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8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE DISTRICT OF ARIZONA

11 Amaury Rodriguez Mesa,
 12 Petitioner,
 13 vs.
 14 v.
 15 Todd Lyons, et al.
 16 Respondents.

Case No. CV-25-04744-PHX-JJT (MTM)

**RESPONSE TO ORDER
 TO SHOW CAUSE (Doc. 3)
 AND
 HABEAS PETITION (Doc. 1)**

17
 18 **I. INTRODUCTION AND RELEVANT FACTS.**

19 Respondents hereby respond to the Court’s Order to Show Cause (Doc. 3), and thus to
 20 the Petition for a Writ of Habeas Corpus (Doc. 1). Petitioner, Amaury Rodriguez Mesa, is a
 21 native and citizen of Cuba. He entered the United States without inspection, admission or
 22 parole and was released on an order of recognizance in 2021. Doc. 1. He has resided in the
 23 United States since. *Id.* On May 30, 2025, Petitioner was taken into immigration custody by
 24 U.S. Immigration and Customs Enforcement (“ICE”) and is detained in the San Luis
 25 Detention Center. *Id.* On September 26, 2025, Petitioner had a bond hearing but was deemed
 26 subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and denied bond. *Id.*

27 Respondents respectfully preserve their legal position that Petitioner is an applicant
 28 for admission as defined by 8 U.S.C. § 1225(a)(1) because he has never been lawfully

1 admitted to the United States, and that because he is in section 240 proceedings, he is therefore
2 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Respondents, however,
3 acknowledge that its legal position has been squarely rejected in *Echevarria v. Bondi*, 2025
4 WL 2821282 (D. Ariz. 2025). Respondents also acknowledge that the District Court in the
5 Central District of California recently certified a Rule 23(b)(2) class, that Respondents
6 concede includes Petitioner, and entered judgement finding that 8 U.S.C. § 1226(a), and not
7 8 U.S.C. § 1225(b)(2), governs the detention of class members. *Bautista v. Santacruz*, No.
8 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). Critically,
9 however, the Court in *Bautista* has not ordered class wide relief in the form of bond hearings
10 for all class members, and the judgment entering declaratory relief that *Bautista* entered on
11 behalf of the class is now on appeal. Accordingly, while the holding in *Bautista* is not
12 preclusive on this Court, should this Court agree with the reasoning of the Court in *Bautista*,
13 and conclude that Petitioner is properly detained under 8 U.S.C. § 1226(a), and therefore
14 entitled to a bond hearing, this Court would still need to enter an order that Respondents
15 provide Petitioner with a bond hearing.

16 **II. PETITIONER'S CLAIMS FOR RELIEF ON THE MERITS.**

17 **A. Count I.**

18 As to Count I, Respondents' position is not that Petitioner is an "arriving alien." Doc. 1.
19 Arriving aliens are defined by regulation as an applicant for admission coming or attempting
20 to come into the United States at a port-of-entry, or an alien seeking transit through the
21 United States at a port-of-entry. 8 C.F.R. § 1.2. As such, they are a discrete subset of types
22 of applicants for admission. Arriving aliens are subject to expedited removal proceedings
23 and placed in immigration detention under 8 U.S.C. § 1225(b)(1). Thus, arriving aliens can
24 also be applicants for admission, but not all applicants for admission are arriving aliens.
25 Respondent's position is that Petitioner is an applicant for admission as defined by 8 U.S.C.
26 § 1225(a)(1) that did not arrive at a port of entry (so, he is not an arriving alien) but is still
27 and applicant for admission by the statute's definition. And, that because he is an applicant
28 for admission subject to general, not expedited, removal proceedings, he is properly detained

1 under 8 U.S.C. § 1225(b)(2)(A) and thus Count I must fail.

2 Respondents are aware of the Court's decision rejecting Respondents' position in
3 *Echevarria v. Bondi*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3,
4 2025), but respectfully maintain that Petitioner falls within the definition of an "applicant for
5 admission" warranting mandatory detention as the removal process unfolds. Respondents
6 respectfully maintain that an alien is an "applicant for admission" until an immigration
7 official has inspected that person and determined that he or she is admissible into the United
8 States. In *Echevarria*, the Court determined that the phrase "alien seeking admission" in
9 8 U.S.C. § 1225(b)(2)(A) implies a present-tense nature to the desire for admission, such that
10 an alien who is already present in the United States cannot be "seeking admission":

11
12 "The word "seeking" is the present participle of the verb "seek." It thus has a
13 temporal element—Petitioner must have been in the process of seeking
admission at the time of the inspection.

