UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RICARDO URDANETA SUAREZ, Petitioner, v. KRISTI NOEM, *et al.*, Respondents.	§ § § § § § § § § §	Civil Action No. 4:25-CV-05795

THE FEDERAL RESPONDENTS' MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS

Respectfully submitted,

NICHOLAS J. GANJEI
UNITED STATES ATTORNEY

Shawn D. Ren, Attorney-in-Charge
Assistant United States Attorney
Southern District No. 3892202
Texas Bar No. 24132873
1000 Louisiana, Suite 2300
Houston, Texas 77002
Tel: (713) 567-9569
Fax: (713) 718-3300
E-mail: shawn.ren@usdoj.gov

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I. INTRODUCTION AND SUMMARY OF THE ARGUMENT

Respondents Kristi Noem, Todd Lyons, Marcos Charles, Bret A. Bradford, and Pamela Bondi (hereinafter, the "Federal Respondents")[1] hereby respond to Petitioner Ricardo Urdaneta Suarez's habeas petition and request that the Court deny his petition under 28 U.S.C. § 2241 and grant summary judgment for the Government under Federal Rule of Civil Procedure 56. The Federal Respondents acknowledge the elephant in the room—that this Court has previously held that aliens like Petitioner fall under the discretionary detention provision of Section 1226(a), not Section 1225(b)(2)(A), and thus are entitled to a bond hearing. Nevertheless, the Government would urge this Court to

Suarez is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), based on the statute's plain language and structure, the history of the Immigration and Nationality Act (INA), the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and persuasive decisions from other district courts, including multiple in the Fifth Circuit alone. *See, e.g., Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (Eskridge, J.); *Garibay-Robledo v. Noem*, No. 1:25-CV-00177, -- F.Supp.3d --, 2025 WL 3264482 (N.D. Tex. Sept. 15, 2025) (Hendrix, J.); *Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.); *Topal v. Bondi*, No. 1:25-CV-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (Doughty, J.). Accordingly, this Court should deny the habeas petition and grant summary judgment for the Government.

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[1] The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also id.* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the Federal Respondents, not the named warden in this case, who makes the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code. Therefore, while the named warden is the proper party in form, the Federal Respondents respond herein as the real party in interest.

II. BACKGROUND

As Petitioner Ricardo Urdaneta Suarez himself admits, he is not a U.S. citizen and entered the country without inspection from Venezuela in 2021. Dkt. No. 1 ¶ 50. By his account, he was initially served with a notice to appear which was dismissed in 2022 and served with another in 2023, which is currently active, and he is currently in removal proceedings. *Id.* ¶¶ 50–51. He submits that in November 2025, he was taken into ICE custody following an immigration check-in. *Id.* ¶ 52. In the NTA, the examining immigration official denied Petitioner admission into the United States, explained the basis for charging Petitioner with being subject to removal, and ordered Petitioner to appear in immigration court. Dkt. No. 1-2.

Petitioner currently remains in detention through the pendency of his removal proceedings.

III. ARGUMENT

Prior to addressing the merits,[2] the Government acknowledges that this Court has previously rejected its arguments concerning the applicability of § 1225(b)(2)(A). However, the Government, with this motion, requests a reconsideration of that prior ruling. *See Camreta v. Greene*, 563 U.S. 692, 701 n.7, 131 S.Ct. 2020, 179 L.Ed.2d 1118 (2011) ("A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case."). Petitioner brings

[2] As noted in the Federal Respondents' unopposed motion for extension of time, counsel for Petitioner had previously emailed counsel for the Government raising an issue regarding his client's Temporary Protected Status. That argument is not in his pleadings, and upon renewed inquiry, Petitioner does not intend to assert the argument at this time and has indicated that this case should be decided on the pleadings already before the Court.

three causes of action: the primary statutory INA claim, a claim of violation of bond regulations, and due process. The Government addresses each in turn.

A. COUNT I: MANDATORY DETENTION UNDER 8 U.S.C. § 1225.

Petitioner's habeas petition should be denied because he falls under the plain language of the mandatory detention provisions in 8 U.S.C. § 1225. Here, Petitioner admits that he is an alien present in the United States who entered the country unlawfully without having been admitted or paroled. Dkt. No. 1 ¶ 6. As discussed below, an alien "present in the United States who has not been admitted," is by definition "an applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that "the alien shall be detained" in the case of "an alien seeking admission" who "is not clearly and beyond a doubt entitled to be admitted" (emphasis added)).

