

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-03993-PAB

ADIS ARIEL HERNANDEZ-REDONDO,

Petitioner,

v.

PAMELA BONDI, Attorney General of the United States,
ROBERT GUADIAN, U.S. Immigration & Customs Enforcement Field Office Director for the
Colorado Field Office, in his official capacity
KRISTIN NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity,
and
JUAN BALTASAR, Warden of GEO Group Aurora Inc, in his official capacity,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 5)

Pursuant to the Court's December 19, 2025, Order (ECF No. 5), Respondents hereby respond to Petitioner Adis Ariel Hernandez-Redondo's Application for a Writ of Habeas Corpus, ECF No. 1 (the "Petition").

Pursuant to 28 U.S.C. § 2241, Petitioner, through counsel, asserts violations of the Immigration and Nationality Act (INA) and the Due Process Clause, alleging that Respondents have unlawfully detained him under 8 U.S.C. § 1225(b)(2) without an opportunity to post bond. *See* ECF No. 1 at 6. He claims he is not subject to Section 1225(b)(2)(A) but is instead subject to 8 U.S.C. § 1226(a). *See id.* Petitioner also claims that he is entitled to relief on the basis of a declaratory judgment issued as part of a partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92. *See id.* at 3–6, 10–11.

The Petition should be denied. Petitioner is an “applicant for admission” within the scope of Section 1225(b)(2), which makes him subject to mandatory detention under Section 1225(b)(2)(A). And his detention is consistent with due process. The Court should deny his requests for relief.

INTRODUCTION

This case involves a question of statutory interpretation that is familiar to the Court. The Department of Homeland Security (DHS) is detaining Petitioner under a statutory provision of the INA, 8 U.S.C. § 1225(b)(2)(A), that applies to aliens who, like Petitioner, entered the United States without inspection, have never been admitted, and are thus deemed to be “applicants for admission” by law. Section 1225(b)(2)(A) requires detention of an “applicant for admission” during removal proceedings if an “examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.”

Petitioner claims he is not an applicant for admission subject to Section 1225(b)(2)(A) but is instead subject to a different provision, 8 U.S.C. § 1226(a), which is a provision that also authorizes detention of certain aliens while removal proceedings are pending. The practical difference between the two sections is that aliens detained under Section 1225(b)(2)(A) are ordinarily *not* eligible for bond hearings, while those detained under Section 1226(a) are. Based on the premise that Petitioner’s detention is governed by Section 1226(a) (entitling him to a bond hearing), he requests a bond hearing or immediate release. *See* ECF No. 1 at 12.

The Court should rule that Petitioner is an applicant for admission within the scope of Section 1225(b)(2) and subject to detention under that provision. Respondent’s position is supported by the Supreme Court’s interpretation of that statute in *Jennings v. Rodriguez*, 583

U.S. 281 (2018); *see id.* at 287 (explaining that “an alien who ... is present in this country but has not been admitted is treated as an applicant for admission”) (internal marks omitted); *id.* at 288 (explaining that Section 1225(b)(1) and (b)(2) governs the detention of applicants for admission).

Some district courts have affirmed Respondents’ interpretation of Section 1225, often articulating their reasoning in careful detail. *See, e.g., Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-168, 2025 WL 3131942, at *2-3 (E.D. Mo. Nov. 10, 2025); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *6 (E.D. Wis. Oct. 30, 2025). Numerous nonprecedential decisions, including several in this district, have ruled otherwise, and one of those decisions has been appealed to the Tenth Circuit. *See Mendoza Gutierrez v. Baltazar*, Civil Action No. 25-cv-02720-RMR (D. Colo.), *appeal filed* (Dec. 15, 2025). Respondents submit that their reading comports best with the statute and the Supreme Court’s decision in *Jennings*.

Petitioner also argues that he is a member of a class of individuals detained pursuant to Section 1225(b)(2)(A) recently certified in *Bautista v. Noem, et al.*, No. 25-cv-01873-SSS-BFM, __ F.Supp.3d __, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). Petitioner argues that the district court in *Bautista* not only certified a nationwide class but additionally granted declaratory relief to that class. ECF No. 1 at 4. This Court should not give that district court’s order preclusive effect in this case because that district court lacked jurisdiction over Petitioner’s habeas claim, collateral estoppel should not be applied against the federal government especially given contrary judgments from other district courts, and the *Bautista* decision is on appeal.

