IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CARLOS HIDALGO-FERNANDEZ (A# [redacted])	§	
Petitioner,	§	
v.	§	CIVIL ACTION NO. 4:25-cv-6088
GRANT DICKEY, et al.,	§	
Respondents,	§	

PETITIONER'S REPLY TO GOVERNMENT'S RESPONSE AND MOTION TO DISMISS AND, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

TABLE OF CONTENTS

I. STATEMENT OF ISSUES

This case presents two threshold procedural issues and one substantive statutory interpretation question:

Whether Petitioner must exhaust a futile administrative appeal to the Board of Immigration Appeals after (a) the BIA has already decided the legal question against him in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), and (b) two different immigration judges have denied bond based on that binding precedent, while (c) on the same day a third immigration judge granted bond to identically situated *Maldonado Bautista* class members. Standard: Exhaustion in § 2241 cases is prudential, not jurisdictional, and is excused where further proceedings would be futile. *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992).

Whether the Government's request for "reconsideration" of this Court's prior well-reasoned rulings should be granted in the absence of changed controlling law, new evidence, or clear error. Standard: Reconsideration is appropriate only where there has been a change in controlling law, new evidence is available, or reconsideration is necessary to correct clear error or prevent manifest injustice. *Templet v. HydroChem Inc.*, 367 F.3d 473, 479 (5th Cir. 2004).

Whether 8 U.S.C. § 1225(b)(2) authorizes mandatory detention of a noncitizen who entered without inspection nearly four years ago and was arrested in the interior of the United States, far from any border, while complying with ICE reporting requirements.

Standard: Pure questions of statutory interpretation are reviewed de novo. Agency interpretations receive no deference. *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2273 (2024).

II. SUMMARY OF ARGUMENT

First, exhaustion is futile where the BIA has decided the legal question in *Matter of Yajure-Hurtado* and immigration judges have systematically denied bond based on that binding precedent. The systematic pattern of denials over one week—detailed in Section B—proves administrative exhaustion would serve no purpose other than months of continued unlawful detention.

Second, the Government's interpretation contradicts *Jennings v. Rodriguez*, 138 S. Ct. 830, 837-38 (2018), which distinguished between § 1225 (governing "arriving aliens") and § 1226 (governing those "already in the United States"). Congress confirmed this interpretation in the Laken Riley Act by amending § 1226(c)—not § 1225—to impose mandatory detention on certain interior arrestees. If the Government's interpretation were correct, the Laken Riley Act would be superfluous. The statute's use of the active present participle "seeking admission" demonstrates it applies only to those contemporaneously presenting themselves for entry, not someone arrested in Houston nearly four years after entry.

Third, the Government conspicuously fails to address *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Oct. 15, 2025), where a federal court granted summary judgment and certified a nationwide class, holding that DHS's interpretation

"contradicts *Jennings*, renders § 1226 meaningless, and is contrary to law." The Government cannot cite *Maldonado Bautista* because it cannot distinguish it.

Fourth, Petitioner challenges the statutory basis for detention—a pure question of law this Court can resolve without agency exhaustion. Under Loper Bright, the BIA's interpretation receives no deference. The BIA cannot grant the relief Petitioner seeks: a judicial determination that DHS is applying the wrong statute.

This Court should deny the motion and grant the writ.

III. ARGUMENT

A. Administrative Exhaustion Is Not Required

The Supreme Court and Fifth Circuit recognize well-established exceptions to prudential exhaustion, including where pursuing administrative remedies would be futile. *McCarthy*, 503 U.S. at 148; *Santos-Hernandez v. Sessions*, 874 F.3d 778, 784 (5th Cir. 2017). All exceptions apply here, as confirmed by the undisputed record.

