UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:25-cv-04620-KMM-LIB

HUSNI SHARIF ABDI

Petitioner,

v.

PAMELA BONDI, *et. al.,*

Respondents.

PETITIONER'S REPLY TO GOVERNMENT RESPONDENTS' ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

HUSNI SHARIF ABDI ("Petitioner" or "Mr. Abdi"), an immigration detainee held at the Sherburne County Jail, filed this petition challenging his detention without bond pursuant to the Government Respondents' interpretation of the mandatory detention provisions of 8 U.S.C. § 1225(b)(2).

BACKGROUND

On March 11, 2024, Mr. Abdi entered the United States without inspection and was apprehended by DHS agents that same day. DHS thereafter released him on recognizance "in accordance with" Section 236 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1226, and served him with a Notice to Appear alleging removability under 8 U.S.C. § 1182(a)(6)(A)(i).

On December 2, 2025, ICE agents conducted a traffic stop in Minneapolis and detained Petitioner, who was a passenger in a vehicle driven by an individual ICE identified as an "enforcement target" [Pet'r Ex. 1—Form I-213]. Petitioner was not

encountered at a port of entry, was not seeking admission to the United States, and was not otherwise attempting to enter the country at the time of his arrest.

Despite these facts, Respondents reclassified Petitioner as an "arriving alien" and transferred him to the Sherburne County Jail, subjecting him to mandatory detention under 8 U.S.C. § 1225(b). An Immigration Judge subsequently held a custody hearing and denied bond based on that designation and the decision in *Matter of Yajure Hurtado*, 29 I &N Dec. 216, 229 (BIA 2025), concluding that she lacked jurisdiction to conduct a bond hearing.

Petitioner filed this petition for a writ of habeas corpus asserting that the Government Respondents improperly classified him as an arriving alien and that his detention is instead governed by the INA's discretionary custody framework under 8 U.S.C. § 1226(a), which entitles him to an individualized bond hearing before an Immigration Judge.

The Court's Order to Show Cause, dated December 17, 2025, asked Respondents to address whether this matter is materially distinguishable, either factually or legally, from *Belsai D.S.* v. *Bondi*, No. 25-cv-3682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025).

In their Reply, Respondents concede that this Court, in *Belsai* and related cases, has rejected the government's preferred interpretation of § 1225(b)(2) and its argument that the detention of noncitizens similarly situated to Petitioner constitutes mandatory

detention. Nonetheless, Respondents urge the Court to reconsider that settled analysis based on additional authority they contend supports their position.

Respondents further assert that Petitioner's pending asylum application is a "relevant consideration" that distinguishes his case from *Belsai*. Petitioner asserts that the only relevant distinguishing factor is that Government Respondents classified this Petitioner's detention as governed by § 1226 and now seek to reclassify him as mandatory custody. Respondents also argue that Petitioner does not qualify as a Bond Eligible Class member under *Maldonado Bautista* v. *Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). Petitioner addresses each of Respondents' arguments below.

PETITIONER IS SUBJECT TO DISCRETIONARY DETENTION UNDER 8 U.S.C. § 1226 ACCORDING TO *BELSAI* AND *MALDONADO BAUTISTA*

Respondents argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he entered and has remained in the United States without admission or parole and is therefore an "applicant for admission." This Court squarely rejected that argument in *Belsai,* holding that noncitizens similarly situated to Petitioner are instead governed by the discretionary detention framework of § 1226.

The dispute turns on the proper interpretation of the statutory language. Section 1225(b)(2) provides that "in the case of an alien[1] who is an applicant for admission, if the

[1] Petitioner uses the more neutral term "noncitizen" in place of "alien" throughout this brief, except when providing excerpts from statutes or direct quotes from court decisions. Both terms refer to people who are not citizens of the United States.