Petitioner also challenges his detention as violating due process. But the Supreme Court

has held that detention during removal proceedings does not, without more, violate due process.

BACKGROUND

I. Factual Background

Petitioner is a native and citizen of Honduras. *See* Exhibit 1 (Declaration of I. Quinones), ¶ 4. He entered the United States on March 20, 2021, at or near Hidalgo, Texas. *See id.*, ¶ 5. He was never admitted to, or paroled into, the United States. *See id.*, ¶ 6. On November 22, 2025, Respondents detained him when United States Immigration and Customs Enforcement (ICE) officers encountered him in Denver, Colorado. *See id.*, ¶ 11. Petitioner has been charged with being deportable as an alien present in the United States without being admitted or paroled. *See id.*, ¶ 14. Because he has not been admitted to or paroled into the United States, ICE has detained him pursuant to 8 U.S.C. § 1225(b)(2)(A). *See id.*, ¶ 13.

Petitioner's last appearance before an immigration judge was January 26, 2026. *See id.*, ¶ 21. Petitioner's case is set for a trial queue and individual hearing on the merits of a pending application for protection. *Id.* His removal proceedings, therefore, remain pending. *See id.*, ¶ 22.

II. Procedural Background

Petitioner filed the Petition pursuant to 28 U.S.C. § 2241 on December 12, 2025. *See* ECF No. 1. In the Petition, Petitioner asserts one claim for relief. *See id.* at 10–11. He alleges that Respondents have violated the INA by subjecting him to detention under Section 1225(b)(2)(A). *See id.* As relief, Petitioner requests that, based on *Bautista*, the Court enter an order requiring Respondents to release him or provide him an individualized bond hearing. *See id.* at 12. Petitioner also generally alleges that his due-process rights have been violated because of his detention. *See* ECF No. 1 at 2, 7.

On December 19, the Court ordered that Respondents be served with the Petition by and that, within twenty-one days of service, Respondents must show cause “why the Petition should not be granted.” ECF No. 5 at 1. Respondents were served with the Petition pursuant to the Court’s December 19, 2025, order on January 6, 2026, so the deadline for Petitioners’ response is on or before January 27, 2026.

ARGUMENT

I. Petitioner’s detention under Section 1225(b)(2)(A) does not violate the INA.

The INA, in 8 U.S.C. § 1225, governs the processes for the detention and removal of aliens who are “applicants for admission.” 8 U.S.C. § 1225(a)(1). Petitioner is an “applicant for admission” to which 8 U.S.C. § 1225 applies, and is subject to mandatory detention.

That determination is supported by *Jennings v. Rodriguez*, 583 U.S. 281 (2018), where the Supreme Court analyzed the scope of Section 1225. There, the Supreme Court assessed whether certain aliens are entitled to periodic bond hearings during prolonged detention. In making that assessment, “[t]he primary issue [wa]s the proper interpretation of §§ 1225(b), 1226(a), and 1226(c).” *Jennings*, 583 U.S. at 289. That is the primary issue in this case as well.

A. Section 1225 defines “applicant for admission” to include noncitizens who are unlawfully present and were never admitted.

Section 1225 provides, in relevant part, that “[a]n alien present in the United States who has not been admitted ... shall be *deemed* for purposes of this chapter [to be] an applicant for admission.” 8 U.S.C. § 1225(a)(1) (emphasis added). Petitioner fits that definition.

In *Jennings*, the Court recognized that the statute uses the term “applicant for admission” as a term of art. “Under ... 8 U.S.C. § 1225, an alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been admitted,’ is *treated as* ‘an applicant for admission.’”

583 U.S. at 287 (emphasis added). In other words, aliens who are present in the country and were never lawfully admitted are “treated as”—*i.e.*, they are “deemed” to be—“applicants for admission.”

B. Section 1225(b)(2)(A) is a catchall provision that requires detention of applicants for admission during their removal proceedings.

Most applicants for admission—except for those who fall into two narrow subcategories in Section 1225(b)(1)—are covered by Section 1225(b)(2). As relevant here, Section 1225(b)(2) 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 is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). The *Jennings* Court described Section 1225(b)(2) as a “catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1).” *Id.* (emphases added).

The *Jennings* Court then explained that detention is mandatory for those covered by Section 1225(b)(2), as that provision “requires detention “for a [removal] proceeding,” § 1225(b)(2)(A)” and the “plain meaning” of that provision is “that detention must continue . . . until removal proceedings have concluded, § 1225(b)(2)(A).” 583 U.S. at 844.

