**UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| PEDRO JIMENEZ-SANDOVAL,<br><br>Petitioner,<br>v.<br><br>STEVEN ANGELUCCI, et al.,<br><br>Respondents. | Case No. 2:25-cv-06989<br><br>Chief Judge Wendy Beetlestone |

**REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Pedro Jimenez-Sandoval, through undersigned counsel, respectfully submits this reply to the Respondents' Response in Opposition, filed December 18, 2025. ECF No. 2.

## I. THIS COURT HAS JURISDICTION OVER PETITIONER'S CLAIMS.

As a general matter, two presumptions apply when a Court confronts whether a statute bars judicial review of an agency's action. First, "the usual 'strong presumption [is] in favor of judicial review of administrative action.'" *E.O.H.C. v. Sec'y U.S. Dep't of Homeland Sec.*, 950 F.3d 177, 184 (3d Cir. 2020) (quoting *INS v. St. Cyr*, 533 U.S. 289, 298 (2001)). Second, "the general rule [states] the narrower construction of a jurisdiction-stripping provision is favored." *Id.* (quoting *Alli v. Decker*, 650 F.3d 1007, 1013 n.9 (3d Cir. 2011)). Bearing these two presumptions in mind, is it clear that neither 8 U.S.C. § 1252(g), 8 U.S.C. § 1252(b)(9), nor 8 U.S.C. § 1252(a)(2)(B)(ii) restricts this Court from deciding the merits of Mr. Jimenez-Sandoval's claims.

### a. 8 U.S.C. § 1252(g) does not bar review

First, 8 U.S.C. § 1252(g) does not apply here, and Respondents' arguments to the contrary are unavailing. Mr. Jimenez-Sandoval is not challenging the initiation of his removal proceedings. To the contrary, the nature or validity of Petitioner's removal proceedings, which began in 2013 and were premised on his inadmissibility to the United States, are not at issue here. As his initial

*habeas corpus* petition specifies, it is Respondents' insistence on subjecting Petitioner to unlawful, mandatory detention in violation of law that Mr. Jimenez-Sandoval contests.

In arguing to the contrary, Respondents miscite or misconstrue authority. For example, Respondents' write that the "decision to detain is a 'specification of the decision to commence proceedings [implicating § 1252(g)]'" quoting footnote 9 from *American-Arab Anti-Discrimination Comm* ("*AADC*"), 525 U.S. 471, 485 n.9 (1999). The footnote actually states that

> we know of no case challenging 'the decision ... to issue a show cause order[[1]]' (though that might well be considered a mere specification of the decision to "commence proceedings" which some cases do challenge and which § 1252(g) covers). Section 1252(g) was directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion. It does not tax the imagination to understand why it focuses upon the stages of administration where those attempts have occurred.

*Id.* This footnote has nothing to do with detention or linking the decision to detain with the decision to commence proceedings, as the Respondents suggest.

The Respondents also cite the 11th Circuit Case *Alvarez v. ICE* for the proposition that § 1252(g) bars review of a decision to detain a noncitizen. 818 F.3d 1194, 1202–03 (11th Cir. 2016). This case is factually inapposite to the issues in this matter: *Alvarez* involved a non-citizen's *Bivens* claim in which he asserted that the immigration proceedings initiated against him violated the terms of a plea agreement from a federal criminal case. Even were *Alvarez* more relevant to Petitioner's case, the *Alvarez* Court also explained that in interpreting the scope of *AADC*, the "Third Circuit has taken a different approach—although significantly, for our purposes, also a narrow one—holding that the provision 'only applies to suits challenging the government's selective enforcement of the immigration laws.'" *Id.* at 1202–03 (citing *DeSousa v. Reno*, 190 F.3d 175, 182 (3d Cir.1999)). In other words, the Third Circuit has a *narrower* view of the § 1252(g)

[1] At the time AADC was filed and litigated in the lower Courts, immigration proceedings were initiated with an "Order to Show Cause." This was replaced with the "Notice to Appear."

bar than other Circuits, including the 11th. As Judge Bibas more recently explained, "[s]ection 1252(g) does not sweep broadly. It reaches only these three specific actions, not everything that arises out of them." *Tazu v. Att'y Gen. United States*, 975 F.3d 292, 296 (3d Cir. 2020).

