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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Balbino Mayora Cruz,
Petitioner,

vs.

Pamela Bondi, et al.,

Respondents.

Case No.: CV-25-04414-PHX-DWL (JZB)

File No: [redacted]

PETITIONER'S REPLY TO RESPONDENT'S ANSWER TO HABEAS CORPUS.

I. INTRODUCTION

Respondents' Answer confirms that Petitioner's detention is unlawful. The government does not dispute that Petitioner was arrested in the interior of the United States after years of physical presence. Yet the government's response does not

meaningfully defend the statutory basis for custody; instead it relies almost exclusively on an expansive interpretation of 8 U.S.C. § 1225(b)(2) and its reading of *Jennings v. Rodriguez* and *Matter of Yajure Hurtado* to argue that any noncitizen who entered without inspection must be treated as a perpetual "applicant for admission" subject to mandatory detention. None of those authorities supports DHS's position.

Federal courts addressing this precise question have held that individuals arrested years after entering the United States are detained under § 1226(a), not § 1225(b)(2), and are therefore entitled to an individualized custody determination rather than mandatory detention. In *Singh v. Lewis*, the Western District of Kentucky granted habeas relief and ordered release, rejecting DHS's reliance on *Yajure Hurtado* and explaining that "an individual is not 'seeking admission' when he never attempted to do so." The court held that detention in such circumstances must proceed under § 1226(a), and it invalidated the government's attempt to use the automatic-stay regulation to override the immigration judge's bond determination. Likewise, in *Beltrán Barrera v. Tindall*, the same district court held that § 1225 applies only to true applicants for admission encountered at the border, not to individuals arrested after years of residence in the interior. The court concluded that

DHS's blanket application of § 1225(b)(2) "conflicts with the statutory text and structure of the INA" and ordered the petitioner's release under § 1226(a).

The District of Arizona recently reached the same conclusion in *Benítez-Cornejo v. Cantu*, holding that individuals arrested in Arizona after years of living in the United States fall under § 1226(a) and must receive individualized bond hearings. The court rejected DHS's attempt to rely on Matter of Yajure Hurtado to impose mandatory detention on interior arrestees and concluded that § 1225(b)(2) applies only to true applicants for admission encountered at the border.

The government's response in this case sidesteps each of these authorities, offers no persuasive statutory interpretation of its own, and ignores the growing nationwide consensus that DHS may not reclassify interior arrests under § 1225(b)(2). Instead, DHS attempts to wedge Petitioner into a statutory category that does not apply to him, while simultaneously arguing that this Court is powerless to correct the error.

II. ARGUMENT

A. Section § 1226 governs Petitioner's detention and not § 1225 because Petitioner is not seeking admission.

Respondents contend that because Petitioner entered without inspection, he must categorically be treated as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2). That argument depends on an overreading of

Jennings v. Rodriguez and a misapplication of the statutory definition of "seeking admission."

Section § 1225 governs the inspection and processing of individuals encountered at the border or port of entry who are affirmatively seeking admission into the United States. It does not govern the detention of individuals already inside the United States who are arrested in the interior and placed into standard § 240 removal proceedings. Congress enacted8 U.S.C. § 1226, precisely to regulate the arrest, detention, and release of noncitizens after entry. The existence of these two distinct detention provisions reflects Congress's deliberate choice to treat border encounters and interior arrests differently.

Respondents argue that Petitioner must be treated as an "applicant for admission" under 8 U.S.C. § 1225(b)(2), even though he was arrested inside the United States and was not in the process of seeking entry. That position cannot be reconciled with the text, structure, or history of the Immigration and Nationality Act. Section § 1225 governs the inspection and processing of individuals encountered at the border or port of entry who affirmatively seek admission. It does not govern the detention of persons already inside the United States. Congress enacted a distinct detention statute, 8 U.S.C. § 1226, to apply to noncitizens arrested in the interior.

The term "applicant for admission" is a defined term. It applies to noncitizens who are seeking entry. 8 U.S.C. § 1225(a)(1). Nothing in the statute authorizes DHS to retroactively convert a person found in the interior into an arriving alien. Courts addressing this issue have made the same observation: an individual apprehended inside the United States, long after an entry, is not "seeking admission" within the meaning of § 1225. The distinction is foundational to the statutory scheme. Congress codified two different detention authorities because the circumstances and legal posture of border arrivals and interior arrests are fundamentally different. Reading § 1225 to include people who are not seeking admission would collapse those distinct categories and expand mandatory detention far beyond the limits Congress enacted.

