UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

LAZARO SAEZ MARTINEZ, *Petitioner*,	§	
	§	CIVIL ACTION NO. 1:25-cv-342
v.	§	
MIGUEL VERGARA, *et al.*, *Respondents*.	§	

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR SUMMARY JUDGMENT

The Government[1] hereby respond to Petitioner's Petition for Writ of Habeas Corpus (Dkt. No. 1), move for summary judgment, and request that the Court deny the Petition.

SUMMARY OF ARGUMENT

Petitioner is an immigration detainee in the custody of the Department of Homeland Security/U.S. Immigration and Customs Enforcement ("DHS/ICE") and is presently detained at the Port Isabel Detention Center in Los Fresnos, Texas. Petitioner filed this habeas corpus Petition, seeking immediate release from immigration detention or alternatively, a bond hearing before na Immigration Judge. **Dkt. No. 1** at 11. Petitioner, however, is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). As such, the Petition for a writ of habeas corpus should be denied and summary judgment entered in favor of the government.

[1] The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). It is the originally named federal Respondents who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

BACKGROUND

Petitioner entered the United States on January 4, 2022, near Calexico, California. **Gov't Ex. 1**. Petitioner was not then admitted or paroled after inspection by an immigration officer. *Id.* at 2. Petitioner was apprehended by immigration authorities as he was arriving in the United States. *Id.* Also on January 4, 2022, Petitioner was served with a notice to appear and charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as an alien who is present in the United States without being admitted or paroled. **Gov't Ex. 2**. Petitioner was taken into immigration custody on December 2, 2025, after being encountered at the U.S. Border Patrol Checkpoint near Falfurrias, Texas. **Gov't Ex. 1**. Petitioner has an upcoming removal hearing before an Immigration Judge on January 27, 2026. **Gov't Ex. 3**. To this date, Petitioner has not requested a custody redetermination (bond) hearing before an Immigration Judge.

APPLICABLE LAW

In a petition for a writ of habeas corpus, the petitioner is challenging the legality the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286 (1941). When it comes to detention during removal proceedings, it is well-taken that the authority to detain is elemental to the authority to deport, as "[d]etention is necessarily a part of th[e] deportation procedure." *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see Wong Wing v. United States*, 163 U.S. 228, 235 (1896) ("Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation."). As the Supreme Court has stated in no unmistakable terms, "[d]etention during removal proceedings is a constitutionally permissible part of that process." *Demore v. Kim*, 538 U.S. 510, 531 (2003).

ARGUMENT

A. PETITIONER FAILED TO EXHAUST HIS ADMINISTRATIVE REMEDIES PRIOR TO FILING THE PETITION.

As a threshold matter, the Court should dismiss the habeas Petition because Petitioner has not administratively exhausted his claims. In accord with the general rule that parties seeking relief against federal agencies must exhaust administrative remedies prior to seeking judicial relief, it is well-taken that a habeas petitioner must exhaust all administrative remedies prior to filing a federal habeas petition under § 2241. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012). The Fifth Circuit has recognized exceptions to the exhaustion requirement and noted that they "apply only in extraordinary circumstances," including when exhaustion would be "patently futile." *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (internal quotation marks omitted).

In this case, Petitioner has not demonstrated that he has requested a custody redetermination before an Immigration Judge, so he has not been denied bond before filing this habeas Petition. This is important because the Immigration Judge may find that the Petitioner's individual circumstances present facts that may result in the Immigration Judge lacking jurisdiction based on a rationale that is unrelated to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). For example, the evidence shows that Petitioner was apprehended upon his arrival to the United States. **Gov't Ex. 1** at 2. These facts suggest that the Petitioner is subject to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), a different precedent which may result in a lack of jurisdiction to redetermine his custody status. Petitioner does not challenge *Matter of Q. Li* in his Petition for Writ of Habeas Corpus. There may be alternative bases for the Immigration Judge to deny a request for custody redetermination, but the Parties can only speculate as to the decision of the Immigration Judge because Petitioner did not seek a bond hearing prior to filing this Petition. Therefore, Petitioner has not exhausted his administrative remedies.

B. PETITIONER IS SUBJECT TO MANDATORY DETENTION.

Petitioner's habeas Petition should be denied because Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner is an alien who is present in the United States without having been admitted or paroled. As discussed below, an alien "present in the United States who has not been admitted," is by definition "an applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, Petitioner is subject to mandatory detention. *See id.* § 1225(b)(2)(A) (instructing that "the alien *shall* be detained" in the case of "an alien seeking admission" who "is not clearly and beyond a doubt entitled to be admitted" (emphasis added)).

1. The Plain Language and Statutory Structure of the INA

"As usual, we start with the statutory text." *Restaurant Law Center v. U.S. Dep't of Labor*, 120 F.4th 163, 177 (5th Cir. 2024). Section 1225(b)(2) provides the following:

> 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 [removal proceedings].