1. The Plain Language and Statutory Structure of the INA

"As usual, we start with the statutory text." *Restaurant Law Center v. U.S. Dep't of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

> in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an "applicant for admission", then they are subject to mandatory detention. The INA defines "applicant for admission" as "an alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). Here, Petitioner was not previously admitted into the United States, and the Petitioner is therefore subject to mandatory detention and is not eligible for a bond. *See, e.g., Cabanas*, 2025 WL 3171331.

The only way to escape this clear text, which some courts have incorrectly endorsed, is the notion that despite being applicants for admission, such aliens are not "seeking admission." *See* 8 U.S.C. § 1225(a)(1) ("[I]n the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that an alien *seeking admission* . . . "). For many reasons, this reasoning is misguided.

a. The two terms are synonymous.

The text states that "in the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that an alien *seeking admission* . . . " These two phrases are uttered in the same breath and nothing textual nor contextual indicates that "seeking admission" is somehow a distinct concept. *See, e.g.*, *Garibay-Robledo v. Noem*, No. 1:25-CV-00177, -- F.Supp.3d --, 2025 WL 3264482 (N.D. Tex. Sept. 15, 2025) (Hendrix, J.) ("Insofar as the term 'applicant for admission' is more passive than 'seeking admission,' this is inherent in the nature of agent nouns and their corresponding gerunds."); *Olalde v. Noem*, No. 1:25-CV-00168, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025) (rejecting this "hair-splitting parsing of the statute's text [which] contradicts the ordinary meaning" and "makes no sense"); *Rojas v. Olson*, No. 25-CV-1437, 2025 WL 3033967, at *8 (E.D. Wis. Oct. 30, 2025) (rejecting this purported distinction as "pack[ing] a lot of meaning into what appears to be an alternate phrasing"); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) ("'[A]pplicant' and 'seeker' are, indeed, accepted synonyms." (citing multiple dictionaries)).

Even as a colloquial matter, this distinction "makes no sense." *Olalde*, 2025 WL 3131942 at *3. Indeed, it would be bafflingly illogical to construe a statute to begin a sentence

by defining the subject ("in the case of an alien who is an applicant for admission") only to switch to a new subject ("an alien seeking admission") right after having defined the subject.[3] From an ordinary language perspective, there is no distinction.

b. The term "or otherwise" confirms the ordinary meaning.

The terms are confirmed to be linked, as the same section of the INA refers to all aliens "who are applicants for admission *or otherwise seeking admission.*" 8 U.S.C. § 1225(a)(3) (emphasis added). The "or otherwise" signifies two points. First, it highlights that the INA considers "applicants for admission" to be a *subset* of "seeking admission." *See, e.g., Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963–64 (11th Cir. 2016) (en banc) ("or otherwise" means "the first action is a subset of the second action"). This language informs that at most, not all aliens "seeking admission" are necessarily "applicants for admission," but all "applicants for admission" are necessarily "seeking admission."[4] And as Petitioner cannot contest, he is an applicant for admission. And second, the word "or" here "introduce[s] an appositive—a word or phrase that is synonymous with what precedes it ('Vienna or Wien,' 'Batman or the Caped Crusader')." *United States v. Woods*, 571 U.S. 31, 45, 134 S.Ct. 557, 187 L.Ed.2d 472 (2013). For both these reasons, "seeking admission" cannot be a distinct concept.

[3] If a statute read, "In the case of a fisherman, if the person fishing does not properly bait their hook . . . ," surely one would not think that the provision discussed two distinct groups of people.

[4] The everyday meaning of the statutory terms also supports this reading. One may "seek" something without "applying" for it—for example, one who is "seeking" happiness is not "applying" for it. But one applying for something is necessarily seeking it.

c. The notion that someone already inside the country can no longer be "seeking admission" is contradicted by the INA's definition of "admission."

There is perhaps some intuitive appeal to the argument that "seeking admission" is inapplicable to an alien already in the United States; as the argument might go, how could someone be seeking admission into the country if they are already in the country? But to someone well-versed in the INA, this argument crumbles upon a sincere inquiry.

