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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

Oscar Canez-Romero,

Petitioner,

v.

John E. Cantu, et al.

Respondents.

Case No. 25-cv-04431-DJH--DMF

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

On November 20, 2025, Judge Sunshine Sykes of the U.S. District Court for the Central District of California granted partial summary judgment for the petitioners in that case, holding that the government's novel position—that anyone who entered the United States without inspection, regardless of how long ago, is subject to mandatory detention under 8 U.S.C. § 1225(b)—is inconsistent with the plain language of the INA, and that the petitioners are properly subject to § 1226(a).[1] Five days later, Judge Sykes certified a nationwide class of individuals affected by the new policy and expressly "extend[ed] the same declaratory relief" granted to Petitioners to the Bond Eligible Class as a whole."[2]

Despite this, Respondents in this case argue that this court should adopt the Board of Immigration Appeals' reasoning in *Matter of Yajure Hurtado*[3]—reasoning that has been rejected in nearly 300 district court decisions granting habeas relief like that which is sought here.[4] More specifically, the government argues that Petitioner—who entered the United States sometime in 2008 and did not receive a Notice to Appear until April 11, 2025—is an "applicant for admission" under 8 U.S.C. § 1225(a). Doc. 7 at 2, 8-9. Respondents further argue *Maldonado Bautista* does not apply because it is not "final." *Id.* at 15-17. Neither argument has merit. For the reasons described in the Petition (Doc. 1) and below, Petitioner is detained under 8 U.S.C. § 1226(a) and this court should reject the

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1 *See Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025).

2 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (emphasis added).

3 *Matter of Yajure Hurtado*, 29 I&N Dec. 215 (BIA 2025).

4 *See* Appendix, *infra*, current as of Nov. 17, 2025.

assertion that *Maldonado Bautista* lacks preclusive effect and enforce Petitioner's right as a member of the Bond Eligible Class.

ARGUMENT

I. The Government's "Plain Text" Argument Is Wrong

A. The Government Ignores the Definition of "Admission," Which Only Applies to Noncitizens Seeking to Enter the Country

Respondents claim that Petitioner is subject to mandatory detention under the "plain text" of 8 U.S.C. § 1225. Doc. 7 at 8. This argument rests on a syllogism. The government states that every noncitizen who is present without admission is subject to mandatory detention because, under 1225(a)(1), every such person must be deemed to be an "applicant for admission." *Id.* at 8-9 ("applicant[s] for admission" are subject to mandatory detention while in removal proceedings under 1225(b)(2)(A)).[5]

The government is mistaken for a simple reason: being an "applicant for admission" is necessary but not sufficient for a noncitizen to be subject to 1225(b)(2)(A). A noncitizen is subject to mandatory detention under 1225(b)(2)(A) only if he is (1) an "applicant for admission," (2) "seeking admission," *and* (3) not "clearly and beyond a doubt entitled to be admitted." *Id.* While all noncitizens who enter the country without admission may satisfy the first condition, they do not necessarily satisfy the second.

Meanwhile, Congress defined "admission" as "the lawful *entry* of the alien *into* the

[5] This position raises an obvious question: "if Congress's intention was so clear, why did it take thirty years to notice?" *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827 at *29 (D. Mass. Aug. 19, 2025). The assertion is also undermined by its concession in at least one other case that noncitizens in Petitioner's position would have been eligible for bond prior to July 8—the date on which ICE "revisited" its legal position. *Zumba v. Bondi*, No. 25-14626, 2025 WL 2753496 at *11 (D.N.J. Sept. 26, 2025).

United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A) (emphasis added). "[A] definition which declares what a term 'means' excludes any meaning that is not stated." *Colautti v. Franklin*, 439 U.S. 379, 392 n. 10 (1979). Accordingly, "the phrase 'seeking admission' means that one must be actively 'seeking' 'lawful entry.'" *Lepe v. Andrews*, 2025 WL 2716910 at *10 (E.D. Cal. Sept. 23, 2025) (citation omitted). "Construing section 1225(b)(2) to apply to noncitizens already residing in the country would read the word 'entry' out of the definitions of 'admitted' and 'admission.'" *Chafla v. Scott*, No. 25-437, 2025 WL 2688541 at *19 (D. Maine Sept. 21, 2025) (citing § 1101(a)(13)(A)). "By contrast, § 1226(a) sets forth 'the default rule' for detaining and removing aliens 'already present in the United States.'" *Quispe-Ardiles v. Noem*, No. 25-1382, 2025 WL 2783800 at *12 (E.D. Va. Sept. 30, 2025).

