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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

Jose Vidal HERRERA-NARANJO, Petitioner, – against – Bryan UHLS, Warden of the Joe Corley Processing Center; Bret Bradford, Director of the Houston Field Office of Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General, Respondents.	No. 25-cv-5756 (CE)

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Jose Vidal Herrera-Naranjo ("Petitioner") seeks a writ of habeas corpus. *See* Dkt. No. 1. Respondents (hereinafter the "Government") oppose relief. *See* Dkt. No. 7. On December 10, 2025, this Court held a hearing and requested further briefing on the statutory and constitutional issues in this case. This Court addressed similar questions in *Montoya Cabanas v. Bondi*, No. 25 Civ. 4830 (CE), 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025),[1] and that decision serves as the lodestar for Petitioner's instant reply.

[1] *See also Maceda Jimenez v. Thompson*, No. 25 Civ. 5026 (CE), 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025) ("adopted [] in its entirety" the reasoning in *Montoya Cabanas*).

I. Regarding the statutory question in this case, Petitioner respectfully invites this Court to reconsider its decision in *Montoya Cabanas*.

Like *Montoya Cabanas*, this case turns (at least as to the second count) on whether Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2), which is mandatory, or section 1226(a), which is permissive. Section 1226(a) is the default provision, providing generally that "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). By contrast, section 1225(b)(2) is more limited, applying only "in the case of an alien who is [1] an applicant for admission, if the examining immigration officer determines that an alien [2] seeking admission is [3] not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2).

Petitioner satisfies the first and third conditions precedent to application of section 1225(b)(2): although not the *ordinary* meaning of the term, Petitioner falls within the *statutory* definition of "applicant for admission," because the statute states that "[a]n alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1) ("Aliens treated as applicants for admission").[2] In *Montoya Cabanas*, this Court determined that "applicant for admission" was synonymous with "alien seeking admission," such that the statute did not actually enumerate three requirements, but instead listed only two, albeit listing one of them twice. 2025 WL 3171331, at *5 ("[T]here is 'no material disjunction—by the terms of the statute or the English language—between the concept of

[2] "When a statute includes an explicit definition, [courts] must follow that definition, even if it varies from a term's ordinary meaning." *Montoya Cabanas*, 2025 WL 3171331, at *4 (quoting *Digital Realty Trust, Inc. v. Somers*, 583 U.S. 149, 160 (2018)). Congress acknowledged that the definition deviated from ordinary meaning—the statute does not say that aliens present without admission "are" applicants for admission, but only that they are "treated as" or "deemed to be . . . for purposes of" the INA.

applying for something and seeking something.'" (quoting *Garibay-Robledo v. Noem*, No. 25 Civ. 177 (JWH), 2025 WL 3264478, at *4 (N.D. Tex. Oct. 24, 2025))).

Should the Court adhere to its analysis in *Montoya Cabanas*, Petitioner's statutory claim—count two of the Petition—cannot succeed. We respectfully request that this Court reevaluate its reasoning in that decision, on the following bases.

First, this Court's textual analysis rests on a false syllogism. It is true, as this Court explained, that "applying for something and seeking something" ordinarily mean the same thing as a simple question of English usage. *Id.* And indeed, judges adopting the majority view (that 1225(b)(2) contains three distinct requirements) have recognized the "oddity" in distinguishing between the terms. *J.G.O. v. Francis*, 25 Civ. 7233 (AS), 2025 WL 3040142, at *3 (S.D.N.Y. Oct. 28, 2025). But "[t]his oddity is explained by the statutory definition." *Id.* If *A* and *B* have the same *ordinary* meaning, and the statute provides a specialized definition for *A* that diverges from that ordinary meaning, it does not follow that *B shouldn't* carry its ordinary meaning. "Without a statutory definition," we rely on "the phrase's plain meaning at the time of enactment." *Tanzin v. Tanvir*, 592 U.S. 43, 48 (2020). And "seeking admission" is an undefined statutory term, which *must* carry its ordinary meaning even if the ordinary meaning of the related term "applicant for admission" has been displaced by a statutory definition.

Second, recent developments lend additional support to Petitioner's position. In *Montoya Cabanas*, this Court "recognized that a great many decisions in the district courts agree with the position of Petitioner." 2025 WL 3171331, at *5. At the time of that writing, the Court was aware of "thirty" such decisions. *Id.* Towards the end of last month, however, Judge Kaplan of the Southern District of New York conducted a comprehensive survey of case law, and announced the results of that survey as follows:

> By a recent count, the central issue in this case – the administration's new position that *all* noncitizens who came into the United States illegally, but since have been living in the United States, *must be detained* until their removal proceedings are completed – has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States.