1. Three Immigration Judges Have Denied Bond Based on Binding BIA Precedent or Legal Uncertainty

On September 5, 2025, the BIA issued *Matter of Yajure-Hurtado*, holding that all EWI noncitizens are "applicants for admission" subject to § 1225(b)(2) mandatory detention, regardless of when or where arrested. This is binding precedent on all immigration judges. 8 C.F.R. § 1003.1(g). Petitioner has sought bond hearings multiple times, and immigration judges have consistently denied bond—either by categorically following *Matter of Yajure-Hurtado* or by acknowledging legal uncertainty but declining to exercise jurisdiction:

- December 2, 2025: Immigration Judge Andrea Cole denied bond, concluding she lacked jurisdiction under Yajure-Hurtado. Reza-Rodriguez Decl. ¶¶ 3-7, Ex. A. Judge Cole did not consider Petitioner's family ties, length of residence, or other equities, stating "such considerations were irrelevant because she lacked jurisdiction to grant bond under Yajure-Hurtado." Id. ¶ 6.
- December 22, 2025: Petitioner sought reconsideration before Immigration Judge Scott V. Greenbaum, who likewise denied bond based on Yajure-Hurtado. Reza-Rodriguez Decl. ¶¶ 8-13, Ex. B. Judge Greenbaum "expressly cited Yajure-Hurtado as controlling and binding precedent that categorically removes immigration judge jurisdiction." Id. ¶ 11.
- December 29, 2025: I appeared before Judges Greenbaum and Buras representing five additional *Maldonado Bautista* class members—all with identical circumstances to Petitioner, all detained by the Houston ICE Field Office. Reza-Rodriguez Decl. ¶¶ 31-44, Exs. E-I.

Judge Greenbaum again denied bond based on Yajure-Hurtado. Id. ¶¶ 35-36, Ex. E.

Judge Buras denied bond in all four cases before him, but acknowledged the legal uncertainty. Id. ¶¶ 41-43. Judge Buras stated from the bench that he "did not feel comfortable accepting jurisdiction yet," that there were "still a lot of unanswered questions," and that "the issue of jurisdiction was still in litigation." Id. ¶ 42.

Three different immigration judges, eight separate proceedings over one week, eight Maldonado Bautista class members with identical circumstances. Result: Six categorical

denials of jurisdiction. Only one judge—Immigration Judge D'Andrea—exercised jurisdiction and granted relief to two class members. Reza-Rodriguez Decl. ¶¶ 45-52.

If Petitioner appealed to the BIA, the BIA would cite *Matter of Yajure-Hurtado* and summarily dismiss. The BIA cannot revisit its own precedent absent en banc reconsideration or Attorney General modification. This is not speculation—it is what is happening in identical cases nationwide. See *Ramirez Valverde v. Warden*, No. 25-C-0863, slip op. at 8 (E.D. Wis. Sept. 18, 2025) ("An appeal to the BIA would be futile because the BIA has already spoken on this issue in *Yajure-Hurtado*.").

The fact that three different immigration judges handling eight cases over one week reached near-identical jurisdictional conclusions demonstrates this is not individual judicial interpretation but the systematic application of binding BIA precedent that forecloses relief. Even when an immigration judge acknowledges the legal uncertainty created by *Maldonado Bautista*—as Judge Buras did—immigration judges decline to exercise jurisdiction while waiting for federal courts to resolve the issue. Reza-Rodriguez Decl. ¶¶ 45-52.

2. Petitioner Challenges Statutory Authority

Petitioner's claim presents a pure question of law: Does § 1225(b)(2) or § 1226(a) govern detention of EWI noncitizens arrested in the interior?

The Supreme Court has confirmed that habeas jurisdiction under § 2241 does not require exhaustion where the petitioner challenges the statutory basis for detention. *INS v. St. Cyr*,

533 U.S. 289, 314 (2001) ("Questions of law may be resolved by the federal courts without the benefit of agency expertise to bear upon the issues.").

Under *Loper Bright*, agencies receive no deference in statutory interpretation. 144 S. Ct. at 2273. The BIA cannot grant the relief Petitioner seeks—a judicial determination that DHS is applying the wrong statute. Only this Court can provide that relief.

3. Requiring Exhaustion Would Impose Months of Unlawful Detention

If required to appeal to the BIA, Petitioner would face 6-12 months (current processing times) for BIA decision, plus additional time for Fifth Circuit review. During this period, Petitioner would remain in unlawful detention under the wrong statute, separated from his U.S. citizen daughter.

This is precisely the harm the futility exception prevents. *McCarthy*, 503 U.S. at 148 (exhaustion not required where it would "serve no purpose other than to impose cost and delay").

The record confirms this is not speculation. Two immigration judges have explicitly stated they lack jurisdiction under *Matter of Yajure-Hurtado*. Reza-Rodriguez Decl. ¶¶ 6, 11. Neither considered Petitioner's equities because the BIA has categorically removed that authority. Id. This is the "administrative remedy" Respondents demand Petitioner exhaust.

