

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 0:25-cv-62707-WPD

KELYN SANCHEZ FIGUEROA,
Petitioner,

v.

PAMELA BONDI, Attorney General of the
United States, et al.,
Respondents.

RESPONSE TO ORDER TO SHOW CAUSE

Respondents, by and through the undersigned Assistant United States Attorney, consistent with this Court's Order requiring a response by January 6, 2026 (ECF No. 10), respectfully submit the following response in opposition to Petitioner Kelyn Sanchez Figueroa's ("Petitioner") Petition for Writ of Habeas Corpus (ECF No. 1) ("Petition").

INTRODUCTION

By way of the Petition, Petitioner, in relevant part, asks this Court to declare that "Petitioner's detention cannot fall under § 1225" and that Petitioner "falls squarely within the discretionary scheme of § 1226" (ECF No. 1 at ¶ 73). Accordingly, this case comes down to a question of statutory interpretation,¹ specifically, what statutory provision controls Petitioner's detention.

Section 1225(b)(2)(A) mandates detention for "an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Pursuant to § 1225(a), "[a]n alien present in the United States who has not been admitted ... shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner admits that he "entered the United States *without inspection* or

¹ Respondents recognize that courts have reached opposite conclusions as to the statutory interpretation issue presented here, and Respondents recognize this Court's specific previous rulings in *Acosta v. Ripa, et. al.*, Case No. 25-cv-62360-WPD [DE 18] and *Taffur v. Noem, et. al.* Case No. 25-cv-62308-WPD [DE 12].

detention on or about October 3, 2007” and “has been residing in the United States continuously” since then (ECF No. 1 at ¶ 9) (emphasis added). *See also* Exh. A (Declaration of Deportation Officer Jason Clarke - Kelyn Sanchez Figueroa). Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A). For the reasons explained more fully below, the Petition should be denied.

FACTUAL BACKGROUND

The Petitioner, Kelyn Sanchez Figueroa, is a native and citizen of Honduras. *See* [REDACTED]

[REDACTED].
Petitioner entered the United States without inspection at an unknown place and unknown date. *Id.*

On August 25, 2025, Petitioner was encountered by Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) and Hendry County Sheriff's Department. *Id.* On September 27, 2025, the Petitioner was transported to the local ICE sub-office for processing. *See* [REDACTED]

[REDACTED].
On September 27, 2025, DHS issued a Notice to Appear (NTA) charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i), as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *See* [REDACTED]. On November 05, 2025, Petitioner had a master calendar hearing where he admitted the allegations in the NTA and conceded the charge of removal. *See* Exh. A, Declaration of Deportation Officer Clarke. The immigration judge sustained removability. *Id.*

On December 10, 2025, Petitioner requested a custody hearing before the immigration judge. *See* [REDACTED]. On December 19, 2025, the immigration judge granted Petitioner's request for release from custody under bond of \$2,000. *See* [REDACTED]. On December 22, 2025, DHS filed an appeal of the immigration judge's decision granting bond to the Board of Immigration Appeals (BIA). *See* [REDACTED]. DHS also filed Form EOIR-43, Notice of ICE Intent to Appeal Custody Redetermination with the BIA, which automatically stayed the immigration judge's order granting release on bond. *See* [REDACTED]

Custody Determination. The appeal remains pending before the BIA. *See* Exh. A, Declaration of Deportation Officer Clarke.

Petitioner is scheduled for a merits hearing on January 21, 2026, to review his applications for relief. *See* Exh. J, Notice of Hearing with hearing date of January 21, 2026. To date, Petitioner remains in ICE custody at BTC. *See* Exh. K, Detention History.

ARGUMENT

I. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

Under the plain language of § 1225(b)(2), DHS is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) (“Our analysis begins and ends with the text.”).

A. The Plain Language of § 1225(b)(2) Mandates Detention of Applicants for Admission.

“As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms.” *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). Section 1225(a) defines “applicant for admission” to encompass an alien who either “arrives in the United States” or who is “present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). “Admission” under the Immigration and Nationality Act (“INA”) means lawful entry after inspection by immigration authorities, and not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien’s presence in the United States or the alien’s distance from the border.

In turn, § 1225(b)(2) provides that “an alien who is an applicant for admission” “*shall* be detained” pending removal proceedings if the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statute’s use of

the term “shall” makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien’s presence in the country or where in the country the alien is located. Therefore, the statute’s plain text mandates that DHS detain all “applicants for admission” who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was “present in the United States,” and he has “not been admitted.” 8 U.S.C. § 1225(a); Exh. A. Moreover, Petitioner cannot establish—and has not even alleged that he can establish—that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Therefore, § 1225(b)(2) mandates Petitioner “be detained for a proceeding under [8 U.S.C. § 1229a].” 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for Admission Under § 1225(b)(2) Are Seeking to Be Legally Admitted into the United States.

