SARAH L. VUONG
California Bar No. 258528
Blessinger Legal PLLC
7389 Route 29, Suite 320
Falls Church, VA 22042
Tel: (703) 738-4248
Fax: (703) 955-3356
svuong@blessingerlegal.com

Attorney for Petitioner

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MARIO ALDANA SOSA, Petitioner, vs. KRISTI NOEM, ET AL., Respondents.	Case No.: 25-cv-3396-CAB-JLB **REPLY IN SUPPORT OF HABEAS PETITION**

INTRODUCTION

For decades it has been universally understood that individuals like Mr. Aldana who have entered the United States, even unlawfully, are entitled to seek release on bond absent past criminal convictions that would subject them to mandatory detention. Yet on July 8, 2025, the government abruptly reversed the statutory interpretation it embraced for decades, choosing to interpret the Immigration and Nationality Act (INA) to mandate the detention of anyone who entered without inspection pending their removal, regardless of how long they have resided in this country. The Department of Homeland Security (DHS) took this position when it apprehended Mr. Aldana on November 7, 2025, more than twenty years after he arrived in the United States. Since that time, he has been held in custody without any opportunity to challenge his detention before a neutral arbiter.

ARGUMENT

I. Jurisdiction

At the threshold, the Court should reject Respondents' jurisdictional arguments and conclude that it does have jurisdiction in this case. *See* ECF No. 15 at 6-9.

First, 8 U.S.C. § 1252(g) does not strip jurisdiction here. Section 1252(g) bars courts from hearing "any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). Consistent with the plain statutory language, the Supreme Court has adopted a "narrow reading" of § 1252(g), holding that "the provision applies only to three discrete actions that the Attorney General may take: her 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" *Reno v. Am.-Arab Anti-Discrimination*, 525 U.S. 471, 482, 487 (1999) (emphasis in original). Mr. Aldana does not challenge or claim that the Government does not have the right to place him in removal proceedings. He does not claim that Respondents may not adjudicate his case. And he has no removal order to execute. Mr. Aldana merely challenges the Government's authority to detain him without the ability to seek release on bond pending those removal proceedings. *See Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (holding that § 1252(g) does not bar claims that challenge "detention while the administrative process lasts."); *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018); *Sandoval v. LaRose, et al.*, No. 25-CV-3408 JLS (VET), 2025 WL 3552748, at *2 (S.D. Cal. Dec. 10, 2025) ("Petitioner is enforcing his 'constitutional rights to due process in the context of the removal proceedings—not the legitimacy of the removal proceedings or any removal order.' Therefore, § 1252(g) does not strip the Court of jurisdiction.) (citations omitted). Furthermore, Respondents incorrectly rely upon *Herrera-Correra v. United States*, No. 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008), a factually distinct claim brought under the Federal Tort Claims Act, that does not otherwise

expand § 1252(g)'s narrow scope to apply to preclude review of detention for anyone who is being placed in removal proceedings. *See Hernandez Cruz v. Noem*, No. 8:25-CV-02566-SB-MAA, 2025 WL 3482630, at *1 n.1 (C.D. Cal. Dec. 2, 2025) (noting that the government's authorities, which include *Herrera-Correra*, "do not address whether a bond hearing is legally required, are inapposite.").

Second, Respondents' blanket assertion that § 1252(b)(9) bars this Court's review is meritless. Section 1252(b)(9) works in conjunction with 8 U.S.C. § 1252(a)(5) to channel review of "questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States" through a petition for review of a final order of removal filed with an appropriate court of appeals. 8 U.S.C. §§ 1252(a)(5), (b)(9); *see J.E.F.M. v. Lynch,* 837 F.3d 1026, 1031 (9th Cir. 2016) ("[W]hile [8 U.S.C. §§ 1252(a)(5), (b)(9)] limit how immigrants can challenge their removal proceedings, they are not jurisdiction-stripping statutes that, by their terms, foreclose all judicial review of agency actions. Instead, the provisions channel judicial review over final orders of removal to the courts of appeals"); *Aguilar v. U.S. Immigr. & Customs Enforcement*, 510 F.3d 1, 11 (1st Cir. 2007) (describing § 1252(b)(9) as "a judicial channeling provision, not a claim-barring one"). Mr. Aldana does not argue that he may not be detained, he simply argues that he cannot be detained without the bond hearing that due process and the INA require. *See Sandoval*, No. 25-CV-3408 JLS (VET), 2025 WL 3552748, at *3 ("Petitioner is not challenging [DHS'] decision to commence removal proceedings or to adjudicate removability. Petitioner is instead challenging his continued detention without a bond hearing as required under § 1226. Therefore, § 1252(b)(9) also does not strip the Court of jurisdiction."). As the Supreme Court recognized in *Jennings v. Rodriguez*, § 1252(b)(9) does not bar such claims. 583 U.S. 281, 292-94 (2018).