Thus, an alien who (1) meets the general definition of applicant for admission (such as an individual who is unlawfully present and has not been admitted), and (2) does not fall within the two narrow Section 1225(b)(1) subcategories, is an “applicant for admission” who falls under the “catchall” provision of Section 1225(b)(2) and is subject to mandatory detention during removal proceedings.

Some courts have suggested that Section 1225(b)(2)(A) should be limited to those who are “seeking admission.” Indeed, Petitioner argues that he is not “seeking admission” because he is already here. *See* ECF No. 1 at 6.

But this argument is not supported by the statute. The statute makes clear that the *status* of being an applicant for admission is one way that an alien may be treated as “seeking admission.” It states, “All aliens . . . who are applicants for admission *or otherwise seeking admission* . . . shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). Section 1225 thus confirms that an alien can seek admission simply by meeting the definition of an applicant for admission *or* can “otherwise” seek admission by directly applying for admission. The Court commented later in *Jennings* that, “[i]n sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2).” *Id.* at 289. But the *Jennings* Court’s earlier discussion of “applicants for admission” made clear there is no additional “seeking admission” element criterion for being an “applicant for admission” subject to mandatory detention under Section 1225(b)(2)(A)’s catchall provision. Rather, this reference reflected the Court’s prior explanation that aliens who fall within §§ 1225(b)(1) and (b)(2) are, as a matter of law, “treated as” “applicants for admission.” *Id.* at 287.

C. Many courts have issued well-reasoned decisions affirming Respondents’ interpretation of Section 1225.

Numerous courts have agreed with Respondents’ interpretation of Section 1225. Some have articulated their reasoning in careful detail. *See, e.g., Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-168, 2025 WL 3131942, at *2-3 (E.D. Mo. Nov. 10, 2025); *Rojas v. Olson*, No. 25-cv-

1437, 2025 WL 3033967, at *6 (E.D. Wis. Oct. 30, 2025). As those decisions show, Respondents' position is well supported by the statutory text.

II. No nationwide declaratory relief on § 1225 entitles Petitioner to a bond hearing or release.

Petitioner argues that this Court should rule for him by giving preclusive effect to the declaratory judgment issued as part of a partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92. This Court should not grant preclusive effect to that decision (which is now on appeal), for multiple reasons.

First, for a prior judgment to have preclusive effect, the judgment must be “entered by a court of competent jurisdiction.” *N. Nat. Gas Co. v. Grounds*, 931 F.2d 678, 683 (10th Cir. 1991); see Restatement (Second) of Judgments § 1 (1982). Here, the *Bautista* court lacked jurisdiction to determine the legality of Petitioner’s detention. That court addressed whether class members were unlawfully detained under 8 U.S.C. § 1225(b)(2), and such a challenge to the legality of detention can only be brought in habeas. *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025). Under habeas principles, “jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). And a habeas petitioner must name his immediate custodian. *Id.* at 435. The *Bautista* court thus lacked jurisdiction to determine the legality of the detention of class members like Petitioner confined outside the Central District of California. That court also lacked jurisdiction to grant a declaratory judgment in a class action to determine a preliminary issue that class members then rely on to seek relief in individual habeas actions. See *Calderon v. Ashmus*, 523 U.S. 740 (1998).

Second, while courts have “discretion to determine when [offensive collateral estoppel] should be applied.” *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 329–31 (1979), offensive

collateral estoppel is disfavored when applied against the federal government. *See United States v. Mendoza*, 464 U.S. 154, 159 (1984) (recognizing that the federal government’s unique position weighs against “a broad application of collateral estoppel”).

Third, the existence of prior inconsistent judgments weighs against applying issue preclusion. *See Parklane Hosiery*, 439 U.S. at 330–31. District courts have interpreted 8 U.S.C. § 1225(b)(2) differently from the *Bautista* court. *See, e.g., Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025) (citing cases). These varying rulings support not giving the *Bautista* judgment preclusive effect. *See Order, Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025), ECF No. 12, at 11 & 28.