Respondents' claim further contradicts long-standing BIA case law. In *Matter of Y-N-P-*, 26 I&N Dec. 10, 12-13 (BIA 2012), the Board held that a noncitizen who was present without admission was not "applying for admission" for purposes of a waiver because "being an 'applicant for admission' under [§] 235(a)(1) is distinguishable from 'applying . . . for admission'" to the U.S. Neither does it mean a noncitizen is "seeking admission" under 1225(b)(2)(A). *Torres v. Barr*, 976 F.3d 918, 929 (9th Cir. 2020) (en banc).

The government also cites a report from the House Judiciary Committee for the proposition that Congress intended to replace certain aspects of the pre-IIRIRA framework, under which "illegal aliens who entered the United States without inspection gained equities and privileges in immigration proceedings unavailable to aliens who presented themselves for inspection at a port of entry." Doc. 7 at 3-4 (citing H.R. Rep. 104-469, pt.

1, at 225). But simply because Congress wished to replace certain aspects of the entry doctrine does not mean it intended to replace *all* aspects of the doctrine. Further, the actual Conference Report twice stated that 1225 would only apply to "aliens arriving" and that the newly enacted "[1226(a)] restates the current provisions . . . regarding the authority of the Attorney General to arrest, detain, and release on bond an alien *who is not lawfully in the United States*." H.R. Conf. Rep. No. 104-828 at 208, 209, 210 (1996).

Notably, whereas Petitioner cited dozens of district court decisions that have rejected the government's position, the government cites only two that have accepted it. [6] But those decisions are manifestly unpersuasive. In *Vargas Lopez v. Trump*, No. 25-562, 2025 WL 2780351 (D. Neb. Sept. 30, 2025), the court stated that 1225(b)(2)(A) and 1226 overlap like a "Venn diagram," that some noncitizens fall under both sections, and that DHS can choose in such cases whether to detain under 1225(b)(2) or 1226(a).

The court's reasoning does not withstand scrutiny. Congress provided that those subject to 1225(b)(2)(A) "shall be detained" during removal proceedings, while those subject to 1226(a) "may [be] release[d]." Thus, the government has repeatedly conceded that 1225(b)(2)(A) and 1226 are "mutually exclusive." *J.U. v. Maldonado*, No. 25-4836, 2025 WL 2772765 at *11-12 (E.D.N.Y. Sept. 29, 2025); *Lopez Benitez v. Francis*, No. 25-5937, 2025 WL 2267803 at *10 (S.D.N.Y. Aug. 8, 2025).

Meanwhile, in *Chavez v. Noem*, No. 3:25-cv- 02325-CAB, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), the court relied on an overreading of legislative history, stating that

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[6] Dozens more federal judges have since joined the list of those who have rejected the government's position.

prior to the enactment of 1225(a)(1), "an 'anomaly' existed 'whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully.'" *Id.* at *12 (quoting *Torres v. Barr*, 976 F.3d at 918). The court thus believed that Congress enacted 1225(a)(1) to ensure "'that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA—in the position of an 'applicant for admission.'" *Id.*

In truth, far from being designed to subject all noncitizens who are present without admission to mandatory detention, section 1225(a)(1) was enacted for a far more mundane purpose—namely, that Congress was merely trying to fill a potential gap in the INA created by *Matter of Badalamenti*, 19 I. & N. Dec. 623 (BIA 1988). There, the Board held that a noncitizen who had been paroled into the U.S. for criminal prosecution, but who was acquitted of all charges, could not be considered an "applicant for admission"—and thus not subject to the grounds of inadmissibility—until he had been given a reasonable period of time to voluntarily leave the country. *Id.* at 625-27.

