

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

_____)	
Epifanio Perez-Sanchez,)	
)	
Petitioner-Plaintiff,)	
v.)	Civ. Case No. 5:25-cv-01749
)	
PAM BONDI,)	
United States Attorney General, et al.)	
)	
_____)	

**PETITIONER’S REPLY IN SUPPORT OF HIS PETITION FOR WRIT OF HABEAS
CORPUS AND RESPONSE TO RESPONDENTS’ RETURN**

I. INTRODUCTION AND PROCEDURAL BACKGROUND

Petitioner respectfully submits this Reply in support of his Petition for Writ of Habeas Corpus and in opposition to the Respondents’ request that the Court deny Petitioner’s writ. The Petition presents a straightforward statutory question with urgent liberty consequences: whether Petitioner—an interior arrestee placed in full removal proceedings under 8 U.S.C. § 1229a—may be held under 8 U.S.C § 1225(b)(2) as if he were perpetually “seeking admission,” or whether the governing detention framework is INA § 1226(a), which provides for an individualized custody determination. Respondents’ response brief largely re-urges the same position the Court has already rejected in previous case decisions: that DHS may treat long-present interior residents who entered without inspection as “applicants for admission” subject to mandatory detention under § 1225(b)(2), with parole as the only “safety valve.” That position is inconsistent with the text and

structure of the INA, the Supreme Court's description of the statutory scheme, and the growing body of district court authority rejecting DHS's recent pivot.

The Petitioner filed his Habeas petition on December 15, 2025. (Dkt. 1) When he filed the instant habeas petition, Petitioner was in the custody of Respondents at the Karnes County Immigration Processing Center, Karnes City, Texas. He has been detained since about October 30, 2025, charged with being present in the United States without having been inspected or admitted under 8 U.S.C. § 1182(a)(6)(A)(i). Petitioner is a citizen of Mexico who last entered the United States without inspection in 2013. He is eligible for application for non-LPR cancellation of removal pursuant to 8 U.S.C. § 1229b(b)(1) as he has been physically present in the United States for at least ten years and has been a person of good moral character during that period.

Immigration and Customs Enforcement ("ICE") took Petitioner into custody on October 30, 2025, at his workplace. He is in full removal proceedings under 8 U.S.C. § 1229a and is detained without an opportunity to post bond or be released on other conditions. He was denied a bond hearing due to a Board of Immigration Appeals ("BIA") ruling, *In re Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025), in which the BIA adopted a new policy regarding detention of noncitizens. Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). He is currently scheduled for a January 22, 2025 master calendar hearing before an immigration judge ("IJ") on the detained docket regarding relief from removal.

Before the Court are the Petition for Writ of Habeas Corpus on December 15, 2025 (Dkt. 1), Order for Service and Further Orders of the Court on December 15, 2025 (Dkt. 2), Certified Mail Receipt on December 15, 2025 (Dkt. 3), Sealed Ex Parte Motion on December 17, 2025 (Dkt. 4), and Response to Petition for Writ of Habeas Corpus on December 22, 2025 (Dkt. 5). The Respondents argue for dismissal of the petition on the grounds that the only relief afforded to

Petitioner via habeas is release from custody. Dkt. 5 at 2. They argue that the plain language of the statutes supports their reading requiring mandatory detention of Petitioner, and that persuasive decisions of the Board of Immigration Appeals and of a district judge within this district support their reading. *Id.* at 2-10.

