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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

WILMAR DUVAN SIERRA CARVAJALINO Petitioner, vs. CHRISTOPHER J. LAROSE, Senior Warden of Otay Mesa Detention Center, et al., Respondents.	Case No. 3:25-cv-03502-DMS-DDL **PETITIONER'S TRAVERSE TO RESPONDENTS' RETURN TO WRIT OF HABEAS CORPUS**

MEMORANDUM OF POINTS AND AUTHORITIES

Respondents contend that (A) Petitioner's claim and requested relief is jurisdictionally barred, (B) Petitioner is lawfully detained, and (C) Petitioner is not eligible for declaratory relief under *Maldonado Bautista*. Notwithstanding *Maldonado Bautista*—a pending matter—Respondents raise no argument that has not already been rejected by this Court and several others across the United States.

A. The jurisdictional bars of 8 U.S.C. § 1252 are inapplicable to a noncitizen claimant's challenge to the Government's detention authority under the statutory framework of the INA.

Consistent with a flurry of recent holdings in this District and across the

United States, this Court maintains jurisdiction over Petitioner's statutory and constitutional claims as they neither challenge nor necessarily arise from the discretionary enforcement activity described by the jurisdictional bar of § 1252.

1. § 1252

Respondents first argue that this Court lacks jurisdiction over Petitioner's claims because § 1252(g) bars judicial review of "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 against any alien under this chapter." (Resp'ts' Return 7, Dkt. No. 4). Respondents are employing a straw-man argument. Petitioner's challenge does not arise from any of the three discretionary actions the Attorney General may take as described in § 1252(g)—the commencement of enforcement proceedings, adjudication of cases, or execution of removal orders against any alien under 8 U.S. Code Chapter 12.

First, Petitioner does not contest the Department's decision to initiate removal proceedings against him. In fact, Petitioner has conceded removability before the Immigration Court. Second, Petitioner does not oppose adjudication of his case as he has filed an application for asylum and withholding of removal set to be adjudicated by the Immigration Court at the end of proceedings. Third, the Immigration Court has issued no removal order against Petitioner. Instead, at the heart of Petitioner's challenge is Respondents' statutory authority to classify all noncitizen unlawful entrants as applicants for admission subject to mandatory detention under § 1225—a classification that renders Petitioner ineligible for bond.

Still, Respondents insist that "Congress has explicitly foreclosed district court jurisdiction over claims that *necessarily arise*" from the discretionary action immune to judicial review under § 1252(g). (Resp'ts' Return 7, Dkt. No. 4) (emphasis added). Apart from failing to explain what constitutes claims that "necessarily arise" from § 1252(g) discretionary action, Respondents neglect to provide any clear support for their assertion considering they cite only to the statute

itself. (*Id.*). Petitioner is left to presume that Respondents meant to cite to *Reno* and *Limpin*, which Respondents reference in the same paragraph. (Resp'ts' Return 7, Dkt. No. 4). Yet even so, Respondents fail to articulate how *Reno* or *Limpin* support the conclusion that Petitioner's challenge to his custody classification under § 1225 constitutes a claim *necessarily arising* from the Department's commencement or adjudication of removal proceedings against him.

In *Reno*, the noncitizen claimants were eight lawful permanent residents who alleged the then-Immigration and Naturalization Service ("INS") had initiated deportation proceedings against them in an act of selective enforcement based on their affiliation with a politically unpopular group. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 119 S. Ct. 936 (1999). In that case, the Supreme Court held that § 1252(g) deprived federal courts of jurisdiction over the noncitizens' selective-enforcement claim because it was inextricable from the Attorney General's decision to commence proceedings. *Id.* ("Respondents' challenge to the Attorney General's decision to 'commence proceedings' against them falls squarely within § 1252(g) . . . and nothing elsewhere in § 1252 provides for jurisdiction.").