The Government cannot seriously contend Petitioner should spend 12-18 months exhausting futile appeals when this Court can resolve the legal question now—and when multiple courts have already done so.

4. The Government's Cases Are Distinguishable

Fuller v. Rich, 11 F.3d 61 (5th Cir. 1994), involved a federal prisoner challenging a BOP disciplinary decision where the BOP had authority to grant relief, no precedent foreclosed relief, and factual disputes required agency expertise. Here, the BIA has no authority to declare DHS is using the wrong statute, *Matter of Yajure-Hurtado* forecloses relief, and the claim is pure law.

Gallegos-Hernandez v. United States, 688 F.3d 190 (5th Cir. 2012), required exhaustion where the BOP had not yet addressed the claim. Here, the agency has addressed it—in *Matter of Yajure-Hurtado*—and decided against Petitioner.

Abdoulaye Ba, 2025 WL 2977712 (N.D. Ohio Oct. 22, 2025), dismissed where petitioner had not yet sought a bond hearing. Here, Petitioner sought hearings twice (denied December 2 and 22, 2025, based on *Matter of Yajure-Hurtado*). Moreover, on reconsideration, *Ba* denied dismissal and addressed the merits, recognizing that "where the BIA has already decided the legal question, requiring further appeals would be futile." 2025 WL 3264535, at *3 (N.D. Ohio Nov. 24, 2025).

B. Systematic Pattern Over One Week Demonstrates Futility and Correctness of Maldonado Bautista Analysis

The futility of administrative exhaustion and the correctness of Petitioner's legal position are demonstrated by events that occurred between December 22 and December 29, 2025.

Between December 22 and December 29, 2025, I appeared at bond hearings for eight *Maldonado Bautista* class members—all with identical factual circumstances, all detained

by the Houston ICE Field Office, all long-term residents with family ties. Reza-Rodriguez Decl. ¶¶ 13-52. The results were stark: only two received bond hearings and relief. The remaining six were categorically denied. Id. ¶¶ 45-48.

On December 22, 2025—the same day Immigration Judge Greenbaum denied Petitioner's bond based on *Matter of Yajure-Hurtado*—Immigration Judge Holly D'Andrea at the same court (Conroe) granted bond to two other class members identically situated to Petitioner. Reza-Rodriguez Decl. ¶¶ 13-30. All three individuals—Petitioner and the two who received bonds—are members of the Maldonado Bautista nationwide class. Id. ¶¶ 15, 23. Like Petitioner, both individuals granted bond: entered without inspection (EWI); were arrested in the interior of the United States, far from any border; have resided in the United States for multiple years; have established family and community ties; and were initially classified by DHS as detained under § 1225(b)(2)(A). Id. ¶ 22.

All three individuals—Petitioner and the two class members granted bond—are detained by the same custodian: the Houston ICE Field Office, and all three are *Maldonado Bautista* class members. Id. ¶¶ 15, 23.

Critically, DHS took the identical legal position in all three cases. Reza-Rodriguez Decl. ¶ 17. DHS argued that all three individuals were subject to mandatory detention under § 1225(b)(2)(A) pursuant to Matter of Yajure-Hurtado and that the immigration judges lacked jurisdiction to conduct bond hearings. Id.

Despite identical facts, identical class membership, identical detention, and identical DHS legal arguments, the two immigration judges reached opposite legal conclusions. Id. ¶¶ 24-26.

Judge D'Andrea, despite DHS arguing that Yajure-Hurtado mandated detention under § 1225(b)(2)(A), exercised her independent judicial judgment and determined that the Maldonado Bautista court's reasoning was correct. Id. ¶¶ 25, 28. Judge D'Andrea concluded that the two class members before her were improperly classified under § 1225(b)(2)(A), conducted bond hearings pursuant to § 1226(a), considered their equities, and granted bond. Id. ¶¶ 28-29.

Judge Greenbaum, confronted with identical facts and identical DHS arguments, reached the opposite conclusion—deferring to Matter of Yajure-Hurtado and denying bond based on lack of jurisdiction. Id. ¶ 26.

Same day. Same court. Same facts. Same DHS arguments. Opposite judicial conclusions.

On December 29, 2025—seven days after the December 22 hearings—I appeared at five additional bond hearings at the Conroe Immigration Court representing five *Maldonado Bautista* class members, all detained by the Houston ICE Field Office. Reza-Rodriguez Decl. ¶¶ 31-44.