Respondents also argue that *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) which the BIA published on September 5, 2025, should be followed. (Dkt. 5 at 7-8.) But Respondents ignore that this Court and as well as the majority of district courts have rejected Yajure-Hurtado's reading, see *Becerra Vargas v. Bondi*, 5:25-cv-01023-FB *3 (W.D.Tex. Nov. 26, 2025) (adopting Magistrate Report and Recommendation to grant habeas and order immediate release stating “[i]n their objections, Respondents reurge their arguments asking this Court to follow the minority of courts which have ruled in their favor instead of the overwhelming number of decisions to the contrary. The Court declines to do so at this time”); *Fuentes v. Lyons*, 5:25-CV-00153 *10 (S.D.Tex., 2025) (“Nearly every district court to address the statutory question ‘has concluded that the government’s position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice.’ Rodriguez, 2025 WL 2782499, at *1 n.3. Having read the sound analysis of this issue by many other districts, the Court adopts the position of the majority of courts”); see also *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025); *Gutierrez v. Thompson*, 2025 WL 3187521, at *8 (S.D.Tex., 2025); *Espinoza Andres v Noem*, et al., H-25-5128, 2025 WL 3458893, at *1 (S.D.Tex., 2025); *Padron Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 WL 2950097, at *4 (S.D. Tex. Oct. 8, 2025). See also *Chogllo Chafra v. Scott*, 2025 WL 2688541, at *8 (D.Me., 2025) (“The BIA's decision in Yajure Hurtado also is at odds with decades of DHS's own practices, which the opinion acknowledges.”); *J.U. v. Maldonado*, 2025 WL 2772765, at *7 (E.D.N.Y., 2025) (“[T]his Court

finds that the historical practice – under which § 1225(b)(2)(A) would not have applied to Petitioner – is consistent with the text, structure, and statutory scheme. As noted above, § 1225(a) defines an applicant for admission as “[a]n alien present in the United States who has not been admitted or who arrives in the United States” and in turn, § 1225(b)(2)(A) 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.”).

The Petitioner here has lived many years in the United States and was apprehended within the interior. Thus, he is entitled to due process under the Fifth Amendment of the Constitution. *See, e.g., Martinez v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) Respondents urge the Court to follow to *Thuraissigiam*, 591 U.S. at 140 (finding that applicants for admission are entitled only to the protections set forth by statute and that “the Due Process Clause provides nothing more”), but this Court owes no deference, in light of the Supreme Court’s ruling in *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244 (2024), to Respondents’ interpretation of the INA and regulations.

II. ARGUMENT

A. This Court Has Jurisdiction; the INA’s Channeling and “No Review” Provisions Do Not Bar Habeas Review of Unlawful Civil Detention.

1. Section 1252(g) is narrowly targeted and does not bar review of detention claims.

Section 1252(g) “refer[s] to just three specific actions”—the decision or action “to commence proceedings, adjudicate cases, or execute removal orders”—and must not be read to “sweep in any claim that can technically be said to ‘arise from’” those actions. *Reno v. Am.-Arab Anti-Discrimination Comm.* (AADC), 525 U.S. 471, 482–83 (1999). The Fifth Circuit has adhered

to that narrow construction, holding that § 1252(g) does not bar federal-court review of immigration detention because a detention order, “while intimately related to efforts to deport, is not itself a decision to ‘execute removal orders.’” *Cardoso v. Reno*, 216 F.3d 512, 516–17 (5th Cir. 2000). Consistent with *Cardoso*, Fifth Circuit decisions emphasize that § 1252(g) protects charging/adjudicatory discretion—not all agency conduct tangential to removal. *See Duarte v. Mayorkas*, 27 F.4th 1044, 1055 (5th Cir. 2022) (explaining § 1252(g) preserves discretion “to decide whether and when to prosecute or adjudicate removal proceedings”) (quotation marks omitted). Other courts agree that § 1252(g) does not insulate unlawful detention from judicial review. *See, e.g., Kong v. United States*, 62 F.4th 608, 617–18 (1st Cir. 2023). Because Petitioner challenges ongoing civil custody—not DHS’s decision to commence or adjudicate proceedings nor the execution of a removal order—§ 1252(g) does not apply. *See AADC*, 525 U.S. at 482–83; *Cardoso*, 216 F.3d at 516–17.