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." 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

As *Belsai* and the cases it relies upon explain, a noncitizen who is apprehended within the United States is not "seeking admission" within the meaning of § 1225(b)(2). That phrase describes the conduct of a person actively attempting to enter the United States—most logically at a port of entry—rather than someone already present in the country and later arrested by ICE. 2025 WL 2802947, at *6. Because Petitioner was detained inside the United States, he was not "seeking admission," and his detention is therefore governed by § 1226(a), which "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings." *Id.*

In *Maldonado Bautista*, the Central District of California reached the same conclusion. The plaintiffs/petitioners in that case were noncitizens who entered the United States without inspection, resided in the country for years, and were apprehended during a series of immigration raids in Southern California in 2025. DHS classified each plaintiff as subject to mandatory detention under 8 U.S.C. § 1225(b), and Immigration Judges denied bond on the ground that Board of Immigration Appeals ("BIA") precedent adopting the same policies deprived them of jurisdiction. No. 5:25-cv-01873-SSS-BFM at *10.

In granting partial summary judgment, the court cited *Jennings* v. *Rodriguez*, 583 U.S. 281, 289 (2018), and reaffirmed the statutory distinction between §§ 1225 and 1226.

The court explained that § 1225(b) authorizes detention of noncitizens "*seeking admission* into the country," whereas § 1226 governs detention of noncitizens "*already in the country* pending the outcome of removal proceedings." *Id.* (emphasis added). That reasoning supports Petitioner's position here, where, as in *Maldonado Bautista*, the individual was apprehended inside the United States and was not seeking admission at the time of arrest.

THE GOVERNMENT'S ACTIONS IN PETITIONER'S CASE ESTABLISH THAT HE IS DETAINED UNDER SECTION 1226

Petitioner initially entered the United States without inspection and was arrested the same day. DHS initiated removal proceedings under 8 U.S.C. § 1229a by serving Petitioner with a Notice to Appear ("NTA") charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i). The NTA declined to designate Petitioner as an "arriving alien." DHS subsequently released Petitioner on his own recognizance pursuant to an order (ORR) expressly stating that his detention was governed by INA § 236 (codified at 8 U.S.C. § 1226) [Pet'r Ex. 4]. Petitioner later filed an I-589 Application for Asylum and Withholding of Removal, which remains pending before the Fort Snelling Immigration Court in Minnesota. The Government confirms each of these facts in the Declaration of Deportation Officer Angela Minner ("Minner Decl.") and supporting documents filed with their Response.

Respondents cannot now claim that Petitioner's detention falls under § 1225(b) when their own contemporaneous records establish that his custody was governed by §

1226. The Form I-862 (Notice to Appear) requires Customs and Border Protection ("CBP"), a component of DHS, to classify a noncitizen in removal proceedings as either an "arriving alien,"[2] "alien present in the United States who has not been admitted or paroled," or "admitted to the United States."

When Petitioner entered the United States, CBP did not designate him as an "arriving alien." [Gov't Ex. B.—NTA]. Instead, DHS released Petitioner on recognizance on March 13, 2024, pursuant to an order explicitly stating that he was subject to detention under INA § 236 (8 U.S.C. § 1226). [Pet'r Ex. 4.]

Courts have rejected precisely this type of post-hoc reclassification. In *Chang Barrios* v. *Shepley*, the District of Maine held that Government respondents could not contradict their own detention documents that consistently classified the petitioner as subject to discretionary detention under § 1226(a). No. 25-CV-00406, 2025 WL 2772579, at *7 (D. Me. Sept. 29, 2025). There, as here, the NTA did not classify the petitioner as an "arriving alien" and the custody determination classified the petitioner as subject to § 1226(a). Only after the petitioner was taken into ICE custody did the government attempt to reclassify the detention under § 1225, without identifying any authority for doing so. *Id.* at *6–7. The court ordered that detention be governed by the statute originally invoked, explaining that "an agency must defend its actions based on the reasons it gave when it acted" and may not rely on post-hoc rationalizations such as

[2] The INA defines "arriving alien" as an *applicant for admission* coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry . . . 8 C.F.R. § 1.2.

reclassification under § 1225. *Id.* at 7 (quoting *Dep't of Homeland Sec.* v. *Regents of the Univ. of Cal.*, 591 U.S. 1, 22 (2020)).

