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9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 Ariana Monserrat Quintanilla-Simons,

13 Petitioner,

14 v.

15 Unknown Party, et al.,

16 Respondents.

No. 2:25-cv-04440-DJH--ASB

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

17 Respondents Chris Howard, Acting Warden, Eloy Detention Center; Christopher
18 McGregor, Acting Phoenix Field Office Director, U.S. Immigration and Customs
19 Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”); and Pamela Bondi,
20 United States Attorney General (“Respondents”), by and through undersigned counsel,
21 hereby respond in opposition to the Petition for Writ of Habeas Corpus (Doc. 1).

22 **I. INTRODUCTION**

23 Before 1996, the federal immigration laws required the detention of aliens who
24 presented at a port of entry but allowed aliens who were already unlawfully present in the
25 United States to obtain release pending removal proceedings. Congress passed the Illegal
26 Immigration Reform and Immigration Responsibility Act (“IIRIRA”) specifically to stop
27 conferring greater privileges and benefits on aliens who enter the United States unlawfully
28 as compared to those who lawfully present themselves for inspection at a port of entry.

1 As relevant here, Congress enacted what is now 8 U.S.C. § 1225, which requires the
2 detention of any alien “who is an applicant for admission” and defines that term to
3 encompass any “alien present in the United States who has not been admitted” following
4 inspection by immigration authorities. 8 U.S.C. § 1225(a), (b)(2)(A). The statute makes no
5 exception for how far into the country the alien traveled or how long the alien managed to
6 evade detection. Unless the Secretary exercises the narrow and discretionary parole
7 authority, mandatory detention is the rule for aliens who have never been lawfully admitted.

8 II. STATUTORY FRAMEWORK

9 A. The pre-IIRIRA framework gave preferential treatment to aliens 10 unlawfully present in the United States.

11 The Immigration and Nationality Act (“INA”), as amended, contains a
12 comprehensive framework governing the regulation of aliens, including the creation of
13 proceedings for the removal of aliens unlawfully in the United States and requirements for
14 when the Executive is obligated to detain aliens pending removal.

15 Prior to 1996, the INA treated aliens differently based on whether the alien had
16 physically “entered” the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-
17 223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); see *Hing Sum v. Holder*, 602
18 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). “Entry” referred to “any coming of an alien
19 into the United States,” 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically
20 entered the United States (or not) “dictated what type of [removal] proceeding applied” and
21 whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at
22 1099.

23 At the time, the INA “provided for two types of removal proceedings: deportation
24 hearing and exclusion hearings.” *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc).
25 An alien who arrived at a port of entry would be placed in “exclusion proceedings and
26 subject to mandatory detention, with potential release solely by means of a grant of parole.”
27 *Hurtado*, 29 I. & N. Dec. at 223; see 8 U.S.C. § 1225(a)-(b) (1995); *id.* § 1226(a) (1995). In
28 contrast, an alien who physically entered the United States unlawfully would be placed in
deportation proceedings. *Id.*; *Hing Sum*, 602 F.3d at 1100. Aliens in deportation

1 proceedings, unlike those in exclusion proceedings, “were entitled to request release on
2 bond.” *Hurtado*, 29 I. & N. Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)).

3 Thus, the INA’s prior framework distinguishing between aliens based on physical
4 “entry” had

5 the ‘unintended and undesirable consequence’ of having created a statutory
6 scheme where aliens who entered without inspection ‘could take advantage of
7 the greater procedural and substantive rights afforded in deportation
8 proceedings,’ *including the right to request release on bond*, while aliens who
9 had ‘actually presented themselves to authorities for inspection ... were
10 subject to mandatory custody.

11 *Hurtado*, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att’y Gen. of U.S.*,
12 693 F.3d 408, 413 n.5 (3d Cir. 2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); H.R.
13 Rep. No. 104-469, pt. 1, at 225 (1996) (“House Rep.”) (“illegal aliens who have entered the
14 United States without inspection gain equities and privileges in immigration proceedings
15 that are not available to aliens who present themselves for inspection”).

16 **B. IIRIRA eliminated the preferential treatment of aliens unlawfully present
17 in the United States and mandated detention of all “applicants for
18 admission.”**

19 Congress discarded that regime through enactment of IIRIRA, Pub. L. 104-208, 110
20 Stat. 3009 (Sept. 30, 1996). Among other things, that law had the goal of “ensur[ing] that
21 all immigrants who have not been lawfully admitted, regardless of their legal presence in
22 the country, are placed on equal footing in removal proceedings under the INA.” *Torres v.*
23 *Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc).