> In contrast, in the instant case, Petitioner makes no such challenge or allegation. Petitioner does not contest the Department's initiation of removal proceedings or any act taken to adjudicate or execute a removal order. Instead, Petitioner disputes Respondents' misclassification of his custody status as mandatory under § 1225 rather than discretionary under § 1226. All other Petitioner's claims derive from this challenged classification and the actions taken by Respondents to defend it. Therein lies the distinction between the instant case and *Reno*; Petitioner acknowledges that regardless of this Court's ultimate decision as to the correct statutory classification of his custody status, he will nevertheless remain in removal proceedings before the Immigration Court. Moreover, Petitioner does not dispute that he is subject to

detention during the pendency of his removal proceedings. Instead, Petitioner contests Respondents' position that he is ineligible from bond under § 1226(a) because he *must* be detained under § 1225. As explained by this Court, the jurisdictional bar of § 1252(g) is inapplicable here because "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.'" *Sanchez v. LaRose,* No. 25-cv-2396-JES-MMP, 2025 LX 439015, at *5 (S.D. Cal. Sep. 26, 2025) (rejecting the Government's argument that the noncitizen claimant's § 2241 habeas corpus challenge "necessarily arises" from the commencement of removal proceedings) (citing *Garcia v. Noem*, No. 25-CV-2180-DMS-MMP, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025); *see also Lopez v. Larose*, No. 25-cv-2717-JES-AHG, 2025 LX 438186, at *5-6 (S.D. Cal. Oct. 30, 2025) (finding the Government's § 1252(g) jurisdictional bar argument "has no bearing" because the noncitizen claimant's challenge to his mandatory custody determination does not equate to a petition for relief from a decision to execute a removal order).

Regarding *Limpin*, Respondents draw a false equivalence between Petitioner's Fifth Amendment procedural due process claims and the challenges under the Fourth Amendment and Federal Tort Claims Act ("FTCA") previously addressed by the Ninth Circuit in *Sissoko v. Rocha*, 509 F.3d 947 (9th Cir. 2007), *replacing withdrawn opinion at*, F.3d 1145 (2006). In deciding on *Limpin*, both the Ninth Circuit and this Court looked to *Sissoko*, 509 F.3d 947, to determine whether the noncitizen's challenge arose from the Government's decision to commence proceedings. *See Limpin v. United States*, No. 17-CV-1729 JLS (WVG), 2019 U.S. Dist. LEXIS 49604, at *6-7 (S.D. Cal. Mar. 25, 2019). As was the case in *Limpin*, the noncitizen Petitioner in *Sissoko* brough a Fourth Amendment-based claim and sought money damages for false arrest. *Id.; see Sissoko*, 509 F.3d at 948 (adopting

the factual and procedural background from the court's opinion at 440 F.3d 1145). Critically, in *Limpin*, this Court recognized that "[t]he Ninth Circuit has held a Fourth Amendment challenge to confinement during removal proceedings falls under Section 1252(g) because it 'directly challenges' the Attorney General's 'decision to commence expedited removal proceedings.'" *Limpin v. United States*, No. 17-CV-1729 JLS (WVG), 2019 U.S. Dist. LEXIS 49604, at *6 (S.D. Cal. Mar. 25, 2019) (citing *Sissoko*, 509 F.3d at 950). Similarly, because the noncitizen in *Limpin* also brought a Fourth Amendment claim challenging his immigration arrest, this Court ultimately held that "[his] seizure and detention arose from the Attorney General's decision to commence removal proceedings" such that his claim was barred by Section 1252(g). *Limpin v. United States,* No. 17-CV-1729 JLS (WVG), 2019 U.S. Dist. LEXIS 49604, at *6 (S.D. Cal. Mar. 25, 2019).

However, unlike the noncitizen claimants in *Limpin* and *Sissoko*, Petitioner is not raising a Fourth Amendment challenge to his arrest and detention. Instead, Petitioner is alleging Respondents have violated his Fifth Amendment procedural due process rights by classifying his custody as mandatory under § 1225, thereby precluding him from arguing for custody redetermination and seeking release on bond before a neutral arbitrator. Put another way, Petitioner is challenging the Government's detention authority under the statutory framework of the INA as opposed to alleging a false arrest and money damages claim under the Fourth Amendment.