II. Mr. Aldana is Subject to Detention Under 8 U.S.C. § 1226(a), not § 1225(b)(2).

District Courts across the country, including in the Southern District of California, have almost universally concluded that noncitizens like Mr. Aldana, who have entered the United States without inspection and have continued residing in the United States for years after entry, are subject to detention under 8 U.S.C. § 1226(a), not mandatory detention under 8 U.S.C. § 1225(b)(2) as Respondents assert. *See, e.g. Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at *4 (S.D. Cal. Oct. 30, 2025) (compiling cases);*Pablo Sequen v. Albarran*, No. 25-CV-06487-PCP, 2025 WL 2935630, at *8 (N.D. Cal. Oct. 15, 2025); *see also Lopez Benitez v. Francis*, No. 25-cv-5937, -- F. Supp. 3d --, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Martinez v. Hyde*, No. 25-cv-11613, -- F. Supp. 3d --, 2025 WL 2084238 (D. Mass. July 24, 2025). And this Court has indicated that there is a "serious question going to the merits of the application of § 1225(b)(2) to Petitioners [such as Mr. Aldana]." *Cruz Vega v. Larose*, 2025 WL 3247778 (S.D. Cal. Nov. 20, 2025). The Court should also grant the petition in light of the declaratory judgment entered in a nationwide class action in the Central District of California on the issue. *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) (order granting partial summary judgment to named Plaintiffs-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) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). Respondents, however, ignore this overwhelming majority of cases, including *Maldonado Bautista*, and instead rely on the handful of cases supporting their position.

The plain text of the INA and Supreme Court precedent should compel this Court to reach

the conclusion in this case, as numerous other courts have held, that Section 1225 governs the detention and procedures available to individuals encountered at a port of entry or who are in the process of "arriving in the United States," 8 U.S.C. § 1225(b)(1)(A)(i), while § 1226 "'sets forth the default rule' for detaining and removing aliens 'already present in the United States." *Hasan v. Crawford*, 2025 WL 2682255, at *6 (E.D. Va. Sept. 19, 2025) (quoting *Jennings*, 538 U.S. at 303); *see Mendoza Gutierrez v. Baltasar*, 2025 WL 2962908, at *5 (D. Colo. Oct. 17, 2025) (stating that the "plain text, overall structure, and uniform case law interpreting" § 1225 and § 1226 "compels the conclusion that § 1225's provision for mandatory detention of noncitizens 'seeking admission' does not apply to someone like Mr. Gutierrez, who has been residing in the United States for more than two years") (cleaned up) (collecting citations).

Respondents would have the Court deviate from *Jennings* and the overwhelming weight of authority and conclude that 8 U.S.C. § 1225(b)(2) mandates the detention of *all* applicants for admission as defined at 8 U.S.C. § 1225(a)(1), notwithstanding the plain text limiting its scope to "applicant[s] for admission" who are "seeking admission" and who an inspecting immigration officer determined to be not clearly and beyond a doubt entitled to be admitted. *See Mendoza Gutierrez*, 2025 WL 2962908, at *6 (recognizing that § 1252(b)(2)(A) is "a catchall provision" that applies to noncitizens seeking admission who are not otherwise covered by § 1252(b)(1), but concluding that such "catch-all" status "does not mean that § 1225(b)(2) applies to all other noncitizens in the United States who have not been admitted."); *see also Lopez Benitez*, 2025 WL 2371588. "[T]he differences between § 1225 and § 1226 do not indicate the former should prevail over the latter—rather, they indicate that Congress intended for different classes of noncitizens to be subject to each provision, *i.e.*, mandatory versus discretionary detention." *Vasquez v. Feeley*, No. 25-cv-1542-RFB-EJY, 2025 WL 2676082, at *14 (D. Nev. Sept. 17, 2025). Indeed, the

statutory provisions are not irreconcilable such that one must prevail over the other; rather they are mutually exclusive such that a noncitizen must be subject to either one or the other. *See id.*; *see also Quispe v. Crawford*, 2025 WL 2783799, at *5 (E.D. Va. Sept. 29, 2025); *Hasan*, 2025 WL 2682255, at *8. The Court should avoid Respondents' implied invitation to second-guess the Supreme Court's understanding of the INA, where the Supreme Court's understanding has been the practice of the government for the past 30 years. *See Martinez v. Trump*, No. CV 25-1445, 2025 WL 3124847, at *2 (W.D. La. Oct. 22, 2025) ("[T]he Court is not going to say—effectively—that there is no difference between the two [statutes], when the Supreme Court has said that there is.").

