UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

BHUPINDER SINGH,	)	
	)	
Petitioner,	)	
v.	)	Case No. 3:25-cv-00962-DRL-SJF
	)	
BRIAN ENGLISH, *et al.*,	)	
	)	
Respondents.	)	

RESPONDENTS' RESPONSE TO PETITION FOR *WRIT OF HABEAS CORPUS*

Bhupinder Singh ("Petitioner") petitioned for a *writ of habeas corpus* under 28 U.S.C. § 2241 ("Petition"). He asks this Court to order his immediate release from custody, or in the alternative, schedule a bond hearing. Though this Court has rejected a similar argument in prior proceedings, the Government reiterates and supplements its position that this Court should deny the Petition for lack of subject matter jurisdiction and because Petitioner is lawfully detained as an "applicant for admission" pending removal proceedings under 8 U.S.C. § 1225(b)(2).

INTRODUCTION

Petitioner is an Indian national who has never been legally admitted into this country. Petitioner is currently detained at Miami Correctional Facility as an "applicant for admission" under 8 U.S.C. § 1225(b)(2) while his removal proceedings play out. The legal issues presented in this case concern the

statutory authority for U.S. Immigration and Customs Enforcement's ("ICE") detention of Petitioner, whether Petitioner is entitled to a bond hearing, and if so, whether Petitioner must first exhaust his administrative remedies. These legal issues are being litigated in District Courts across the country, including this District. Respondents acknowledge this Court's recent ruling concerning a similar challenge to the Government policy or practice at issue in this case. *Aguilar v. English,* 2025 WL 3280219 (N.D. Ind. Nov. 25, 2025). While Respondents respectfully disagree with the prior decision, in the interest of judicial economy, and to expedite the Court's consideration of this matter, and so as to not waive the issue, Respondents incorporate by reference the legal arguments it presented in *Aguilar*. *See* Govt. Resp. to Petition in *Aguilar* attached hereto as Ex. A.

Respondents respectfully maintain that Petitioner is lawfully detained on a mandatory basis as an "applicant for admission" pending removal proceedings before an immigration judge. 8 U.S.C. § 1225(b)(2). This case is governed not only by the plain language of the statute, but also by Supreme Court precedent. Should the Court decide that Petitioner is subject to detention under 8 U.S.C. § 1226(a), the appropriate remedy is to order a bond hearing, and not to immediately release Petitioner.

RELEVANT FACTS

Petitioner is an Indian national who came to the United States over 30 years ago, but never legally admitted to this country. Dkt. 1 at ¶¶2-7; 22-25. In 1993, Petitioner entered the country at JFK airport in New York without inspection or parole. *Id.* at ¶¶3; 22. Petitioner was initially granted a one-year work authorization, but after failing to appear for a hearing, the immigration judge ordered his removal. *See* Immigration Judge Order entered on May 19, 1993, attached as Ex. B. Petitioner did not leave the country, and instead, relocated to Wisconsin. Dkt. 1 at ¶25.

In August 2025, Petitioner was arrested after local police discovered his outstanding order of removal during a traffic stop. *Id.* at ¶26. Petitioner was taken into ICE custody and later transferred to Miami Correctional Facility in Bunker Hill, Indiana. While in ICE custody, Petitioner moved to reopen his 1993 removal order, which the immigration court granted. Dkt. 1 at ¶27. Petitioner is scheduled to appear before an immigration judge on December 1, 2025. *See* Notice of Internet-Based Hearing attached hereto as Ex. C.

Instead of waiting for his hearing, Petitioner filed a *habeas* petition before this Court arguing, among other things, that his detention is unlawful under the Immigration and Nationality Act ("INA") and unconstitutional under the Fifth Amendment's Due Process Clause. Petitioner seeks his

immediate release, or instead, a discretionary bond hearing under 8 U.S.C. § 1226(a)).