Mr. Jimenez-Sandoval's case is emphatically not about one of the three discreet actions listed in § 1252(g). This is a challenge to the legal authority to detain Petitioner in the first place. The word "detain" does not appear in § 1252(g), and the Supreme Court and Third Circuit have been extremely clear that that provision is narrow.

**b. 8 U.S.C. § 1252(b)(9) does not bar review**

8 U.S.C. § 1252(b)(9) likewise does not bar review of the government's mandatory detention of Petitioner. The Third Circuit has expressly held that this provision "does not strip jurisdiction when aliens seek relief that courts cannot meaningfully provide alongside review of a final order of removal." *E.O.H.C.,* 950 F.3d at 186. If it did, "certain administrative actions would effectively be beyond judicial review;" "[i]f 'later' is not an option, review is available now." *Id.* at 180. This is especially so where detention occurs *prior* to the entry of an order of removal. *Tazu,* 975 F.3d at 299 (noting that challenges to pre-removal order detention are not foreclosed by 1252(b)(9)); *see also Chehazeh v. Att'y Gen. of U.S.*, 666 F.3d 118, 133 (3d Cir. 2012) ("[b]ecause [the petitioner] is not seeking review of any order of removal—as there has been no such order with respect to him—§ 1252(b)(9) does not preclude judicial review"). As the Supreme Court observed in *Jennings,* if § 1252(b)(9) required "cramming judicial review" of issues into petitions for review that would make detention "effectively unreviewable," the result would be "absurd" and one which "no sensible person could have intended." 583 U.S. at 293-94.

Here, Petitioner's requested relief is from unlawful detention prior to the entry of a removal order that cannot be litigated as part of a challenge to a final removal order, should one eventually

result in this case. By the time a final order of removal is entered, Mr. Jimenez-Sandoval will either be deported or released with legal status. Because his challenge to his detention cannot be brought at the end of these proceedings, it is not barred by § 1252(b)(9). *E.O.H.C., supra* at 186.

**c. 8 U.S.C. § 1252(a)(2)(B)(ii) does not bar review**

Third, 8 U.S.C. § 1252(a)(2)(B)(ii) does not bar district court review of Mr. Jimenez-Sandoval's detention. § 1225(a)(2)(B)(ii) restricts district courts from reviewing certain discretionary decisions when the statute "*specifically render[s]* that determination to be within [DHS'] discretion." *Öztürk v. Hyde*, 136 F.4th 382, 395 (2d Cir. 2025) (emphasis added). Where that is not the case, jurisdiction is not only proper but favored. *E.O.H.C.,* 950 F.3d at 191 (finding that 1225(a)(2)(B)(ii) did not bar petitioners' challenge of their transfer to immigration detention in Mexico, as the detention-related question was not one of discretion but executive authority).

In this case, Mr. Jimenez-Sandoval does not challenge a discretionary government decision, such as whether to grant or deny bond. Instead, he contests the "extent of the [Government's] authority under the... detention statute[s]," which is "is not a matter of discretion." *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). Review of this question is not prohibited by § 1252(a)(2)(B)(ii).

Finally, it is worth noting that, as Respondent's concede, nearly every court to have considered challenges to detention based on the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), has held that people who are present without having been admitted are eligible for bond pursuant to § 1226(a). *See, e.g.,*[2] *Patel v. McShane*, Civ. 25-cv-5975 (E.D. Pa. Nov. 20, 2025) (Brody, J.); *Ndiaye v. Jamison*, No. 25-cv-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025) (Sánchez, J.); *Demirel v. Fed. Det. Ctr. Philadelphia*, No. 25-cv-5488, 2025 WL

[2] This string citation is not exhaustive; across the United States, well more than 300 decisions have rejected Respondents' position.

