

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

VERONICA ARREOLA CHAVEZ,

Petitioner,

v.

PAMELA BONDI, ATTORNEY GENERAL
OF THE UNITED STATES, et al.,

Respondents.

§
§
§
§
§
§
§
§
§
§
§

Civil Action 5:25-CV-00227

**RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION FOR SUMMARY JUDGMENT**

The Government¹ hereby responds to Petitioner Veronica Arreola Chavez’s habeas petition and respectfully requests that this Court deny her petition under 28 U.S.C. § 2241 and grant summary judgment for the Government under Federal Rule of Civil Procedure 56.

First, Petitioner failed to exhaust her administrative remedies prior to filing her Petition. This is enough, by itself, to deny her § 2241 petition. Second, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), based on the statute’s plain language and structure, the history of the Immigration and Nationality Act (INA), the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and persuasive decisions from other district courts, including the recent decision in *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge).

¹ The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

Accordingly, this Court should deny Petitioner's habeas corpus petition and grant summary judgment for the Government.

I. BACKGROUND

Petitioner, is a native and citizen of Mexico. Dkt. 1-4. In 2000, Petitioner entered the United States without inspection. Dkt. 1, p. 7; ¶ 14. Petitioner was detained by U.S. Immigration and Customs Enforcement, Department of Homeland Security ("ICE") on or around August 22, 2025. *Id.* ICE served Petitioner with a Notice to Appear ("NTA") charging her with removability pursuant to Immigration and Nationality Act ("INA") section 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. Dkt. 1-4. In the NTA, the examining immigration official denied Petitioner admission into the United States and explained the basis for charging Petitioner with being subject to removal. *Id.* Petitioner requested a custody redetermination on September 5, 2025, and on September 10, 2025, an Immigration Judge (IJ) denied Petitioner's request for a custody redetermination finding that it lacked jurisdiction to set bond in the immigration proceedings because of *Matter of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025) Dkt. 1, p. 7; ¶ 20; Dkt. 1-3

On November 21, 2025, Petitioner filed the instant habeas petition. Dkt. 1.

II. APPLICABLE LAW

In a petition for a writ of habeas corpus, the petitioner is challenging the legality of the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). When it comes

to detention during removal proceedings, it is well-taken that the authority to detain is elemental to the authority to deport, as “[d]etention is necessarily a part of th[e] deportation procedure.” *Carlson v. Landon*, 342 U.S. 524, 538 (1952); see *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (“Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation.”). As the Supreme Court has stated in no unmistakable terms, “[d]etention during removal proceedings is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003).

III. ARGUMENT

Prior to addressing the merits, the Government acknowledges that this Court has previously rejected its arguments concerning the applicability of § 1225(b)(2). However, the Government, with this motion, requests a reconsideration of that prior ruling. See *Camreta v. Greene*, 563 U.S. 692, 701 n. 7 (2011) (“A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case.”). For the reasons discussed below, including recent decisions from other courts in the Fifth Circuit and the Southern District of Texas, this Court should reconsider its interpretation of § 1225(b)(2) and find that Petitioner is subject to mandatory detention.

A. PETITIONER FAILED TO EXHAUST HER ADMINISTRATIVE REMEDIES PRIOR TO FILING THE PETITION.

As a threshold matter, the Court should dismiss the habeas petition because Petitioner has not administratively exhausted her claims. In accord with the general rule that parties seeking relief against federal agencies must exhaust administrative remedies prior to seeking

judicial relief, it is well-taken that a habeas petitioner must exhaust all administrative remedies prior to filing a federal habeas petition under § 2241. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012).