2. Sections 1252(b)(9) and 1252(a)(5) do not deprive this Court of jurisdiction

Section 1252(b)(9) is not a claim-bar that renders all detention claims unreviewable in district court. The Supreme Court has rejected the expansive reading the Government urges. *See Jennings v. Rodriguez*, 583 U.S. 281, 293–95 & n.3 (2018) (plurality opinion) (warning that an expansive § 1252(b)(9) would make “claims of prolonged detention effectively unreviewable”). The Court later summarized *Jennings* this way: § 1252(b)(9) “does not present a jurisdictional bar” where plaintiffs are not seeking review of an order of removal, the decision to seek removal, or the process of determining removability. *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). The Fifth Circuit has followed suit. *Duarte* confirms that § 1252(a)(5) and (b)(9) do not bar district-court review where the suit does not attack the validity of a removal order or the process by which removability will be determined. 27 F.4th at 1056. And more recently, in

addressing challenges to DACA, the Fifth Circuit reiterated Regents' formulation verbatim: § 1252(b)(9) "does not present a jurisdictional bar" where litigants are not asking for review of a removal order, the decision to seek removal, or the removability process. *Texas v. United States*, 126 F.4th 392, 417 (5th Cir. 2025). District courts within and beyond the Fifth Circuit likewise permit habeas challenges to immigration detention notwithstanding § 1252(b)(9). *See, e.g., Ayobi v. Castro*, No. 5:19-cv-1311-OLG, 2020 WL 13411861, at *3 (W.D. Tex. Feb. 25, 2020); *Ozturk v. Hyde*, 136 F.4th 382, 399 (2d Cir. 2025).

Section 1252(a)(5) adds nothing here. It makes a petition for review in the court of appeals the "sole and exclusive means" to review "an order of removal." 8 U.S.C. § 1252(a)(5). Petitioner does not seek review of any removal order (there is none), nor does he seek review of DHS's decision to seek removal or the process by which removability will be decided. *Regents*, 591 U.S. at 12–13, 19.

3. The Respondents mischaracterize Petitioner's claim; he challenges the legal authority for detention, not a discretionary decision to detain him.

The Respondent's assertion that Petitioner "challenges the decision to detain him in the first place," and that § 1252(b)(9) therefore bars review, misreads both the petition and the controlling case law. Dkt. 5 at 6. Petitioner challenges the statutory basis of his custody—i.e., whether § 1225 or § 1226 governs his detention and whether detention without a bond hearing is lawful—not the prosecution choices "to commence" or "adjudicate" removal. *Jennings* expressly distinguished between challenges to detention authority and challenges to removal actions, cautioning that an expansive § 1252(b)(9) reading would make detention claims "effectively unreviewable." 583 U.S. at 293–95 & n.3.

Regents then crystallized the rule: § 1252(b)(9) is not a bar absent a request to review a removal order, the decision to seek removal, or the removability process. 591 U.S. at 19. The Fifth Circuit has adopted that reading. *See Texas*, 126 F.4th at 417; *Duarte*, 27 F.4th at 1056. That is precisely how the courts have analyzed materially similar claims in *Acosta Balderas v. Bondi*, No. 1:25-cv-01974-JP (W.D. Tex. Dec. 11, 2025); *Santiago v. Bondi*, No. 3:25-cv-00361-KC (W.D. Tex. Oct. 10, 2025); *see also Souza Vieira v. De-Andra Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars; granting habeas relief). *Santiago* held that § 1252(g) does not bar detention challenges because detention is not one of the statute’s three discrete actions, and that § 1252(b)(9)/(a)(5) do not channel detention claims to the courts of appeals because the petitioner was not seeking review of an order of removal, the decision to seek removal, or the removability process. *See also Lopez Santos v. Noem*, No. 25-cv-1193, 2025 WL 2642278, at *2–3 (W.D. La. Sept. 11, 2025).