3218243 (E.D. Pa. Nov. 18, 2025) (Diamond, J.); *Kashranov v. Jamison*, No. 25-cv-5555, 2025 WL 3188399, at *4-7 (E.D. Pa. Nov. 14, 2025) (Wolson, J.); *Cantu-Cortes v. O'Neill, et al.*, No. 25-cv-6338, 2025 WL 3171639, at *1-2 (E.D. Pa. Nov. 13, 2025) (Kenney, J.); *Centeno Ibarra v. Warden of the Federal Detention Center, et al.,* No. 25- cv-6312 (E.D. Pa. Nov. 25, 2025) (Rufe, J.);[3] *Rivera Zumba v. Bondi*, Civ. No. 25-cv-14626 (KSH), 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025, at *8 (D. Md. Aug. 24, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 , at *8 (E.D. Mich. Aug. 29, 2025); *Beltran Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *6 (W.D. Ky. Sept. 19, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025); *Maldonado v. Olson*, No. 25-cv-03142-14 SRN-SGE, 2025 WL 2374411, at *13 (D. Minn. Aug. 15, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *11 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285, at *2 (C.D. Cal. Aug. 15, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF,

[3] Other decisions in this District in Petitioner's favor include: *Buele Morocho v. Jamison, et al.*, No. 25-cv-5930 (E.D. Pa. Nov. 26, 2025) (Gallagher, J.); *Diallo v. O'Neill, et al.*, No 25-cv- 6358 (E.D. Pa. Nov. 26, 2025) (Savage, J.); *Espinal Rosa v. O'Neill, et al.*, No. 25-cv-6376 (E.D. Pa. Nov. 25, 2025) (Weilheimer, J.); *Wu v. Jamison, et al.*, No. 25-cv-6469 (E.D. Pa. Dec. 1, 2025) (Gallagher, J.); *Flores Obando v. Bondi*, No. 25-cv-6474 (E.D. Pa. Dec. 1, 2025) (Brody, J.); *Valdivia Martinez v. FDC*, No. 25-cv-6568 (E.D. Pa. Dec. 1, 2025)(Savage, J.); *Soumare v. Jamison*, No. 25-cv-6490 (E.D. Pa. Dec. 2, 2025) (Henry, J.); *Yilmaz v. Warden, FDC*, No. 25-cv-6572 (E.D. Pa. Dec. 2, 2025) (Rufe, J.); *Nogueira-Mendes v. McShane*, No. 25-cv-5810 (E.D. Pa. Dec. 3, 2025) (Slomsky, J.); *Juarez Velazquez v. O'Neill, et al.,* No. 25-cv-6191 (E.D. Pa. Dec. 3, 2025) (Henry, J.); *Perez-Suspes v. Rose, et al.*, No. 25-cv-6608 (E.D. Pa. Dec. 5, 2025) (Brody, J.); *Delgado Villegas v. Bondi, et al.*, No. 25-cv-6143 (E.D. Pa. Dec 4, 2025) (Diamond, J.); *Hidalgo et al. v. O'Neill, et al.*, No. 25-cv-6775 (E.D. Pa. Dec. 5, 2025) Diamond, J.); *Conde v. Jamison, et al.* No. 25-cv-6551 (E.D. Pa. Dec. 5, 2025) (Brody, J.); *Rodrigues Pereira v. O'Neill, et al.*, No. 25-cv-6543 (E.D. Pa. Dec. 8, 2025) (Marston, J.); *Bhatia v. O'Neill, et al.*, No. 25-cv-6809 (E.D. Pa. Dec. 8, 2025) (Rufe, J.); *Anirudh v. McShane, et al.*, No. 25-cv-6458 (E.D. Pa. Dec. 8, 2025) (Bartle, J.); *Acosta-Cibrian*, No. 25-cv-6650 (E.D. Pa. Dec. 9, 2025) (Gallagher, J.); *Picon v. O'Neill, et al.*, No. 25-6731 (E.D. Pa. Dec. 15, 2025) (Perez, J.).