In this case, Petitioner did not appeal the IJ's bond determination to the Board of Immigration Appeals. Here, Petitioner has not exhausted her available remedies for challenging her current detention, specifically, appealing the IJ's decision to the BIA. *See id.* Hence, habeas relief is unwarranted. *See id.*

The Fifth Circuit has recognized exceptions to the exhaustion requirement and noted that they “apply only in extraordinary circumstances,” including when exhaustion would be “patently futile.” *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (internal quotation marks omitted). *Fuller* itself is illustrative, where the petitioner argued that administrative appeal was futile because the time for filing an appeal has already elapsed. *See id.* The Fifth Circuit disagreed, holding that “until he actually appeals and that appeal is acted on, we do not know what the appeals board will do with [petitioner]’s claim, and until the appeals board has been given an opportunity to act, [petitioner] has not exhausted his administrative remedies.” *Id.*

Here, just because the administrative body is unlikely to find the law in the Petitioner’s favor does not mean that the “extraordinary circumstances” apply where exhaustion is futile. Petitioner’s failure to exhaust her remedies warrants, by itself, the denial of habeas relief.

B. PETITIONER IS SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225

Petitioner’s habeas petition should be denied because she falls under the plain language of the mandatory detention provisions in 8 U.S.C. § 1225. Here, Petitioner admits that she is an alien present in the United States who entered the country unlawfully “without inspection.”

Dkt. 1, p. 7; ¶ 14. As discussed below, an alien “present in the United States who has not been admitted,” is by definition “an applicant for admission.” 8 U.S.C. § 1225(a)(1). Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that “the alien *shall* be detained” in the case of “an alien seeking admission” who “is not clearly and beyond a doubt entitled to be admitted” (emphasis added)).

1. The Plain Language and Statutory Structure of the INA

“As usual, we start with the statutory text.” *Restaurant Law Center v. U.S. Dep’t of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

in the case of an alien who is an applicant for admission, 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 [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an “applicant for admission”, then they are subject to mandatory detention. The INA defines “applicant for admission” as “an alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). Here, there is no question that Petitioner was not previously admitted into the United States, and the Petitioner is therefore subject to mandatory detention and is not eligible for a bond.

Petitioner may argue, and other courts have mistakenly held, that there is separate requirement: that Petitioner also be “seeking admission.” But, in the context of § 1225(b)(2), “seeking admission” and “applying for admission” are plainly synonymous. Congress has linked these two variations of the same phrase in Section 1225(a)(3), which requires all aliens “who are applicants for admission or otherwise seeking admission” to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word “or” here “introduce[s] an appositive—a word or phrase that is synonymous with what precedes it (‘Vienna or Wien,’ ‘Batman or the

Caped Crusader’).” *United States v. Woods*, 571 U.S. 31, 45 (2013). Read properly, a person “seeking admission” is just another way of describing a person applying for admission, meaning he is an applicant for admission, which includes both those individuals arriving in the United States and those already present without admission. 8 U.S.C. § 1225(a)(1).

A comparison of Section 1225’s mandatory-detention provisions against the discretionary detention provisions of Section 1226 also supports the Government’s interpretation. A basic canon of statutory construction is that a specific provision should govern over a more general provision encompassing that same matter. *See Matter of GFS Indus., L.L.C.*, 99 F.4th 223 (5th Cir. 2024). Here, Section 1226(a) is the general provision, applicable to aliens “arrested and detained pending a decision” on removal. 8 U.S.C. § 1226(a). Section 1225(b), by contrast, is much more specific, applying particularly to aliens who are “applicants for admission”—a specially defined subset of aliens that explicitly includes those “present in the United States who ha[ve] not been admitted.” *Id.* § 1225(a). So while the general rule might be that aliens detained pending removal may be detained, the specific rule for aliens who have not been admitted is that this subset of aliens must be detained.² The Court should be loath to eviscerate the specific text of Section 1225(b)(2)(A) in favor of the more general text of Section 1226(a). *See, e.g., United States v. Menasche*, 348 U.S. 528, 538-39 (1955) (“It is our duty to give effect, if possible, to every clause and word of a statute, rather than to emasculate an entire section[.]”). Because Petitioner falls squarely within the definition of individuals deemed

² To be clear, there remains a large population of aliens who remain subject to § 1226 discretionary detention (and not § 1225 mandatory detention). For example, aliens who were admitted to the United States via a tourist visa, but who overstayed that visa, are subject to § 1226 detention.

to be “applicants for admission,” the specific detention authority under § 1225(b) governs over the general authority found at § 1226(a).