Respondents argue that because Petitioner is charged under inadmissibility provisions, § 1225(b)(2) must apply. But Congress did not equate the statutory ground of removability with the legal status of "arriving alien." The INA explicitly contemplates that individuals inside the United States may be charged under inadmissibility grounds, yet Congress still placed their detention under § 1226. The operative statutory distinction is not the nature of the charge; it is whether the individual is seeking admission. The government cannot bypass § 1226 by simply labeling an interior arrestee an "applicant for admission." This point is underscored

by *Singh v. Lewis*, No. 4:25-cv-96 (W.D. Ky. Sept. 22, 2025), which addressed the precise statutory question presented here. The court held unequivocally that:

"Singh, who has been present in the United States for more than 12 years, is not 'seeking admission' into the United States. Thus, Section 1226, not Section 1225, should apply to his detention."

This reasoning reflects the plain meaning of the statute: time-extended physical presence and interior arrest are legally incompatible with the status of "applicant for admission." That conclusion applies equally here. Petitioner was not encountered at a border, did not present himself for admission, and was not in the process of seeking entry. DHS's attempt to impose § 1225(b)(2) on him is therefore unlawful.

Respondents attached declaration from Brandy Berghouse, a Deportation Officer, stating that Petitioner's date of entry is "unknown," That declaration does not assist their position. It is DHS's burden and not Petitioner's to justify the statutory authority under which it detains an individual. The government cannot cure the unlawful application of § 1225(b)(2) by pointing to its own lack of evidence regarding when Petitioner entered. DHS chose to detain Petitioner as an "arriving alien"; it therefore bears the obligation to establish facts that would bring him within that statutory category. When the government cannot meet its burden to justify

detention under a mandatory detention statute, the statute does not apply. Section 1226(a) therefore governs as a matter of law.

Respondents' reliance on *Matter of Yajure Hurtado* does not cure this defect. That decision is not binding on this Court and is inconsistent with the statutory framework. It rests on the unsupported premise that a person removable on inadmissibility grounds must automatically be treated as if he were seeking admission. But the Board's reasoning ignores the statutory definition of "applicant for admission," disregards the structure of the INA, and improperly expands § 1225 beyond its terms. Courts have already rejected the government's reliance on *Yajure Hurtado* in the context of interior arrests, concluding that the decision conflicts with both the statute and due process. The same flaw exists here: the government cannot justify mandatory detention by invoking a decision that itself misreads the statute.

Because Petitioner does not fall within § 1225(b)(2), DHS has placed him in the wrong detention category. His ongoing custody is therefore unauthorized by the INA. Section 1226(a) governs, and under § 1226(a) Petitioner is entitled to an individualized custody determination rather than mandatory detention.

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B. *Jennings v. Rodriguez* does not authorize Mandatory detention of Noncitizens arrested in the interior of the U.S years after entry.

Respondents rely on *Jennings v. Rodriguez* to argue that mandatory detention under 8 U.S.C. § 1225(b)(2) applies to all noncitizens who entered without inspection, regardless of where or when they are arrested. That reliance is legally unsound. *Jennings* did not decide who properly falls within § 1225 in the first place. Instead, the Supreme Court addressed only whether federal courts could impose bond hearings as a matter of statutory construction once detention is already authorized under § 1225(b) or § 1226(c). The Court did not decide whether § 1225 applies to noncitizens arrested in the interior years after entry.

Respondents focus on *Jennings*'s observation that applicants for admission "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)," and that § 1225(b)(2) is the broader of the two. But Jennings never held that every "alien present in the United States who has not been admitted" is forever an applicant for admission for detention purposes. That reading eliminates the statutory requirement that a person be "seeking admission" and improperly turns § 1225 into a lifetime detention statute.

That precise definition shortcut was rejected in *Singh v. Lewis*, where the court confronted the same argument advanced by Respondents here. The court concluded

that "an individual is not 'seeking admission' when he never attempted to do so," and held that a noncitizen who had lived in the United States for more than a decade could not be detained under § 1225 based solely on an alleged unlawful entry. The court explained that such an individual must instead be detained, if at all, under § 1226(a). *Singh* confirms that *Jennings* does not collapse the statutory distinction between border applicants and interior arrestees and does not authorize DHS to dispense with the threshold requirement that a person be "seeking admission" before § 1225 may apply.