And with respect to the statutory interpretation, the Court should reject Respondents' arguments that Congress intended the amendments in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") to include a legislative fix that would require § 1225(b)(2)(A) to apply broadly to everyone in the United States who has not been admitted. ECF No. 15 at 11. Critically, IIRIRA was a massive immigration reform effort changing the way immigration cases are considered and processed as a whole. *See Vartelas v. Holder*, 566 U.S. 257, 261-62 (2012) (discussing some of the changes made by IIRIRA). And as outlined in the petition, the legislative history relating to expedited removal and detention does not demonstrate that Congress intended for expedited removal to apply to *everyone* who did not enter the United States with a visa, irrespective of when they were encountered by immigration officials. *See* ECF No. 1 ¶ 36. Rather, Congress intended for "arriving alien" to be limited to individuals in the process of arriving in the United States or whom had very recently arrived. *Id.* Respondents also incorrectly rely on *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) to argue that any individual in the United States who has not been admitted, must be treated "as if stopped at the border." ECF

No. 15, at 11. *Thuraissigiam*, however, was case involving a petitioner was apprehended 25 yards into U.S. territory and placed into expedited removal proceedings under 8 U.S.C. § 1225(b)(1)(A)(i) and is not applicable to the facts int his case. Mr. Aldana is not on the threshold of initial entry; he has been living in the United States for years, and therefore, cannot be considered to be stopped at the border.

Respondents attempt to overcome the statutory requirements of section 1225(b)(2)(B) by arguing that because Mr. Aldana is in the United States unlawfully, then he must be seeking admission for a lawful status. ECF No. 15 at 13. But if this interpretation were correct, then "applicant for admission" would be the same as "seeking admission," and the statute would violate the rule against surplusage. *See id.*; *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("[N]o clause, sentence, or word shall be superfluous, void, or insignificant.") (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)). In considering the two phrases, an "applicant for admission" who is "seeking admission," Section 1225(b)(2)(A) clearly applies to those applying to enter into the United States. 8 U.S.C. § 1101(a)(4); *Quispe*, 2025 WL 2783799, at *5; *Zumba v. Bondi*, No. 25-cv-14626-KSH, 2025 WL 2753496, at *7-8 (D.N.J. Sept. 26, 2025). To read the statute as applying to all applicants for admission regardless of when and how the noncitizen was encountered both ignores the titles and headings of the sections, *see Zumba*, 2025 WL0 2753496, *8. As Respondents note, "[s]tatutory language 'is known by the company it keeps.'" ECF No. 15 at 13 (citing *Marquez-Reyes v. Garland*, 36 F.4th 1195, 1202 (9th Cir. 2022) (quoting *McDonnell v. United States*, 579 U.S. 550, 569 (2016)). Section 1225 is titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." Section 1226 is titled "Apprehension and detention of aliens." *See Zumba*, 2025 WL 2753496, *8 ("§ 1225 repeatedly

cabin[s] its application to "Inspections," which, as petitioner convincingly argues, occurs as ports of entry, their functional equivalent, or near the border.").

> "The added word of 'arriving' supports the notion that the statute governs 'arriving' noncitizens, not those present already. This is further reinforced by the text of the statute itself, which is focused on inspections for noncitizens when they arrive via 'crewman' or as 'stowaways.' 8 U.S.C. § 1225(b)(2)(B)(i)-(iii). This limited, and more specific methods of entry suggest that Section of 1225(b)(2) is limited to noncitizens arriving at a border or port and are presently 'seeking admission' into the United States. This reinforces the interpretation that Section 1225(b)(2) is more limited in scope than the United States asserts."