2025 WL 2419263, at *4 (N.D. Cal. Aug. 21, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431, at *6 (S.D. Cal. Sept. 3, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025). In so doing, these Courts have necessarily rejected the view that any of the statutes cited by Respondents bar review of the detention-related questions at the heart of those cases. That fact speaks for itself and lends strong support to the finding of jurisdiction in this matter.

## II. PETITIONER'S DETENTION IS GOVERNED BY 8 U.S.C. § 1226(A).

In their opposition, Respondents almost entirely ignore 8 U.S.C. § 1226(a). Moreover, they repeatedly misstate and misconstrue the Supreme Court's holdings in *Jennings,* 583 U.S. at 288. *Jennings* did *not* hold that all non-citizens who are within the United States without admission must be detained for the length of their removal proceedings, as Respondents allege. ECF No. 2, at 11. Instead, it held that detention under § 1225(b) applies "at the Nation's borders and ports of entry." *Id.* at 287. Indeed, and as the Court dictated in *Jennings,* it is § 1226 which provides the "default rule" for the detention of those who, like Mr. Jimenez-Sandoval, are "already in the country." 583 U.S. at 288–89. Section 1226(a) states that, "[e]xcept as provided in subsection (c)," detained noncitizens may be released on bond pending a decision in their removal proceedings. 8 U.S.C. § 1226(a). And subsection (c) specifically exempts from § 1226(a)'s default rule individuals who are "inadmissible under paragraph (6)(A) . . . of section 1182(a)"—*i.e.*, those who entered the U.S. without admission or parole, and who also have been arrested for, charged with, or convicted of certain crimes. *Compare id.* § 1226(c)(1)(E), *with id.* § 1182(a)(6)(A). The statute also identifies certain other classes of inadmissible noncitizens. *See id.* § 1226(c)(1)(A), (D). These references demonstrate that, by default, § 1226(a) must cover inadmissible persons

like Petitioner. This is because "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1256–57 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

Nor does Mr. Jimenez-Sandoval's decision to defend against his removal proceedings somehow convert him into an "applicant for admission" who is "seeking admission" under § 1225(b)(2)(A). That statute must be read in its context and in a way that gives meaning to all its terms. Subparagraph § 1225(b)(2)(A) addresses inspections by examining immigration officers, authorizing them to make determinations to place persons in removal proceedings who are not "clearly and beyond a doubt entitled to be admitted." This is plainly inapplicable to noncitizens who are not being inspected at the border and are already in removal proceedings, as there is no need for the determination at issue in § 1225(b)(2)(A).

Respondents' interpretation of the statutory language would also make large portions of § 1226 and § 1225 superfluous. Under the plain language of the statutes, § 1225(b)(2) and § 1226 are "mutually exclusive—a noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226." *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), --- F. Supp. 3d,2025 WL 2371588, at *4 (S.D.N.Y. Aug. 13, 2025). It would make little sense for Congress, in enacting the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996, to mandate the detention of a group of noncitizens and at the same time provide for discretionary detention of the very same group. But under Respondents' interpretation of the statues, this is exactly what Congress did.[4]

[4] Ever since its enactment in IIRIRA, the statute has always applied to inadmissible persons (including those who have not been admitted or paroled), as demonstrated by § 1226(c)(1)(A), (D) and the recently-passed Laken Riley Act (LRA). *See* discussion, *infra*.

Moreover, Respondents' position is completely consistent with Congress's stated intent. In passing IIRIRA, Congress focused on the perceived problem of recent arrivals to the U.S. who do not have documents to remain. *See* H.R. Rep. No. 104- 21469, pt. 1, at 157–58, 228–29 (1996); H.R. Rep. No. 104-828, at 209 (1996) (Conf. Rep.). Yet those who are apprehended immediately upon entering *are* treated as being on the "threshold" of entry and subject to mandatory detention, placing them on the very same footing as other arriving noncitizens. *See Dep't of Homeland Sec.v. Thuraissigiam,* 591 U.S. 103, 140 (2020) ("[A noncitizen] who is detained shortly after unlawful entry cannot be said to have 'effected an entry.'" (citation omitted)). This aligns with Congress's explanation that the new § 1226(a) in IIRIRA preserved "the authority of the Attorney General to arrest, detain, *and release on bond* a[] [noncitizen] who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229 (emphasis added); *see also* H.R. Rep. No. 104-828, at 210 (same).[5] Respondents' view disregards this important history.