Because this case turns on a pure question of law (which statute governs Petitioner’s custody), agency fact-finding is unnecessary, and the BIA cannot resolve the constitutional issues raised. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) (courts may not defer to an agency’s view of law merely because a statute is ambiguous). And, as Petitioner has shown, pursuing a BIA bond appeal is futile in light of *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 214, 221 (B.I.A. 2025)—a point that only underscores why Congress did not channel these detention authority questions to the BIA or courts of appeals in the first instance. *See, e.g., Lopez-Campos v. Raycraft*, No. 23-cv-XXXXX, 2025 WL 2496379, at *4–5 (E.D. Mich. Aug. 29, 2025). In short, Petitioner does not ask this Court to review a removal order, to police DHS’s decision to commence or adjudicate removal, or to second-guess the removal process; rather, consistent with *Jennings*, *Regents*, and Fifth Circuit precedent, he seeks habeas review of the lawfulness of his present civil

detention, and §§ 1252(g), 1252(b)(9), and 1252(a)(5) do not deprive this Court of jurisdiction to decide that question.

B. The text of § 1225(b)(2)(A) requires a present tense “seeking admission” determination tied to the inspection/admission context.

Respondents contend that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) until full removal proceedings have concluded. Dkt. 5 at 2. Their contention—as many district courts to have considered such contention have found is novel. *Romero v. Hyde*, 2025 WL 2403827, at *9 (D.Mass., 2025) (This argument reflects a novel interpretation of the immigration detention statutes, adopted by DHS about a month ago.) The courts have uniformly been rejecting this novel reading of the detention statutes in the INA. *Acosta Balderas v. Bondi*, No. 1:25-cv-01974-JP (W.D. Tex. Dec. 11, 2025). “Overwhelmingly, courts have rejected the interpretation offered by Respondents that § 1225(b)(2) requires the detention of all noncitizens living in the country who are ‘inadmissible’ because they entered the United States without inspection.” *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025) (collecting cases).¹

¹ *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. Oct. 15, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025); *Choglo v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *1 (D. Me. 2025); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Palma v. Trump*, No. 4:25CV3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Carlson v. Kramer*, No. 4:25CV3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025); *Perez v. Kramer*, No. 4:25CV3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Martinez v. Secretary of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Herrera Torralba v. Knight*, No. 2:25-CV-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Fernandez v. Lyons*, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428- JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer*, No. 4:25CV3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Mohammed H. v. Trump*, No. CV 25-1576 (JWB/DTS), 2025 WL 1692739, at *56 (D. Minn. June 17, 2025); *Günaydin v. Trump*, 784 F. Supp. 3d 1175 (D. Minn. 2025); *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr*

First, § 1225 imposes three conditions that must be satisfied for § 1225(b)(2)(A) to apply and justify mandatory detention. *See, e.g., Benitez*, 2025 WL 2371588, at *5 (“[F]or section 1225(b)(2)(A) to apply, several conditions must be met—in particular, an ‘examining immigration officer’ must determine that the individual is: (1) an ‘applicant for admission’; (2) ‘seeking admission’; and (3) ‘not clearly and beyond a doubt entitled to be admitted.’”) (*quoting Martinez v. Hyde*, --- F. Supp. 3d ----, 2025 WL 2084238, at *2 (D. Mass. July 24, 2025)); § 1225(b)(2)(A). Fatal here to Respondents’ argument is that Petitioner is now “seeking admission.” Dkt. 5 at 3. It is undisputed that Petitioner is an alien present United States who has not been admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. The Respondents here have not disputed that he entered the U.S. unlawfully without apprehension in 2013. Dkt. 5 at 1. The Court should find that it is axiomatic that a person present in the United States, here for over 12 years, is not an individual seeking admission to the United States. The Board of Immigration Appeals (BIA) in *Matter of Yajure-Hurtado* meanwhile has ruled in favor of Respondent’s arguments, on September 5, 2025, in a published decision, however Petitioner argues here that this Court need not defer to the BIA’s interpretation and should reject its reasoning.

