is being inspected. *De Jesus Aguilar*, No. 3:25-cv-00898, Doc. 16; See also *Ceballos-Ortiz v. Olson, et al.*, Case No. 2:25-cv-00548-

MPB-MJD (S.D. Ind.). Here, under the facts and circumstances of Mr. Mejia-Diaz's case, an "examining immigration officer" did not make a determination as to whether Mr. Mejia-Diaz was not clearly and beyond a doubt entitled to be admitted when he came into the United States at some point in 2001. Mr. Mejia-Diaz was not crossing the border when he was arrested and detained; instead, Mr. Mejia-Diaz was detained on November 11, 2025, in Indianapolis during a traffic stop. This Court has already concluded that § 1225(b)(2)(A) applies to aliens undergoing inspection, which generally occurs at the United States' border, when they are seeking lawful entry into the United States. Because Mr. Mejia-Diaz is not, nor was he at the time he was detained, "seeking admission," § 1225(b)(2)(A)'s mandatory detention provision does not apply. Because the record shows that Mr. Mejia-Diaz has resided in the United States for approximately 24 years before he was arrested and detained, there is no logical reason to interpret § 1225(b)(2)(A) as applying to Petitioner. *See De Jesus Aguilar*, No. 3:25-cv-00898, Doc. 16; *Ceballos-Ortiz v. Olson, et al.*, Case No. 2:25-cv-00548-MPB-MJD (S.D. Ind.)

Respondents lean on *Matter of Yajure Hurtado*, a non-binding BIA decision issued on September 5, 2025, holding that IJs lack jurisdiction to hold bond hearings or grant bond to individuals charged with entering the country without inspection as a basis for mandatory detention under § 1225. 29 I&N Dec. 216 (BIA 2025). But that decision is not binding on this Court, nor is it particularly persuasive considering that BIA's view "has not remained consistent over time." *Loper Bright Enters.*, 603 U.S. at 386. This court's conclusion is supported by a longstanding agency practice of providing § 1226(a) bond hearings to noncitizens like Mr. Mejia-Diaz who entered without inspection and have lived in the United States for many years. *See also, e.g., Alejandro*, 2025 WL 2896348; *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025). As he is neither in expedited proceedings nor a noncitizen "seeking admission," Mr. Mejia-Diaz cannot be lawfully detained under § 1225(b).

Thus, under § 1226(a), Mr. Mejia-Diaz is entitled to a discretionary bond determination hearing, and his continued detention is in violation of the INA.

D. VIOLATION OF DUE PROCESS

Mr. Mejia-Diaz has a fundamental interest in liberty and being free from official restraint. By issuing its decision in *Matter of Yajure Hurtado*, the BIA has taken nearly all bond authority away from Immigration Judges. Respondents, on the other hand, argue that Mr. Mejia-Diaz has not been denied due process because he has been given notice of the charges against him, has access to counsel, may attend hearings with an immigration judge, can request bond at that time, and has the right to appeal the denial of any request for bond. *Resp. Br.*, Doc. 19, Page 13.

“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects.” *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Fifth Amendment’s Due Process Clause extends to all persons, regardless of status. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025). Thus, noncitizens such as Mr. Mejia-Diaz, are entitled to its protections.³ *See id.*; *see also Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 236837, at *4 (6th Cir. Jan. 18. 2023).

If Mr. Mejia-Diaz's detention truly fell under §1225(b)(2)(A), Respondents’ due process argument might carry more weight. However, for reasons outlined in the preceding sections, Mr. Mejia-Diaz is governed by § 1226(a). Section 1226(a) provides a discretionary framework for detention or release of an alien subject to that provision. The statute expressly allows the Attorney General to continue to detain the arrested alien or release the alien on

³ Respondents invoke *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), to claim that Mr. Mejia-Diaz lacks Fifth Amendment protections and that his detention under § 1225 is lawful. That comparison fails. The petitioner in *Thuraissigiam* was apprehended only 25 yards from the border - unlike Mr. Mejia-Diaz, whose circumstances place his squarely within the protections recognized for individuals already inside the United States.

“bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General,” or “conditional parole.” See 8 U.S.C. § 1226(a)(1), (2). This discretionary framework “requires a bond hearing to make an individualized custody determination.” See *Lopez-Campos*, 2025 WL 2496379, at *9.

To support its argument that Mr. Mejia-Diaz and similar petitioners across dozens of similar cases have limited due process rights in the detention context, Respondents rely on *Dep’t of Homeland Sec. v. Thuraissigiam*, where the Supreme Court held that a petitioner who was still “at the threshold of initial entry,” though technically in the country, could still be treated as “an alien seeking initial entry.” 591 U.S. 103, 114 (2020) (holding that a noncitizen detained “within 25 yards of the border” is treated as if stopped at the border and had not acquired due process protections). Contrary to Respondents’ position, *Thuraissigiam* held only that noncitizens detained close to the border “shortly after unlawful entry” have not yet “effected an entry.” *Id.* at 140; see also *Shaughnessy v. United States*, 345 U.S. 206, 212 (1953) (explaining that noncitizens “on the threshold of initial entry stand[] on a different footing” than those who have “passed through our gates”).

Here, Mr. Mejia-Diaz was “already in the country.” See *Jennings*, 583 U.S. at 289. The Fifth Amendment’s Due Process Clause applies to noncitizens, “whether their presence is lawful, unlawful, temporary, or permanent,” *Id.* at 679, and immigration detention may violate due process unless “a special justification . . . outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.*

Applying the three-part balancing test set forth in *Mathews*, 424 U.S. 319, Mr. Mejia-Diaz’s detention without a bond hearing violates procedural due process. Mr. Mejia-Diaz has a cognizable private interest in being freed from unlawful detention without any opportunity for a bond hearing; there is a severe risk of erroneous deprivation based on the factual record and

explained above; and the government's interest is slight insofar as Mr. Mejia-Diaz has been detained without an individualized custody determination evaluating dangerousness and flight risk. This is especially true given the fact that Mr. Mejia-Diaz has been out of immigration custody since 2011 and has complied with all of his court proceedings; this alone should signify he is not a flight risk. Additionally, if he remains in custody as Respondents argue he should, that would keep him behind bars at least through July 2027. As other courts have concluded in cases involving similar factual circumstances, his detention without a bond hearing amounts to a due process violation. *See, e.g., Lopez Benitez*, 2025 WL 2371588, at *13; *Ochoa Ochoa*, 2025 WL 6324179; *Doe v. Moniz*, 2025 WL 2576819, at *11 (D. Mass. Sept. 5, 2025) ("In sum, the Mathews factors weigh in favor of Petitioner, and the court finds that his detention without a bond hearing violates his Due Process rights.")

E. IMPLICATIONS OF CASTANON NAVA

The Northern District of Illinois has already found, in *Castanon Nava et al v. Dep't of Homeland Sec. et al*, No. 1:2018cv03757, Doc. 214 (N.D. Ill. 2025), that ICE's pattern of unlawful arrests in the Seventh District violates both the Fourth and Fifth Amendments and cannot serve as a lawful basis for detention. If, as Mr. Mejia-Diaz and numerous other courts hold, he cannot be subject to mandatory detention under § 1225, then Respondents are in violation of the *Nava* agreement. Mr. Mejia-Diaz's arrest in Illinois, unsupported by a signed warrant or NTA, places him squarely within the unlawful practices *Nava* sought to remedy. It is true that the Seventh Circuit has held, an "arrest made pursuant to an invalid warrant" may nonetheless be a "valid arrest if probable cause justifies the arrest as though it were warrantless." *Taylor v. Henson*, 61 F.3d 906, 1995 WL 411879, at *4 (7th Cir. 1995) (citing *United States v. Fernandez-Guzman*, 577 F.2d 1093, 1098–99 (7th Cir. 1978)); *Arrington v. Rowley*, No. 3:07-CV-27-JTC, 2009 WL 10699360, at *3–4 (N.D.Ga. Mar. 12, 2009) (citing