24 To that end, IIRIRA replaced the prior focus on physical “entry” and instead made
25 lawful “admission” the governing touchstone. IIRIRA defined “admission” to mean “the
26 *lawful* entry of the alien into the United States after inspection and authorization by an
27 immigration officer.” 8 U.S.C. § 1101(a)(13)(A) (emphasis added). In other words, the
28 immigration laws would no longer distinguish aliens based on whether they had managed
to evade detection and enter the country without permission. Instead, the “pivotal factor in
determining an alien’s status” would be “whether or not the alien has been *lawfully*
admitted.” House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100

1 (similar). IIRIRA also eliminated the exclusion-deportation dichotomy and consolidated
2 both sets of proceedings into “removal proceedings.” *Hurtado*, 29 I. & N. Dec. at 223.

3 IIRIRA effected these changes through several provisions codified in Section 1225
4 of Title 8:

5 **Section 1225(a):** Section 1225(a) codifies Congress’s decision to make lawful
6 “admission,” rather than physical entry, the touchstone. That provision states that an alien
7 “present in the United States who has not been admitted or who arrives in the United States”
8 “shall be deemed ... an applicant for admission”:

9 An alien present in the United States who has not been admitted or who arrives
10 in the United States (whether or not at a designated port of arrival and
11 including an alien who is brought to the United States after having been
interdicted in international or United States waters) shall be deemed for
purposes of this chapter an applicant for admission.

12 8 U.S.C. § 1225(a)(1) (emphasis added). “All aliens ... who are applicants for admission or
13 otherwise seeking admission or readmission to or transit through the United States” are
14 required to “be inspected by [an] immigration officer[.]” *Id.* § 1225(a)(3). The inspection by
15 the immigration officer is designed to determine whether the alien may be lawfully
16 “admitted” to the country or, instead, must be referred to removal proceedings.

17 **Section 1225(b):** IIRIRA also divided removal proceedings into two tracks—
18 expedited removal and non-expedited “Section 240” proceedings—and mandated that
19 applicants for admission be detained pending those proceedings. 8 U.S.C. §§ 1225(b)(1)-
20 (2).

21 Section 1225(b)(1) provides for so-called “expedited removal proceedings,” *Dep’t of*
22 *Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020), which can potentially be
23 applied to a subset of aliens—those who (1) are “arriving in the United States,” or who (2)
24 have “not been admitted or paroled into the United States” and have “not affirmatively
25 shown, to the satisfaction of an immigration officer, that the alien has been physically
26 present in the United States continuously for the 2-year period immediately prior to the date
27 of the determination of inadmissibility.” 8 U.S.C. § 1225(b)(1)(A)(i)-(iii). As to these aliens,
28 the immigration officer shall “order the alien removed from the United States without further

1 hearing or review unless the alien indicates either an intention to apply for asylum ... or a
2 fear of persecution.” *Id.* § 1225(b)(1)(A)(i). In that event, the alien “shall be detained
3 pending a final determination of credible fear or persecution and, if found not to have such
4 fear, until removed.” *Id.* § 1225(b)(1)(B)(iii)(IV); *see also* 8 C.F.R. § 235.5(b)(4)(ii). An
5 alien processed for expedited removal who does not indicate an intent to apply for a form
6 of relief from removal is likewise detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i),
7 (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(iii).

8 Section 1225(b)(2) is a “catchall provision that applies to all applicants for admission
9 not covered by [subsection (b)(1)].” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). It
10 requires that those aliens be detained pending Section 240 removal proceedings:

11 Subject to subparagraphs (B) and (C), in the case of an alien who is an
12 applicant for admission, if the examining immigration officer determines that
13 an alien seeking admission is not clearly and beyond a doubt entitled to be
14 admitted, the alien *shall be detained* for a proceeding under section 1229a of
15 this title [Section 240].

16 8 U.S.C. § 1225(b)(2)(A) (emphasis added).¹ *See* 8 C.F.R. § 235.3(b)(1)(ii) (mirroring
17 Section 1225(b)(2) detention mandate); *Jennings*, 583 U.S. at 302 (holding that Section
18 1225(b)(2) “mandate[s] detention of aliens throughout the completion of applicable
19 proceedings and not just at the moment those proceedings begin”).

