IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

MANCHAME ESPINO, *Petitioner*,	)	
v.	)	Case No. 8:25-04082 (LKG)
NIKITA BAKER, *et al.*,	)	
Respondents.	)	

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION

INTRODUCTION

1. Respondents request that the Petition be denied based on their contention that the INA statute plainly states that the Petitioner is an "applicant for admission" thus making him subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). Respondents further claim that being subject to detention under 8 U.S.C. § 1225(b)(2)(A), Petitioner is due only the process provided in the INA-- that is to say, no opportunity for neutral custody review.
2. The Respondents' arguments regarding the statutory interpretation of 8 U.S.C. § 1225(b)(2)(A) have already failed before judges of this Court and before roughly 150 other jurists in roughly 50 jurisdictions nationwide and are further addressed below.

ARGUMENT

A. The Petitioner is not an applicant for admission for the purposes of mandatory detention under 8 U.S.C. § 1225(b)(2)(A)

3. In support of the position that Petitioner is an "applicant for admission" and therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), Respondents conclude that any noncitizen present in the United States who has not been admitted or who arrives in the United States, whether or not at a port of entry, is treated as an "applicant for admission." Resp. Opp., Dkt. 9 at 3-4, *citing* 8 U.S.C. § 1225(a)(1) *and* 8 C.F.R. § 235.1(f)(2). This conclusion glosses over the Supreme Court's opinion on this issue.
4. It does not follow that anyone unlawfully present in the U.S. must be an applicant for admission under 8 U.S.C. § 1225. In *Jennings*, the Supreme Court construed the

relationship between § 1225(b), which the Court held governs "aliens seeking admission into the country," and § 1226(a), which governs "aliens already in the country" who are subject to removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien 'pending a decision on whether the alien is to be removed from the United States. 'Except as provided in subsection (c) of this section,' the Attorney General 'may release' an alien detained under § 1226(a) 'on . . . bond' or 'conditional parole.'

5. Respondents argue that by characterizing § 1225(b)(2) as a "catchall provision" the *Jennings* Court excluded application of the default rule to aliens already in the country but without a lawful admission. Resp. Opp., Dkt. 9 at 6-7. However, the Court in *Jennings* made very clear to whom mandatory detention provisions under 1225(b) may be applied: "§1225(b) of Title 8 of the U. S. Code authorizes the detention of *certain aliens seeking to enter the country.*" *Jennings v. Rodriguez*, 583 U.S. at 285. Here, the Court clearly defines an applicant for admission for purposes of detention under §1225(b) as an alien who seeks *entry into* the country, reflecting the long-standing interpretation that detention under §1225(b) is reserved for aliens apprehended within close geographical and time limits to their initial physical entry into the United States. Petitioner Lemus Barias has been present in the United States since 1998 and was arrested in Maryland on November 4, 2025, far outside the geographic or temporal bounds that might render him an applicant for admission subject to mandatory detention.
6. The statute also provides that "[t]he term 'application for admission' has reference to the application for admission *into* the United States and not to the application for the issuance of an immigrant or nonimmigrant visa." 8 U.S.C. § 1101(a)(4) (emphasis added). As dozens of courts have previously recognized, this definition, when read together with the present tense formulation of § 1225(b)(2)(A), requiring a determination by the immigration officer that "an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted," 8 U.S.C. § 1225(b)(2)(A) (emphasis added), brings within its scope only those individuals actively *seeking admission into the country*, and not those that have already entered the county (albeit unlawfully).
7. Respondents concede that this court has previously rejected their novel arguments in

defense of a sudden change by the Board of Immigration Appeals. Resp. Opp., Dkt. 9 at 21. They cite three rejections from this court but go on to cite cases from around the country where their arguments were purportedly adopted, though they note not all cited cases are directly on point. *Id.* What Respondents' arguments omit are the roughly 350 cases nationwide where these precise arguments have been rejected time and again.

8. In a November 26, 2025 decision, the U.S. District Court for the Southern District of New York noted that "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. Thus, the overwhelming, lopsided majority have held that the law still means what it always has meant.

9. As Respondents concede, jurists of this Court have found the same. Judge Rubin, in *Leal-Hernandez v. Noem*, noted that Mr. Leal-Hernandez's immigration court NTA did not charge him as an arriving alien.

> [T]he Government tacitly (if not explicitly) concedes [Mr. Leal-Hernandez] is not an 'arriving alien' in the very document that charges him as removable:
>
> [ ] You are an arriving alien
> [X] You are an alien present in the United States who has not been admitted or paroled
> [ ] You have been admitted to the United States, but are removable for the reasons below
>
> [...] Therefore, [Mr. Leal-Hernandez] was neither an applicant for admission nor an arriving alien at the time of his arrest. Section 1225(b) does not apply to [his] detention circumstance.

Leal-Hernandez v. Noem, No. 25-cv-02428, 2025WL2430025 (D. Md. Aug. 24,2025). In this case, Petitioner's NTA contains the same concession. ECF 9-1 at 1.

10. In *Maldonado v. Baker*, Judge Chuang reasoned

> [T]he statute conditions mandatory detention on a determination by an

> immigration officer that 'an alien seeking admission' is not clearly entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A). The requirement that the alien at issue be 'seeking admission' necessarily limits the applicability of this provision to one who, at the time of the detention, was seeking or attempting to gain 'lawful entry… into the United States after inspection and authorization by an immigration officer.' 8 U.S.C. § 1101(a)(13)(A) (defining 'admission' under the INA). To conclude otherwise would be to render this language superfluous.

Maldonado v. Baker, No. 25-3084, 2025 WL 2968042 (D. Md. Oct. 21, 2025).

