UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

WALTER BAMACA PEREZ,

Petitioner,

Civil Action No: 3:25-cv-00702-DCG

v.

KRISTI NOEM; PAMELA BONDI; TODD M. LYONS; MARY DE ANDA-YBARRA; and WARDEN

Respondents.

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

Petitioner submits this Reply to address the limited arguments raised in Respondents' Response. As set forth below, this Court has jurisdiction to consider the Petition, Respondents lack statutory authority to detain Petitioner under 8 U.S.C. § 1225(b)(2), and Respondents' challenges to *Maldonado Bautista* do not alter that conclusion. The Petition should be granted.

I. THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 2241

Petitioner challenges the lawfulness of his continued immigration detention, not any of the "three discrete actions" within the limited scope of 8 U.S.C. § 1252(g) - the decision to commence proceedings, adjudicate cases, or execute removal orders.[1] Accordingly, neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction or bars habeas review under 28 U.S.C. § 2241.

[1] *See generally* Pet., ECF No. 1; *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

Respondents argue that this Court lacks jurisdiction under §§ 1252(g) and 1252(b)(9) because Petitioner's detention arises in the context of removal proceedings.[2] This Court has already rejected that argument in materially indistinguishable habeas cases.

In *Alvarado Luna v. Warden*, this Court held that challenges to the statutory authority for immigration detention fall within the core of habeas jurisdiction and are not barred by the INA's jurisdiction-stripping provisions.[3] The Court explained that §§ 1252(g) and 1252(b)(9) apply to challenges to the commencement or adjudication of removal proceedings, not to whether DHS has lawful authority to detain a noncitizen while those proceedings are pending.[4]

This Court reaffirmed that holding in *Ramírez-Morales v. Lyons*, again rejecting DHS's argument that detention challenges must be funneled through immigration court or deferred until a final order of removal.[5]

Petitioner does not challenge the initiation of removal proceedings, the charges in the NTA, or any removal order. He challenges only his continued detention without lawful statutory authority. Under this Court's precedent, jurisdiction plainly exists for the Court to consider the Petition.

II. RESPONDENTS LACK STATUTORY AUTHORITY TO DETAIN PETITIONER UNDER 8 U.S.C. § 1225(B)(2)

Respondents contend that Petitioner is subject to mandatory detention under the "catchall" provision of 8 U.S.C. § 1225(b)(2) because he entered the United States without inspection and is

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[2] Resp'ts' Resp., ECF No. 3, at 6.
[3] Order Granting Petition for Writ of Habeas Corpus, *Alvarado Luna v. Warden*, No. 3:25-CV-565-DCG, at *8-14 (W.D. Tex. Dec. 29, 2025), ECF No. 10.
[4] *Id.*
[5] Order Partially Accepting Report and Recommendation and Granting Writ of Habeas Corpus, *Ramirez-Morales v. Lyons*, No. 3:25-CV-476-DCG-RFC, at *5-6 (W.D. Tex. Dec. 30, 2025), ECF No. 18.

subject to full removal proceedings.[6] They further argue that, "[e]ven though DHS encountered Petitioner within the interior of the United States, he is nonetheless an applicant for admission" who is "seeking admission" and not clearly entitled to be admitted.[7] This Court has already rejected that interpretation in *Alvarado Luna* and *Ramirez-Morales*.

In *Alvarado Luna v. Warden*, this Court held that § 1225(b)(2)(A) does not apply to noncitizens like Petitioner who have already effected an entry into the United States and are later encountered in the interior, because they cannot be found to be "seeking admission".[8] Many other courts have found that the statute's use of the present progressive tense – "seeking" – unambiguously limits its application to the context of an arrival at a port of entry or the border, not to an arrest occurring long after the act of entry is complete.[9] The Court further concluded that extending § 1225(b)(2) to such individuals would collapse the INA's detention framework and improperly render § 1226 superfluous.[10]

This Court reaffirmed that reasoning in *Ramírez-Morales v. Lyons*, again rejecting DHS's reliance on § 1225(b)(2) and granting habeas relief where the government identified no lawful

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[6] Resp'ts' Resp., ECF No. 3, at 2-3.
[7] *Id.* at 3 (emphasis in original).
[8] *Alvarado Luna* Order at 15-17.
[9] *See Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *accord Lopez Benitez v. Francis*, 2025 WL 2371588, at *6-7 (S.D.N.Y. Aug. 13, 2025). *See also United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes."); *Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing "is arriving" in 8 U.S.C. § 1225(1)(A)(i) and observing that "[t]he use of the present progressive, like use of the present participle, denotes ongoing process").
[10] *Alvarado Luna* Order at 17-18.

