UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ROLANDO PEPE GARCIA GUZMAN,

Petitioner

v.

ROBERT GUADIAN, *et al.*;

Respondents

Case No. 1:25-cv-4002-DDD-KAS

REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

For decades it has been universally understood that individuals who have entered the United States, even unlawfully, are entitled to seek release on bond absent past criminal convictions that would subject them to mandatory detention. Yet in 2025, the government abruptly reversed the statutory interpretation it embraced for decades, choosing to interpret the Immigration and Nationality Act ("INA") to mandate the detention of anyone who entered without inspection pending their removal on the theory that they remain noncitizens seeking admission and inspection by an examining immigration officer, regardless of how long they have resided in this country. The government has detained Mr. Garcia for months now under this theory, despite an overwhelming number of district court cases across the country holding the government's theory is incorrect and/or violates the noncitizen's due process rights. Because the statute and due process principles necessitate that Mr. Garcia is not subject to mandatory detention, this Court should order Respondents to release him from custody, or in that alternative, order a bond hearing before a neutral arbitrator.

MR. GARCIA IS NOT SUBJECT TO DETENTION UNDER 8 U.S.C. § 1225(B)(2)

District courts throughout the Tenth Circuit have almost universally concluded that noncitizens like Mr. Garcia who have entered the United States without admission and have continued residing in the United States for years after entry are subject to detention under 8 U.S.C. § 1226(a), not mandatory detention under 8 U.S.C. § 1225(b)(2). *See, e.g.*, *Orellana v. Noem*, No. 25-CV-03976-PAB, 2025 WL 3706417 (D. Colo. Dec. 22, 2025); *Ramos v. Dedos*, No. 1:25-CV-00975-MLGKRS, 2025 WL 3653928 (D.N.M. Dec. 17, 2025); *Mendoza Gutierrez v. Baltasar*, No. 25-CV-2720-RMR, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Colin v. Holt*, No. CIV-25-1189-D, 2025 WL 3645176 (W.D. Okla. Dec. 16, 2025); *Cortez-Gonzalez v. Noem*, --- F. Supp. 3d ----, 2025 WL 3485771 (D.N.M. Dec. 4, 2025); *Pu Sacvin v. De Anda-Ybarra*, No. 2:25-CV01031-KG-JFR, 2025 WL 3187432 (D.N.M. Nov. 14, 2025); *Loa Caballero v. Baltazar*, No. 25-CV-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Velasquez Salazar v. Dedos*, --- F. Supp. 3d ----, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *see also Maldonado Bautista v. Santacruz*, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025) (vacating DHS's policy); *see also Aguilar v. Bondi*, No. g:25-cv-1453, 2025 WL 3471417, at *5 (W.D. Tex. Nov. 26, 2025); *Colin v. Holt*, No. 25-cv-1189, 2025 WL 3645176 (W.D. Ok. Dec. 16, 2025); *but see Buenrostro v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026). The statute's plain text and Supreme Court precedent should compel this Court to do so again.

Section 1225(b)(2) states, "in the case of an alien who is an applicant for admission, if the examining officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for" removal proceedings. 8 U.S.C. § 1225(b)(2). Contrary to Respondents' assertions, § 1225(b)(2) does not apply to all applicants for admission. It mandates the detention only of those who are "seeking admission" and only if an "examining

immigration officer determines that [they are] not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). As several courts have acknowledged, "seeking admission" is only one requirement found in § 1225(b)(2). *See Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 487-88 (S.D.N.Y. 2025) (describing three "criteria": (1) that the noncitizen is an "applicant for admission"; (2) that the noncitizen is actively "seeking admission"; and (3) that the "examining immigration officer determines 'is not clearly and beyond a doubt entitled to be admitted.'"); *see also Leonardo G.Z. v. Noem*, 25-cv-600, 2025 WL 3755590, 9 (N.D. Ok. Dec. 29, 2025). Critically, if "applicant for admission" was the same as "seeking admission," the statute would violate the rule against surplusage. *See id.*; *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) ("[N]o clause, sentence, or word shall be superfluous, void, or insignificant.") (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)); *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025); *Quispe v. Crawford*, No. 25-cv-1471, 2025 WL 2783799, at *5 (E.D. Va. Sept. 29, 2025). Thus, not all applicants for admission are subject to mandatory detention pending removal proceedings. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).[1]

Respondents also argue that the statute does not only apply to noncitizens who are newly arriving. Response at 9. But that is *exactly* to whom § 1225(b)(2) is intended to apply. Indeed, Respondents cite a case that is the perfect example of intended application of § 1225(b)(2)(A): *Richards v. Choate*, No. 25-cv-3143-DDD-STV (D. Colo. Dec. 5, 2025), ECF No. 19; *see* Response, ECF No. 15 at 8. In *Richards*, this Court determined that a lawful permanent resident who left the United States after a drug conviction, was properly deemed to be an applicant for