20 While Section 1225(b)(2) does not allow for aliens to be released on bond, the INA
21 grants DHS discretion to exercise its parole authority to temporarily release an applicant for
22 admission, but “only on a case-by-case basis for urgent humanitarian reasons or significant
23 public benefit.” 8 U.S.C. § 1182(d)(5)(A). Parole, however, “shall not be regarded as
24 admission of the alien.” *Id.*; *Jennings*, 583 U.S. at 288 (discussing parole authority).
25 Moreover, when the Secretary determines that “the purposes of such parole ... been served,”
26 the “alien shall ... be returned to the custody from which he was paroled” and be “dealt with

27 ¹ Subsection (b)(2) does not apply to (1) aliens subject to expedited removal, (2) crewmen,
28 (3) stowaways, or (4) aliens who “arriv[e] on land (whether or not at a designated port of
arrival) from a foreign territory contiguous to the United States.” 8 U.S.C. § 1225(b)(2)(B)-
(C).

1 in the same manner as that of any other applicant for admission to the United States.” 8
2 U.S.C. § 1182(d)(5)(A).

3 **Section 1226:** IIRIRA also created a separate authority addressing the arrest,
4 detention, and release of aliens generally (versus applicants for admission specifically). *See*
5 8 U.S.C. § 1226. This is the only provision that governs the detention of aliens who, for
6 example, lawfully enter the country but overstay or otherwise violate the terms of their visas,
7 or are later determined to have been improperly admitted. The statute provides that “[o]n a
8 warrant issued by the Attorney General, an alien may be arrested and detained pending a
9 decision on whether the alien is to be removed from the United States.” *Id.* § 1226(a).
10 Detention under this provision is generally discretionary: The Attorney General “may”
11 either “continue to detain the arrested alien” or release the alien on bond or conditional
12 parole. *Id.* § 1226(a)(1)-(2).²

13 That “default rule,” however, does not apply to certain criminal aliens who are being
14 released from detention by another law enforcement agency. *Jennings*, 583 U.S. at 288; *see*
15 8 U.S.C. § 1226(c). Section 1226(c) provides that “[t]he Attorney General shall take into
16 custody” certain classes of criminal aliens—those who are inadmissible or deportable
17 because the alien (1) “committed” certain offenses delineated in 8 U.S.C. §§ 1182 and 1227;
18 or (2) engaged in terrorism-related activities. 8 U.S.C. § 1226(c)(1). The Executive must
19 detain these aliens “when the alien is released, without regard to whether the alien is released
20 on parole, supervised release, or probation, and without regard to whether the alien may be
21 arrested or imprisoned again for the same offense.” *Id.*

22 Congress recently amended Section 1226(c) through the Laken Riley Act, Pub. L.
23 No. 119-1, § 2, 139 Stat. 3, 3, (2025), which requires detention of (and prohibits parole for)
24 aliens who (1) are inadmissible because they are physically present in the United States
25 without admission or parole, have committed a material misrepresentation or fraud, or lack
26 required documentation; and (2) are “charged with, arrested for, [] convicted of, admit[]

27 _____
28 ² Conditional parole under Section 1226(a) is broader than parole under Section
1182(d)(5)(A).

1 having committed, or admit[] committing acts which constitute the essential elements of”
2 certain listed offenses. 8 U.S.C. § 1226(c)(1)(E).

3 **III. FACTUAL BACKGROUND**

4 Petitioner is a citizen of Nicaragua. Doc. 1 at ¶ 18. According to Petitioner, she
5 entered the United States in August 2022, and at some point thereafter was issued a Notice
6 to Appear charging her with being inadmissible as an alien present without inspection and
7 was released on an order of recognizance. Doc. 1 at ¶¶ 44, 45. Petitioner was arrested by
8 ICE on October 30, 2025. Doc. 1 at ¶ 46. Petitioner requested a bond redetermination
9 hearing before an immigration judge, who determined that she lacked jurisdiction to set
10 bond under *Matter of Yajure Hurtado*. Doc. 1 at ¶¶ 51, 52.

11 **IV. ARGUMENT**

12 **A. Under the plain text of § 1225, Petitioner must be detained pending the 13 outcome of his removal proceedings.**

14 The Court should reject Petitioner’s argument that § 1226(a) governs his detention
15 instead of § 1225. When there is “an irreconcilable conflict in two legal provisions,” then
16 “the specific governs over the general.” *Karczewski v. DCH Mission Valley LLC*, 862 F.3d
17 1006, 1015 (9th Cir. 2017). Section 1226(a) applies to aliens “arrested and detained pending
18 a decision” on removal. 8 U.S.C. § 1226(a). In contrast, § 1225 is narrower. *See* 8 U.S.C.
19 § 1225. It applies only to “applicants for admission”; that is, as relevant here, aliens present
20 in the United States who have not be admitted. *Id.*; *see also Fla. v. United States*, 660 F.
21 Supp. 3d 1239, 1275 (N.D. Fla. 2023), *appeal dismissed*, No. 23-11528, 2023 WL 5212561
22 (11th Cir. July 11, 2023). Because Petitioner falls within that category, the specific detention
23 authority under § 1225 governs over the general authority found at § 1226(a).