According to then-General Counsel of the former Immigration and Naturalization Service, Congress was concerned that *Matter of Badalamenti* could allow noncitizens who entered the country without inspection to defeat charges of inadmissibility.[7] Specifically, authorities worried that such noncitizens would not be regarded as "applicants for admission"—and would thus remain immune from detention and placement in removal

[7] David Martin, *A Defense of Immigration-Enforcement Discretion: The Legal and Policy Flaws in Kris Kobach's Latest Crusade*, 122 Yale L.J. Online 167, 176-77 (2012).

proceedings—unless and until they were given a reasonable time to depart the country. Congress enacted section 1225(a)(1) to foreclose this argument.

Finally, although the government relies on *Jennings v. Rodriguez*, the Supreme Court's analysis undercuts its position. *Jennings* made clear that sections 1225 and 1226 govern the detention of two distinct and mutually exclusive classes of noncitizens: those who were "apprehended trying to enter the country," and those "who are already present inside the country." *Id.* at 285. The Court explained that 1225 applies "at the Nation's borders and ports of entry," while 1226 applies to those "inside the United States."[8] *Id.* at 287-88. The government's belief that 1225(b)(2)(A) applies to noncitizens who have already effected an entry into the United States thus conflicts with *Jennings* itself, along with *Clark v. Martinez*, 543 U.S. 371, 373 (2005), which similarly described 1225(b)(2)(A) as applying to "alien[s] *arriving* in the United States."

B. The Government's Argument Renders Superfluous Multiple Provisions of 8 U.S.C. § 1226(c), Including the Key Provision of the Laken Riley Act

Even if section 1225(b)(2)(A) was not clear on its face, the government's argument would still be wrong because it renders multiple provisions of 1226(c) superfluous. Section 1226(c) sets forth various categories of noncitizens who are subject to mandatory detention while in removal proceedings for having engaged in criminal or terrorist activity. Thus, if it was "correct that § 1225(b)'s mandatory detention provisions apply to all persons who

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[8] During oral argument in *Jennings*, the Solicitor General confirmed that noncitizens who previously entered the country without inspection and had been living in the United States are subject to detention under § 1226, not § 1225. *Jennings v. Rodriguez*, 583 U.S. 281 (2018), Transcript of Oral Argument (No. 15-1204), p.8.

have not been admitted into the United States, that would render superfluous those provisions of § 1226 that apply to certain categories of inadmissible aliens." *Hasan v. Crawford,* 2025 WL 268225 at *22 (E.D. Va. Sept. 19, 2025). *See also Quispe-Ardiles*, 2025 WL 2783800 at *16 ("If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless."). [9]

C. Granting Bond Hearings to Noncitizen Who are Present Without Admission Would Not Reward Them for Entering the Country Unlawfully

Finally, and contrary to what the BIA suggested in *Matter of Yajure Hurtado*, accepting Petitioner's argument would not "reward[]" noncitizens for entering without admission by bestowing upon them a right to a bond hearing that is unavailable to noncitizens who present themselves at a port of entry. 29 I&N Dec. at 228.

First, the BIA's assertion ignores the distinct constitutional implications of requiring mandatory detention for noncitizens who seek admission at a port of entry versus those who are present without admission. The Supreme Court has (in)famously held that noncitizens who seek admission at a port of entry can be indefinitely detained precisely because they have no Due Process rights. *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 215-16 (1953). By contrast, once a noncitizen "enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or

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[9] Section 1226(c)(1)(E) was enacted earlier this year in the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3, and applies to noncitizens who entered the country without admission and were thereafter charged with, arrested for, convicted of, or admitted committing various offenses. Tellingly, the government's opposition makes no mention of the Laken Riley Act.

permanent." *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).

Second, the BIA's assertion ignores the distinction the AG herself drew when she promulgated the regulations described above. If Congress truly believed these regulations were *ultra vires*, lawmakers could have amended the INA to explicitly require detention of noncitizens who are present without admission during removal proceedings.

Finally, the BIA's assertion implies that adopting Petitioner's position would somehow make noncitizens who are present without admission better off than they were before the enactment of the IIRIRA. In truth, noncitizens who were present without admission had been eligible for bond for at least four decades prior to IIRIRA. Thus, the question is not whether Congress intended to "reward" noncitizens for entering without admission, but whether Congress intended to entirely eliminate the right to a bond hearing for every noncitizen who entered without admission, regardless of their equities.