ARGUMENT

This Court should dismiss the Petition because it lacks subject matter jurisdiction, and Petitioner is subject to mandatory detention, without bond, as an "applicant for admission" under the plain language of § 1225(b)(2). Respondents recognize that, despite its objections, this Court previously rejected these arguments in a separate case. *Aguilar,* 2025 WL 3280219 at *1; *see also* Ex. A. To avoid any possible claim of waiver, the United States nevertheless briefly reviews those arguments here.

I. PETITIONER'S *HABEAS* CLAIMS SHOULD BE DISMISSED FOR LACK OF JURISDICTION UNDER RULE 12(b)(1).

The Court should dismiss this Petition because it lacks jurisdiction over Petitioner's *habeas* claim. Like the arguments presented in the Government's response brief in *Aguilar*, this Court lacks jurisdiction by virtue of the jurisdictional bars set forth in 8 U.S.C. § 1252. Ex. A at 5.[1]

First, Petitioner challenges the Department of Homeland Security's determination that aliens who entered the United States without inspection are subject to mandatory detention under section 1225(b)(2). Petitioner thus

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[1] In an effort to avoid duplicative work and a long response, the Government has not set out those arguments anew in this Response. Should this Court desire, the Government could supplement this response with the complete arguments.

seeks judicial review of a written policy or guideline implementing § 1225(b), which is covered by § 1252(e)(3)(A)(ii). Because this Petition was not "instituted in the United States District Court for the District of Columbia," it should be dismissed. 8 U.S.C. § 1252(e)(3)(A).

Second, the decision to detain Petitioner during removal proceedings is a discretionary decision immune from judicial review under 8 U.S.C. § 1252(g). *Id.* at 6.

Third, under § 1252(b)(9), "judicial review of all questions of law...including interpretation and application of statutory provisions...arising from any action taken...to remove an alien from the United States" is only proper before the appropriate court of appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. § 1252(b)(9); *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999).

Accordingly, the Petition should be dismissed pursuant to §§ 1252(e)(3), 1252(g), 1252(b)(9), which bar review of Petitioner's *habeas* claims and deprive the Court of jurisdiction.

II. THE COURT SHOULD DISMISS THE PETITION BECAUSE PETITIONER IS PROPERLY DETAINED UNDER 8 U.S.C. § 1225.

Jurisdiction aside, the heart of this dispute centers on statutory interpretation, namely 8 U.S.C. § 1225. "As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute."

Jimenez v. Quarterman, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)); *see also, e.g.*, *Southwest Airlines v. Saxon*, 596 U.S. 450, 457 (2022) ("As always, we begin with the text."). And "[i]f the statutory language is plain, [courts] must enforce it according to its term." *King v. Burwell*, 576 U.S. 473, 486 (2015).

A. Petitioner Is Properly Detained as an "Applicant for Admission" under Section 1225.

Respondents contend that foreign nationals who were never admitted to the United States do not qualify for bond and are properly detained under 8 U.S.C. § 1225. *Id.* at 10-20. Specifically, the plain text of the INA mandates that Petitioner—who is present in the United States without being admitted—is correctly considered an "applicant for admission" and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner is thus properly detained under § 1225(b)(2) because he unambiguously falls within the statute's scope. *Id.* at ¶24; Ex. B-C.

And if any doubt remained, the structure and history of the statute dispel it by providing contextual support for Respondents' plain-text interpretation. Section 1225 governs the inspection, detention, and removal of aliens seeking admission into the United States. 8 U.S.C. § 1225. It specifically defines which aliens are deemed "applicants for admission." *Id.* It provides (among other things) detailed procedures for handling them, including an expedited removal

process, an asylum process, and detention requirements. *See, e.g.*, 8 U.S.C. § 1225(b)(1)(A)–(B). And it includes specific detention requirements for "an alien who is an applicant for admission." *Id.* § 1225(b)(2)(A). Petitioner is properly classified as an "applicant for admission" under section 1225(b)(2). He entered the country without inspection, has never been admitted, has been here for over 30 years, and is applying to remain in the United States indefinitely. Ex. B-C. Ultimately, the plain text of § 1225(b)(2) makes clear that Petitioner is an alien "applicant for admission" and subject to mandatory detention during the duration of his removal proceedings. Accordingly, the Court should dismiss this petition.