Lastly, regarding § 1252(g), Respondents assert that district courts are jurisdictionally barred "from hearing challenges to the method by which the government chooses to commence removal proceedings, including the decision to detain an alien pending removal." (Resp'ts' Return 7, Dkt. No. 4). To support this position, Respondents primarily rely on a case, *Herrera-Correra*, that also draws heavily from this Court's decision in *Sissoko*. (*Id.*); *see Herrera-Correra v. United States*, No. CV 08-2941 DSF (JCx), 2008 U.S.

Dist. LEXIS 127169 (C.D. Cal. Sep. 11, 2008); *see also Sissoko*, 509 F.3d 947. For the reasons above, Respondents erroneously conflate the complex circumstances of *Limpin* and *Sissoko*, which are notably distinct from Petitioner's case. Accordingly, Respondents fail to establish that this Court is barred from reviewing Petitioner's claims because they necessarily arises from activity described by § 1225(g). *See, e.g., Faizyan v. Casey*, No. 3:25-cv-02884-RBM-JLB, 2025 LX 532795, at *7 (S.D. Cal. Nov. 17, 2025) (rejecting the Government's § 1225(g) jurisdictional bar argument because the noncitizen claimant 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.'") (quoting *Garcia v. Noem*, Case No.: 25-cv-02180-DMS-MMP, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025) (emphasis in original) (additional citations omitted).

Respondents' reliance on unanalogous cases is especially notable given the existence of a controlling, on-point decision by the Ninth Circuit—*Arce v. United States*, 899 F.3d 796 (9th Cir. 2018) (holding that the lower court erred in concluding it lacked jurisdiction under § 1252(g) over the noncitizen claimant's FTCA claim for damages resulting from his unlawful removal); *see Sanchez v. LaRose*, No. 25-cv-2396-JES-MMP, 2025 LX 439015, at *5 (S.D. Cal. Sep. 26, 2025) ("In interpreting 'arising under' in both [§§ 1252(g) 1252(b)(9)], the Supreme Court has cautioned against 'expansive interpretations' that would cause 'staggering results' like rendering prolonged detention claims unreviewable.") (quoting *Jennings*, 583 U.S. at 294) (additional citations omitted).

In *Arce*, the noncitizen claimant was removed from the United States in violation of the Ninth Circuit's order staying his removal. *Arce*, 899 F.3d at 799. As Respondents have done here, the Government in *Arce* argued "the jurisdiction-stripping language of § 1252(g) extends to any action taken in connection with a

removal order." *Id.* The Ninth Circuit disagreed. *Id.* In fact, the Ninth Circuit clarified "[t]he Supreme Court has not 'interpret[ed] [the statute's] language to sweep in any claim that can technically be said to "arise from" the three listed actions of the Attorney General.'" *Arce*, 899 F.3d at 800 (quoting *Jennings v. Rodriguez*, 138 S. Ct. 830, 841, 200 L. Ed. 2d 122 (2018)); *accord Barahona-Gomez v. Reno*, 236 F.3d 1115, 1118 (9th Cir. 2001) ("We specified that '[§ 1252(g)] applies only to the three specific discretionary actions mentioned in its text, not to all claims relating in any way to deportation proceedings.'") (quoting *Catholic Social Services, Inc. v. Reno*, 232 F.3d 1139, 1150 (9th Cir. 2000) (*en banc*)); *see also Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 LX 484516, at *8 (S.D. Cal. Nov. 4, 2025) (finding that "§ 1252(g) does not bar Petitioners' claims" because they "are not challenging the commencement of removal proceedings but are instead claiming a lack of legal authority to subject them to mandatory detention under 8 U.S.C. § 1225(b)(2) during proceedings.") (internal citations omitted).

Importantly, in *Arce*, even if the noncitizen claimant's challenge had arisen tangentially from the execution of his removal order, the Ninth Circuit nevertheless "retain[ed] jurisdiction because the Attorney General entirely lacked the authority, and therefore the discretion, to remove him." 899 F.3d at 800. Accordingly, under *Arce*, this Court maintains jurisdiction over Petitioner's claims even if they tangentially arise from the Department's initiation of removal proceedings because Respondents lacked the statutory authority—and therefore the discretion—to apply a blanket classification to all noncitizen unlawful entrants in the United States as applicants for admission subject to mandatory detention under § 1225.