The INA does not speak colloquially—certainly not in this context, as confirmed by the INA's statutory definition of "admission" which is defined *not* as "entry" (which Petitioner needs that word to mean), but rather as "the *lawful* entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A) (emphasis added). Admission, then, does not mean entry; it means *lawful* entry. *Id.* An alien is an applicant for admission notwithstanding any time he has been present in the United States if that alien has never lawfully gained entry into the country; he is still "seeking admission" because he has not attained what "admission" means: "lawful entry."[5] *See, e.g.*, *Olalde*, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025) (making this same observation when ruling for the Government); *Chen v. Almodovar*, No. 1:25-CV-8350, 2025 WL 3484855, at *5 (S.D.N.Y. Dec. 4, 2025) (same); *see also Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012) ("[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws[.]").

[5] This distinction should be intuitive. By way of a common analogy, a person might have physically entered a movie theater after sneaking past security, but that of course does not mean he has been admitted into the theater.

d. Multiple federal appellate courts have implicitly rejected a distinction between the terms.

Albeit not addressing this precise issue, two federal appellate courts have implicitly rejected this strained effort to separate the terms, treating them as synonymous. *See Jimenez-Rodriguez v. Garland*, 996 F.3d 190, 194 n.2 (4th Cir. 2021) ("Because [Petitioner] was never lawfully admitted, he qualifies as someone 'seeking admission[].'"); *Succar v. Ashcroft*, 394 F.3d 8, 13 (1st Cir. 2005) (treating, based on statute, "aliens who are present in the United States, but who have not been inspected and admitted," as "aliens who are seeking admission").

e. Congress could have used the term "arriving alien" in Section 1225(b)(2)(A) but chose differently.

Finally, Congress used the phrase "arriving alien" at various points throughout Section 1225, but not Section 1225(b)(2)(A). *See, e.g.*, 8 U.S.C. §§ 1225(a)(2) (b)(1), (c), (d)(2). The two terms indeed stand in direct contrast, as Section 1225(b) applies to two distinct groups of "applicants for admission": Section (b)(1) applies to "arriving" or recently arrived aliens who must be detained pending expedited removal proceedings; and (b)(2) is a "catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)," *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). And in contrast to Section 1225(b)(1), Section 1225(b)(2) focuses *not* on arrival or entry but rather on *admission*. This group of aliens already in the country is precisely who the provision is geared toward, as the only other option—an "arriving" alien—falls under a different provision altogether. As put by Judge Eskridge, Section 1225(b)(2)(A) "simply cannot be said to be limited to aliens arriving at the border." *Cabanas*, 2025 WL 3171331 at *5.

f. Section 1226 is the more general detention statute.

It is well-taken that Section 1226 is the more general detention statute. "A basic canon of statutory construction" is that "a specific provision applying with particularity to a matter should govern over a more general provision encompassing that same matter." *Hughes v. Canadian Nat'l Ry. Co.*, 105 F.4th 1060, 1067 (8th Cir. 2024); *see Matter of GFS Indus., L.L.C.*, 99 F.4th 223 (5th Cir. 2024) (explaining that to the extent one could read tension among two statutory provisions, the more specific provision should govern over the general). Here, Section 1226(a) is the general provision, applicable to aliens "arrested and detained pending a decision" on removal. 8 U.S.C. § 1226(a). Section 1225(b), by contrast, is much more specific, applying particularly to aliens who are "applicants for admission"—a specially defined subset of aliens that explicitly includes those "present in the United States who ha[ve] not be admitted." *Id.* § 1225(a). Here, the specific rule for aliens who have not been admitted is that this subset of aliens must be detained. The Court should be loath to eviscerate the specific text of Section 1225(b)(2)(A) in favor of the more general text of Section 1226(a). *See, e.g.*, *United States v. Menasche*, 348 U.S. 528, 538–39, 75 S.Ct. 513, 99 L.Ed. 615 (1955) ("It is our duty to give effect, if possible, to every clause and word of a statute, rather than to emasculate an entire section[.]"). Because Petitioner falls squarely within the definition of individuals deemed to be "applicants for admission," the specific detention authority under § 1225(b) governs over the general authority found at § 1226(a).