Similarly, in *Salcedo Aceros* v. *Kaiser*, the court rejected the government respondents' attempt to reclassify a noncitizen's detention under § 1225 instead of § 1226. No. 25-cv-06924, 2025 WL 2637503, *8 (N.D. Cal. Sept. 12, 2025). In *Salcedo Aceros*, the petitioner crossed the border without inspection and was arrested by CBP officers. *Id.* at *4. The petitioner was charged as removable under Section 1182(a)(6)(A)(i), but "released on her own recognizance with a Notice to Appear 'due to a lack of bed space." *Id.* Border patrol stated on the petitioner's ORR that she was released under § 1226. *Id.* However, upon the petitioner's rearrest, the Government respondents asserted that the petitioner's detention fell under § 1225. *Id.* at *7. The *Salcedo Aceros* court found that the Government could not simply "switch tracks" to detain the petitioner under § 1225(b) when "the detention authority consistently applied by the government to [petitioner] since her arrival in the United States has always been § 1226." *Id.* at *8.

The court reached the same conclusion in *Moreno Madrid* v. *Acuna*, No. 3:25-cv-01572-TAD-KDM *11 (W.D. La. Dec. 12, 2025). The Court held that it would continue to follow *Yajure Hurtado.* The distinction is that the petitioner was initially arrested and detained under § 1226.

The same principle applies here. Petitioner's facts are substantially the same as the petitioner in *Salcedo Aceros* [*See* Minner Dec'l, filed by the Gov't]. Petitioner's release-

on-recognizance order explicitly states that he was released pursuant to 8 U.S.C. § 1226 [Pet'r Ex. 4]. Although § 1226(b) permits DHS to revoke bond or parole and rearrest a noncitizen under the original detention authority, Government Respondents offer no explanation—legal or factual—for reclassifying Petitioner's detention under § 1225(b) rather than re-detaining him under § 1226(a). Nor do Respondents cite any authority in their Response permitting them to abandon the statutory framework consistently applied to Petitioner and instead invoke mandatory detention under § 1225(b). Accordingly, Petitioner's detention is governed by § 1226, and he is entitled to an individualized bond hearing.

The *Maldonado Bautista* Court attributes the government's actions (reclassifying noncitizens like Petitioner as "applicants for admission") to a change in policy. On July 8, 2025, the DHS issued interim guidance instructing all ICE employees to consider anyone charged with inadmissibility under §1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under 8 U.S.C. §1225(b)(2)(A) and therefore subject to mandatory detention. [Pet'r Ex. 6—"July 8 ICE Policy Memo"].

On September 5, 2025, the BIA adopted this same position in *Yajure Hurtado*. There, the BIA held that all noncitizens who entered the United States without inspection or parole are considered "applicants for admission" and are therefore ineligible for IJ bond hearings. 29 I &N Dec. at 229. The IJ hearing Petitioner's bond request relied on *Yajure Hurtado* to find that Petitioner is an "arriving alien" and subject to mandatory

detention under § 1225 and that the immigration court had no jurisdiction over the bond request [Pet'r Exh. 5].

The *Maldonado Bautista* court found that DHS and EOIR's expansive interpretation of "applicants for admission" (described in the July 8 ICE Policy Memo) would effectively nullify a portion of the INA through DHS's legislative or interpretive exercise of power. The Court held "Neither is appropriate under the separation of powers." 2025 WL 3289851, at *16 (Citing *Loper Bright Enterprises* v. *Raimondo*, 603 U.S. 369, 386 (2024) (establishing that "[t]he views of the Executive Branch could inform the judgment of the Judiciary, but [do] not supersede it.").

The court continued: "Meanwhile, Petitioners' interpretation—that § 1226 is the governing authority and that they are not 'applicants for admission'—is not contrary to the statutory scheme of the INA. *See generally* 8 U.S.C. § 1226. Nowhere in § 1226 is the phrase 'applicants for admission,' 'admission,' or 'admitted' used in the context raised in § 1225. *Maldonado Bautista*, 2025 WL 3289851, at *16.