basis for detention other than that provision.[11] The Court expressly incorporated its jurisdictional and statutory analysis from *Alvarado Luna* and saw "no reason to alter course."[12]

Respondents' arguments here mirror those rejected in both cases. They again assert that any noncitizen who entered without inspection remains perpetually "seeking admission" and therefore subject to mandatory detention under § 1225(b)(2), even after years of presence in the United States and placement in removal proceedings under § 1229a.[13] This Court has already rejected that reading of the statute.

Finally, Respondents identify no alternative statutory basis for Petitioner's detention. They do not contend that Petitioner is subject to mandatory detention under § 1226(c), nor do they argue that any other provision of the INA authorizes his continued custody.[14] As this Court has held, where DHS relies exclusively on § 1225(b)(2) and that provision does not apply, continued detention is unlawful and habeas relief is warranted.[15]

III. Respondents' Arguments Concerning *Maldonado Bautista* Do Not Defeat Relief

Petitioner's Petition relies in part on the declaratory judgment in *Maldonado Bautista v. Santacruz*, which held that noncitizens encountered in the interior of the United States and placed into full removal proceedings are governed by 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b)(2).[16] Respondents contend that *Maldonado Bautista* is void or without effect outside the Central District of California.[17] That argument does not preclude relief here.

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[11] *Ramírez-Morales v. Lyons* Order at 5-6.
[12] *Id.*
[13] Resp'ts' Resp., ECF No. 3, at 2-5.
[14] *See generally* ECF No. 3.
[15] *Alvarado Luna*, Order at 22; *Ramírez-Morales*, Order at 6.
[16] *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873, 2025 WL 3289861 (C.D. Cal. Dec. 18, 2025).
[17] Resp'ts' Resp., ECF No. 3, at 10-11.

First, *Maldonado Bautista* was properly decided and provides persuasive authority supporting Petitioner's claim. Nothing in Respondents' Response undermines the statutory analysis adopted in that decision.

Even assuming arguendo that *Maldonado Bautista* were not entitled to preclusive effect, the result here would be the same. In that case, the court certified a class of similarly situated noncitizens, granted declaratory relief in their favor, and expressly extended that ruling to the class as a whole. Petitioner is a member of that class, and the class-action court expressly extended its declaratory ruling to the class as a whole.[18] Federal courts are expected to apply principles of comity when addressing common legal issues.[19] Applying those principles, courts considering materially identical habeas petitions have granted relief, concluding that petitioners like this one are properly subject to detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b)(2).[20]

This Court has likewise held—independently of *Maldonado Bautista*—that § 1225(b)(2) does not apply to noncitizens encountered in the interior and that DHS lacks authority to impose mandatory detention under that provision.[21]

Accordingly, whether relief is granted with reference to *Maldonado Bautista* or based on this Court's own precedent and the reasoning articulated by numerous other courts, the conclusion

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[18] *Maldonado Bautista v. Santacruz,* No. 5:25-cv-01873, ECF No. 82 (C.D. Cal. Dec. 18, 2025).
[19] *Smith v. Bayer Corp.*, 564 U.S. 299, 317 (2011).
[20] *See, Miranda Silva v. Noem,* No. H-25-5784, ECF No. 9 at 2 (S.D. Tex. Dec. 15, 2025) Footnote 1: "But '[u]nder the law of the case doctrine, courts will show deference to decisions already made in [a] case they are presiding over.'" *Abecassis v. Wyatt,* 7 F. Supp. 3 668, 671 (S.D. Tex. 2014). "Federal courts" are still "expect[ed] . . . to apply principles of comity to each other's . . . decisions when addressing a common dispute." *Bayer*, 564 U.S. at 317.
[21] See *Alvarado Luna v. Warden*, Order at 5–7 (Dec. 29, 2025); *Ramírez-Morales v. Lyons*, Order at 5–6 (Dec. 30, 2025).

is the same: Petitioner is not subject to mandatory detention under § 1225(b)(2), and his continued detention without a bond hearing is unlawful.

IV. CONCLUSION

For the foregoing reasons, the Court should grant the Petition for Writ of Habeas Corpus and order Petitioner's release.

Dated: January 15, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 15, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send electronic notification of this filing to all counsel of record.

/s/ Veronica Semino