2. The BIA’s Decision in *Matter of Hurtado*

The text of the INA requires that aliens like Petitioner already present in the United States are applicants for admission and thus subject to mandatory detention under § 1225(b)(2). To be sure, while this interpretation is straightforward, that is not to say there are no colorable counterarguments. However, the Government would point to the BIA’s decision in *Hurtado*, which thoughtfully and meticulously considered and rejected a myriad of counterarguments. *See* 29 I. & N. at 221–27 (discussing and rejecting no fewer than six distinct legal counterarguments). *Hurtado* is a unanimous, published decision from the BIA and binding on immigration courts. Here, the BIA utilized its immigration expertise and gave a lengthy, comprehensive account as to why the Government’s position in this case is not only correct, but comfortably so. This Court should thus accord great weight to the persuasiveness of *Hurtado*.

Moreover, the BIA’s interpretation of § 1225(b)(2) is not undermined by the passage of the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025). The BIA’s *Hurtado* decision specifically addressed the issue of whether its interpretation of § 1225(b)(2) rendered the recent Laken Riley Act superfluous. *Hurtado*, 29 I. & N. Dec. at 221. The BIA first pointed out that nothing in the Laken Riley Act purported to alter or amend § 1225(b)(2)’s mandatory detention requirement. *Id.* Moreover, the BIA noted that the fact that the Laken Riley Act required mandatory detention for a subset of illegal aliens that are also subject to mandatory detention under § 1225(b)(2) is not a basis to ignore the mandatory detention requirement of §

1225(b)(2). *Id.* at 222. In support of this holding, the BIA cited the Supreme Court’s *Barton* decision. *Id.* (citing *Barton v. Barr*, 590 U.S. 222, 239 (2020) (holding that because “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,”--“[r]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text”). Thus, the BIA correctly concluded that both § 1225(b)’s and the Laken Riley Act’s mandatory detention requirements should be given effect.

3. Persuasive decisions from other district courts.

In the absence of controlling authority, the Court should follow those district courts that have applied the plain language of the INA and found aliens like the Petitioner subject to mandatory detention under § 1225(b)(2). Although the Government acknowledges that there are district court decisions that hold to the contrary,³ several district courts have adopted the Government’s and the BIA’s interpretation, and more are likely to follow. *See Vargas Lopez v. Trump*, No. 8:25-CV-00526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) and *Chavez v. Noem*, No. 3:25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

Most recently, a district court in the Western District of Louisiana recently agreed with the BIA’s reading of the INA. *See Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025). In denying the habeas petition, the court held that “[b]ecause

³ This includes decisions from other courts in the Southern District of Texas. *See, e.g., Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025)(on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. October 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. October 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. October 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Texas October 8, 2025).

Petitioner crossed the United States-Mexico border without being inspected by an immigration officer, [Petitioner was] therefore also appropriately categorized as an inadmissible alien . . . [and thus concluded] that § 1225(b)(2)'s plain language and the 'all applicants for admission language' of *Jennings* permits [DHS] to detain Petitioner under § 1225(b)(2)." (citations omitted). *Id.* The court reasoned that "to conclude that an alien who has unlawfully entered the United States and managed to remain in the country for a sufficient period of time is entitled to a bond hearing, while those who seek lawful entry and submit themselves for inspection are not, not only conflicts with the unambiguous language of the governing statutes, but would also seemingly undermine the intent of Congress in enacting the IIRIRA." *Id.* at *6.