Fourth, the pendency of an appeal to the Ninth Circuit of the district court’s *Bautista* decision supports not giving that decision preclusive force at this time. While the mere “pendency of an appeal does not prevent application of the collateral estoppel doctrine,” *Ruyle v. Cont’l Oil Co.*, 44 F.3d 837, 846 (10th Cir. 1994), applying preclusive force to a judgment that has been appealed can cause difficulty because a judgment that is reversed “is thereby deprived of all conclusive effect.” *United States v. Lacey*, 982 F.2d 410, 412 (10th Cir. 1992). Courts thus should strive to avoid this “evil result[.]” 9 A.L.R.2d 984. When a prior judgment has been appealed, the second court may hold the “disposition in abeyance until the pending appeal [is] resolved.” *See Ruyle*, 44 F.3d at 846. Indeed, “strong reasons must be found to justify proceeding with the second action pending appeal from the first judgment.” C. Wright, 18A Fed. Prac. & Prod. § 4433. Here, if this Court is inclined to grant collateral estoppel effect to the *Bautista* decision, it should hold its decision in abeyance until the Ninth Circuit rules.

Based on all these factors, this Court should decline to accord the *Bautista* decision preclusive effect here as to Petitioner. Rather, this Court should simply address the proper scope of § 1225(b)(2) based on the analysis set forth above.

III. Petitioner's detention under Section 1225(b)(2)(A) does not violate due process.

Petitioner also briefly alleges that his detention without a bond hearing violates his due process rights. *See* ECF No. 1 at 2, 7. To the extent he is bringing a procedural due process challenge, this argument fails because Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2)(A), as set forth above, and he has received the due process that is set forth by statute. To the extent he is bringing a substantive due process challenge, Petitioner has not shown that his detention violates due process, as his detention is during removal proceedings that will have a definite end point, and the Supreme Court has approved such detention.

First, to show that he has been denied procedural due process, Petitioner would need to show that he has been deprived of a statutory right. The Supreme Court has “often reiterated” the “important rule” that for “foreigners who have never been ... admitted into the country pursuant to law,” “the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law.” *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). In *Thuraissigiam*, the Court explained that an alien who was an “applicant for admission” had “only those rights regarding admission that Congress has provided by statute,” and “the Due Process Clause provides nothing more.” *Id.* at 140. For the reasons set forth above, Petitioner has not been deprived of any statutory right as he is properly detained under Section 1225(b)(2)(A).

Also, Petitioner has not shown any prejudice from any procedural violation. He has not

shown that he is being denied procedures in his immigration proceedings where he can challenge the determination that Section 1225(b)(2)(A) applies. He thus has not shown a violation of procedural due process. See *Duran-Hernandez v. Ashcroft*, 348 F.3d 1158, 1163 (10th Cir. 2003) (where an alien failed to show “that additional procedural safeguards would have changed” the immigration court’s decision, this “failure to prove prejudice leads us to reject [his] due process claim”). As another Court in this District has explained in analyzing a due-process challenge to immigration detention, “so long as the government reasonably affords noncitizen detainees in ongoing immigration proceedings administrative process to challenge the *merits* determinations that are keeping them in custody, continued custody is permissible.” *Bonilla Espinoza v. Ceja*, No. 25-cv-01120-GPG, ECF No. 11 at 13 (D. Colo. May 21, 2025).

Second, Petitioner has not shown that his detention violates substantive due process. The Supreme Court “has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003). The Court in *Demore* relied on a broad principle: the Court’s “longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings. . . .” *Id.* at 526. Specifically, the Court relied on *Reno v. Flores*, 507 U.S. 292 (1993), where the Court had rejected a due process challenge to the detention of minors during deportation proceedings, *id.* at 313-14, and on *Carlson v. Landon*, 342 U.S. 524 (1952), where the Court had rejected a due process challenge to detention by noncitizens on the ground that they did not pose a flight risk. *Id.* at 538. Later, in *Jennings*, the Court observed that in *Demore*, the Court, in rejecting the due process challenge, had relied on the principle that the detention during removal proceedings “has “a definite termination point: the conclusion of removal

proceedings.” 583 U.S. at 304 (internal marks omitted).

Here, Petitioner has not shown that his detention is unconstitutional. He is detained during his removal proceedings, which will have a definite end point. He has been detained for approximately two months as of the date of this submission. *See* ECF No. 1 at 2; Ex. 1, ¶ 11. Those circumstances do not show a substantive due process violation under the general principles set forth in *Demore*.

CONCLUSION

For the reasons set forth above, the Court should deny the Petition (ECF No. 1).

Dated: January 27, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on January 27, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Elliot Wertheim

Elliot Wertheim

United States Attorney's Office