24 Under 8 U.S.C. § 1225(a), an “applicant for admission” is defined as an “alien present
25 in the United States who has not been admitted or who arrives in the United States.”
26 Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and
27 those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section 1225(b)(2)—the
28 provision relevant here—is the “broader” of the two. *Id.* It “serves as a catchall provision
that applies to all applicants for admission not covered by § 1225(b)(1) (with specific

1 exceptions not relevant here.” *Id.* And section 1225(b)(2) mandates detention. *Id.* at 297;
2 *see also* 8 U.S.C. § 1225(b)(2); *Matter of Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) (“[A]n
3 applicant for admission who is arrested and detained without a warrant while arriving in the
4 United States, whether or not at a port of entry, and subsequently placed in removal
5 proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible
6 for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).”).
7 Section 1225(b) therefore applies because Petitioner is present in the United States without
8 being admitted.

9 The BIA has long recognized that “many people who are not *actually* requesting
10 permission to enter the United States in the ordinary sense are nevertheless deemed to be
11 ‘seeking admission’ under the immigration laws.” *Matter of Lemus-Losa*, 25 I. & N. Dec.
12 734, 743 (BIA 2012). Statutory language “is known by the company it keeps.” *Marquez-*
13 *Reyes v. Garland*, 36 F.4th 1195, 1202 (9th Cir. 2022) (quoting *McDonnell v. United States*,
14 579 U.S. 550, 569 (2016)). The phrase “seeking admission” in § 1225(b)(2)(A) must be read
15 in the context of the definition of “applicant for admission” in § 1225(a)(1). Applicants for
16 admission are both those individuals present without admission and those who arrive in the
17 United States. *See* 8 U.S.C. § 1225(a)(1). Both are understood to be “seeking admission”
18 under §1225(a)(1). *See Lemus-Losa*, 25 I. & N. Dec. at 743. Congress made that clear in
19 § 1225(a)(3), which requires all aliens “who are applicants for admission or otherwise
20 seeking admission” to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word
21 “or” here “introduce[s] an appositive—a word or phrase that is synonymous with what
22 precedes it (‘Vienna or Wien,’ ‘Batman or the Caped Crusader’).” *United States v. Woods*,
571 U.S. 31, 45 (2013).

23 One of the most basic interpretative canons instructs that a “statute should be
24 construed so that effect is given to all its provisions.” *See Corley v. United States*, 556 U.S.
25 303, 314 (2009) (cleaned up). The court’s decision in *Florida v. United States* is instructive
26 here. The district court held that 8 U.S.C. § 1225(b) mandates detention of applicants for
27 admission throughout removal proceedings, rejecting the assertion that DHS has discretion
28 to choose to detain an applicant for admission under either section 1225(b) or 1226(a). 660

1 F. Supp. 3d at 1275. The court held that such discretion “would render mandatory detention
2 under § 1225(b) meaningless. Indeed, the 1996 expansion of § 1225(b) to include illegal
3 border crossers would make little sense if DHS retained discretion to apply § 1225(a) and
4 release illegal border crossers whenever the agency saw fit.” *Id.* The court pointed to *Demore*
5 *v. Kim*, 538 U.S. 510, 518 (2003), in which the Supreme Court explained that “wholesale
6 failure” by the federal government motivated the 1996 amendments to the INA. *Florida*, 660
7 F. Supp. 3d at 1275. The court also relied on, *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G.
8 2019), in which the Attorney General explained “section [1225] (under which detention is
9 mandatory) and section [1226(a)] (under which detention is permissive) can be reconciled
10 only if they apply to different classes of aliens.” *Florida*, 660 F. Supp. 3d at 1275. Petitioner,
11 present in the United States without being admitted, is an applicant for admission and is
12 therefore subject to mandatory detention without bond under 8 U.S.C. § 1225(b).