[1] Respondents argument regarding the regulation is circular insofar as they insist the regulation supports their reading because it references applicants for admission as noncitizens present within the U.S. without admission or parole. But Respondents fail to acknowledge the rest of the citation, noting that such individuals will be eligible for bond and bond redeterminations. Response at 14.

admission seeking admission. Richards was found to be inadmissible for a reason unrelated to not having valid travel documents. *Id.* at 2 (recognizing that the petitioner had been convicted of a crime that rendered him inadmissible after he left the United States and thus removal proceedings under 8 U.S.C. § 1229a were warranted). But, materially, *Richards* involved a noncitizen encountered at a port of entry as he re-entered the United States and was, under the circumstances, an applicant for admission. *Id.* This is materially different than the case at hand, where Mr. Garcia entered the United States decades ago and was not at a port of entry applying for admission at the time he was encountered and detained.

Moreover, Respondents' arguments ignore § 1225(b)(2)'s requirement that detention under that provision applies only if an examining officer determines the noncitizen is not "clearly and beyond a doubt entitled to be admitted." Individuals such as Mr. Garcia who were encountered during a traffic stop were not subject to an examining immigration officer's determination regarding whether he was seeking and entitled to be admitted to the United States. *Aguilar v. Bondi*, No. 5:25-cv-1453, 2025 WL 3471417, at *5 (W.D. Tex. Nov. 26, 2025) (quoting 8 U.S.C. § 1101(a)(13)(A)); *cf.* Response at 8. Respondents' selective statutory analysis ignores not only all of the components of the entire statutory provision but also ignores the titles and headings of the sections[2] and improperly applies the provisions and policies of cases falling under § 1225(b) to individuals who are not seeking inspection by an immigration officer at a port of entry or close in time to an unlawful entry into the United States. *See Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, *8 (D.N.J. Sept. 26, 2025).

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[2] Section 1225 is titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." Section 1226 is titled "Apprehension and detention of aliens." *See Zumba*, 2025 WL 2753496, *8 ("§ 1225 repeatedly cabin[s] its application to "Inspections," which, as petitioner convincingly argues, occurs as ports of entry, their functional equivalent, or near the border.").

Respondents' interpretation also would nullify recent amendments to the INA in the Laken Riley Act, now codified within 8 U.S.C. § 1226(c). *See Hasan v. Crawford*, No. 25-cv-1408, 2025 WL 2682255, at *8 (E.D. Va. Sept. 19, 2025). Among other things, the Laken Riley Act mandates detention for noncitizens who are subject to certain inadmissibility grounds *and* meet certain criminal criteria. 8 U.S.C. § 1226(c)(1)(E). Such a statute would be entirely redundant if a noncitizen's inadmissibility alone rendered him subject to mandatory detention under § 1225(b)(2)(A). *See id.*; *Lopez Benitez*, 795 F. Supp. 3d at 484.

Respondents argue that the redundancy is irrelevant, as Congress can impose redundancy to make a point clear. Response at 12. But there is no indication that Congress intended for the Laken Riley Act to make such a point. Section 1225(b)(2) had been on the books for almost three decades when Congress passed the Laken Riley Act. In that time, neither the courts nor the Government had ever interpreted § 1225(b)(2) to mandate the detention of *all* noncitizens who entered the United States without inspection. It was against that backdrop that Congress passed the Laken Riley Act. When it did, Congress did not feel compelled to clarify the interpretation of § 1225(b)(2) that had been universally accepted since its inception in 1997. Instead, it mandated detention for certain classes of inadmissible noncitizens—individuals that would already have been subject to mandatory detention under Respondents' reading on § 1225(b)(2). If Congress believed the courts and the Government were misapplying § 1225(b)(2) it had three decades to correct the error. It did not. Thus, the redundancy *is* relevant and not so easily dismissed. *Lopez Benitez*, 795 F. Supp. 3d at 484.

Additionally, Respondents' substantial reliance on *Jennings v. Rodriguez* is misplaced. *Jennings* primarily focused on the detention provisions under § 1225(b)(1), not (b)(2), and there is no claim that § 1225(b)(1) is applicable in this case. Moreover, in *Jennings*, the Supreme Court

affirmed that affirmed that § 1226(a) rather than § 1225(b)(2) "applies to aliens already present in the United States." *Jennings*, 583 U.S. at 303. The Court acknowledged that "once inside the United States, aliens do not have an absolute right to remain here . . . , includ[ing] aliens who were inadmissible at the time of entry or who have been convicted of certain criminal offenses since admission," but explained that "[s]ection 1226 generally governs the process of arresting and detaining *that group of aliens* pending their removal." *Id.* at 288 (emphasis added). Mr. Garcia belongs to "that group of aliens" and he is accordingly not subject to detention under § 1225(b)(2)(A).