2. 1252(b)(9) & 1225(a)(5)

Respondents additionally assert this Court is jurisdictionally barred from reviewing Petitioner's claims under §§ 1252(b)(9) and 1252(a)(5). (Resp'ts' Return 8-10, Dkt. No. 4). More specifically, Respondents cite *Jennings*, 583 U.S. at 294-295, to argue that "these provisions divest district courts of jurisdiction to review

both direct and indirect challenges to removal orders, including decisions to detain for purposes of removal or for proceedings." (Resp'ts' Return 9, Dkt. No. 4). To bring this action under the reach of §§ 1252(b)(9) and 1252(a)(5), Respondents construe Petitioner's claims as "challeng[ing] the government's decision and action to detain, which arises from DHS's decision to commence removal proceedings, and is thus an "action taken . . . to remove [him/her] from the United States." (*Id.*) (alterations in the original).

Ironically, the Supreme Court in *Jennings* dispenses of this very argument:

> [R]espondents are not asking for review of an order of removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined. Under these circumstances, §1252(b)(9) does not present a jurisdictional bar.

Jennings, 583 U.S. at 294-95.

Moreover, as to the zipper clause of § 1252(b)(9), the Ninth Circuit has clarified that "what [§ 1252(b)(9)] 'zips' are requests for review of various kinds of agency action which are heard by means of petitions for 'judicial review,'" and that § 1252(b)(9) "does not affect petitions for habeas corpus." *Flores-Miramontes v. INS*, 212 F.3d 1133, 1139 (9th Cir. 2000); *accord Noori v. Larose*, No. 25-cv-1824, 2025 LX 410576, at *18-19 (S.D. Cal. Oct. 1, 2025); *see also J. E. F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016) (holding that the noncitizen claimants' right-to-counsel claims must be raised through the vehicle for judicial review prescribed by 1252(b)(9) and 1225(a)(5) because they "arise from" removal proceedings). The Supreme Court, too, has explicitly ruled that § 1252(b)(9) does not present a jurisdictional bar to a noncitizen claimant's challenge to "the extent of the statutory authority that the Government claims." *Nielsen v. Preap*, 586 U.S. 392, 402, 139 S. Ct. 954, 962 (2019) (citing *Jennings*, 583 U.S. at 294-95.)

In fact, for several noncitizen claimants similarly situated to Petitioner, this Court, too, has held § 1252 does not divest it of jurisdiction. *E.g., Sanchez v. LaRose* (holding that the noncitizen claimant's petition to review the legality of her detention does not "necessarily arise" from the Attorney General's discretionary enforcement action); *Garcia v. Larose*, No. 25cv2936-BTM-MMP, 2025 LX 502177, at *3-4 (S.D. Cal. Nov. 20, 2025) (same); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 LX 527603, at *3-4 (S.D. Cal. Nov. 21, 2025) (same); *Torres v. Bondi*, No. 25-cv-02457-BAS-MSB, 2025 LX 527133, at *5 (S.D. Cal. Nov. 18, 2025) (same); *Araujo v. Larose*, No. 25cv2942, 2025 LX 530682, at *3 (S.D. Cal. Nov. 24, 2025) (same); *Lopez v. Warden, Otay Mesa Det. Ctr.*, No. 25-cv-2527-RSH-SBC, 2025 LX 467758, at *5 (S.D. Cal. Oct. 27, 2025) (same); *Santos v. Larose*, No. 25-cv-3009, 2025 LX 502658, at *4 (S.D. Cal. Nov. 21, 2025) (same); *see Silva v. Larose*, No. 25-cv-2329-JES-KSC, 2025 LX 438147, at *6-7 (S.D. Cal. Sep. 29, 2025) ("Following a plain language analysis of the implicated statutes, the Court finds that that this provision means that only judicial review of final orders of removal is reserved to the courts of appeals, not every order issued in a removal proceeding.").