13 **B. Congress did not intend to treat individuals who unlawfully enter the**
14 **United States better than those who appear at a port of entry.**

15 When the plain text of a statute is clear, “that meaning is controlling” and courts “need
16 not examine legislative history.” *Washington v. Chimei Innolux Corp.*, 659 F.3d 842, 848
17 (9th Cir. 2011). But to the extent legislative history is relevant here, nothing “refutes the
18 plain language” of § 1225. *Suzlon Energy Ltd. v. Microsoft Corp.*, 671 F.3d 726, 730 (9th
19 Cir. 2011). Congress passed IIRIRA to correct “an anomaly whereby immigrants who were
20 attempting to lawfully enter the United States were in a worse position than persons who had
21 crossed the border unlawfully.” *Torres*, 976 F.3d at 928. The Court should reject the
22 Petitioner’s interpretation because it would put aliens who “crossed the border unlawfully”
23 in a better position than those “who present themselves for inspection at a port of entry.” *Id.*
24 Aliens who presented at port of entry would be subject to mandatory detention under § 1225,
25 but those who crossed illegally would be eligible for a bond under § 1226(a).

26 The Board of Immigration Appeals recognized this issue in *Matter of Yajure Hurtado*.
27 In its decision, the BIA affirmed “the Immigration Judge’s determination that he did not have
28 authority over [a] bond request because aliens who are present in the United States without
admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8

1 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.”
2 29 I. & N. Dec. at 220. The BIA concluded that aliens “who surreptitiously cross into the
3 United States remain applicants for admission until and unless they are lawfully inspected
4 and admitted by an immigration officer. Remaining in the United States for a lengthy period
5 of time following entry without inspection, by itself, does not constitute an ‘admission.’” *Id.*
6 at 228. To hold otherwise would lead to an “incongruous result” that rewards aliens who
7 unlawfully enter the United States without inspection and subsequently evade apprehension
8 for number of years. *Id.*

9 In so concluding, the BIA rejected the alien’s argument that “because he has been
10 residing in the interior of the United States for almost 3 years . . . he cannot be considered as
11 ‘seeking admission.’” *Id.* at 221. The BIA determined that this argument “is not supported
12 by the plain language of the INA” and creates a “legal conundrum.” *Id.* If the alien “is not
13 admitted to the United States (as he admits) but he is not ‘seeking admission’ (as he
14 contends), then what is his legal status?” *Id.* (parentheticals in original). The BIA’s decision
15 in *Matter of Yajure Hurtado* is consistent not only with the plain language of 8 U.S.C.
16 § 1225(b)(2), but also with the Supreme Court’s 2018 decision in *Jennings* and other caselaw
17 issued subsequent to *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that
18 8 U.S.C. § 1225(b) applies to all applicants for admission, noting that the language of 8
19 U.S.C. § 1225(b)(2) is “quite clear” and “unequivocally mandate[s]” detention. 583 U.S. at
20 300, 303 (explaining that “the word ‘shall’ usually connotes a requirement” (quoting
Kingdomware Technologies, Inc. v. United States, 579 U.S. 162, 171 (2016))).

21 Similarly, relying on *Jennings* and the plain language of 8 U.S.C. §§ 1225 and
22 1226(a), the Attorney General, in *Matter of M-S-*, unequivocally recognized that 8 U.S.C.
23 §§ 1225 and 1226(a) do not overlap but describe “different classes of aliens.” 27 I. & N. Dec.
24 at 516. The Attorney General also held—in an analogous context—that aliens present
25 without admission and placed into expedited removal proceedings are detained under 8
26 U.S.C. § 1225 even if later placed in 8 U.S.C. § 1229a removal proceedings. *Id.* at 518-19.
27 In *Matter of Li*, the BIA held that an alien who illegally crossed into the United States and
28 was apprehended without a warrant while arriving is detained under 8 U.S.C. § 1225(b). 29

1 I. & N. Dec. at 71. This ongoing evolution of the law makes clear that all applicants for
2 admission are subject to detention under 8 U.S.C. § 1225(b). *Cf. Niz-Chavez v. Garland*, 593
3 U.S. 155, 171 (2021) (providing that “no amount of policy-talk can overcome a plain
4 statutory command”); *see generally Florida*, 660 F. Supp. 3d at 1275 (explaining that “the
5 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if
6 DHS retained discretion to apply § 1226(a) and release illegal border crossers whenever the
7 agency saw fit”). *Florida’s* conclusion “that § 1225(b)’s ‘shall be detained’ means what it
8 says and . . . is a mandatory requirement . . . flows directly from *Jennings*.” *Florida*, 660 F.
9 Supp. 3d at 1273.