The District of Arizona reached the same conclusion in *Benítez-Cornejo v. Cantu*, No. CV-25-03672-PHX-JJT (ESW) (D. Ariz. 2025). There, the court granted habeas relief on the same statutory question presented here, holding that individuals arrested in Arizona after years of residence fall under § 1226(a), not § 1225(b)(2), and must receive individualized bond hearings. The court rejected DHS's attempt to rely on *Matter of Yajure Hurtado* to impose mandatory detention on interior arrestees and concluded that § 1225 applies only to true applicants for admission encountered at the border. That holding is directly controlling as to the statutory framework governing interior arrests in this District.

Taken together, *Singh* confirms that an actual attempt to enter is required before a person may be deemed to be "seeking admission." *Benítez* confirms that, in

Arizona, long-term interior residents arrested years after entry are governed by § 1226(a). Respondents' attempt to stretch *Jennings* into a universal rule of mandatory detention disregards each of these limits and cannot justify Petitioner's continued detention under § 1225(b)(2).

C. This court has previously rejected Echevarria and held that it does Not Support Respondents' Position and Does Not Apply to Petitioner's Detention.

Respondents rely on *Echevarria v. Bondi* to argue that Petitioner should be treated as an "applicant for admission" under § 1225(b)(2). But *Echevarria* does not apply here. That decision addressed only DHS's ability to charge inadmissibility grounds; it did not decide whether an individual arrested inside the United States is governed by § 1226 or § 1225. *Echevarria* did not analyze the statutory definition of "applicant for admission," did not interpret § 1225(b)(2), and did not authorize the detention of interior arrestees as "arriving aliens."

This Court has already rejected Respondents' interpretation of *Echevarria*, and Respondents acknowledge as much in their own filing. The District of Arizona's decision in *Benítez-Cornejo v. Cantu* squarely addressed this issue and held that Judge Lanza's reasoning in *Echevarria* confirms that individuals arrested in the interior are not "arriving aliens" and therefore fall under § 1226(a) rather than § 1225(b)(2). The District of Arizona's decision in *Benítez-Cornejo* squarely decided

the detention question presented here, holding that individuals arrested in the interior are governed by § 1226(a), not § 1225(b)(2). In reaching that conclusion, the court rejected DHS's attempt to extend its 'applicant for admission' theory to interior arrests.

In *Benitez*, the Court explained that Respondents were merely repeating "the arguments considered and rejected in *Echevarria*," including their assertion that a noncitizen remains an "applicant for admission" until inspected. This Court rejected that theory as inconsistent with the INA, and Respondents offer no new reasoning to alter that conclusion. Indeed, their acknowledgment that the argument has already been rejected only underscores that *Echevarria* does not support their position and cannot justify mandatory detention under § 1225(b)(2).

The statute reinforces this conclusion. Section § 1225 applies to individuals seeking admission. A person encountered inside the United States is not seeking admission and cannot be placed into § 1225(b)(2) by DHS's unilateral labeling. (*Singh v. Lewis*: holding that Singh…is not 'seeking admission' into the United States. Thus, Section 1226, not Section § 1225, should apply to his detention.")

Nothing in *Echevarria* expands § 1225(b)(2) to cover interior arrests, and this Court has already held in *Benítez-Cornejo* that Respondents' interpretation is incorrect. Because *Echevarria* does not control and because this District has already

rejected Respondents' reading of it, which Respondents themselves concede, their reliance on that case is unavailing. Section § 1226 governs Petitioner's detention.

CONCLUSION

For the reasons set forth above, Petitioner's continued detention is unlawful. DHS has not shown that § 1225(b)(2) governs his custody, nor has it provided any statutory basis for imposing mandatory detention on an individual arrested inside the United States who is not seeking admission. Because Petitioner is properly detained under § 1226(a), he is entitled to an individualized custody determination before a neutral decisionmaker, not automatic and indefinite confinement. His current detention based solely on DHS's misclassification is unauthorized by statute and violates the Fifth Amendment. Petitioner respectfully requests that this Court grant the writ and order his release, or, in the alternative, direct Respondents to provide him with an immediate, constitutionally adequate custody hearing.

Respondents implicitly acknowledge that this Court has already rejected the very argument they advance here, as reflected in *Benítez-Cornejo*'s application of the statutory framework governing interior arrests.

Respondents nevertheless repeat the same argument: that a person is an applicant for admission "until an immigration official has inspected that person and determined that he or she is admissible."

That position was unpersuasive when previously presented to this Court, and Respondents offer no authority or reasoning to revive it now.

Dated: December 4, 2025,

Tucson, AZ,

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CERTIFICATE OF SERVICE

I, Siovhan Ayala, hereby certify that on December 4, 2025, I electronically filed the foregoing Opening Brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case that require service are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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