Barco Mercado v. Francis, No. 25 Civ. 6582 (LAK), 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (emphasis in original). We do not wish to place quantity before quality, and it undoubtedly "remains incumbent upon [this] [C]ourt[] to [] make [its] own, independent assessment." *Montoya Cabanas*, 2025 WL 3171331, at *5. But we would respectfully submit that "the overwhelming, lopsided majority" support for Petitioner's position might give this Court occasion to reconsider its prior ruling on the question. *Barco Mercado*, *supra*.

Third and finally, we would respectfully push back on this Court's analysis regarding the surplusage problem posed by the Laken Riley Act.

In *Montoya Cabanas*, this Court noted that "'[w]hen Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect,'" but determined that "at the time of enactment, the Laken Riley Act *did* have such effect, given that it *required* mandatory detention for criminal, inadmissible aliens who had not been subject to it—under either § 1225 or § 1226—by longstanding practice of prior Administrations." 2025 WL 3171331, at *6 (quoting *Peavy v WFAA-TV, Inc.*, 221 F.3d 158, 169 (5th Cir. 2000)) (emphasis in original).

But this would appear to be a resort to legislative intent, which this Court's decision elsewhere correctly eschews. *Id.* at *5 ("[L]egislative history certainly cannot provide reason to depart from clear statutory text."). We can all agree that in passing the Laken Riley Act, members of Congress sought to detain more, rather than fewer, aliens. But that isn't the question here. The question is whether Petitioner's or the Government's construction of section 1225(b)(2) "fits most

logically and comfortably into the body of both previously *and subsequently enacted* law." *W. Va. Univ. Hosp. v. Casey*, 499 U.S. 83, 100 (1991) (emphasis added).

The Laken Riley Act provides for mandatory detention, under 1226(c), of any alien who "is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a)" *and* "is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person." 8 U.S.C. § 1226(c)(1)(E). The cross-referenced paragraphs include, respectively, (1) aliens who sneak into the United States, (2) aliens who lack the proper documents to be admitted into the United States (or whose entry documents were issued in error), and (3) aliens who commit fraud in an attempt to enter the United States. Under the Government's reading, virtually all of the aliens we've just described would be subject to section 1225(b)(2), and the Laken Riley Act would essentially be limited in application to aliens who have previously secured admission by fraud or mistake. That doesn't make the Laken Riley Act completely redundant, but it comes awfully *close*. And it is extremely difficult to argue that such a reading of 1225(b)(2) fits "most . . . comfortably" alongside the Laken Riley Act. *W. Va. Univ. Hosp., supra.*

Moreover, harmonizing section 1225(b)(2) with the Laken Riley Act amendments does not entail that we "rewrite or eviscerate [that] portion of the statute contrary to its text." *Montoya Cabanas*, 2025 WL 3171331, at *6 (quoting *Barton v. Burr*, 590 U.S. 222, 239 (2020)). To the contrary, Petitioner's reading simply ensures that these two distinct detention statutes *remain* distinct, and that each one stays in what the Supreme Court has told us is its proper place: 1225

applies to "aliens seeking admission into the country," and 1226 to "aliens already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).[3]

II. As to the constitutional issues, this case is distinguishable from *Montoya Cabanas*.

Even if Petitioner's statutory argument fails, this Court should nevertheless grant habeas on constitutional grounds, as set forth in count one. We begin by comparing the nature of the claimed constitutional violations in *Montoya Cabanas* and here.

The immigration detention addressed by this Court in *Montoya Cabanas* began in the following manner: the petitioner "and her husband were detained by ICE after a traffic stop . . . . [at which she] admitted to ICE Enforcement and Removal Operations that she unlawfully entered the United States, that she did not possess or present any valid entry documents, and that she was not admitted or paroled into the United States." 2025 WL 3171331, at *1. The petitioner in *Cabanas* had "no prior encounters with immigration officials" up to that point. *Id.* As a result, other than arguing her detention without bond under section 1225 violated due process, "[n]o other briefing of a constitutional dimension appear[ed] in her [] filings." *Id.* at 6.[4]

Petitioner's case arises following a very different set of circumstances, which we respectfully submit serve to distinguish it from *Montoya Cabanas*:

> On August 5, 2025, he appeared for an individual hearing before a New York City IJ, prepared to testify in support of his applications for relief. When the IJ called a brief recess in order to locate a suitable interpreter, Petitioner took the opportunity

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[3] This language was probably dicta. But Supreme Court dicta is a valuable analytical aid. *Cf., e.g.*, *Najera v. United States*, 926 F.3d 140, 144 & n.2 (5th Cir. 2019) (relying on jurisdictional analysis in *Jennings* despite the fact that it was arguably dicta, in a plurality opinion).

[4] The petitioner in *Maceda Jimenez* similarly presented no specific constitutional claims separate and apart from the section 1225, bond-hearing-deprivation issue. *See* 2025 WL 3265493, at *1 ("The related claim by Petitioner for violation of his right to due process in the main repeats similar argument as to the relevant and applicable statute to apply. That has been resolved above. But he further contends that detention is unjustified in light of the twin goals of immigration detention, being the prevention of flight and the mitigation of danger to the community. Said differently, he appears to contend that continued detention without a bond hearing would itself violate substantive due process." (citations omitted)).