As explained above, Petitioner is an “applicant[] for admission” under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an “applicant for admission” is necessarily “seeking admission.” Moreover, an alien like Petitioner, who is identified by immigration authorities as unlawfully present, and who does not choose to depart from the United States voluntarily, is “seeking admission,” *i.e.*, seeking legal authority to remain in the United States.

1. The “seeking admission” clause does not negate or otherwise limit the statutorily defined term “applicant for admission”.

Section 1225(b)(2) requires the detention of an “applicant for admission, if the examining immigration officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statutory text and context show that being an “applicant for admission” is a means of “seeking admission”—no additional affirmative step is necessary. In other words, every “applicant for admission” is inherently and necessarily “seeking admission,” at least absent a choice to pursue voluntary withdrawal or voluntary departure.

For example, § 1225(a) provides that “[a]ll aliens ... who are applicants for admission *or otherwise* seeking admission or readmission ... shall be inspected.” 8 U.S.C. § 1225(a)(3) (emphasis added). The word “[o]therwise” means “in a different way or manner[.]” *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting

Webster's Third New International Dictionary 1598 (1971)); *see also Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (*en banc*) ("or otherwise" means "the first action is a subset of the second action"). Being an "applicant for admission" is thus a particular "way or manner" of seeking admission, such that an alien who is an "applicant for admission" *is* "seeking admission" for purposes of § 1225(b)(2)(A).² No separate affirmative act is necessary. *See Matter of Lemus*, 25 I & N. Dec. 734, 743 (BIA 2012) ("[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws"). Accordingly, § 1225(b) unambiguously provides that an alien who is an "applicant for admission" is "seeking admission," even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute.

As explained above, an "applicant for admission" is "seeking admission" under § 1225. To the extent this reading results in some redundancy in § 1225(b)(2)(A), that "is not a license to rewrite" § 1225 "contrary to its text." *See Barton v. Barr*, 590 U.S. 222, 239 (2020); *Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) ("sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance" especially when "the arguably redundant words that the drafters employed ... are functional synonyms" (alterations accepted and emphasis in original)).

"The canon against surplusage is not an absolute rule." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). "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." *Barton*, 590 U.S. at 239. "[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." *Id.* Thus, as the Supreme Court explained in *Barton*, "Sometimes the better overall reading of [a] statute contains some redundancy." *Id.*

² As § 1225 shows, being an "applicant for admission" is only *one* "way or manner" of "seeking admission," not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents returning to the United States are not "applicants for admission" because they are already admitted, but they still may be "seeking admission." *See* 8 U.S.C. § 1103(A)(13)(C).

Moreover, “the surplusage canon ... must be applied with the statutory context in mind” and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

C. Section 1226 Does Not Support Petitioner’s Argument.

Petitioner’s reliance upon, and reference to, 8 U.S.C. § 1226 is unavailing. Petitioner’s detention is controlled by § 1225(b)(2), not § 1226.

Sections 1225 and 1226 are separate statutory provisions that provide independent bases for detention and, generally, apply to different groups of aliens. While there is some overlap between the aliens subject to detention under the two detention provisions, that overlap does not create a redundancy because the two statutes provide for different bases for release.

Section 1226(a) authorizes the Executive to “arrest[] and detain[]” *any* “alien” pending removal proceedings but provides that the Executive also “may release the alien” on bond or conditional parole. 8 U.S.C. § 1226(a). Section 1226(a) provides the detention authority for the significant group of aliens who are *not* “applicants for admission” subject to § 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now removable. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (“the specific governs the general”).

Section 1226(c) provides for mandatory detention and is an exception to § 1226(a)’s discretionary detention regime. It requires the Executive to detain “any alien” who is deportable or inadmissible for having committed specified offenses or engaged in terrorism-related actions. *See* 8 U.S.C. § 1226(c)(1)(A)-(E). Petitioner has not committed one of the specified offenses and has not engaged in terrorism-related actions. Accordingly, he is not detained under § 1226(c).

Earlier this year, Congress passed the *Laken Riley Act*, Pub. L. No. 119-1, 139 Stat. 2 (2025), which amended portions of § 1226(c). While that amendment adds some overlap between the Government’s reading of § 1225(b)(2) and § 1226(c), that overlap does not apply to Petitioner, and as explained below, it does not create a redundancy as the amendment does independent work.