cases). However, the Seventh Circuit has made clear that 8 U.S.C. §1357(a)(2)'s likelihood of escape limitation "is always seriously applied," *United States v. Cantu*, 519 F.2d 494, 496–97 (7th Cir. 1975), and courts have held that "[t]he flight-risk determination is not mere verbiage." *Bautista-Ramos*, 2018 WL 5726236, at *8, quoting *Pacheco-Alvarez*, 227 F.Supp.3d at 889. *Nava* reaffirms that simply claiming someone is a flight risk is not sufficient justification for arrest.

The *Nava* class is a Rule 23(b)(2) injunctive class, defined as: All current **and future persons** arrested without a warrant for a civil violation of U.S. Immigration Law within the ICE Chicago Field Office's Area of Responsibility. *Castañon Nava*, 2025 WL 2842146, at 9 (emphasis added). Because that class is already certified, membership is automatic for anyone who meets the definition, and no separate judicial finding from this Court is required for class membership. It remains in effect and continues to govern ICE's conduct within Illinois.

This Court need only review the extent that Mr. Mejia-Diaz's arrest mirrors those already adjudicated in *Nava* to determine if his detention falls within the scope of that ongoing injunctive relief. Mr. Mejia-Diaz was issued an I-213 two days after his arrest, but there was no reason to detain him on an old NTA from 2011. When he was apprehended by ICE, he admitted he was a foreign national; he had entered the United States illegally; and had minimal criminal history; and there is no strong justification for likelihood of escape. None of these facts constitute probable cause that he would have been likely to escape before a warrant could be obtained for his arrest. Furthermore, courts have not looked favorably on re-detaining noncitizens who had previously been released if there is no new basis for custody. Accordingly, this Court should find that Mr. Mejia-Diaz was subjected to a warrantless arrest in violation of the *Nava* Agreement. The remedy for this violation is prompt release or, if Mr. Mejia-Diaz is released on bond and no longer in ICE custody, bond payment is to be promptly

reimbursed, and all imposed conditions of release should be lifted. *Castañon Nava*, 2025 WL 2842146, at 42. This is reiterated by relief being expanded to additional arrests from the recent ICE raids in Chicago, although Mr. Mejia-Diaz is not listed in the first wave of detainees being afforded relief.

III. CONCLUSION

For the reasons stated above, Mr. Mejia-Diaz's petition for writ of habeas corpus should be granted.

- (1) Defendants should immediately release Mr. Mejia-Diaz from custody, or in the alternative, provide his with a bond redetermination hearing under 8 U.S.C. § 1226(a) within 3 days.
- (2) If Respondents intend to pursue a new bond redetermination, this Court should expressly preserve Mr. Mejia-Diaz's due process claim to permit renewal should bond again be denied.
- (3) Respondents should bear the burden by clear and convincing evidence, that Mr. Mejia-Diaz is a flight risk or a danger to the community if they do pursue a new bond redetermination;
- (4) Furthermore, Mr. Mejia-Diaz requests that this Court order Respondents to file a status report within six business days of the date of this Court's opinion and accompanying order and judgment to certify compliance with this opinion. The status report shall include if and when the bond hearing occurred, if bond was granted or denied, and if bond was denied, the reasons for the denial.

In light of Mr. Mejia-Diaz's prior bond denial under *Yajure Hurtado*, the risk of the Immigration Judge simply re-applying this in his bond redetermination hearing, and his current separation from his children, his wife, and his community, the more appropriate remedy is immediate release.

Dated: December 4, 2025
Chicago, Illinois

/s/William A Quiceno

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CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2025, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of Illinois by using the CM/ECF system. All parties to this case are registered CM/ECF users and will be served through the CM/ECF system.

Dated: December 4, 2025
Chicago, Illinois

Respectfully submitted,

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