10 **C. The Court should not follow the decision in *Echevarria*.**

11 Respondents are aware of this Court’s prior decision rejecting Respondents’ position,
12 *see Echevarria v. Bondi*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct.
13 3, 2025), but respectfully maintain that Petitioner falls within the definition of an “arriving
14 alien” warranting mandatory detention as the removal process unfolds. Respondents also
15 respectfully maintain that an alien is an “applicant for admission” until an immigration
16 official has inspected that person and determined that he or she is admissible into the United
17 States.³

18 In *Echevarria*, this Court determined that the phrase “alien seeking admission” in 8
19 U.S.C. § 1225(b)(2)(A) implies a present-tense nature to the desire for admission, such that
20 an alien who is already present in the United States cannot be “seeking admission”:

21 The word “seeking” is the present participle of the verb “seek.” It thus has a
22 temporal element—Petitioner must have been in the process of seeking
23 admission at the time of the inspection.

24 It is hard to see how Petitioner could be deemed to have been “seeking”
25 admission at the time of the encounter on July 2, 2025. By that point,
26 Petitioner had already been present in the United States for 24 years, having
27 arrived and entered in 2001. Moreover, under Respondents’ interpretation of
28 § 1225(a)(1), Petitioner became an “applicant for admission” in 2001, upon

³ Respondents notify the Court of the Government’s affirmative appeal in *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir. Oct. 29, 2025), which addresses this issue. The Government’s opening brief in that case is due on December 21, 2025.

1 his arrival and entry. Implicit in Respondents' position, then, is that
2 Petitioner somehow existed in a perpetual state of "seeking" admission
3 during the 24-year period between when he first became an "applicant for
admission" in 2001, by virtue of his entry into the country, and when he was
encountered and inspected by an immigration officer in 2025.

4 *Echevarria*, 2025 WL 2821282, at *6 (internal citations omitted).

5 However, this analysis fails to consider other pieces of statutory context. Respondents
6 respectfully argue that the phrase "applicants for admission" carves out a subset of those who
7 are "seeking admission." For example, elsewhere in section 1225, the statute says that "[a]ll
8 aliens who are applicants for admission *or otherwise seeking admission* or readmission to or
9 transit through the United States shall be inspected by immigration officers." 8 U.S.C.
10 § 1225(a)(3) (emphasis added). In other words, 8 U.S.C. § 1225(a)(3) shows that an alien
11 may be "seeking admission" either by being an "applicant for admission," or in some
12 different way. As discussed earlier, the phrase "applicant for admission" unambiguously
13 includes aliens who have already entered the United States. "In all but the most unusual
14 situations, a single use of a statutory phrase must have a fixed meaning." *See Cochise*
15 *Consultancy, Inc. v. United States ex rel. Hunt*, 587 U.S. 262, 268 (2019) (referring to *Ratzlaf*
16 *v. United States*, 510 U.S. 135, 143 (1994)). "We therefore avoid interpretations that would
17 'attribute different meanings to the same phrase.'" *Id.* (quoting *Reno v. Bossier Par. Sch.*
18 *Bd.*, 528 U. S. 320, 329 (2000)). Thus, the *Echevarria* decision is not supported by the text
19 of the statute, and Respondents respectfully request the Court reach a different result in this
20 case.

21 Furthermore, Respondents direct the Court's attention to a decision issued on
22 September 30, 2025, in the United States District Court for the District of Nebraska: *Vargas*
23 *Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025). In that case,
24 the court denied a similar habeas petition brought by an alien who entered the United States
25 in 2013, and held that the petitioner was properly detained under § 1225(b)(2) as an alien
26 within the "catchall" scope of § 1225(b)(2) subject to detention without possibility of release
27 on bond through § 1229a removal proceedings. 2025 WL 2780351, at *6-9. The court noted
28 that illegally remaining in the country for years did not mean the petitioner, who "wish[ed]

1 to stay in this country,” was suddenly not an “applicant for admission.” *Id.* at *9.
2 Additionally, “even if Vargas Lopez might fall within the scope of § 1226(a), he certainly
3 fits within the language of § 1225(b)(2) as well.” *Id.*