8 U.S.C. § 1225(b)(2). Based on this text, if an alien is an "applicant for admission," then they are subject to mandatory detention. The INA defines "applicant for admission" as "an alien present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). Here, the Petitioner was not previously admitted to the United States, and he has not otherwise shown that he is entitled to be admitted. The Petitioner is therefore subject to mandatory detention and is not eligible for a bond.

Petitioner may argue, and other courts have mistakenly held, that there is a separate requirement: that Petitioner also be "seeking admission." But, in the context of § 1225(b)(2), "seeking admission" and "applying for admission" are plainly synonymous. Congress has linked these two variations of the same phrase in Section 1225(a)(3), which requires all aliens "who are applicants for admission or otherwise seeking admission" to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word "or" here "introduce[s] an appositive— a word or phrase that is

synonymous with what precedes it ('Vienna or Wien,' 'Batman or the Caped Crusader')." *United States v. Woods*, 571 U.S. 31, 45 (2013). Read properly, a person "seeking admission" is just another way of describing a person applying for admission, meaning he is an applicant for admission, which includes both those individuals arriving in the United States and those already present without admission. 8 U.S.C. § 1225(a)(1).

A comparison of Section 1225's mandatory-detention provisions against the discretionary detention provisions of Section 1226 also supports the Government's interpretation. A basic canon of statutory construction is that a specific provision should govern over a more general provision encompassing that same matter. *See Matter of GFS Indus., L.L.C.*, 99 F.4th 223 (5th Cir. 2024). Here, Section 1226(a) is the general provision, applicable to aliens "arrested and detained pending a decision" on removal. 8 U.S.C. § 1226(a). Section 1225(b), by contrast, is much more specific, applying particularly to aliens who are "applicants for admission"—a specially defined subset of aliens that explicitly includes those "present in the United States who ha[ve] not be admitted." *Id.* § 1225(a). So while the general rule might be that aliens detained pending removal may be detained, the specific rule for aliens who have not been admitted is that this subset of aliens must be detained.[2] The Court should be loath to eviscerate the specific text of Section 1225(b)(2)(A) in favor of the more general text of Section 1226(a). *See, e.g., United States v. Menasche*, 348 U.S. 528, 538-39 (1955) ("It is our duty to give effect, if possible, to every clause and word of a statute, rather than to emasculate an entire section[.]"). Because Petitioner falls squarely within the definition of individuals deemed to be "applicants for admission," the specific detention authority under § 1225(b) governs over the general authority found at § 1226(a).

[2] To be clear, there remains a large population of aliens who remain subject to § 1226 discretionary detention (and not § 1225 mandatory detention). For example, aliens who were admitted to the United States via a tourist visa, but who overstayed that visa, are subject to § 1226 detention.

Additional provisions of the INA further support the Government's argument that applicants for admission are deemed to be "seeking admission" irrespective of their length of time in the United States. Section 1225(a)(4) permits an alien applying for admission "*at any time* … to withdraw the application for admission and depart immediately from the United States." The explicit inclusion of "at any time" demonstrates that Congress intended applicants for admission to be deemed "seeking admission" for however long they remain in the United States.

Additionally, Section 1229a places the burden on applicants for admission in removal proceedings to establish that they are "clearly and beyond doubt entitled to be admitted and [are] not inadmissible under section 212." 8 U.S.C. § 1229a(c)(2). If an alien can establish that they have been admitted, then the Government has the burden of establishing that the alien is deportable. *See* 8 U.S.C. § 1229a(c)(3); 8 U.S.C. § 1227(a). An "admission" is therefore a status that determines which party in removal proceedings has the burden of proof and under which section of the INA (8 U.S.C. § 1182 or § 1227(a)) an alien may be deemed removable from the United States. Because the INA places the burden on applicants for admission to demonstrate that they are entitled to be admitted to the United States, applicants for admission are therefore deemed to be "seeking admission" in removal proceedings at the moment in which an Immigration Judge must determine whether they are removable from the United States. 8 U.S.C. § 1229a(c)(1).

2. The BIA's Decision in *Matter of Hurtado*

The text of the INA requires that aliens like Petitioner already present in the United States are applicants for admission and thus subject to mandatory detention under § 1225(b)(2). To be sure, while this interpretation is straightforward, that is not to say there are no colorable counterarguments. However, the Government would point to the BIA's decision in *Hurtado*, which thoughtfully and meticulously considered and rejected a myriad of counterarguments. See 29 I. &

N. at 221–27 (discussing and rejecting no fewer than six distinct legal counterarguments). *Hurtado* is a unanimous, published decision from the BIA and binding on immigration courts. Here, the BIA utilized its immigration expertise and gave a lengthy, comprehensive account as to why the Government's position in this case is not only correct, but comfortably so. This Court should thus accord great weight to the persuasiveness of *Hurtado*.