B. Respondents fail to establish why their widely rejected application of 8 U.S.C. § 1225 should supplant contrary rulings of district courts across the United States.

In addition to the foregoing paragraphs, in reply to Respondents' contention that Petitioner is lawfully detained under § 1225, Petitioner restates and realleges his claims for relief as set forth in his original petition. (Pet. ¶¶ 51-76, Dkt. No. 1).

First, Respondents argue Petitioner's claims of statutory and constitutional violations fail because he is properly detained under § 1225 based on the "plain language of the statute." (Resp'ts' Return 10, Dkt. No. 4). Yet "Respondents acknowledge that courts in this district have recently rejected similar arguments in other habeas matters." (Resp'ts' Return 14, Dkt. No. 4). This is true, though it

would be more accurate to say that this Court as well as several others in this District and across the country have recently rejected the exact arguments raised by Respondents. *See, e.g., Ruiz v. Larose*, No. 25-cv-02714-BAS-SBC, 2025 LX 536826, at *10 (S.D. Cal. Nov. 18, 2025) ("Statutory interpretation supports that Section 1226(a), not Section 1225(b)(2)(A), applies to Petitioner's immigration detention. Because the BIA's decision binding Immigration Judges incorrectly provides that Petitioner is subject to mandatory detention with no individualized bond determination, Petitioner is being held in violation of Federal Law."); *Calel v. Larose*, No. 3:25-cv-02883, 2025 LX 568789 (S.D. Cal. Nov. 13, 2025) (same); *Velasquez v. LaRose*, No. 25-CV-3137 JLS (MSB), 2025 LX 538873 (S.D. Cal. Nov. 21, 2025) (same); *Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 LX 444893, at *9 (S.D. Tex. Oct. 8, 2025) (same). Still, Respondents insist on their position that the plain language of § 1225 mandates Petitioner's detention as an "applicant for admission" "as found by the district courts in *Chavez v. Noem*, *Altamirano Ramos v. Lyons*, and *Valencia v. Chestnut*." (Resp'ts' Return 10-11, Dkt. No. 4). In each of these cases, the court denied the noncitizen claimant's motion for a temporary restraining order because the noncitizen was unable to establish likelihood of success on the merits. *Chavez v. Noem* ("*Sixtos Chavez*"), No. 3:25-cv-02325-CAB-SBC, 2025 LX 486837, at *13-14 (S.D. Cal. Sep. 24, 2025); *Ramos v. Lyons* ("*Altamirano Ramos*"), No. 2:25-cv-09785-SVW-AJR, 2025 LX 568700, at *24 (C.D. Cal. Nov. 12, 2025); *Valencia v. Chestnut* ("*Valencia*"), No. 1:25-cv-01550 WBS JDP, 2025 LX 504678, at *9 (E.D. Cal. Nov. 17, 2025).

Yet in *Ramos v. Lyons*, 2025 LX 568700, at *11, and *Valencia v. Chestnut*, 2025 LX 504678, at *4-5, the court acknowledges its reading of § 1225 as encompassing all unlawful entrants, even those already residing in the United States, is contrary to decisions from other district courts. *See, e.g., Lopez v. Larose*, No. 25-cv-2717-JES-AHG, 2025 LX 438186, at *14 (S.D. Cal. Oct. 30, 2025) ("After carefully reviewing these decisions, and for the reasons set forth below, the Court

agrees with the vast majority of its sister courts in finding that Section 1226(a)—rather than Section 1225(b)(2)(A)—applies here.") (referencing *Sixtos Chavez*, among others); *Aceros v. Kaiser* ("*Salcedo Aceros*"), No. 25-cv-06924-EMC (EMC), 2025 LX 330524, at *25 (N.D. Cal. Sep. 12, 2025) (concluding the same); *Donis v. Chestnut*, No. 1:25-CV-01228 JLT SAB, 2025 LX 439548, at *30 (E.D. Cal. Oct. 9, 2025) (same).