> to go to the restroom. As he walked through the hallway outside of the immigration courtroom, he was seized by a team of masked ICE agents.

Dkt. No. 1 at ¶ 17. Unlike Montoya Cabanas, Petitioner had prior contact with immigration authorities—he was quite literally in the midst of an immigration court hearing when ICE decided to detain him. As noted previously, "*every* court to weigh the constitutionality of ICE's notorious 'hallway' arrests has found that they at least probably violated due process." *Id.* at ¶ 22 (citing *Hernandez v. Wofford*, No. 25 Civ. 986 (KES), 2025 WL 2420390 (E.D. Cal. Aug. 21, 2025) (granting temporary restraining order), 2025 WL 2624226 (E.D. Cal. Sep. 10, 2025) (preliminary injunction); *Cordero Pelico v. Kaiser*, No. 25 Civ. 7286 (EMC), 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025); *Gonzalez v. Joyce*, No. 25 Civ. 8250 (AT), 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025); *Patel v. Almodovar*, No. 25 Civ. 15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025); *Francois v. Wamsley*, No. 25 Civ. 2122 (RSM), 2025 WL 3063251 (W.D. Wash. Nov. 3, 2025); *Diallo v. Maldonado*, No. 25 Civ. 5740 (DG), 2025 WL 3158295 (E.D.N.Y. Nov. 12, 2025); *Orozco Acosta*, No. 25 Civ. 9601 (HSG), 2025 WL 3229097 (N.D. Cal. Nov. 19, 2025)).

Unlike prior cases to come before this Court, Petitioner's constitutional claim is not about the mere fact of detention without bond—it is about detention which is unlawful because it affirmatively defeats the Government's own stated justifications for pursuing it. As a matter of constitutional first principles, immigration detention is a "valid aspect of the deportation process," *Demore v. Kim*, 538 U.S. 510, 523 (2003), but it exists for essentially two reasons only: "ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (cleaned up). We submit that the detention of a noncriminal alien simply cannot be squared with these twin purposes when the direct, immediate effect of said detention is *preventing* the alien's continued attendance at an immigration proceeding. Put another way, all three *Mathews* factors point to this detention

violating due process, because even the Government's *own* best interest lay in allowing Petitioner to remain in attendance at the immigration court hearing where his potential removal from the United States was already being addressed.

Moreover, prior to his detention, Petitioner had been granted employment authorization four times by DHS, which permitted him to work in the United States for a total period of eleven years, pending the outcome of his asylum proceedings. The fact that "USCIS granted [Petitioner] [eleven] years of work authorization . . . entirely undermines any assertion that []he presents a public safety risk." *Rodriguez-Acurio v. Almodovar*, No. 25 Civ. 6065 (NJC), ___ F. Supp. 3d ___, 2025 WL 3314420, at *29 (E.D.N.Y. Nov. 28, 2025).

This also created a reliance interest on Petitioner's part, likening his case to those in the re-detention, as opposed to initial detention, context. "Prior to being detained without notice, Petitioner enjoyed all the privileges of a free man with the permission of the Government, and thus acquired a liberty interest under the Due Process Clause. He was able to do a 'wide range of things' available to persons who reside in this country. He was able to 'be gainfully employed and . . . [was] free to be with family and friends and to form the other enduring attachments of normal life.'" *Rojas Acevedo v. Almodovar*, No. 25 Civ. 7189 (LJL), 2025 WL 3034183, at *7 (S.D.N.Y. Oct. 30, 2025) (citations omitted) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)) (alterations in *Rojas Acevedo*); *see also Haitian Refugee Ctr. v. Smith*, 676 F.2d 1023, 1037 (5th Cir. 1982) (applying *Morrissey* in the immigration context). The grant of employment authorization—for eleven years, no less—surely gives rise to some meaningful liberty interest on the part of Petitioner. *See Rojas Acevedo*, 2025 WL 3034183, at *6 ("[A] non-admitted noncitizen is not precluded from seeking the protections of the Due Process Clause where they are granted limited status in the country by the Government and that status was revoked without notice. Put

differently, a noncitizen who is neither admitted nor denied, but who is granted permission to live in the United States, is protected by the Due Process Clause." (collecting cases)).

Conclusion

If this Court is inclined to revisit its decision in *Montoya Cabanas*, it should hold that the Government's interpretation of section 1225(b)(2) is inconsistent with the text and context of that provision. Even if the Court is not inclined to do so, Petitioner's arrest was manifestly unconstitutional. In either event, we respectfully request that the Court order the Government to release Petitioner immediately. *Cf. Munaf v. Geren*, 553 U.S. 674, 693 (2008) ("Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release." (citation omitted)).

Respectfully submitted,

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Kew Gardens, New York