All five individuals, like Petitioner and the two who appeared before Judge D'Andrea on December 22, entered without inspection, were arrested in the interior, have resided in the United States for multiple years, have established family ties, and were initially classified under § 1225(b)(2)(A). Id. ¶¶ 32, 38-39.

DHS took the identical legal position in all five cases that it had taken in all prior cases: mandatory detention under § 1225(b)(2)(A) based on *Matter of Yajure-Hurtado*. Id. ¶¶ 34, 40.

The results: All five bond requests were denied. Id. ¶¶ 35, 43. One case was before Judge Greenbaum, who again denied bond based on *Matter of Yajure-Hurtado*—his third denial using identical reasoning. Id. ¶¶ 31-36, Ex. E. Four cases were before Immigration Judge Kevin Buras. Judge Buras's approach was different but equally unavailing. Id. ¶¶ 37-44. Judge Buras acknowledged the *Maldonado Bautista* litigation and the legal uncertainty surrounding the jurisdictional issue. Id. ¶ 42. From the bench, Judge Buras stated he "did not feel comfortable accepting jurisdiction yet," that there were "still a lot of unanswered questions," and that "the issue of jurisdiction was still in litigation." Id.

Despite acknowledging the legal question, Judge Buras declined to exercise jurisdiction and denied all four bond requests. Id. ¶¶ 43-44, Exs. F-I.

Between December 22 and December 29, 2025, three immigration judges at the Conroe Immigration Court were presented with bond requests from eight *Maldonado Bautista* class members with identical circumstances, all detained by the Houston ICE Field Office. Reza-Rodriguez Decl. ¶¶ 45-52.

The results demonstrate a systematic pattern:

- Judge Greenbaum (2 cases): Both denied based on *Matter of Yajure-Hurtado*
- Judge Buras (4 cases): All denied—acknowledged legal uncertainty but waiting for federal courts to resolve

- Judge D'Andrea (2 cases): Both granted—exercised independent judgment, determined *Maldonado Bautista* controls

Out of eight identically situated class members, six were denied bond. Only two—those fortunate enough to appear before Judge D'Andrea—received relief. Id. ¶¶ 47-48.

This is not a case of isolated judicial disagreement. This is a systematic pattern demonstrating that administrative exhaustion is futile and that only Judge D'Andrea's legal analysis is correct.

Judge Greenbaum categorically follows Yajure-Hurtado. Judge Buras acknowledges the legal issue but declines to act, waiting for federal courts to resolve it. Only Judge D'Andrea exercises jurisdiction.

Judge Buras's statements are particularly telling. He recognizes the legal uncertainty created by *Maldonado Bautista*. He understands there are "unanswered questions." He knows "the issue of jurisdiction [is] still in litigation." Reza-Rodriguez Decl. ¶ 42. Yet even with this awareness, he declines to exercise jurisdiction—effectively waiting for a federal court to tell him what the law is.

This is precisely why exhaustion is futile. Immigration judges are either: (a) categorically applying *Matter of Yajure-Hurtado* (Judge Greenbaum), or (b) declining to exercise jurisdiction while awaiting federal court resolution (Judge Buras). Only one immigration judge out of three—Judge D'Andrea—has determined she has jurisdiction and granted relief. Reza-Rodriguez Decl. ¶¶ 49-51.

Judge D'Andrea's decisions prove the correctness of the *Maldonado Bautista* analysis. When an immigration judge properly recognizes that interior arrestees are governed by § 1226(a), bond hearings are conducted and relief may be granted. Petitioner, identically situated to the seven other class members for whom I sought bond, is entitled to the same legal analysis and the same opportunity for relief.

Judge Greenbaum's decision, by contrast, demonstrates the consequence of adhering to *Matter of Yajure-Hurtado*: categorical denial of bond hearings based on purported lack of jurisdiction.

DHS cannot defend Judge Greenbaum's conclusion. DHS took the same legal position in all three cases yet Judge D'Andrea—exercising independent judicial judgment—determined that DHS's position was incorrect and that the *Maldonado Bautista* court's analysis was sound.