Though *Sixtos Chavez* makes no such acknowledgement, it is worth noting the decision was issued on September 24, 2025—only nineteen days after the BIA issued its decision in *Yajure Hurtado*, 29 I&N Dec. 216. Since then, however, *Sixtos Chavez* has been widely criticized by courts across several circuits. *E.g.*, *Pico v. Noem*, No. 25-cv-08002-JST, 2025 LX 585653, at *7 (N.D. Cal. Nov. 26, 2025) (finding *Sixtos Chavez* unpersuasive because (1) the court failed to address whether petitioners were applicants for admission "seeking admission" under § 1225 and (2) the court's interpretation of § 1225 would nullify the Laken Riley Act amendment to Section 1226(c)); *Ramirez v. Noem*, No. 2:25-cv-02136-RFB-MDC, 2025 LX 588647, at *19 (D. Nev. Nov. 24, 2025) (same); *Villegas ex rel. Andujar v. Francis*, No. 1:25-cv-09199 (JLR), 2025 LX 561374, at *11 n.2 (S.D.N.Y. Nov. 18, 2025) (same); *Alonso v. Tindall*, Civil Action No. 3:25-cv-652, 2025 LX 404174, at *17 (W.D. Ky. Nov. 4, 2025) (same).

Second, Respondents' raise the congressional intent arguments underlying the decisions in *Yajure Hurtado*, *Sixtos Chavez,* and *Altamirano Ramos.* (Resp'ts' Return 11-15, Dkt. No. 4). Here, once again, Respondents have raised no argument that has not already been dispelled by other district courts as "failing to take account of the entirety of the statutory scheme" of the INA. *Echevarria v. Bondi*, No. CV-25-03252, 2025 LX 492534, at *27 (D. Ariz. Oct. 3, 2025). Respondents contend that an interpretation of § 1225 contrary to their own would not accord with Congress' intent in passing the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). (Resp'ts' Return 11-12, Dkt. No. 4). Citing

to *Yajure Hurtado*, 29 I&N Dec. at 225, Respondents insist that Congress enacted IIRIRA to "eliminate the prior statutory scheme that provided aliens who entered the United States without inspection more procedural and substantive rights than those who presented themselves to authorities for inspection." (Resp'ts' Return 12, Dkt. No. 4). Moreover, Respondents lean heavily on *Thuraissigiam*, to argue all unlawful entrants, even those who have been residing in the United States for years, must be treated as if "stopped at the border" under § 1225. (*Id.*). In fact, relying on a collection of carefully curated quotes from *Thuraissigiam*, Respondents' create a patchwork quilt of an argument that, upon closer examination, falls apart at the seams.

This is because the issue in *Thuraissigiam* concerns the due process rights of a noncitizen who was apprehended twenty-five yards from the border, with the Court ultimately holding that a noncitizen "on the threshold" of entry cannot be said to have "effected an entry" and thus is entitled to only those due process rights afforded by statute. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139-140 (2020) (citations omitted). "This holding only reinforced the precedent that noncitizens 'on the threshold of initial entry stand[ ] on a different footing' than those who have 'passed through our gates.'" *Noori v. Larose*, 2025 LX 410576, at *26 (citing *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 73 S. Ct. 625, 629 (1953)). Here, rather than acknowledging the limited scope of the Court's holding in *Thuraissigiam* to such noncitizen's due process rights, Respondents instead misrepresent the Court's words to fashion apparent support for their overstretching of § 1225 to reach *any* "'applicant for admission' who [unlawfully] enters into [sic] the United States." (Resp'ts' Return 12, Dkt. No. 4).

Moreover, citing to the *same* congressional report as Respondents, (Resp'ts' Return 11, Dkt. No. 4), the California Eastern District Court points out that Congress already addressed its concern over inequities in the removal process by consolidating exclusion and deportation proceedings and imposing a "greater burden

of proof in removal proceedings and . . . tougher standards for most discretionary immigration benefits" in IIRIRA. *Donis v. Chestnut*, 2025 LX 439548, at *29 (citing H.R. REP. 104-469, 12). Put another way,

> [A]ccording to the legislative record, "Section 236(a) [1226(a)] restates the current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." Congress' concern about adjusting the law . . . to reduce inequities in the removal process did not mean Congress intended to entirely up-end the existing detention regime by subjecting *all* inadmissible noncitizens to mandatory detention, a seismic shift in the established policy and practice of allowing discretionary release under Section 1226(a)—the scope of which Congress did not alter.