THE CONTRARY AUTHORITY CITED BY GOVERNMENT RESPONDENTS IS UNPERSUASIVE

Respondents cite several district court decisions within the Eighth Circuit that have adopted the government's preferred interpretation of 8 U.S.C. § 1225(b). Each of those cases involved a noncitizen who entered the United States without inspection, resided in the country for years, and was later apprehended by DHS and classified as subject to mandatory detention under § 1225(b). In each instance, the court concluded

that the petitioner was an "applicant for admission" under § 1225(a) because, notwithstanding years of residence, the petitioner had never been "admitted" to the United States. *See Melgar* v. *Bondi*, 2025 WL 3496721 (D. Neb. Dec. 5, 2025); *Suarez* v. *Noem*, 2025 WL 3312168 (E.D. Mo. Nov. 28, 2025); *Mejia Olalde* v. *Noem*, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Vargas Lopez* v. *Trump*, 2025 WL 2780351 (D. Neb. Sept. 30, 2025).

The case Respondents rely upon most heavily, *Melgar*, is readily distinguishable. There, the court emphasized that the petitioner failed to present evidence demonstrating that DHS had ever classified his detention under § 1226(a). 2025 WL 3496721, at *8. Although the court noted that an NTA's failure to designate a noncitizen as an "arriving alien" could not, standing alone, support detention under § 1226(a), the petitioner in *Melgar* produced no additional documentation confirming that classification. *Id.* at *9.

Here, by contrast, Petitioner has submitted documentary evidence establishing that DHS itself determined in 2024 that his detention was governed by § 1226(a), including an Order of Release on Recognizance expressly stating that he was released "in accordance with" § 1226(a). That evidence is dispositive and absent from *Melgar*.

The *Melgar* court further reasoned that §§ 1225(b) and 1226(a) have an "overlapping relationship," asserting that § 1226 applies to noncitizens already present in the United States, while § 1225(b) also encompasses noncitizens "present in the United States who ha[ve] not been admitted." *Id.* at *13. The court concluded that, even if

"seeking admission" is an additional requirement under § 1225(b)(2)(A), the petitioner's efforts to remain in the United States rendered him an "applicant for admission." *Id.*

The court extended that reasoning by concluding that Mr. Melgar was "seeking admission" because he had filed an application for cancellation of removal, which the court viewed as confirming his status as an "alien seeking admission." *Id.* at *14. Respondents attempt to extend this logic to Petitioner based on his pending asylum application. That argument fails. As discussed below, a grant of asylum does not constitute an "admission" under the INA, and an application for asylum therefore cannot be equated with an application for admission.

Notably, the Melgar court expressly acknowledged that its interpretation of §§ 1225 and 1226 conflicts with *Maldonado Bautista* and with the majority of district courts to address the issue—including this Court in *Belsai* and the decisions cited at pages 13–15 of Petitioner's Petition.

Because Respondents concede that their interpretation is inconsistent with *Belsai*, and because Petitioner's case is materially distinguishable from *Melgar*, Respondents have failed to identify any basis for revisiting this Court's prior conclusions regarding the distinction between mandatory detention under § 1225(b) and discretionary detention under § 1226(a). Their reliance on *Melgar* and related cases does not justify a departure from this Court's settled precedent.

PETITIONER'S PENDING ASYLUM APPLICATION DOES NOT MAKE HIM AN APPLICANT FOR ADMISSION

Respondents attempt to distinguish Petitioner's case from *Belsai* by arguing that the petitioner there—a DACA recipient—had done nothing to qualify as "seeking admission," whereas Mr. Abdi is allegedly seeking admission because he has a pending asylum application. In support, Respondents rely on *Chen* v. *Almodovar*, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025). That reliance is misplaced. The *Chen* court neither cited nor attempted to reconcile controlling BIA precedent holding that asylum does not constitute an "admission" under the INA.