As Judge Lanza recently put it, the government's argument is "directed to the wrong branch of government—[a] Court's role is simply to interpret the relevant statutory provisions." *Echevarria v. Bondi*, No. 25-3252, 2025 WL 2821282 at *29 (D. Ariz. Oct. 3, 2025). "The place to make new legislation, or address unwanted consequences of old legislation, lies in Congress." *Bostock v. Clayton County*, 590 U.S. 644, 680-81 (2020). Accordingly, if Congress wishes to preclude immigration judges from granting bond to all noncitizens who entered without admission, it can amend the INA.

II. Petitioner is Entitled to Relief Under Maldonado Bautista

On November 20, 2025, the U.S. District Court for the Central District of California granted partial summary judgment on behalf of individual plaintiffs and on November 25,

2025, extended declaratory judgment to a certified class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the country without admission or inspection. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (granting partial summary judgment to named Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (certifying Petitioner's proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Nov. 20, 2025).

The court granted declaratory relief to the entire class, holding that the government is unlawfully subjecting them to mandatory detention and that class members are eligible for release on bond under INA § 1226(a). *Maldonado Bautista*, 2025 WL 3289861, at *11. Thus, under the court's order, class members should be able to request a bond hearing in immigration court before an immigration judge (IJ) who must consider whether they are suitable for release on bond while their removal proceedings are pending.

Now, Respondents argue that they are not bound by the judgement in *Maldonado* because it lacks "preclusive effect." Doc. 7 at 15-16. This interpretation is incorrect.

A. Petitioner is a Class Member

In its decision, the district court certified the following Bond Eligible Class:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista, 2025 WL 3288403, at *9. Under this definition, there are two groups of people who have claims to relief including, as relevant here, those who entered the U.S., were not apprehended at or near the border or close in time to their entry, and who were later arrested by immigration authorities. Petitioner is undeniably a member of this group.

B. *Maldonado Bautista* Has Preclusive Effect

Contrary to Respondents' argument, declaratory judgments like the one in *Maldonado Bautista* have "the same effect as an injunction in fixing the parties' legal entitlements." *Florida ex rel. Bondi v. U.S. Dep't of Health & Hum. Servs.*, 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011). This understanding of declaratory judgments is consistent with the decisions of many courts. *See, e.g.*, *Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) ("[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court."), *abrogated on other grounds by*, *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 688 (2024); *Smith v. Reagan*, 844 F.2d 195, 200 (4th Cir. 1988) (describing declaratory relief as "the functional equivalent of a writ of mandamus"); *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18, 20 (D.D.C. 1998) ("The government's decision to appeal this Court's ruling does not affect the validity of the declaratory judgment unless and until the judgment is reversed on appeal or the government seeks and is granted a stay pending appeal."), *rev'd on other grounds*, 184 F.3d 900 (D.C. Cir. 1999).

Here, Respondents argue that Maldonado Bautista is not binding because it is not "final." Doc. 7 at 16-17. This argument is wrong and is at odds with the *Maldonado Bautista* court's orders. The confusion stems from the fact the district court granted a partial summary judgment, as Plaintiffs did not move for summary judgment on all of their claims (e.g., their due process claim and APA claims relating to arbitrary and capricious action and rulemaking). As such, those claims remain pending, which is why the district court scheduled a status conference to determine how to address them. Under Federal Rules of Civil Procedure 54(b), a court may nonetheless order a final judgment even if it has not yet resolved all claims. In this case, the Court initially declined to do so in granting summary judgment because the Court had not yet ruled on the motion for class certification. This does not change the fact that the Court has granted summary judgment in the form of declaratory relief on behalf of the class and all parties remain bound by that order unless it is stayed, overturned on appeal, or the district court modifies the order.

III. Petitioner is Entitled to Relief In Any Event

Finally, even assuming arguendo that Petitioner is not entitled to relief as a class member under *Maldonado Bautista*, the analysis supporting the almost 300 court decisions granting relief in similar cases demonstrates that he is entitled to a bond hearing under section 1226(a).

CONCLUSION

For the reasons stated herein and in Petitioner's Petition for Writ of Habeas Corpus (Doc. 1), this court should enter judgment in his favor.

DATED this 10th day of December, 2025.

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