An appeal to the BIA—which issued *Matter of Yajure-Hurtado*—would be futile. The BIA would affirm based on its own precedent. Id. ¶ 53. Even Judge Buras, who acknowledges the legal uncertainty, declines to exercise jurisdiction while "the issue of jurisdiction [is] still in litigation." Id. ¶ 42. The only mechanism by which Petitioner can obtain relief is through this Court's determination that Judge D'Andrea's legal analysis was correct and that Petitioner is entitled to the same bond hearing that Judge D'Andrea provided to two other identically situated class members. Id. ¶¶ 56-57.

C. The Government's Silence on *Maldonado Bautista* Is Telling

The Government cites approximately thirty district court decisions in its favor but is conspicuously silent about the most significant decision rejecting its interpretation: *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Oct. 15, 2025).

This omission is strategic. *Maldonado Bautista* is the most comprehensive rejection of the Government's theory, and the Government cannot distinguish it.

1. *Maldonado Bautista* Granted Summary Judgment and Certified a Nationwide Class

The Central District of California granted summary judgment after full briefing and oral argument, certified a nationwide class of all noncitizens detained under § 1225(b)(2) who were arrested in the interior, ordered the Government to reclassify class members under § 1226(a) and provide bond hearings, and rejected the Government's interpretation after 60+ page comprehensive analysis. Nationwide class certification demonstrates the clarity of the legal error—courts certify nationwide classes only when the legal question is uniform, individual determinations unnecessary, and the defendant's practice affects all class members identically. Fed. R. Civ. P. 23(b)(2).

The *Maldonado Bautista* court held that DHS's interpretation "contradicts *Jennings*, renders § 1226 meaningless, and is contrary to law." The court emphasized that *Jennings* distinguished "arriving aliens" (§ 1225) from those "already in the United States" (§ 1226), and that the Laken Riley Act's amendment to § 1226(c) would be superfluous under the Government's interpretation.

The Government cannot distinguish *Maldonado Bautista*. The Government relies on Cabanas v. Bondi, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025), but *Cabanas* is readily distinguishable: single petitioner, 8-page opinion, minimal Jennings engagement, no Laken Riley Act discussion, no structural analysis, summary decision post-*Yajure-Hurtado*. *Maldonado Bautista*, by contrast: nationwide class, 60+ page analysis, detailed Jennings framework, extensive Laken Riley Act analysis, comprehensive statutory structure, reasoned decision with full merits briefing.

Quality matters more than quantity. One comprehensive decision granting summary judgment and certifying a nationwide class is more persuasive than string citations of summary orders.

Judge D'Andrea's December 22 decisions confirm the correctness of the *Maldonado Bautista analysis*. When an immigration judge properly recognizes that interior arrestees are governed by § 1226(a)—as Judge D'Andrea did—bond hearings are conducted and relief may be granted. Petitioner, identically situated to the class members who appeared before Judge D'Andrea, is entitled to the same legal analysis and the same opportunity for a bond hearing.

This case presents a single, purely legal question that does not depend on disputed facts, agency discretion, or the outcome of Petitioner's removal proceedings: which detention statute Congress authorized DHS to apply to interior arrestees who entered without inspection. That question is ripe for review, squarely within this Court's core habeas jurisdiction, and requires no further administrative development. The Board of

Immigration Appeals has already resolved the issue adversely to Petitioner in binding precedent, immigration judges uniformly treat that precedent as foreclosing jurisdiction, and no administrative tribunal has authority to declare DHS's statutory classification unlawful. Under these circumstances, deferring review would not promote comity or expertise—it would merely prolong detention under a statute that may not apply. Because this Court can resolve the legal question now, and because no subsequent administrative or appellate ruling can cure detention imposed under the wrong statute, the Court should reach the merits.

D. Petitioner Is Not Subject to Mandatory Detention Under § 1225(b)(2)

1. The Supreme Court's Framework in *Jennings* Controls

This presents a pure question of statutory interpretation reviewed de novo. Under *Loper Bright*, the BIA's interpretation receives no deference. 144 S. Ct. at 2273. In *Jennings v. Rodriguez*, the Supreme Court explained the fundamental structural distinction:

> "The distinction that matters here is the one that the statutory text itself makes: § 1225 governs detention of applicants for admission—that is, arriving aliens. § 1226, by contrast, governs detention of aliens who are already in the United States." 138 S. Ct. at 837-38 (emphasis added).