Edahi v. Lewis, No. 4:25-CV-129-RGJ, 2025 WL 3301053, at *7 (W.D. Ky. Nov. 26, 2025) (internal citations omitted). And as numerous courts have concluded, individuals like Mr. Aldana who have resided continuously in the United States for years cannot reasonably be described as "seeking admission." *See id.*; *Quispe*, 2025 WL 2783799, at *5; *Lopez Benitez*, 2025 WL 2371588, at *5 (holding that a noncitizen who has been residing in the United States for more than two years cannot be classified as an "alien seeking admission").

And Respondents' interpretation also would nullify recent amendments to the INA in the Laken Riley Act, now codified within 8 U.S.C. § 1226(c). *See Hasan*, 2025 WL 2682255, at *8. Among other things, the Laken Riley Act mandates detention for noncitizens who are subject to certain inadmissibility grounds *and* meet certain criminal criteria. 8 U.S.C. § 1226(c)(1)(E). Such a statute would be entirely redundant if a noncitizen's inadmissibility alone rendered him subject to mandatory detention under § 1225(b)(2)(A). *See id.*; *Pizzaro Reyes v. Raycraft*, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025); *Lopez Benitez*, 2025 WL 2371588, at *3. Courts should "not lightly assume Congress adopts two separate clauses in the same law to perform the same work." *Edahi*, 2025 WL 3301053, at *7 (quoting *United States v. Taylor*, 596 U.S. 845, 857 (2022)).

Without engaging with the sheer scope of authority ruling against Respondents in these cases throughout the country, Respondents reference *Chavez*, -- F. Supp. 3d, 2025 WL 2730228, this Court's decision on injunction relief, not a final ruling on the petition itself. Respondents, however, fail to acknowledge this Court's later ruling in *Cruz Vega*, 2025 WL 3247778 (granting a preliminary injunction because the petitioner demonstrated serious questions going to the merits of the case). This Court should follow the wealth of case law throughout the country as well as the decision in *Maldonado Bautista*, --- F. Supp. 3d ----, 2025 WL 3289861, at *11.

III. Mr. Aldana's Detention Violates His Constitutional Rights

Finally, Respondents do not materially engage with Mr. Aldana's constitutional claims and have thus waived any challenge to them. Notwithstanding this waiver, the Court should conclude that Mr. Aldana's detention violates his constitutional rights, as pled in Counts One and Two. Critically, the Supreme Court has stressed that once noncitizens "enter 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 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). Mr. Aldana has a liberty interest in being free from arbitrary detention. In order for Congress to detain an individual, even during removal proceedings, the infringement on liberty must be narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 301-02 (1993). Respondents have failed to argue, much less show how Section 1225(b)(2) as applied to Mr. Aldana, an individual who has lived in the United States for two decades, has no criminal record, and is a caring parent to two young United States Citizen children, meets this burden.

Mr. Aldana has also met the procedural due process standard under *Mathews v. Eldridge*,

424 U.S. 319, 333 (1976). First, the government is undeniably restricting his liberty and freedom from custody. Second, a bond hearing is the applicable safeguard to protect against erroneous deprivation of Mr. Aldana's liberty interest. Finally, the government has articulated no claim that Mr. Aldana is either a flight risk or a danger to the community warranting his continued detention. Thus, its interest is minimal at best. Accordingly, the Court must conclude that the government's claim that Mr. Aldana is subject to mandatory detention violates both his substantive and procedural due process rights. *Zadvydas*, 553 U.S. at 693.

CONCLUSION

For the foregoing reasons, the Court should determine that Mr. Aldana is detained under 8 U.S.C. § 1226(a) and order his release, or in the alternative, order a bond hearing under 8 U.S.C. § 1226(a). The Court should also order that Mr. Aldana cannot be re-detained unless he commits a criminal violation or does not attend any of his immigration court hearings.

Dated: December 12, 2025

Respectfully submitted,

/s/ Sarah L. Vuong

SARAH L. VUONG
California Bar No. 258528
Blessinger Legal PLLC
7389 Lee Highway, Suite 320
Falls Church, VA 22042
Tel: (703) 738-4248
Email: svuong@blessingerlegal.com

CERTIFICATE OF SERVICE

I hereby certify that on 12/12/2025, I filed the foregoing Reply with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all parties.

/s/ Sarah L. Vuong

SARAH L. VUONG
California Bar No. 258528
Blessinger Legal PLLC
7389 Route 29, Suite 320
Falls Church, VA 22042
(703) 738-4248
svuong@blessingerlegal.com