MR. GARCIA'S DETENTION VIOLATES HIS DUE PROCES RIGHTS

Additionally, Respondents' refusal to allow Mr. Garcia to seek release on bond also violates his constitutional right to due process. Respondents contend that Mr. Garcia has "'only those rights regarding admission that Congress has provided by statute,' and 'the Due Process Clause provides nothing more.'" Resp. 16 (quoting *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020)). Yet this argument rests on a misinterpretation of *Thuraissigiam*, 591 U.S. 103, 118-19 (2020). *Thurassigiam* merely affirmed what the Supreme Court has held for years—that for noncitizens on "the threshold of initial entry," "whatever the procedure authorized by Congress is, it is due process as far as a [noncitizen] denied entry is concerned." *United States ex rel. Mezei*, 345 U.S. 206, 212 (1953); *Thuraissigiam*, 591 U.S. at 138-39.

Yet Mr. Garcia is not at "the threshold of entry." He entered the United States over twenty years ago and has resided here ever since. As the Supreme Court has stressed, once Mr. Garcia "enter[s] the country, [his] legal circumstances change[], for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also*

Nishimura Ekiu v. United States, 142 U.S. 651, 660 (1892) (distinguishing noncitizens arriving at our shores from those "who have never been naturalized, nor acquired any domicil or residence within the United States"). Thus, even if the Court were to accept Respondents' erroneous argument that Mr. Garcia is subject to § 1225(b)(2), that statutory distinction is not determinative of the process he is due under the Constitution. Because he entered the United States over twenty years ago, his proceedings must "conform to traditional standards of fairness encompassed in due process of law." *Mezei*, 345 U.S. at 212. Respondents reliance on *Demore v. Kim* is likewise misplaced because the issue in that case involved the governments' interest in detaining noncitizens with criminal convictions. 538 U.S. 510 (2003). Those principles do not apply to Mr. Garcia, who has no criminal history. Indeed, Respondents cite no case even suggesting that the general constitutional principle limiting the due process rights of those denied entry should be extended to those like Mr. Garcia who have "passed through our gates" and pose no flight or dangerousness concerns. His detention must comport with due process. For the reasons set forth in his Petition, it does not.

Respondents next argue that Mr. Garcia has not been prejudiced because he is not "being denied procedures *in his immigration proceedings*, where he can challenge the determination that § 1225(b)(2)(A) applies." Resp. 16. First, that is precisely what he has been denied. DHS Policy and BIA precedent deny him any opportunity to argue that he is entitled to bond under § 1226(a) and is not subject to § 1225(b)(2). Second, Mr. Garcia's continued detention without the opportunity to seek release on bond is clearly prejudicial. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690. Indeed, freedom from detention "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Accordingly,

"[g]overnment detention violates th[e Due Process] Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections or, in certain special and 'narrow' nonpunitive 'circumstances' where a special justification . . . outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (emphasis in original) (internal citations omitted). Respondents have not put forth any special justification for Mr. Garcia's continued detention, and the Government's general interest in ensuring Mr. Garcia's appearance at his removal proceedings and protecting the community does not outweigh his constitutionally protected interest in avoiding physical restraint, particularly where the agency and an immigration judge would necessarily consider those interests when deciding whether to set bond. *See Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL 2682255, at *10 (E.D. Va. Sept. 19, 2025) ("Any interest that the federal respondents may have in securing Hasan's presence at immigration proceedings has been accounted for by the IJ's imposition of bond.").

MR. GARCIA IS COVERED BY THE *MALDONADO-BAUTISTA* CLASS ACTION

Finally, Respondents contend that *Maldonado-Bautista* does not apply such that Mr. Garcia should be eligible for a bond hearing. Response at 17-19. First, Respondents submit that they are not bound by the declaratory judgment in *Maldonado-Bautista* because the final judgment has no preclusive effect against the government. However, the federal government is bound by a declaratory judgment just like any other party. Just because that decision was issued outside the scope of an individual habeas does not render the court's order less binding. Second, the pendency of an appeal in *Maldonado-Bautista* does not mean a court can ignore the decision while it remains in effect. *Florida ex rel. Bondi v. U.S. De't of Health and Human Services*, 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011) ("to suggest that a declaratory judgment will only be effective and binding on the parties after the appeals process has fully run its course is manifestly incorrect and

inconsistent with well established statutory and case law."). Finally, Respondents' reliance on a minority of district courts across the country that disagreed with the result in *Maldonado-Bautista* myopically ignores the vast majority of the cases that reached the same result as *Maldonado-Bautista*, and also does not render *Maldonado-Bautista* itself less impactful.

CONCLUSION

For the foregoing reasons, Mr. Garcia requests the Court grant his habeas petition and order his release or, alternatively, that he is entitled to a bond proceeding before an immigration judge to consider whether he would be a flight risk or danger to the community.

Respectfully submitted,

February 13, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing pleading complies with the length limitation set forth in DDD Civ. P.S. III(A)(1), as it contains 2,607 words.