The Court's use of "arriving aliens" to describe those governed by § 1225 is significant. An arriving alien is one in the process of arriving—seeking entry at a port of entry or being apprehended at the border. It is not someone who entered years ago and has been living in the interior. The Government's interpretation contradicts *Jennings*. Under the

Government's view, a person who entered without inspection 20 years ago and who is arrested in the interior is subject to detention under § 1225 which is contrary to what *Jennings* says.

Petitioner entered February 28, 2022—nearly four years ago. He was arrested October 7, 2025, at the ICE Field Office in Houston while complying with reporting requirements. Pet. ¶¶ 17, 19. At the time of his arrest, Petitioner was not at a port of entry, near the border, seeking an admission or arriving at a port of entry. He was already in the United States, residing in the interior. Under *Jennings*, he falls within § 1226, not § 1225.

The Government's interpretation also fails to account for Congress's choice to use the active present participle "seeking admission" in § 1225(b)(2). "Seeking" implies ongoing, affirmative action—presenting oneself at a port of entry or attempting to cross the border. *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025) ("'Seeking' implies action."); *Sumba v. Crowley*, No. 1:25-cv-13034, 2025 WL 3126512, at *4 (N.D. Ill. Nov. 9, 2025) ("a present participle stated in the progressive tense [] implies some ongoing, affirmative action" (emphasis in original)).

2. The Laken Riley Act Confirms Petitioner's Interpretation

In January 2025, Congress enacted the Laken Riley Act, amending § 1226(c) to require mandatory detention of certain EWI noncitizens charged with specified crimes. Pub. L. 119-1, § 2(a), 139 Stat. 3 (2025). If the Government were correct that all EWI noncitizens are already subject to § 1225(b)(2) mandatory detention, the Laken Riley Act's amendment to § 1226(c) would be superfluous. They would already be mandatorily detained under §

1225(b)(2). Why would Congress amend § 1226(c) if § 1225(b)(2) already covered these individuals? Congress's decision to amend § 1226—not § 1225—demonstrates Congress's understanding that EWI interior arrestees are governed by § 1226. Congress knew it needed to amend § 1226 to impose mandatory detention on this subset because they were not already subject to mandatory detention under § 1225(b)(2).

"It is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant." *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001). The Government's interpretation violates this fundamental canon.

Moreover, when Congress wants to address detention of EWI interior arrestees, it amends § 1226. This is Congress's own interpretation of which statute governs.

3. The Government's Interpretation Makes § 1226 Superfluous

The Government's interpretation creates an insurmountable surplusage problem. Under the Government's view, § 1226 applies only to aliens who have been admitted—lawful permanent residents and visa holders. All EWI noncitizens, regardless of when or where arrested, fall under § 1225(b)(2) mandatory detention because they were never "admitted."

This interpretation renders § 1226 largely superfluous. If all EWI noncitizens are already subject to § 1225(b)(2) mandatory detention, why does § 1226(c) exist? Section 1226(c) imposes mandatory detention on certain criminal aliens. Under the Government's interpretation, § 1226(c) would apply only to the narrow subset of admitted aliens (LPRs

and visa holders) with specified convictions—a small fraction of the removable alien population.

Congress confirmed the correct interpretation when it enacted the Laken Riley Act in January 2025. The Act amended § 1226(c)—not § 1225—to require mandatory detention of certain EWI noncitizens charged with specified crimes. If the Government were correct that all EWI noncitizens are already subject to § 1225(b)(2) mandatory detention, the Laken Riley Act would be pointless. Congress amended § 1226 because EWI interior arrestees are governed by § 1226, not § 1225.

The statutory structure confirms this reading. Section 1225 is titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens." The repeated use of "arriving" demonstrates this provision governs contemporaneous border processing, not interior arrests years after entry. Section 1226, titled "Apprehension and detention of aliens," provides for arrest "on a warrant" and detention "pending a decision on whether the alien is to be removed"—the hallmarks of interior enforcement, not border inspection.

The definitional provision in § 1225(a)(1)—stating that an alien "present" without admission is "deemed for purposes of this Act an applicant for admission"—determines inadmissibility status, not detention authority. Reading this provision to automatically subject all EWI noncitizens to § 1225(b)(2) detention ignores the statute's title, context, *Jennings's* framework, Congress's use of active language ("seeking admission"), and the factual predicate requiring a determination by an "examining immigration officer" during inspection.