Petitioner is not, nor was he at the time he was arrested, “seeking admission.” Section 1225(b)(2)(A)’s mandatory detention provision does not apply. Respondents are wrong to interpret the statute as placing Petitioner within the definition of individuals deemed to be “applicants for

et al., 5:25-cv-01873-SSS-BFM, Dkt # 14 (C.D. Ca. Jul. 28, 2025); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *16 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-CV11571-JEK, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025); and *Santiago v. Bondi*, No. EP-25-CV-2128 (W.D. Tex. Oct. 1, 2025). But see *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal, Sept. 24, 2025) and; *Vargas Lopez v. Trump*, 2025 WL 27080351 (D. Neb. Sept. 30, 2025).

admission,” the specific detention authority under § 1225.” Dkt. 5 at 3. See also *Romero v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2403827, at *9 (D. Mass. Aug. 19, 2025) (“[T]he phrase ‘seeking admission,’ otherwise undefined in the statute, necessarily requires some ‘some sort of present-tense action.’”) (citation omitted); *Campos-Leon v Forestal*, 1:25-cv-01774-SEB-MJD, (S. D. Ind. September 22, 2025); *Doe v. Moniz*, 2025 WL 2576819, at *1 (D.Mass., 2025).

As the Supreme Court recognized in *Jennings*, § 1225(b) is concerned “primarily [with those] seeking entry,” and is generally imposed “at the Nation’s borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 297, 287. Throughout its text, the statute refers to “inspections”—a term not defined in the INA, but which typically connotes an examination upon or soon after physical entry. Many statutory provisions, various regulations and agency precedent discuss “inspection” in the context of admission processes at ports of entry, further supporting the conclusion that § 1225 has a limited temporal and geographic scope. Consistent with this focus on the moment of physical entry, § 1225(b)(2) is limited to those in the process of “seeking admission.” Similarly, the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are presently “coming or attempting to come into the United States.” The statutory and regulatory text’s use of the present and present progressive tenses excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States. A number of the courts cited above have agreed that § 1225(b)(2) only reaches individuals who are in the process of entering or who have just entered the United States.

Additionally, the INA’s statutory structure makes clear that § 1226 also reaches individuals who have not been admitted and have entered without inspection. Section 1226(c) exempts specific categories of noncitizens from the default eligibility to seek release on bond in § 1226(a), including

noncitizens subject to certain grounds of inadmissibility. Moreover, Congress recently added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted, expressly including those who are inadmissible under INA § 212(a)(6)(A), or (7)—that is, persons who entered without being admitted. If § 1226(a) did not apply to inadmissible noncitizens, then the carve out in § 1226(c) that refers to inadmissibility and Congress’ most recent amendments would all be surplusage.

The statutory history also supports a limited reading of § 1225(b)’s reach. When Congress amended § 1225(b)’s predecessor statute—which authorized detention only of arriving noncitizens—to include individuals who had not been admitted, legislators expressed concerns about recent arrivals to the United States who lacked the documents to remain in the country. There was no suggestion in the legislative history that Congress intended to subject all people present in the United States after an unlawful entry to mandatory detention and thereby transform immigration detention and sweep millions of noncitizens into § 1225(b).

Under the Supreme Court’s recent decision in *Loper Bright v. Raimondo*, a federal habeas court should independently interpret the meaning and scope of § 1225(b) using the traditional tools of statutory construction. Because the BIA’s decision in *Matter of Yajure Hurtado* is a deviation from the agency’s long-standing interpretation of §§ 1225 and 1226; is not guidance issued contemporaneously with enactment of the relevant statutes; and contradicts the statutory interpretations of dozens of federal courts, a habeas court should give it no weight under *Loper Bright* or *Skidmore*. Indeed, a number of courts have instead found that under *Loper Bright*, the prior longstanding practice of the government—under which noncitizens who resided in the United States and previously entered without inspection were deemed subject to INA § 236—is a useful interpretive aid.

1. The Supreme Court’s description of the scheme supports § 1226 for “aliens already in the country.”

Jennings describes the statutory distinction in plain terms: “U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” 583 U.S. at 289 (emphasis added). Petitioner is “already in the country,” and he is in full § 240 proceedings. The natural reading of Jennings and the INA’s structure is that § 1226 governs his custody.