Even worse, Respondents' view of § 1226(a) renders meaningless a statute that Congress *just* passed: the Laken Riley Act (LRA). In that Act, Congress amended § 1226(c), specifying that certain persons who entered without admission or parole and who were arrested for, charged with, or convicted of certain crimes are subject to mandatory detention. 139 Stat. 3, 3 (2025).

Statutory amendments are presumed to "have real and substantial effect." *Ross v. Blake*, 578 U.S. 632, 642 (2016) (citation omitted). By contrast, under the longstanding reading of the statute, the LRA has a direct effect: it denies bond to noncitizens to whom bond was previously available. Respondents' view ignores that, although limited redundancy may occasionally occur,

[5] The BIA's discussion of legislative history in *Yajure Hurtado* is thus unavailing, as it similarly misconceived what *actually* concerned Congress. *See* 29 I. & N. Dec. 27 at 222–25.

it is also a "cardinal rule of statutory interpretation that no provision should be construed to be *entirely* redundant." *United States v. $133,420.00 in U.S. Currency*, 672 F.3d 629, 643 (9th Cir. 2012) (emphasis added) (citation omitted). Yet such an interpretation does exactly that—renders § 1226(c)(1)(E) "entirely redundant." *Id.*

Finally, and as numerous other decisions in this District have recognized, Respondents' position would create serious constitutional concerns. The Third Circuit has previously held that non-citizens subject to mandatory detention are entitled to due process rights, and that detention between six months and a year is presumptively unreasonable. *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020); *see also Zadvydas,* 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). If § 1225 really did apply to Petitioner and those like him, millions of non-citizens across the United States would face indeterminate and potentially years-long periods of civil confinement without access to a bond hearing, leading many to be detained well beyond the presumptively reasonable periods defined by *German Santos* and *Zadvydas*. The canon of constitutional avoidance cautions against treading down this path—instead favoring adoption of an interpretation that steers clear of such grave due process concerns. *Clark v. Martinez*, 543 U.S. 371, 380-81 (2013) (the canon of constitutional avoidance holds "when deciding which of two plausible statutory constructions to adopt, a court must consider the necessary consequences of its choice. If one of them would raise a multitude of constitutional problems, the other should prevail[.]"); *see also Ndiaye v. Jamison*, No. 25-cv-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025) (Sánchez, J.) at *15.[6]

[6] Respondents cite *Demore v. Kim,* 538 U.S. 510 (2003), apparently to imply that due process does not apply to non-citizens subject to mandatory detention under the INA. But *Demore* was concerned with the mandatory detention of individuals with criminal convictions under § 1226(c). Even there, the Court merely upheld the constitutionality of brief periods of detention lasting, on average, six months. *Demore* did not determine that mandatory detention was

To date, Mr. Jimenez-Sandoval remains detained in ICE custody—now at the Moshannon Valley Processing Center (MVPC) in Philipsburg, PA—and has still not been provided a bond hearing. Because his mandatory detention is ungrounded in statutory justification, contrary to 30 years of agency practice, in violation of due process, and simply illegal, he respectfully requests that this Court issue a writ of habeas corpus and order his immediate release.

Dated: December 24, 2025 Respectfully submitted,

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proper under § 1226(a), that holding it were would not offend due process, or that § 1226(a) detention lasting longer than six months would comport with the Constitution.

**CERTIFICATE OF SERVICE**

I certify that on December 24, 2025, this motion and all attachments were filed using the Court's CM/ECF system. All party counsel are e-filers and will receive a copy via ECF.

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