4. *Cabanas* and Other Recent Decisions Are Unpersuasive

The Government relies primarily on *Cabanas*, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025). This decision is unpersuasive for several reasons.

Second, *Cabanas* did not address the Laken Riley Act. The decision contains no discussion of the surplusage problem created by the Government's interpretation.

Third, *Cabanas* did not address the active language of "seeking admission" and why that present participle demonstrates the statute applies only to contemporaneous seeking of entry, not historical entry years earlier.

The Government's string citation of thirty decisions creates a misleading impression. Most were issued after *Yajure-Hurtado* during DHS's aggressive litigation campaign. Many are brief summary orders with minimal analysis. Quality over quantity. *Maldonado Bautista's* comprehensive analysis granting summary judgment and certifying a nationwide class carries more weight than thirty summary orders.

E. The Government's Request for Reconsideration Should Be Denied

Reconsideration is appropriate only where there has been a change in controlling law, new evidence is available, or reconsideration is necessary to correct clear error or prevent manifest injustice. *Templet*, 367 F.3d at 479. The Government satisfies none of these criteria.

There has been no change in controlling law. *Jennings* remains controlling and supports Petitioner's position. *Matter of Yajure-Hurtado* does not bind this Court, and under *Loper*

Bright, agency interpretations receive no deference. 144 S. Ct. at 2273. If anything, new legal developments strengthen Petitioner's position—the Laken Riley Act confirms Congress's understanding that EWI interior arrestees are governed by § 1226.

The Government presents no new evidence and identifies no clear error in this Court's prior rulings. This Court carefully analyzed the statutory text, considered *Jennings*, examined the INA's structure, and reached the conclusion adopted by the majority of courts that thoroughly considered this issue. The Government disagrees—but disagreement is not error.

The Government has filed hundreds of motions nationwide making arguments rejected by dozens of courts. When a court rules against it, the Government seeks reconsideration—not based on new law or evidence, but simply asking the court to change its mind. This is not proper use of reconsideration. The proper forum for resolving the nationwide split is the courts of appeals, where multiple appeals are pending.

IV. CONCLUSION

For the foregoing reasons, and most particularly because the Government's own conduct on December 22, 2025 demonstrates it knows its interpretation is unlawful, Petitioner respectfully requests that this Court:

1. DENY the Government's Motion to Dismiss for Failure to Exhaust;
2. DENY the Government's Alternative Motion for Summary Judgment;
3. DENY the Government's Request for Reconsideration;
4. GRANT Petitioner's Petition for Writ of Habeas Corpus;

5. DECLARE that:
    a. Petitioner's detention under § 1225(b)(2)(A) violates the INA;
    b. Petitioner's detention is properly governed by § 1226(a);
    c. Under § 1226(a), Petitioner is entitled to a bond hearing;
6. ORDER that Respondents:
    a. Immediately release Petitioner; OR
    b. Provide a bond hearing under § 1226(a) within seven days, at which:
        i. The Government bears the burden of proof by clear and convincing evidence;
        ii. The Government must prove Petitioner is a flight risk or danger; and
        iii. The IJ has full authority to set bond or release Petitioner;
7. AWARD Petitioner attorney's fees and costs under 28 U.S.C. § 2412; and
8. GRANT such other relief as the Court deems just.

The systematic pattern demonstrated between December 22 and December 29, 2025 proves both the futility of exhaustion and the correctness of Petitioner's legal position. Eight *Maldonado Bautista* class members, all with identical circumstances, all detained by the Houston ICE Field Office, presented with identical DHS arguments. Three immigration judges. Six categorical denials. Two grants—both from Judge D'Andrea, who exercised independent judgment and determined that the *Maldonado Bautista* court's analysis was correct. Petitioner, identically situated to these class members, is entitled to the same legal analysis and the same opportunity for a bond hearing.

Respectfully submitted,

Dated: December 30, 2025

Martin Reza-Rodriguez
State Bar No. 24086524
Federal ID No. 3882062
martinreza@martinrezalaw.com
Law Office of Martin Reza, PLLC
3838 N Sam Houston Pkwy E, Ste. 100
Houston, Texas 77032
346-323-0968 (telephone)
346-229-1821 (fax)
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that on December 30, 2025, a true and correct copy of the foregoing Reply was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification to all counsel of record.

Martin Reza-Rodriguez
Attorney for Petitioner