2. Recent district-court authority—especially within the Western District of Texas—confirms this reading.

In this District, courts have repeatedly rejected DHS’s attempt to treat long-resident interior arrestees as perpetually “seeking admission” under § 1225(b)(2) and have ordered § 1226(a) custody process (often with a clear-and-convincing Government burden) or release. See, e.g., *Acosta Balderas v. Bondi*, No. 1:25-cv-01974-JP (W.D. Tex. Dec. 11, 2025); (granting habeas and ordering immediate relief); *Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (granting preliminary injunction; vacating the BIA’s decision applying Matter of Yajure-Hurtado; reinstating the IJ’s § 1226(a) bond order for a long-resident interior arrestee); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (issuing TRO requiring § 1226(a) process and enjoining re-detention without notice and a pre-deprivation hearing); *Hernandez Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025) (granting TRO; requiring prompt § 1226(a) bond hearing with Government burden as to danger/flight, or release if no hearing provided); *Santiago v. Noem*, No. 3:25-cv-00361-KC, 2025 WL 2606118 (W.D. Tex. Sept. 9, 2025) (granting TRO and habeas relief; directing § 1226(a) custody for interior arrestee

misclassified under § 1225(b)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas; holding the automatic stay of an IJ's bond order violates due process; ordering compliance with IJ bond decision); *Lopez-Arevelo v. Ripa*, No. EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Aug. 26, 2025) (granting TRO under § 2243 and the All Writs Act; enjoining transfer/removal to preserve habeas jurisdiction); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (even assuming § 1225(b) applies, holding due process requires an individualized bond hearing with Government burden under Mathews); *Souza Vieira v. De-Andra Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars; granting habeas relief); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025) (granting habeas; holding long-resident interior arrestee must be governed by § 1226 rather than § 1225(b)); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025) (requiring prompt § 1226(a) bond hearing with clear-and-convincing Government burden or release); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025) (granting TRO and directing prompt individualized § 1226(a) bond hearing consistent with these precedents); *Hernandez-Hervert v. Bondi*, No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025) (granting habeas; rejecting reliance on Matter of Yajure-Hurtado; requiring § 1226(a) custody process); *Becerra Vargas v. Bondi*, No. 5:25-cv-01023-FB-HJB (W.D. Tex. Nov. 26, 2025) (granting habeas in part; ordering release); and *Navarrete Perdomo v. Bondi*, No. 5:25-cv-01398 (W.D. Tex. Nov. 25, 2025) (granting habeas relief; ordering release).

These decisions are not merely persuasive in the abstract, they reflect a consistent, reasoned application of the INA's text and structure to materially identical facts: long-present interior arrestees placed in full § 240 proceedings. They also consistently hold that §§ 1252(g), 1252(b)(9),

§ 1225(b)(4), and § 1226(e) do not strip district-court habeas jurisdiction over detention-authority questions and constitutional claims. Respondents' request that this Court dissolve or narrow preliminary relief would put this case at odds with that settled and rapidly developing body of local precedent and would reward precisely the type of post hoc custody maneuvering that courts have repeatedly rejected.

C. Thuraissigiam Does Not Foreclose Habeas Review of Detention Authority or Due Process Challenges to Civil Confinement.

Respondents lean on *Dep't of Homeland Sec. v. Thuraissigiam*, arguing it forecloses Petitioner's challenge to his custody and compels mandatory detention under § 1225(b)(2). See Dkt. 5 at 6-8. (characterizing Petitioner as "seeking admission," invoking *Thuraissigiam* to minimize due process in the "applicant for admission" context, and insisting detention is part of the "action taken to remove"). That reliance is misplaced for three independent reasons.