B. The Phrase "Seeking Admission" Under 8 U.S.C. § 1225(b)(2)

In *Aguilar*, the Court rejected the Government's argument, finding it significant that Congress used the phrase "alien seeking admission" later in § 1225(b)(2). *Aguilar,* 2025 WL 3280219, at 6-8. The Court noted that Congress used "alien seeking admission" in a purposeful effort to narrow the scope of the latter part of § 1225(b)(2)" and the phrase must have "an independent meaning that identifies precisely which applicants for admission are covered by § 1225(b)(2). *Id.* at 7. The Court concluded that "seeking admission" did not apply to an alien who had been in the United States for over 19 years. *Id.* at 9.

Respondents respectfully disagree with the Court's conclusion in *Aguilar* and invite it to reconsider its analysis of § 1225. Section 1225(a) provides that

"[a]ll aliens ... who are applicants for admission *or otherwise* seeking admission or readmission ... shall be inspected." 8 U.S.C. § 1225(a)(3) (emphasis added). The word "[o]therwise' means 'in a different way or manner[.]'" *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster's Third New International Dictionary 1598 (1971)); *see also Att'y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024) (same); *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) ("or otherwise" means "the first action is a subset of the second action"); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019). Being an "applicant for admission" is thus a particular "way or manner" of seeking admission, such that an alien who is an "applicant for admission" *is* "seeking admission" for purposes of § 1252(b)(2)(A). No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I & N. Dec. 734, 743 (BIA 2012) ("[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws").

This reading is consistent with the everyday meaning of the statutory terms. One may "seek" something without "applying" for it—for example, one who is "seeking" happiness is not "applying" for it. But one *applying* for something is necessarily *seeking* it. *Compare* Webster's New World College Dictionary 69 (4th ed.) ("apply" means "To make a formal request (*to* someone

for something)"), *with id.* at 1299 ("seek" means "to request, ask for"). For example, a person who is "applying" for admission to a college or club is "seeking" admission to the college or club. *See* The American Heritage Dictionary of the English Language 63 (1980) ("American Heritage Dictionary") ("apply" means "[t]o request or *seek* employment, acceptance, or *admission*") (emphasis added). Likewise, an alien who is "applying" for admission to the United States (*i.e.*, an "applicant for admission") is "seeking admission" to the United States. And that's true even when the alien has been physically present in the country for many years, as that alien can "still be an applicant for *lawful* entry, seeking legal 'admission.'" *Mejia Olalde v. Noem*, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025). As the geographic and temporal limits in the neighboring provision, § 1225(b)(1), demonstrate, "[i]f Congress meant to say that an alien no longer is 'seeking admission' after some amount of time in the United States, Congress knew how to do so." *Id.* at 4.

None of this is to say, however, that "seeking admission" has no meaning beyond "applicant for admission." As § 1225(a)(3) shows, being an "applicant for admission" is only *one* "way or manner" of "seeking admission,"—not the exclusive way. For example, lawful permanent residents returning to the United States are not "applicants for admission" because they are already admitted, but they still may be "seeking admission." *See* 8 U.S.C. § 1103(A)(13)(C). But for purposes of § 1225(b)(2) and its regulation of

"applicants for admission," the statute unambiguously provides that an alien who is an "applicant for admission" is "seeking admission," even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

This Court reasoned that "seeking admission" must have independent meaning when used in § 1225(b)(2)(A), lest it be redundant with the phrase "applicant for admission." *Aguilar,* 2025 WL 3280219, at 7. But as explained above, "applicant for admission" covers a subset of aliens "seeking admission." The phrase "in the case of an alien who is an applicant for admission," offset at the beginning of § 1225(b)(2)(A); therefore, modifies and narrows the scope of the remaining language—"if the examining immigration officer determines that an alien seeking admission is not . . . entitled to be admitted, the alien shall be detained." The structure of the provision indicates that any such redundancy simply serves to make the provision more readable. This is not a case where the additional language serves to limit the provision's scope.