4 The *Vargas Lopez* decision also noted the “overlapping relationship between
5 § 1225(b) and § 1226(a) is not only consistent with the plain language of the two provisions
6 but consistent with the interpretation of the two provisions under *Jennings*.” *Id.* The court
7 determined that § 1226 does not contain language limiting its application “to aliens already
8 present in the United States.” *Id.* (comparing *Jennings*’ statements that United States
9 immigration law “authorizes the Government to detain certain aliens already in the country
10 pending the outcome of removal proceedings under §§ 1226(a) and (c)[,]” and that “§ 1226
11 applies to aliens already present in the United States[,]” 583 U.S. at 289 (first quote) and 303
12 (second quote), with 8 U.S.C. § 1226(a) (containing no reference to aliens “present” or
13 “already present” in the United States) and 8 U.S.C. § 1226(c) (containing no reference to
14 “criminal aliens” “present” or “already present” in the United States). The court determined
15 that “references to ‘aliens’ in § 1226 must be read to mean ‘alien[s] present in the United
16 States who ha[ve] not been admitted’ within the meaning of § 1225(a)(1) and within at least
17 the ‘catchall provision that applies to all applicants for admission not covered by
18 § 1225(b)(1) in § 1225(b)(2).” 2025 WL2780351, at * 9 (citing *Jennings*, 583 U.S. at 287).

19 The Southern District of California also denied a temporary restraining order sought
20 by an alien who was detained under § 1225(b)(2) despite having been surreptitiously present
21 in the United States for years. *See Chavez v. Noem*, --F. Supp. 3d --, No. 3:25-cv-02325-
22 CAB, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), *appeal docketed sub nom. Sixtos Chavez*
23 *v. Noem*, No. 25-7077 (9th Cir. Nov. 7, 2025). The court noted, among other arguments, that
24 “Section 1225(a)(1) expressly defines that ‘[a]n alien present in the United States who has
25 not been admitted . . . shall be deemed for purposes of this Act *an applicant for admission*.”
26 *Id.* at *4 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in original). The court reasoned that,
27 “Petitioners do not contest that they are ‘alien[s] present in the United States who ha[ve]not
28 been admitted.’ By the plain language of § 1225(a)(1), then, Petitioners are ‘applicants for
admission’ and thus subject to the mandatory detention provisions of ‘applicants for

1 admission' under § 1225(b)(2)." *Id.* (cleaned up). *See also Rojas v. Olson*, No. 25-CV-1437-
2 BHL, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Sandoval v. Acuna*, No. 6:25-CV-01467,
3 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Oliveira v. Patterson*, No. 6:25-CV-01463,
4 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 1:25-CV-00168-
5 JMD, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, 1:25-cv-
6 00177 (N.D. Tex. 2025); *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D.
7 Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-AJR, 2025 WL
8 3199872 (C.D. Cal. Nov. 12, 2025); *Alonzo v. Noem*, No. 1:25-CV-01519 WBS SCR, 2025
9 WL 3208284 (E.D. Cal. Nov. 17, 2025); *Valencia v. Chestnut*, -- F. Supp. 3d --, No. 1:25-
10 cv-01550 WBS JDP, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025).

11 **D. The *Maldonado Bautista* decision does not have preclusive effect.**

12 On November 20, 2025, Judge Sunshine Sykes of the United States District Court
13 for the Central District of California granted partial summary judgment in favor of the four
14 individual petitioners in the *Maldonado Bautista* case finding that the "Interim Guidance
15 Regarding Detention Authority for Applicants for Admission" instituted by the Department
16 of Homeland Security on July 8, 2025, was unlawful, but declining to enter final judgment.
17 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, -- F. Supp. 3d --, 2025
18 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (the "Partial MSJ Ruling") ("Consistent
19 with the discussion above, Petitioners' Motion for Partial Summary Judgment is
20 GRANTED. The Court further DENIES Petitioners' Request to enter final judgment."
(internal citations to docket omitted) (emphasis removed)).

21 On November 25, 2025, Judge Sykes certified a class in the *Maldonado Bautista* case
22 entitled "Bond Eligible Class" which is defined as "[a]ll noncitizens in the United States
23 without lawful status who (1) have entered or will enter the United States without inspection;
24 (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject
25 to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department
26 of Homeland Security makes an initial custody determination." *Maldonado Bautista v.*
27 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, -- F.R.D. --, 2025 WL 3288403, at *9 (C.D. Cal.
28 Nov. 25, 2025) (the "Class Certification Ruling").