14 It is hard to see how Petitioner could be deemed to have been "seeking"
15 admission at the time of the encounter on July 2, 2025. By that point, Petitioner
16 had already been present in the United States for 24 years, having arrived and
17 entered in 2001. Moreover, under Respondents' interpretation of § 1225(a)(1),
18 Petitioner became an "applicant for admission" in 2001, upon his arrival and
19 entry. Implicit in Respondents' position, then, is that Petitioner somehow
20 existed in a perpetual state of "seeking" admission during the 24-year period
between when he first became an "applicant for admission" in 2001, by virtue
of his entry into the country, and when he was encountered and inspected by
an immigration officer in 2025."

21
22 *Echevarria*, 2025 WL 2821282, at *6 (internal citations omitted).

23 However, this analysis fails to consider other pieces of statutory context. Respondents
24 respectfully argue that the phrase "applicants for admission" carves out a subset of those who
25 are "seeking admission." For example, elsewhere in section 1225, the statute says that "[a]ll
26 aliens who are applicants for admission or otherwise seeking admission or readmission to or
27 transit through the United States shall be inspected by immigration officers." 8 U.S.C. §
28 1225(a)(3) (emphasis added). In other words, 8 U.S.C. § 1225(a)(3) shows that an alien may

1 be “seeking admission” either by being an “applicant for admission,” or in some different
2 way. As discussed earlier, the phrase “applicant for admission” unambiguously includes
3 aliens who have already entered the United States. “In all but the most unusual situations, a
4 single use of a statutory phrase must have a fixed meaning.” *See Cochise Consultancy, Inc.*
5 *v. United States ex rel. Hunt*, 587 U.S. 262, 268 (2019) (referring to *Ratzlaf v. United States*,
6 510 U.S. 135, 143 (1994)). “We therefore avoid interpretations that would ‘attribute different
7 meanings to the same phrase.’” *Id.* (quoting *Reno v. Bossier Par. Sch. Bd.*, 528 U. S. 320,
8 329 (2000)). Thus, the analysis in *Echevarria* conflicts with the overall text of the statute,
9 and Respondents respectfully request the Court reach a different result in this case.

10 Respondents also direct the Court’s attention to a decision issued on September 30,
11 2025, in the United States District Court for the District of Nebraska: *Vargas Lopez v. Trump*,
12 No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025). In that case, the Court denied
13 a similar habeas petition brought by an alien who entered the United States in 2013 and held
14 that the petitioner was properly detained under § 1225(b)(2) as an alien within the “catchall”
15 scope of § 1225(b)(2) subject to detention without possibility of release on bond through §
16 1229a removal proceedings. 2025 WL 2780351, at *6-9. The Court noted that illegally
17 remaining in the country for years did not mean the petitioner, who “wish[ed] to stay in this
18 country,” was suddenly not an “applicant for admission.” *Id.* at *9. Additionally, “even if
19 Vargas Lopez might fall within the scope of § 1226(a), he certainly fits within the language
20 of § 1225(b)(2) as well.” *Id.*

21 The *Vargas Lopez* decision also noted the “overlapping relationship between §
22 1225(b) and § 1226(a) is not only consistent with the plain language of the two provisions
23 but consistent with the interpretation of the two provisions under *Jennings*.” *Id.* The Court
24 determined that § 1226 does not contain language limiting its application “to aliens already
25 present in the United States.” *Id.* (comparing *Jennings*’ statements that United States
26 immigration law “authorizes the Government to detain certain aliens already in the country
27 pending the outcome of removal proceedings under §§ 1226(a) and (c)[,]” and that “§ 1226
28 applies to aliens already present in the United States[,]” 583 U.S. at 289 (first quote) and 303

1 (second quote), with 8 U.S.C. § 1226(a) (containing no reference to aliens “present” or
2 “already present” in the United States) and 8 U.S.C. § 1226(c) (containing no reference to
3 “criminal aliens” “present” or “already present” in the United States). The Court determined
4 that “references to ‘aliens’ in § 1226 must be read to mean ‘alien[s] present in the United
5 States who ha[ve] not been admitted’ within the meaning of § 1225(a)(1) and within at least
6 the ‘catchall provision that applies to all applicants for admission not covered by
7 § 1225(b)(1) in § 1225(b)(2).” 2025 WL2780351, at * 9 (citing *Jennings*, 583 U.S. at 287).