2. Persuasive Decisions From Other District Courts

Although the Government acknowledges that many district courts have ruled against the Government on the § 1225(b)(2) issue, including this Court,[6] the Court should consider the many district courts, including Judge Eskridge in this District, that have adopted the Government's and the BIA's interpretation.[7] Not only so, but multiple federal appellate courts have implicitly endorsed the Government's position on this issue. *See Jimenez-Rodriguez v. Garland*, 996 F.3d 190, 194 n.2 (4th Cir. 2021) ("Because [Petitioner] was never lawfully admitted, he qualifies as someone 'seeking admission[].'"); *Succar v. Ashcroft*, 394 F.3d 8, 13 (1st Cir. 2005) (treating, based on statute, "aliens who are present in the United States, but who have not been inspected and admitted," as "aliens who are seeking admission").

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[6] Multiple courts in the Southern District of Texas have issued decisions that reject the Government's position. *See, e.g., Buenrostro-Mendez v. Bondi*, No. 4:25-CV-03726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025) (on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. October 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. October 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. October 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Texas October 8, 2025).

[7] Although many courts originally rejected the Government's interpretation of § 1225(b)(2)(A), including this Court, there is a growing body of case law agreeing with the Government's position. *See, e.g., Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (Eskridge, J.); *Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025) (Griesbach, J.); *Chen v. Almodovar*, No. 1:25-CV-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) (Vyskocil, J.); *Ramos v. Lyons*, No. 2:25-CV-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025) (Wilson, J.); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025) (Blumenfeld Jr., J.); *Valencia v. Chestnut*, -- F.Supp.3d --, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *Garibay-Robledo v. Noem*, No. 1:25-CV-00177, -- F.Supp.3d --, 2025 WL 3264482 (N.D. Tex. Sept. 15, 2025) (Hendrix, J.); *Olalde v. Noem*, No. 1:25-CV-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025) (Devine, J.); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) (Sinatra Jr., J.); *Topal v. Bondi*, No. 1:25-CV-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (Doughty, J.); *Rojas v. Olson*, No. 25-CV-1437-BHL, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025) (Ludwig, J.); *Vargas Lopez v. Trump*, No. 8:25-CV-00526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (Buescher, J.); *Chavez v. Noem*, -- F.Supp.3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (Bencivengo, J.). (This list of favorable authorities is not and does not purport to be exhaustive.)

By way of one example, in *Cabanas*, 2025 WL 3171331, the district court held that "[t]he text of § 1225(b)(2)(A) supports the Government's position." Judge Eskridge reasoned that "[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn't dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies." *Id.* at *4 (emphasis in original). Thus, the court held that the plain language of the INA required a ruling in the Government's favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at * 5; *see also Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025).

The Government urges this Court to reconsider its prior rulings and follow the reasoning of *Cabanas* and the Government's other proffered authorities.

B. COUNT II: BOND REGULATIONS

Petitioner relies on language found in the Federal Register from 1997, which provides that "*[d]espite being applicants for admission*, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination." *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (emphasis added). As an initial matter, this statement flies squarely in defiance of the text of the INA. *Compare id. with Jennings v. Rodriguez*, 583 U.S. 281, 297, 138 S.Ct. 830, 200 L.Ed.2d 122 (2018) (explaining that Section 1225(b) "*mandate[s] detention of applicants for admission* until certain proceedings have concluded" (emphasis added)). A valid statute always prevails over a conflicting regulation or policy statements made in connection to such a regulation. *See, e.g., Duarte v. Mayorkas*, 27 F.4th 1044, 1060 n.13 (5th Cir. 2022). Not only so, but this statement in fact highlights why the

Government's position is correct. As put by Judge Hendrix in the Northern District of Texas, "[t]he clear implication of [this language] is that . . . the government [previously] declined to exercise the full extent of its authority under the INA." *Garibay-Robledo v. Noem*, No. 1:25-CV-00177, -- F.Supp.3d --, 2025 WL 3264482, *4 (N.D. Tex. Sept. 15, 2025). Similarly, Judge Eskridge explained that this argument is "foreclosed by" finding that Section 1225(b)(2)(A) is applicable, since "[t]o the extent that this or similar regulations contradict the plain text of 8 USC § 1225(b)(2)(A), the statute governs because 'a valid statute always prevails over a conflicting regulation.'" *Acuna v. Warden*, 4:25-CV-05359, Dkt. No. 8 at 2 (S.D. Tex. Dec. 7, 2025) (quoting *Duarte*, 27 F.4th at 1060 n.13). The statutory text is what controls.

