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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Marvin Galicia-Picon, Petitioner, v. Kristi Noem, et al., Respondents.	No. CV-25-04817-PHX-SHD (JZB) **RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS** **AND** **ORDER TO SHOW CAUSE**

Respondents, by and through undersigned counsel, hereby respond to the Petition for Writ of Habeas Corpus (Doc. 1) and the Court's Order to Show Cause (Doc. 4).

I. INTRODUCTION.

Respondents respectfully preserve their legal position that Petitioner is an applicant for admission as defined by 8 U.S.C. § 1225(a)(1) because he has never been lawfully admitted to the United States, and that he is therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Respondents, however, acknowledge that its legal position has been squarely rejected in *Echevarria v. Bondi*, 2025 WL 2821282 (D. Ariz. 2025). Respondents also acknowledge that the District Court in the Central District of California recently certified a Rule 23(b)(2) class, that Respondents concede includes Petitioner, and entered

judgement finding that 8 U.S.C. § 1226(a), and not 8 U.S.C. § 1225(b)(2), governs the detention of class members. *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). Critically, however, the Court in *Bautista* has yet to order class wide relief in the form of bond hearings for all class members, and the declaratory judgement that *Bautista* entered on behalf of the class is now on appeal. Accordingly, while the holding in *Bautista* is not preclusive on this Court, should this Court agree with the reasoning of the Court in *Bautista*, and conclude that Petitioner is properly detained under 8 U.S.C. § 1226(a), and therefore entitled to a bond hearing, this Court would still need to enter an order that Respondent's provide Petitioner with a bond hearing.

II. ECHEVARRIA.

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

> "The word "seeking" is the present participle of the verb "seek." It thus has a temporal element—Petitioner must have been in the process of seeking admission at the time of the inspection.
>
> It is hard to see how Petitioner could be deemed to have been "seeking" admission at the time of the encounter on July 2, 2025. By that point, Petitioner had already been present in the United States for 24 years, having arrived and entered in 2001. Moreover, under Respondents' interpretation of § 1225(a)(1), Petitioner became an "applicant for admission" in 2001, upon his arrival and entry. Implicit in Respondents' position, then, is that Petitioner somehow 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."

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

However, this analysis fails to consider other pieces of statutory context. Respondents respectfully argue that the phrase "applicants for admission" carves out a subset of those who are "seeking admission." For example, elsewhere in section 1225, the statute says that "[a]ll aliens who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3) (emphasis added). In other words, 8 U.S.C. § 1225(a)(3) shows that an alien may be "seeking admission" either by being an "applicant for admission," or in some different way. As discussed earlier, the phrase "applicant for admission" unambiguously includes aliens who have already entered the United States. "In all but the most unusual situations, a single use of a statutory phrase must have a fixed meaning." *See Cochise Consultancy, Inc. v. United States ex rel. Hunt*, 587 U.S. 262, 268 (2019) (referring to *Ratzlaf v. United States*, 510 U.S. 135, 143 (1994)). "We therefore avoid interpretations that would 'attribute different meanings to the same phrase.'" *Id.* (quoting *Reno v. Bossier Par. Sch. Bd.*, 528 U. S. 320, 329 (2000)). Thus, the *Echevarria* decision is not supported by the overall text of the statute, and Respondents respectfully request the Court reach a different result in this case.

Respondents also direct the Court's attention to a decision issued on September 30, 2025, in the United States District Court for the District of Nebraska: *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025). In that case, the Court denied a similar habeas petition brought by an alien who entered the United States in 2013 and held that the petitioner was properly detained under § 1225(b)(2) as an alien within the "catchall" scope of § 1225(b)(2) subject to detention without possibility of release on bond through § 1229a removal proceedings. 2025 WL 2780351, at *6-9. The Court noted that illegally remaining in the country for years did not mean the petitioner,

who "wish[ed] to stay in this country," was suddenly not an "applicant for admission." *Id.* at *9. Additionally, "even if Vargas Lopez might fall within the scope of § 1226(a), he certainly fits within the language of § 1225(b)(2) as well." *Id.*

The *Vargas Lopez* decision also noted the "overlapping relationship between § 1225(b) and § 1226(a) is not only consistent with the plain language of the two provisions but consistent with the interpretation of the two provisions under *Jennings*." *Id.* The Court determined that § 1226 does not contain language limiting its application "to aliens already present in the United States." *Id.* (comparing *Jennings*' statements that United States immigration law "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c)[,]" and that "§ 1226 applies to aliens already present in the United States[,]" 583 U.S. at 289 (first quote) and 303 (second quote), with 8 U.S.C. § 1226(a) (containing no reference to aliens "present" or "already present" in the United States) and 8 U.S.C. § 1226(c) (containing no reference to "criminal aliens" "present" or "already present" in the United States). The Court determined that "references to 'aliens' in § 1226 must be read to mean 'alien[s] present in the United States who ha[ve] not been admitted' within the meaning of § 1225(a)(1) and within at least the 'catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) in § 1225(b)(2)." 2025 WL2780351, at * 9 (citing *Jennings*, 583 U.S. at 287).

The Southern District of California also denied a temporary restraining order sought by an alien who was detained under § 1225(b)(2) despite having been present in the United States for years. *See Chavez v. Noem*, --F. Supp. 3d --, No. 3:25-cv-02325-CAB, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025). The Court noted, among other arguments, that "Section 1225(a)(1) expressly defines that '[a]n alien present in the United States who has not been admitted . . . shall be deemed for purposes of this Act an applicant for admission.'" *Id.* at *4 (quoting 8 U.S.C. § 1225(a)(1)) (emphasis in original). The Court reasoned that, "Petitioners do not contest that they are 'alien[s] present in the United States who ha[ve]not been admitted.' By the plain language of § 1225(a)(1), then, Petitioners are 'applicants for

admission' and thus subject to the mandatory detention provisions of 'applicants for admission' under § 1225(b)(2)." *Id.* (cleaned up). *See also Rojas v. Olson*, No. 25-CV-1437-BHL, 2025 WL 3033967, at *1 (E.D. Wis. Oct. 30, 2025); *Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Oliveira v. Patterson*, No. 6:25-CV-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, 1:25-cv-00177 (N.D. Tex. 2025); *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-AJR, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Alonzo v. Noem*, No. 1:25-CV-01519 WBS SCR, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025).

III. BAUTISTA.

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

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

The Court may consider in its discretion whether to dismiss the petition so that Petitioner can pursue his rights as a *Bautista* class member pursuant to that class action since it was filed first in time. Doc. 4. If, however, this Court is not inclined to do so for the reasons indicated in the Order, and it determines that a bond hearing is warranted under section 1226(a), consistent with the reasoning in *Bautista* and *Echevarria*, the Court will still need to enter an order that a bond hearing be provided.

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, rather than direct Petitioner's immediate release from immigration detention.

Respectfully submitted on December 30, 2025.

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