Moreover, the BIA's interpretation of § 1225(b)(2) is not undermined by the passage of the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025). The BIA's *Hurtado* decision specifically addressed the issue of whether its interpretation of § 1225(b)(2) rendered the recent Laken Riley Act superfluous. *Hurtado*, 29 I. & N. Dec. at 221. The BIA first pointed out that nothing in the Laken Riley Act purported to alter or amend § 1225(b)(2)'s mandatory detention requirement. *Id.* Moreover, the BIA noted that the fact that the Laken Riley Act required mandatory detention for a subset of illegal aliens that are also subject to mandatory detention under § 1225(b)(2) is not a basis to ignore the mandatory detention requirement of § 1225(b)(2). *Id.* at 222. In support of this holding, the BIA cited the Supreme Court's *Barton* decision. *Id.* (citing *Barton v. Barr*, 590 U.S. 222, 239 (2020) (holding that because "redundancies are common in statutory drafting--sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication,"--"[r]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text")). Thus, the BIA correctly concluded that both § 1225(b)'s and the Laken Riley Act's mandatory detention requirements should be given effect. For the reasons discussed below, including recent decisions from other courts in the Fifth Circuit and the Southern District of Texas, this Court should find that Petitioner is subject to mandatory detention pursuant to § 1225(b)(2).

3. Persuasive decisions from other district courts.

In the absence of controlling authority, the Court should follow those district courts that have applied the plain language of the INA and found aliens like the Petitioner subject to mandatory detention under § 1225(b)(2). Although the Government acknowledges that there are district court decisions that hold to the contrary,[3] several district courts have adopted the Government's and the BIA's interpretation, and more are likely to follow. *See Vargas Lopez v. Trump*, No. 8:25-CV-00526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 3:25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

Most recently, a district court in the Western District of Louisiana recently agreed with the BIA's reading of the INA. *See Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025). In denying the habeas petition, the court held that "[b]ecause Petitioner crossed the United States-Mexico border without being inspected by an immigration officer, [Petitioner was] therefore also appropriately categorized as an inadmissible alien . . . [and thus concluded] that § 1225(b)(2)'s plain language and the 'all applicants for admission language' of *Jennings* permits [DHS] to detain Petitioner under § 1225(b)(2)." (citations omitted). *Id.* The court reasoned that "to conclude that an alien who has unlawfully entered the United States and managed to remain in the country for a sufficient period of time is entitled to a bond hearing, while those who seek lawful entry and submit themselves for inspection are not, not only conflicts with the unambiguous language of the governing statutes, but would also seemingly undermine the intent of Congress in enacting the IIRIRA." *Id.* at *6.

[3] This includes decisions from other courts in the Southern District of Texas. *See, e.g., Buenrostro- Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025) (on appeal); *Fuentes v. Lyons*, 5:25-cv-153 (S.D. Tex. October 16, 2025); *Ortiz v. Bondi*, 5:25-cv-132 (S.D. Tex. October 15, 2025); *Baltazar v. Vasquez*, 25-cv-175 (S.D. Tex. October 14, 2025); *Covarrubias v. Vergara*, 5:25-cv-112 (S.D. Texas October 8, 2025).

Finally, another court in the Southern District of Texas decided *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (J. Eskridge), in the Government's favor. In denying the habeas petition and granting the Government's motion for summary judgment, the *Cabanas* Court held "[t]he text of § 1225(b)(2)(A) supports the Government's position." The *Cabanas* Court reasoned that "[t]he statutory definition of *applicant for admission* is broad and, indeed, so broad that Petitioner doesn't dispute that she is such a person. . . . That factual determination itself resolves the question as to whether § 1225(b)(2)(A) applies." *Id.* at *4 (emphasis in original). Thus, the *Cabanas* Court held that the plain language of the Immigration and Nationality Act required a ruling in the Government's favor. The court also explained why it was not persuaded by the many other district court decisions deciding to the contrary. *Id.* at * 5.[4]

The Government requests this Court follow the reasoning of *Cabanas* and the Government's other proffered authorities.

C. THE APPROPRIATE REMEDY

The Government urges the Court to deny the instant Petition, as Petitioner failed to exhaust his administrative remedies and is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). If the Court grants the instant Petition, the Government urges the Court not to order the Petitioner's instant release. A bond hearing is the appropriate remedy. An Immigration Judge should have the opportunity to review the evidence regarding dangerousness and flight risk prior to any potential release from custody.

[4] The Court should be aware that a court in the Central District of California recently certified a class of aliens who are being detained under § 1225(b)(2). *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL3288403 (C.D. Cal. Nov. 25, 2025). On December 18, 2025, the *Bautista* court entered final judgment in favor of the petitioners and members of the certified class. Petitioner, however, is not a Bautista class member because he was apprehended by immigration authorities upon his arrival to the United States. *See* **Gov't Ex. 1** at 2.

CONCLUSION

For the foregoing reasons, the Government respectfully requests that the Court deny Petitioner's request for habeas relief and grant the instant motion. The Court should enter judgment as a matter of law finding that Petitioner is lawfully subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2).

Dated: January 9, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on January 9, 2026, the foregoing was filed and served through the Court's CM/ECF system.

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