In *Matter of V-X-*, the BIA held that a grant of asylum confers lawful status but does not qualify as an "admission" to the United States within the meaning of INA § 101(a)(13)(A), codified at 8 U.S.C. § 1101(a)(13)(A). 26 I. & N. Dec. 147, 150–51 (BIA 2013). The BIA explained that asylum is "not akin to a grant of lawful permanent resident status," noting that lawful permanent residents are expressly assimilated to the status of noncitizens admitted at the border with immigrant visas. *Id.* at 151 (citations omitted).

The BIA reaffirmed this statutory distinction in *Matter of Reza-Murillo*, emphasizing that the INA defines "admitted" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A) (emphasis added); 25 I. & N. Dec. 296, 297 (BIA 2010). The BIA cautioned that treating recipients of immigration statuses other than lawful permanent

residence as having been "admitted" would impermissibly read out of the statute the requirement of "entry . . . after inspection and authorization." *Id.* at 299.

Against this backdrop, Respondents' assertion that this case is "fundamentally different" from *Belsai* cannot be sustained. *Chen*, the sole authority on which Respondents rely, adopts an interpretation of § 1225(b) that this Court has already rejected in *Belsai* and offers no explanation for departing from BIA precedent establishing that asylum is not an admission under the INA.

Because asylum does not qualify as an "admission" under 8 U.S.C. § 1101(a)(13)(A), the act of applying for asylum cannot be deemed an act of "seeking admission" for purposes of § 1225(b). Petitioner's pending asylum application therefore provides no basis to classify him as an "applicant for admission" subject to mandatory detention.

PETITIONER IS A BOND ELIGIBLE CLASS MEMBER UNDER *MALDONADO BAUTISTA* BASED ON HIS NOVEMBER 2025 DETAINER

Respondents contend that Petitioner is not a Bond Eligible Class member because he allegedly fails the second condition: that he was not, and will not be, apprehended upon arrival in the United States. ICE apprehended Petitioner upon his arrival in 2024, and released him on recognizance two days later.

Petitioner satisfies this condition because, at the time ICE detained him on December 2, 2025, he was not seeking admission to the United States. As the *Maldonado Bautista* court explained in its class certification decision, certified class members need

not share identical circumstances; commonality is "construed permissively." *Maldonado Bautista* Class Certification at *6 (citing *Hanlon* v *Chrysler Corp.*, 150 F.3d 1011, 1019 (9th Cir. 1998); *Evon* v. *Law Offices of Sidney Mickell*, 688 F.3d 1015, 1029 (9th Cir. 2012)). Commonality is readily satisfied where plaintiffs challenge a system-wide practice or policy affecting all class members, as when prospective relief is sought. *Gonzalez* v. *ICE*, 975 F.3d 788, 808 (9th Cir. 2020); *Maldonado Bautista* Class Cert. Opinion at *6.

The *Maldonado Bautista* court further explained that while individual class members may face different inadmissibility charges, they share a common injury: deprivation of the right to a bond hearing. That injury can be remedied in a single ruling invalidating the DHS policy that deprives them of due process. *Rodriguez* v. *Hayes*, 591 F.3d 1105 (9th Cir. 2010). *Maldonado Bautista* Class Cert. Opinion at *6.

Petitioner qualifies as a Bond Eligible Class member when focusing on his December 2, 2025, detainer. He was not seeking admission—he was apprehended within the United States—and his pending asylum application constitutes an application for legal status, not an application for admission. He also shares core facts with other class members: DHS determined he was subject to mandatory custody under § 1225(b), and an Immigration Judge denied bond for the same reason. These shared facts could be resolved collectively upon a determination that the DHS policy violates due process rights.

Even if the Court concludes that Petitioner is not formally a Bond Eligible Class member, the reasoning in *Maldonado Bautista* remains fully applicable to his circumstances.

Based on the foregoing, Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus ordering Respondents to release him immediately from custody or, in the alternative, to promptly provide a bond hearing under 8 U.S.C. § 1226 before an Immigration Judge.

DATED this 31st Day of December, 2025

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