11. Petitioner urges this Court to do the same. Respondents' reading of *Jimenez Rodriguez* omits the entire context of that case, where Petitioner Jimenez Rodriguez had filed and been facially approved for a U-visa, and was pursuing, for the second time, a waiver that was only available to inadmissible aliens who were "seeking admission." The court held that Jimenez Rodriguez' unlawful entry and presence in the United States made him an "applicant for admission" and considered that in the context of *having already filed an application for a non-immigrant visa and a waiver of his inadmissibility,* he should *also* be considered to be "seeking admission."
12. The court's footnote that Jimenez Rodriguez met the definition of "seeking admission" because he was not lawfully admitted served solely to distinguish Petitioner from similarly situated individuals in other cases who were *also* seeking a U-visa but who had already been admitted and therefore were not eligible for waivers solely intended for non-immigrant applicants who had *not* been lawfully admitted. *Jimenez-Rodriguez*, 996 F.3d at 194 n.2. The court did not extend its rationale in this particular context to every context in which an alien is physically present in the United States but has not been lawfully admitted.
13. Crucially, Petitioner Manchame Espino has not established any additional factors that would indicate that he is actively seeking admission in the same way as the petitioner *Jimenez Rodriguez*. Petitioner Manchame Espino has not filed an application for a visa. He has never completed an immigrant or non-immigrant visa petition. He cannot be said to be actively seeking admission at this time. Recognizing the distinguishable facts in this case, Respondents nevertheless urge that this Court determine that Petitioner is seeking admission despite the absence of sufficient facts to support their contention.
14. Respondents also contend that *Santana v. Garland*, 92 F.4th 491, 497 (4th Cir. 2024)

supports their statutory interpretation arguments, but this reliance is misplaced. The arguments find no support in *Santana* because neither Section 1225 nor Section 1226 is even cited in the opinion. *Santana* discusses the legal fiction of "assimilation," by operation of Section 1255, wherein an applicant for adjustment of status is considered an applicant for admission. "[T]he so-called 'assimilation' is a legal fiction that treats an applicant for adjustment of status as if she is actually attempting to make an entry at the border." *Santana*, 92 F.4th at 502. Petitioner Manchame Espino is not applying for adjustment of status, and is not subject to the legal fiction which would consider him an applicant for admission.

B. Even if *Maldonado Bautista* does not bind the Court, its reasoning is sound and should persuade the Court.

15. Petitioner Manchame Espino is a member of the bond eligible class in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.). However, Petitioner does not argue that he was granted habeas relief by the California court. Instead, Petitioner contends that the *Bautista* court issued a class-wide declaratory judgment under the APA which declares that his detention is under Section 1226(a), not Section 1225(b)(2).

16. Respondents argue that the *Maldonado Bautista* class seeks core habeas relief. Resp. Opp., Dkt. 9 at 26-27. This is not entirely correct. The claims for relief in *Maldonado Bautista* do not "imply the invalidity of their confinement" as the Respondents contend. *Id.* at 27. Instead, in its prayer for relief, the class requested that the court "Declare that Defendants' policy and practice of denying consideration for bond on the basis of § 1225(b)(2) [...] violates the INA, its implementing regulations, the APA, and the Due Process Clause." *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), Class Action Compl. & Am. Pet. for Writ of Habeas Corpus, Doc. 15 at 31. That request flowed from Counts Three and Four of the complaint, which allege violations of the APA. *Id.* at 27-28. The declaratory judgment issued by the *Maldonado Bautista* court was issued under the APA, and therefore applies to Petitioner even where core habeas relief might not.

17. Even if the Court does not find *Maldonado Bautista*'s declaratory judgment applicable, it is clear that the *Maldonado Bautista* court joins the hundreds of other decisions rejecting

Respondents' arguments in defense of *Yajure Hurtado* for all the reasons discussed above. "Although the MSJ Order does not grant vacatur of Yajure Hurtado under the APA, Yajure Hurtado is no longer controlling; the legal conclusion underlying the decision is no longer tenable." *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), Order Granting in Part Motion to Reconsider, Doc. 92 at 6.

C. Respondents are violating Petitioner's Due Process rights by denying him a bond hearing under 8 U.S.C. § 1226(a).

1. Even if Respondents are correct that Petitioner is not entitled to any process beyond that prescribed in the INA, they are still violating Petitioner's due process rights by denying him even the INA's process, as described above. Respondents' strained interpretation of § 1225, sweeping every person unlawfully present in the United States into a mandatory detention category, is a due process violation as applied to Petitioner.
2. The harm inflicted by Respondents' violation is immediate, ongoing, and severe. They have taken the unlawful position that Petitioner is not entitled to a review of his custody, even in the form of an immigration court bond hearing, because he is, according to Respondents, mandatorily detained under 8 U.S.C. § 1225(b)(2)(A).
3. This interpretation represents a sudden and arbitrary departure from decades of established practice. Indeed, the *Jennings* court recognized that Section 1226(a) sets forth "the default rule" for detaining and removing aliens "already present in the United States." 583 U.S. at 303.
4. Without this Court's intervention, Petitioner will continue to be unlawfully subjected to detention without any opportunity for review, as Respondents have already indicated their intention to detain him mandatorily.[1]
5. Petitioner respectfully requests that this Court continue to reject Respondents' arguments and order the relief requested in the Petition.

[1] As of December 23, 2025, no hearing has been scheduled in Petitioner's removal proceedings. Even if one were scheduled, it would address only his removal, and would not provide him an opportunity to challenge his detention or request a bond.

Respectfully submitted,

Dated: December 23, 2025

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