C. COUNT III: DUE PROCESS

Count III appears to assert that Petitioner's detention without bond is inherently unlawful because the Government cannot detain him without a determination that he is not a danger to the community nor a flight risk. To the extent this is Petitioner's argument, this claim amounts to no more than a throwaway argument which can be summarily rejected, as it is well-settled that detention during the pendency of removal proceedings presents no constitutional infirmities, such as due process concerns. *See, e.g., Carlson v. Landon*, 342 U.S. 524, 238, 72 S.Ct. 525, 96 L.Ed. 547 (1952) ("Detention is necessary a part of th[e] deportation procedure."); *Wong Wing v. United States*, 163 U.S. 228, 235, 16 S.Ct. 977, 41 L.Ed. 140 (1896) ("Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation."). As Supreme Court has stated in no unmistakable terms, "Detention

during removal proceedings is a constitutionally permissible part of that process." *Demore v. Kim*, 538 U.S. 510, 531, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003).

Tellingly, Petitioner cites one case in this count: *Zadvydas v. Davis*, 533 U.S. 678, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001). *See* Dkt. No. 1 ¶¶ 65. His misplaced reliance on *Zadvydas* only highlights the de-merits of his argument, as *Zadvydas* and its six-month presumption apply only to aliens in "post-removal-period detention," i.e., it addresses the impropriety of indefinite post-removal order detention. 533 U.S. at 701. Indeed, the Supreme Court in *Demore* plainly contrasted *Zadvydas* post-removal-order detention with detention during removal proceedings, finding the latter permissible in light of the "longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings[.]" 538 U.S. at 526. The Supreme Court explicitly distinguished the two types of detentions, rejecting the extension of *Zadvydas* to detention during removal proceedings and explaining at length why the two were fundamentally different. *See id.* at 527–31.

If this is Petitioner's argument, it amounts to a claim that mandatory detention under 8 U.S.C. § 1225(b)(2)(A)—and thus that provision itself—violates the Due Process Clause of the Constitution.[8] As Judge Eskridge recently explained when considering and rejecting this very argument, while post-removal period detention under *Zadvydas* "require[es] a

[8] The mandatory detention provision provides for just that: mandatory detention. *See* 8 U.S.C. § 1225(b)(2)(A). If Petitioner's argument is that his detention without bond under that statute is a violation of due process, he is necessarily making the claim that the mandatory detention statute itself is unconstitutional; after all, the statute does not merely permit detention, the statute requires it. Petitioner has failed to identify, and undersigned counsel is unaware, of a single case holding that 8 U.S.C. § 1225(b)(2)(A) is unconstitutional (as opposed to merely inapplicable in certain contexts, as a statutory matter).

constitutional constraint on unbounded detention," detention pending a determination of removability "is a constitutional part of [the removal] process." *Jimenez v. Thompson*, 4:25-CV-05026, 2025 WL 3265493, at *1 (S.D. Tex. Nov. 24, 2025) (quoting *Demore*, 538 U.S. at 531). He observed that the Supreme Court in *Zadvydas* explicitly distinguished post-removal-period detention from detention during removal proceedings, finding the latter permissible. *Id.*; *see also Zi v. Gillis*, No. 5:19-CV-00150, 2020 WL 7390488, at *2 (S.D. Miss. Oct. 6, 2020) ("*Zadvydas* does not apply to Petitioner as he is currently detained pending removal proceedings."). By Petitioner's line of argument, 8 U.S.C. § 1225(b)(2)(A) would have to itself be unconstitutional on its face.[9] There is no support for such an argument.

IV. CONCLUSION

For the foregoing reasons, the Federal Respondents respectfully request that the Court deny the habeas petition and enter judgment in favor of the Government.

Dated: January 16, 2026

Respectfully submitted,

NICHOLAS J. GANJEI
UNITED STATES ATTORNEY

By: */s/ Shawn D. Ren*
Shawn D. Ren, Attorney-in-Charge
Assistant United States Attorney
Southern District No. 3892202
Texas Bar No. 24132873
1000 Louisiana, Suite 2300
Houston, Texas 77002
Tel: (713) 567-9569
Fax: (713) 718-3300
E-mail: shawn.ren@usdoj.gov

[9] *See supra* note 8.

CERTIFICATE OF SERVICE

I certify that on January 16, 2026, the foregoing was filed and served on counsel for Petitioner via the Court's CM/ECF service.

/s/ Shawn D. Ren
Shawn D. Ren
Assistant United States Attorney