First, *Thuraissigiam* is a deportability (admission-process) case, not a detention-authority case. The petitioner there sought a second chance at admission-related relief in expedited removal; he did not seek habeas release from civil custody, and the Court framed its analysis around the "scope of habeas" in the admission context—i.e., it cannot be used to demand another "opportunity to remain lawfully in the United States." 591 U.S. at 117–20, 140. Nothing in *Thuraissigiam* decided whether—much less how—noncitizens may challenge the fact or length of immigration detention. That question was expressly left open in *Jennings v. Rodriguez*, which resolved only statutory issues and remanded the constitutional due-process questions. 583 U.S. 281, 297–301, 312 (2018). Four years later, the Government told the Court that "as-applied constitutional challenges remain available" in the detention context. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 583 (2022).

The Western District of Texas has already drawn this precise line: in *Santiago v. Bondi*, the court explained that Thuraissigiam concerns admission and removal, “not whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention”—which is exactly what Santiago (and here, Petitioner) asserted. No. 3:25-cv-00361-KC, slip op. at 10–13 (W.D. Tex. Oct. 15, 2025). Respondents’ brief never engages that distinction.

Second, the text, structure, and history of the INA foreclose Respondents’ “everyone is ‘seeking admission’ forever” theory. Section 1225(b)(2)(A) applies only when an examining officer determines the person is an “applicant for admission,” is seeking admission, and is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (present-tense language tied to inspection/admission). That grammar and placement—as Jennings observed—reflect § 1225’s focus “primarily [on those] seeking entry,” typically “at the Nation’s borders and ports of entry.” 583 U.S. at 297, 287. By contrast, Congress designed § 1226 to govern custody for persons arrested in the interior and placed in full § 240 proceedings, with targeted, offense specific mandatory-detention carveouts in § 1226(c). If § 1225(b)(2) automatically controlled everyone “present without admission,” then § 1226(a)’s bond default and § 1226(c)’s tailored exceptions (including express references to inadmissibility, such as § 212(a)(6)(A) and (7)) would be surplusage—an atextual result. Courts addressing DHS’s July 2025 pivot have rejected the Government’s bid to erase the “seeking admission” requirement for long-present interior arrestees.²

² See, e.g., *Romero v. Hyde*, 2025 WL 2403827, at *9 (D. Mass. Aug. 19, 2025) (calling DHS’s theory a “novel interpretation” adopted only weeks earlier); *Martinez v. Hyde*, 2025 WL 2084238, at *2, *8 (D. Mass. July 24, 2025) (“seeking admission” requires “present-tense action” tied to entry/inspection); *Benitez v. Hyde*, 2025 WL 2371588, at *5 (D. Mass. Aug. 13, 2025) (listing § 1225(b)(2)(A) conditions unmet in an interior arrest). Accord *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. Oct. 15, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex.

Third, after *Loper Bright*, Yajure-Hurtado is not entitled to deference—and it is unpersuasive on its own terms. The BIA’s September 2025 opinion posits a false dichotomy: if a person has never been “admitted,” they must still be “seeking admission,” no matter how many years they have lived here. 29 I. & N. Dec. 214, 221 (B.I.A. 2025). But the statute’s present-tense text, its border-inspection context, and § 1226’s architecture refute that premise. Under *Loper Bright Enterprises v. Raimondo*, courts “owe no deference” to an agency’s interpretation simply because the statute is ambiguous; rather, courts independently construe the statute using the traditional tools. 144 S. Ct. 2244, 2262–63 (2024). And under *Skidmore*, a late-breaking, two-page policy shift (the July 8, 2025 Lyons memo) and a fast-follow BIA decision that contradict decades of § 1226 practice and the accumulating federal caselaw merit little weight. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 214 (B.I.A. 2025). Respondents’ brief does not grapple with *Loper Bright* at all, nor do they justify why a litigation-driven reversal should displace the longstanding reading that interior § 240 cases are governed by § 1226(a) unless § 1226(c) applies. *See* Dkt. 5 at 4-5. (asserting “plain language” and citing Yajure-Hurtado). Respondents also cherry-pick