1 Neither the Partial MSJ Ruling nor the Class Certification Ruling entered declaratory
2 judgment as to the nationwide class or otherwise provided for class-wide relief. *See* 2025
3 WL 3289861, at * 11 (granting motion for partial summary judgment but expressly not
4 ordering any relief) and 2025 WL 3288403, at *9-10 (granting motion for class certification
5 but ordering only that class be certified, Petitioners be appointed class representatives,
6 Petitioners' counsel be appointed class counsel, ordering a joint status report and setting
7 status conference). In the Partial MSJ Ruling, the court also expressly declined to enter final
8 judgment as to the claims at issue in the motion under Federal Rule of Civil Procedure 54(b).
9 2025 WL 3289861, at * 11. Rather, in the Class Certification Order, the court set a January
10 9, 2026, joint status report deadline and January 16, 2026, status conference indicating that
11 the court intends to address the question of final relief at a later date. 2025 WL 3288403, at
12 *10.

13 To be proper, a declaratory judgment must have preclusive effect. "Without
14 preclusive effect, a declaratory judgment is little more than an advisory opinion." *Haaland*
15 *v. Brackeen*, 599 U.S. 255, 293 (2023); *see also Wells v. Johnson*, 150 F.4th 289, 301 (4th
16 Cir. 2025) (stating that the only reason a proper declaratory judgment does not violate
17 Article III's requirements is because it has preclusive effect between the parties).
18 *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 (9th Cir. 2005). And preclusive
19 effect cannot be obtained without sufficient finality. *B & B Hardware, Inc. v. Hargis Indus.,*
20 *Inc.*, 575 U.S. 138, 148 (2015) (citing Restatement (Second) of Judgments § 27, p. 250
21 (1980), for the general rule that an issue must be determined by a "valid and final judgment"
22 for preclusion to apply); *Luben Indus., Inc. v. United States*, 707 F.2d 1037, 1040 (9th Cir.
23 1983) (affirming district court decision not to apply preclusive effect to an interlocutory
24 decision that "could not have been the subject of an appeal at the time"); Restatement
25 (Second) of Judgments § 28, p. 273 (1980) (issue preclusion does not apply when the "party
26 against whom preclusion is sought could not, as a matter of law, have obtained review of
27 the judgment in the initial action"; *id.* at cmt. a ("[T]he availability of review for the
28 correction of errors has become critical to the application of preclusion doctrine.")).

1 Absent an entry of final judgment on the entire case, or a certification of partial final
2 judgment under Rule 54(b), there is no declaratory judgment. The Partial MSJ Ruling does
3 not operate as a “judgment” because it is not an appealable order and “does not end the
4 action as to any of the claims or parties and may be revised at any time before the entry of
5 a judgment adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ.
6 P. 54(a), (b). Thus, there is no class-wide judgment, let alone any final judgment that could
7 have preclusive effect as to class members. In short, there is currently no declaratory relief,
8 let alone relief with preclusive effect on the *Maldonado Bautista* class members’ claims
9 concerning the proper interpretation of 8 U.S.C. § 1225(b)(2)(A)’s mandatory detention
10 provision.⁴

11 V. CONCLUSION

12 In light of the above, Respondents respectfully request the Court deny Petitioner’s
13 Petition for Writ of Habeas Corpus. If the Court grants the Petition, the Court should order
14 that Petitioner be given a bond hearing by the Immigration Court, not direct Petitioner’s
15 immediate release from immigration detention.

16 Respectfully submitted this 9th day of December, 2025.

17 TIMOTHY COURCHAINE
18 United States Attorney
19 District of Arizona

20 ⁴ Respondents note that because the class certified in *Maldonado Bautista* was certified
21 pursuant to Fed. R. Civ. P. 23(b)(2), it is a non-opt out class, Petitioner will be entitled to
22 and bound by the relief the *Maldonado Bautista* court ultimately grants, and that this parallel
23 action seeking the same relief sought in the *Maldonado Bautista* class action is subject to
24 dismissal. *See, e.g., Crawford v. Bell*, 599 F.2d 890, 892-93 (9th Cir. 1979) (holding that a
25 district court may dismiss “those portions of [the] complaint which duplicate the [class
26 action’s] allegations and prayer for relief”); *McNeil v. Guthrie*, 945 F.2d 1163, 1165-66
27 (10th Cir. 1991) (finding that individual suits for injunctive and declaratory relief cannot be
28 brought where a class action with the same claims exists); *Gillespie v. Crawford*, 858 F.2d
1101, 1103 (5th Cir. 1988) (once a class action has been certified, “[s]eparate individual
suits may not be maintained for equitable relief”); *Goff v. Menke*, 672 F.2d 702, 704 (8th
Cir. 1982) (“If a class member cannot relitigate issues raised in a class action after it has
been resolved, a class member should not be able to prosecute a separate equitable action
once his or her class has been certified”).

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s/ Katherine R. Branch
KATHERINE R. BRANCH
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Attorneys for Respondents