

**UNITED STATES DISTRICT COURT  
SOUERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

<b>CESAR F. TORRES</b>	)	<b>CASE NO. 5:25-cv-00146-DCB-BWR</b>
<b>CARDENAS,</b>	)	
	)	<b>REPLY IN SUPPORT OF PETITION FOR</b>
Petitioner,	)	<b>WRIT OF HABEAS CORPUS UNDER 28</b>
	)	<b>U.S.C. § 2241 AND COMPLAINT FOR</b>
vs.	)	<b>INJUNCTIVE AND DECLARATORY</b>
	)	<b>RELIEF</b>
<b>TODD LYONS,</b> Acting Director,	)	
Immigration and Customs	)	<b>IN REMOVAL PROCEEDINGS</b>
Enforcement, <b>KRISTI NOEM,</b>	)	
Secretary of United States	)	
Department of Homeland Security,	)	
<b>MELISSA HARPER,</b>	)	
Immigration and Customs	)	
Enforcement, New Orleans Field	)	
Office Director, <b>RAFAEL</b>	)	
<b>VERGARA,</b> Warden, Adams	)	
County Correctional Center,	)	
<b>PAMELA BONDI,</b> United States	)	
Attorney General,	)	
	)	
Respondents.	)	

A lengthy Reply is not necessary, but certain points of the Respondent's Response require appropriate repudiation.

Administrative exhaustion is not required, and, even if it were, contrary to the Government's dishonest presentation of "facts," Petitioner submitted a motion for bond determination that the immigration judge ("IJ") denied. In the hundreds of cases submitted on this issue, while hundreds have ruled in agreement with the Petitioner and 17 have ruled in agreement with the Respondent, all the courts have agreed they have jurisdiction and administrative exhaustion is not required based on futility and/or prudential exhaustion based on Matter of Yajure Hurtado. Further, the Government submitted its brief on December 22, 2025, stating that the Petitioner had only filed a rejected motion for custody determination. The Government went so far as to include an exhibit of the rejection. The Government appears to have purposefully ignored the filed-and-decided motion for custody determination and failed to include the IJ order dated December 19, 2025, three days before the Government filed its Response, stating the immigration court did not have jurisdiction based on Matter of Yajure Hurtado. Either the Government is purposefully misleading this Court, or the Government is so reckless in its factual assertions that its representations cannot be relied upon, but there is no valid reason for its failure to accurately present these facts.

The Government also presents misleading citation on page 5 when it cites to 8 U.S.C. 1225(a) by using an ellipsis in place of half the statute, even though it properly cites the statute immediately below its misleading condensed version. Read in its entirety, with the present tense "who arrives in the United States" and with a full discussion of where that arrival occurs: "(whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters)" it is clear that only someone presently seeking entry at the border, whether a port of entry or not, is an arriving alien subject to mandatory detention. In order for the Government to argue that 1225 applies to persons who

arrived (in the past) in the United States years ago and who are not at a border of any kind, the Government must replace half the statute with an ellipsis. The Government's willingness to erase half a statute enacted by Congress should not be persuasive to this Court and should give this Court, all Courts, and the American people serious concern.

The Government further demonstrates its contempt for the rule of law when it argues on page 18 that "prior practice has no bearing on the legal issues here." The Government's willingness to discard and disregard decades of administrative law and caselaw is another example of its proclivity to trample on rights, Due Process and legal precedent to enforce its new policy, not a new law or decision of a federal court. The Government cites no authority for its contemptuous statement that it may ignore all prior practice as if the Government is not bound by its own decisions and the decisions of the United States courts. The government attempts to support its disregard of law by arguing that the plain text of §1225 is so clear it can only be read to support the Government's malicious detention of non-citizens. Yet, the Government cannot cite the statute without replacing half of it with an ellipsis and hundreds of district courts have read the statute contrary to the government's reading. It's not like there are dozens of courts supporting the Government's reading of the statute and a few outliers reading it the other way. There are hundreds of courts ruling against the Government and only a few outliers reading it in favor of the Government.<sup>1</sup> So while, even if the Government's reading is correct, which it is not, it is impossible to say that the plain meaning is so overwhelmingly obvious unless those hundreds of U.S. district courts are incapable of reading English.

As demonstrated by the block citation on page 19 to the decision in Chen v. Almodovar, No. 1:25-cv-177-H (S.D.N.Y. Dec. 4, 2025), the only way to agree with this proposition is to pretend that the hundreds of courts disagreeing with the Government do not exist; the Chen court wrote, "Every judge agrees, because the statute plainly states." This is patently false as hundreds

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<sup>1</sup> While it should not be worth noting, it is worth noting that of the 17 courts cited by the Respondent who agree with the Government's position, twelve are judges appointed by President Trump.

of judges clearly do not agree. Where the only way to agree with the Government's position is to ignore decades of law or ignore the decisions of hundreds of district court judges, there should be no question that the Government's position is wrong and unlawful.

The Government also seeks to support its argument that it is acceptable to consider the Laken Riley Act as a meaningless redundant statute because "redundancies are common in statutory drafting" by citing to Barton v. Barr, 590 U.S. 222, 239 (2020). However, Barton is neither on point nor persuasive to this argument. Barton does not stand for the proposition that Congress would write and enact an entire section of a statute that is redundant to the same statute passed decades earlier, which is what the Government argues to support its position that it is OK to consider the Laken Riley Act entirely as redundant surplusage. Rather, Barton is comparing two subparagraphs of 8 U.S.C. 1227 (deportability) drafted and enacted at the same time that reference the same criminal offenses as triggering multiple grounds of deportability. In other words, that there is overlap of criminal offenses that trigger deportability for criminal reasons in subparagraph (2) and for security reasons in subparagraph (4). This is not the same redundancy the Government is trying to establish as acceptable. Barton did not discard an entire section of law passed by Congress, it merely stated that relying on the same convictions for two different grounds of deportability is acceptable. In other words, there is an enormous difference between redundancy as considered by Barton and meaningless duplication as the Government argues for the Laken Riley Act.

The Government also contradicts itself as to whether the Court should look beyond the plain meaning of the statute. When it is convenient, at page four, the Government argues the intent of the IIRIRA should be considered. However, beginning on page eleven, it becomes convenient to ignore the legislative intent of the IIRIRA and the government argues it should not be considered. Petitioner maintains, as do hundreds of district courts, that the plain language mandates a bond hearing. The government has not presented any truthful accurate argument citing to law or

even a complete statute in support of its position against the fundamental right to liberty during civil proceedings.

Respectfully submitted,

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