Id. (internal citations omitted); *see also Padilla v. Galovich*, No. 25-cv-863-jdp, 2025 LX 534487, at *15-16 (W.D. Wis. Nov. 21, 2025) (concluding the same); *see also Ramirez v. Noem*, 2025 LX 588647, at *19 (referring to decisions such as *Altamirano Ramos*—to which Respondents cite throughout this section—as "rely[ing] on the government's inaccurate portrayal of the legislative history of IIRIRA.").

Congress did, however, alter the scope of discretionary release under § 1226(a) by adding § 1226(c) through passage of the Laken Riley Act. Regarding § 1226(c), Respondents cite to *Sixtos Chavez*, 2025 WL 2730228, at *5, and *Valencia*, 2025 WL 3205133, at *4, to assert their interpretation of § 1225 "does not render [§ 1226(c)] superfluous" because the latter "simply removes the Attorney General's detention discretion for aliens charged with specific crimes." (Resp'ts' Return 12, Dkt. No. 4). As decided by other courts, this conclusion in nonsensical. For example, the Arizona District Court recently explained "it would make no sense

for [the Ninth Circuit in] *Rodriguez Diaz* to have characterized § 1225(b) as a 'supplement' to § 1226's 'detention scheme' if, as Respondents now contend, § 1225(b)(2)(A) actually provides for mandatory detention in all (or nearly all) cases involving aliens present in the United States." *Echevarria*, 2025 LX 492534, at *27 (citing *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196-97 (9th Cir. 2022)); *see also, e.g., Guaita Quinapanta v. Bondi*, No. 25-cv-795-wmc, 2025 LX 549339, at *16 (W.D. Wis. Nov. 12, 2025) concluding the same); *Salgado v. Mattos*, No. 2:25-cv-01872, 2025 LX 545120, at *35 (D. Nev. Nov. 17, 2025) (same).

Lastly, Respondents engage in a lesson in grammar and rhetoric to argue that the terms "applicant for admission" and "seeking admission" are synonymous when read within the context of § 1225(a). (Resp'ts' Return 12, Dkt. No. 14). In response to this last point, Petitioner defers to the Nevada District Court, which dispenses of this precise argument by pointing out, as other courts have, that *Woods*, 571 U.S. 31, 45, "the case cited by the government to suggest that the word 'or' introduce[s] an appositive' actually says the opposite is generally true." *Salgado v. Mattos*, No. 2:25-cv-01872, 2025 LX 545120, at *44 (D. Nev. Nov. 17, 2025) (quoting *Romero v. Hyde*, __ F. Supp. 3d. __, No. CV 25-11631-BEM, 2025 WL 2403827, at *10 n.31 (D. Mass. Aug. 19, 2025).

C. Declaratory judgement under *Maldonado Bautista* has preclusive effect on class members.

Finally, as to Respondents argument that the judgement in *Madonado Bautista* is limited to the named plaintiffs in that case, Petitioner nevertheless restates and realleges all of his complaints as provided in his original petition. Petitioner also acknowledges the recent filings in *Maldonado Bautista* pertaining to clarification on the scope and reach of the court's judgement. Ultimately, Petitioner takes the position that whether or not this Court finds relief is proper under the judgement in *Maldonado Bautista*, Respondents are nevertheless holding Petitioner in violation of the detention provisions of the INA and APA as well as Fifth

Amendment procedural due process. Accordingly, though Petitioner contends he is eligible for relief as a member of the *Maldonado Bautista* Bond Eligible Class, and that Respondents are bound by the court's judgement, Petitioner is nevertheless eligible for his requested relief on the merits of his statutory and constitutional arguments.

Respectfully submitted this December 16, 2025.

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