Oct. 7, 2025); *Choglo v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *1 (D. Me. 2025); *Hasan v. Crawford*, No. 1:25-cv-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Vazquez v. Feeley*, No. 2:25-cv-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Palma v. Trump*, No. 4:25CV3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Carlson v. Kramer*, No. 4:25CV3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025); *Perez v. Kramer*, No. 4:25CV3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Martinez v. Secretary of Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Herrera Torralba v. Knight*, No. 2:25-cv-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Fernandez v. Lyons*, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *LealHernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer*, No. 4:25CV3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Mohammed H. v. Trump*, No. 25-1576 (JWB/DTS), 2025 WL 1692739, at *5–6 (D. Minn. June 17, 2025); *Günaydin v. Trump*, 784 F. Supp. 3d 1175 (D. Minn. 2025); *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSSBFM, Dkt. 14 (C.D. Cal. July 28, 2025); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *16 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025); *Santiago v. Bondi*, No. EP-25-CV-2128 (W.D. Tex. Oct. 1, 2025). But see *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, 2025 WL 27080351 (D. Neb. Sept. 30, 2025).

dicta from *Thuraissigiam* noting that confinement during expedited-review proceedings was not disputed in that case, 591 U.S. at 118, and then treat that aside as a blanket endorsement of mandatory detention for anyone deemed an “applicant for admission.” But *Santiago* squarely rejected that move, explaining that *Thuraissigiam* “constrain[ed] itself” to the admission process and does not foreclose due-process challenges to detention; indeed, the Supreme Court “has not addressed the viability of constitutional due-process challenges to mandatory immigration detention,” and recent authority reaffirms that “the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.” *Santiago*, slip op. at 11–14 (citing *Jennings*, 583 U.S. at 312; *Arteaga-Martinez*, 596 U.S. at 583; and *Reno v. Flores*, 507 U.S. 292, 306 (1993)). The Government’s heavy emphasis on *Thuraissigiam* thus collapses the crucial line between deportability and detention. Petitioner, like *Santiago*, challenges only the lawfulness of his civil confinement and the Government’s refusal to afford a bond hearing—not any entitlement to remain in the United States.

In short, *Thuraissigiam* does not carry the Government’s burden. Properly read, the text and structure of the INA place long-present, interior arrestees like Petitioner within § 1226(a) (subject to § 1226(c)’s specific exceptions), not § 1225(b)(2). The Government’s contrary theory would transform § 1225 into an all-purpose detention mandate, nullify Congress’s § 1226 framework, and disregard the deportability-versus-detention distinction recognized in *Jennings*, confirmed by the Government in *Arteaga-Martinez*, and applied by the Western District of Texas in *Santiago*. This Court should therefore reject Respondents’ *Thuraissigiam* argument and decline to defer to *Yajure-Hurtado*.

III. RELIEF REQUESTED

Petitioner respectfully requests that the Court:

- (1) Assume jurisdiction over this matter;
- (2) Grant the Petition for Writ of Habeas Corpus and declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2);
- (3) Order Respondents to immediately release Mr. Perez-Sanchez on his own recognizance, parole, or reasonable conditions of supervision;
- (4) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;
- (5) Enjoin ICE from transferring Mr. Perez-Sanchez outside of the Western District of Texas while this matter is pending;
- (6) Grant any other relief that this Court deems just and proper including relief necessary to prevent DHS from nullifying the Court's remedy through post hoc reclassification or procedural maneuvers

Respectfully submitted on this 23 day of December, 2025

/s/ Nicole L. True

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITIONER'S REPLY IN SUPPORT OF HIS PETITION FOR WRIT OF HABEAS CORPUS in the case of Perez-Sanchez v. Bondi, et al., Civil Action 5:25-cv-01749-FB, was sent to Fidel Esparza, III, Assistant United States Attorney, Western District of Texas, 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216 through the District Clerk's electronic case filling system on thus the 23 day of December 2025.

Dated this 23 day of December, 2025.

/s/ Nicole L. True

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