Finally, another court in the Southern District of Texas decided *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge), in the Government's favor. In denying the habeas petition and granting the Government's motion for summary judgment, the *Cabanas* Court held "[t]he text of § 1225(b)(2)(A) supports the Government's position." The *Cabanas* Court reasoned that "[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn't dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies." *Id.* at *4 (emphasis in original). Thus, the *Cabanas* Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government's favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at * 5. ⁴

⁴ The Court should be aware that a court in the Central District of California recently certified a class of aliens who are being detained under § 1225(b)(2). *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL (continue)

Similarly, another court in the Southern District of Texas decided *Arquimedes Maceda Jiminez v. Raymond Thompson, et al.* No. 4:25-cv-05026, (S.D. Tex. Nov. 24, 2025) (J. Eskridge) in the Government’s favor. (Government’s Ex. 1) In denying the habeas petition and granting the Government’s motion for summary judgment, the *Maceda* Court adopted the ruling and analysis of the *Cabanas* Court in its entirety. *Id.* at 2. Furthermore, the *Maceda* Court found that Petitioner provided no persuasive argument or decision to suggest that §1225(b)(2)(A), as applied to him, violates his due process rights. *Id.* 8 U.S.C. § 1225 does not provide for a bond hearing or release from custody on bond, regardless of whether the applicant for admission is placed into full removal proceedings. The Supreme Court upheld the facial constitutionality of § 1225(b) in *Thuraissigiam*, (finding that applicants for admission are entitled only to the protections set forth by statute and that “the Due Process Clause provides nothing more”). *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 140 (2020). Similarly, this Court should reject Petitioner’s due process claims as they are without merit.

The Government requests this Court follow the reasoning of *Cabanas* and *Maceda* and the Government’s other proffered authorities.

C. PETITIONER’S REMAINING CLAIMS FAIL.

In addition to the statutory arguments, Petitioner asserts a Due Process claim and an APA claim. Dkt. 1, p. 23-26. Neither has merit. First, the APA provides no separate cause of action here. With the APA, Petitioner is merely recharacterizing his §§ 1225/1226 statutory

3288403 (C.D. Cal. Nov. 25, 2025). The *Bautista* court granted class certification and partial summary judgment for the plaintiffs in that case, but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction. As such, although the matter is still being reviewed by the Department of Justice, the *Bautista* court’s decision does not have preclusive effect with respect to this case.

argument. *Id.* at p. 13. Because Petitioner can assert her statutory arguments via habeas, the APA does not provide a separate remedy. *See Martinez v. Unknown Party*, No. 1:25-CV-1298, 2025 WL 3223774, at *7 (W.D. Mich. Nov. 19, 2025) (in case involving similar claims, holding that, because habeas provides an adequate remedy, habeas corpus, not the APA, is the proper vehicle to assert a challenge) (citing *Trump v. J. G. G.*, 604 U.S. 670, 674 (2025)). With respect to Due Process, Petitioner argues that her detention without a bond violates Due Process. Dkt. 1, p. 23-26. This type of conclusory assertion, which merely reasserts a disagreement with the Government's application of § 1225(b)(2), does not establish a valid Due Process claim. *See Cabanas*, 2025 WL 3171331, at *7 (S.D. Tex.).

IV. CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court deny Petitioner's request for habeas relief and grant the instant motion. The Court should enter judgment as a matter of law finding that Petitioner is lawfully subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2).

Dated: December 1, 2025

Respectfully submitted,

NICHOLAS J. GANJEI

United States Attorney
Southern District of Texas

By: *s/Hilda M. Garcia Concepcion*
HILDA M GARCIA CONCEPCION
Assistant United States Attorney
S.D. Tex. ID. No. 3399716
1000 Louisiana, Suite 2300
Houston, Texas 77002
Telephone: (713)567-9529
Facsimile: (713) 718-3300
E-mail: Hilda.garcia.concepcion@usdoj.gov
Counsel for Federal Respondents

CERTIFICATE OF SERVICE

I certify that, on December 1, 2025, the foregoing was filed and served on all attorneys of record via the District's ECF system.

s/Hilda M. Garcia Concepcion
HILDA M GARCIA CONCEPCION
Assistant United States Attorney