8 The Southern District of California also denied a temporary restraining order sought by
9 an alien who was detained under § 1225(b)(2) despite having been present in the United
10 States for years. *See Chavez v. Noem*, --F. Supp. 3d --, No. 3:25-cv-02325-CAB, 2025 WL
11 2730228 (S.D. Cal. Sept. 24, 2025). The Court noted, among other arguments, that “Section
12 1225(a)(1) expressly defines that ‘[a]n alien present in the United States who has not been
13 admitted . . . shall be deemed for purposes of this Act an applicant for admission.’” *Id.* at *4
14 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in original). The Court reasoned that, “Petitioners
15 do not contest that they are ‘alien[s] present in the United States who ha[ve]not been
16 admitted.’ By the plain language of § 1225(a)(1), then, Petitioners are ‘applicants for
17 admission’ and thus subject to the mandatory detention provisions of ‘applicants for
18 admission’ under § 1225(b)(2).” *Id.* (cleaned up). *See also Rojas v. Olson*, No. 25-CV-1437-
19 BHL, 2025 WL 3033967, at *1 (E.D. Wis. Oct. 30, 2025); *Sandoval v. Acuna*, No. 6:25-CV-
20 01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Oliveira v. Patterson*, No. 6:25-CV-
21 01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 1:25-CV-
22 00168-JMD, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, 1:25-
23 cv-00177 (N.D. Tex. 2025); *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331
24 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-AJR,
25 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Alonzo v. Noem*, No. 1:25-CV-01519 WBS
26 SCR, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025).

27 B. Count II.

28 In Count II, Petitioner claims that his detention violates his fifth amendment right to due

1 process under *Zadvydas v. Davis*, 533 U.S. 678 (2001), because he has been detained beyond
2 the six-month presumptively constitutional detention period. Doc. 1. However, *Zadvydas*
3 analyzed post-final order of removal detention under 8 U.S.C. § 1231, not pre-final order of
4 removal detention under 8 U.S.C. § 1226(a) or § 1225(b)(2). Respondents' position is that
5 Petitioner's detention is both mandatory and constitutional under 8 U.S.C. § 1225(b)(2) for
6 the reasons argued above.

7 **C. Count III.**

8 In Count III, Petitioner contends that bond determinations in immigration court,
9 including a denial based on a finding that Petitioner was subject to mandatory detention, are
10 not binding on District Courts. Petitioner is correct. If this Court determines, based on its
11 own statutory analysis that Petitioner's detention is pursuant to 8 U.S.C. § 1226(a) and not
12 8 U.S.C. § 1225(b)(2), the proper course of action is that the Court order the immigration
13 court to conduct a bond hearing pursuant to § 1226(a).

14 **III. BAUTISTA.**

15 Petitioner is a member of the Bond Eligible Class certified in *Bautista v. Santacruz*,
16 No. 5:25-CV-01873-SSS-BFM, -- F.R.D. --, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25,
17 2025). On December 18, 2025, the *Bautista* Court entered final judgment finding that section
18 1226(a), not section 1225(b)(2) governs the detention of the Bond Eligible Class. *See*
19 *Bautista*, ECF No. 94. A notice of appeal was then filed by the *Bautista* respondents on
20 December 18, 2025. *See Bautista*, ECF No. 95.

21 The *Bautista* Court has not granted anything beyond declaratory relief, such as
22 ordering bond hearings for the certified class members. It has only extended its previous
23 finding that section 1226(a) rather than section 1225(b)(2) governs the named Plaintiffs'
24 claims to the entire class, entering a final judgment from which the Government has appealed.

25 Therefore, if the Court determines that a bond hearing is warranted under section
26 1226(a), consistent with the reasoning in *Bautista*, the Court will still need to enter an order
27 that a bond hearing be provided.

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IV. CONCLUSION.

In light of the above, Respondents respectfully request the Court deny Petitioner's Petition for Writ of Habeas Corpus. If the Court grants the Petition, the Court should order that Petitioner be given a bond hearing by the immigration court under 8 U.S.C. § 1226(a), not direct Petitioner's immediate release from immigration detention.

RESPECTFULLY SUBMITTED this 29th day of December, 2025.

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s/Theo Nickerson
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