And in any event, "[t]he canon against surplusage is not an absolute rule." *Rimini St., Inc. v. Oracle USA, Inc.*, 586 U.S. 334, 346 (2019). "Redundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication." *Barton v. Barr*, 590 U.S. 222, 223 (2020). Thus, "[t]he Court has often recognized that sometimes the better

overall reading of a statute contains some redundancy." *Id.* For that reason, "the surplusage cannon ... must be applied with statutory context in mind," *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017), and "redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Barton*, 590 U.S. at 223.

That is the case here. Under a straightforward reading of the statute, being an "applicant for admission" is "seeking admission." Although that reading may lead to some redundancy in § 1225(b)(2)(A), that is "not a license to rewrite" § 1225 "contrary to its text." *Barton*, 590 U.S. at 223; *see Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) ("The principle [that drafter do repeat themselves carries extra weight where ... the arguably redundant words that the drafters employed ... are functional synonyms"). And that is especially true, where that re-writing would be so clearly contrary to Congress's objective in passing the law. *See Ex. A*, at 16-20.

Even if "seeking admission" required some separate affirmative conduct by the alien, an applicant for admission who attempts to avoid removal from the United States, rather than trying to voluntarily depart, is by any definition "seeking admission."

Section 1225(b)(2)(A) applies to an alien who is present in the United States unlawfully, even for years. Although the alien may not have been affirmatively seeking admission during those years of illegal presence,

§ 1225(b)(2) is not concerned with the alien's pre-inspection conduct. Rather, the statute's use of present tense language ("seeking" and "determines") shows that its focus is a specific point in time—when "the examining immigration officer" is making a "determin[ation]" regarding the alien's admissibility. 8 U.S.C. § 1225(b)(2)(A). At that point, the alien is "seeking"—i.e., presently "endeavor[ing] to obtain," American Heritage Dictionary, *supra*, at 1174—admission into the United States; if it were otherwise, the applicant would not attempt to show that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). That inference is confirmed by § 1225(a)(4), which authorizes an alien to voluntarily "depart immediately from the United States." An applicant who forgoes that statutory option and instead endeavors to prove admissibility and opts for Section 240 removal proceedings—proceedings in which the alien has the "burden of establishing that [he] is clearly and beyond a doubt entitled to be admitted," *id.* § 1229a(c)(2)(A)—is plainly "endeavor[ing] to obtain" admission to the United States. American Heritage Dictionary, *supra*, at 1174.

Other statutory provisions discussed in the incorporated filing provide even further support. Congress made clear that any "alien present in the United States who has not been admitted" is "deemed . . . an applicant for admission." 8 U.S.C. § 1225(a)(1). And the statute's use of "otherwise" when referring to aliens "who are applicants for admission or otherwise seeking

admission," *Id.* § 1225(a)(3), makes clear that all applicants for admission are seeking admission. Accordingly, an alien's presence in the United States without lawful admission is itself an act of seeking admission, whether that alien is present in southern Texas or northwest Indiana.

Here, Petitioner admittedly entered the country illegally and without inspection since 1993, making him subject to mandatory detention pending removal proceedings as an "applicant for admission" under 8 U.S.C. § 1225(b)(2). Dkt. 1 at ¶¶2-7; 22-25; Ex. B-C; *see also Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants of admission until certain proceedings have concluded."). Thus, his current detention at Miami Correctional Facility, and continued detention during his removal proceedings, is not only lawful—it is statutorily mandated. This Court should therefore dismiss the Petition.

III. PETITIONER HAS NOT BEEN DEPRIVED OF DUE PROCESS

Petitioner's claim relating to alleged Fifth Amendment Due Process violations fails because he admittedly never effected a lawful entry into the United States, as similarly outlined in the Government's response brief in *Aguilar*. Ex. A, at 21-23. Furthermore, Petitioner's can assert any purported due process violations at his hearing before the Indianapolis Immigration Court on December 1, 2025. Ex. C. Accordingly, he has not alleged a valid due process claim.

CONCLUSION

Respondents thank the Court for its consideration and respectfully request that the Court deny this Petition.

Respectfully submitted,

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