The *Laken Riley Act* provides for mandatory detention for an alien who is “present ... without being admitted or paroled”—*i.e.*, is inadmissible under § 1182(a)(6)(A)—and “is charged with, is arrested for, is convicted of, admits having committed, or admits committing” one of the enumerated criminal acts. 8 U.S.C. § 1226(c)(1)(E). Aliens subject to detention under § 1226(c)(1)(E) are effectively applicants for admission that committed one of the enumerated acts and, as applicants for admission, would also be subject to mandatory detention under § 1225(b)(2). There is no redundancy, however, because the two statutes provide for different forms of release. Aliens detained under § 1225(b)(2) are eligible for “humanitarian” parole under 8 U.S.C. § 1182(b)(5), while aliens detained under § 1226(c) are not and may only be released pursuant to that statute.

Under § 1182(b)(5), “[t]he Secretary of Homeland Security may ... in his [or her] discretion parole into the United States temporarily under such conditions as he [or she] may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States.” Section 1226(c)(1) takes that option off the table for aliens who have also committed the offenses or engaged in the conduct specified in § 1226(c)(1)(A)-(E). As to those aliens, § 1226(c) *prohibits* their parole and authorizes their release only if “necessary to provide protection to” a witness or similar person “and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding.” 8 U.S.C. § 1226(c)(4). So even as to aliens who are already subject to mandatory detention under § 1225(b)(2), § 1226(c) is not superfluous: It significantly narrows the Executive’s parole power with respect to those aliens.

In fact, Congress’s desire to further limit the parole power with respect to criminal aliens was one of the principal reasons that it enacted the *Laken Riley Act*. The Act was adopted in the wake of a heinous murder committed by an inadmissible alien who was “paroled into this country through a shocking abuse of that power,” 171 Cong. Rec. at H278 (daily ed. Jan. 22, 2025) (Rep. McClintock), and an abdication of the Executive’s “fundamental duty under the Constitution to defend its citizens,” 171 Cong. Rec. at H269 (Rep. Roy). The Act thus reflects a “congressional effort to be doubly sure,” *Barton*, 590 U.S. at 239, that unadmitted criminal aliens are not paroled into the country through an abuse of the Secretary’s exceptionally narrow parole authority. It does not suggest congressional uncertainty about § 1225(b)(2)(A)’s detention mandate, but rather

congressional desire to shut down a parole loophole that allowed the Government to circumvent that mandate.

D. The Government's Reading Comports with Congressional Intent.

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry. Accordingly, the Government's reading of the statute is not only supported by the express language of § 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes.").

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically "entered" the United States. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) "dictated what type of [removal] proceeding applied" and whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA's prior framework, which distinguished between aliens based on physical "entry," had

the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection ... were subject to mandatory custody.

Yajure Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); H.R.

Rep. No. 104-469, pt. 1, at 225 (1996) (“House Rep.”) (“illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection”).

Congress discarded that regime through enactment of the IIRIRA. Among other things, that law had the goal of “ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, the IIRIRA replaced the prior focus on physical “entry” and instead made lawful “admission” the governing touchstone. The IIRIRA defined “admission” to mean “the *lawful* entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been *lawfully* admitted.” House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner’s interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law, yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that the IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner’s interpretation. *King*, 576 U.S. at 492 (rejecting “petitioners’ interpretation because it would ... create the very [thing] that Congress designed the Act to avoid”). The Government’s reading, on the other hand, is true to Congress’s intent and should be adopted.

E. The Government’s Reading Accords with *Jennings*.

The Government’s interpretation is consistent with the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to “impos[e] an implicit 6-month time limit on an alien’s detention” under § 1225(b) and § 1226. *Id.* at 292. The Court held that neither provision is so limited. *Id.* at 292, 296-306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with

the Government's reading, the Court recognized in its description of § 1225(b) that § "1225(b)(2) serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* at 287.

II. Petitioner's Due Process Claims Fail

Petitioner's constitutional claims fail as a matter of law. Mandatory detention under § 1225(b) has repeatedly been upheld as constitutionally permissible. *See Jennings v. Rodriguez*, 583 U.S. at 299–301. The Fifth Amendment does not require bond hearings for noncitizens detained pursuant to valid statutory authority, nor does Petitioner possess a protected liberty interest in release on bond where Congress has mandated detention. The Due Process Clause does not prohibit Congress from imposing categorical detention rules in the immigration context. *See Demore v. Kim*, 538 U.S. 510, 528 (2003).

Petitioner's reliance on *Zadvydas v. Davis* is misplaced. To the extent that Petitioner argues that his detention violates his Due Process rights, as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001) (ECF No. 1 at ¶¶ 75-81), this Court should reject that claim because *Zadvydas* governs post-removal-order detention under § 1231, not pre-removal detention under § 1225. Moreover, Petitioner fails to allege that he is subject to "prolonged or indefinite" detention, which was at issue in *Zadvydas*.

III. Petitioner Failed to Exhaust His Administrative Remedies.

As an initial matter, the Petition should be dismissed because Petitioner has failed to exhaust available administrative remedies. Petitioner's bond determination is currently on appeal before the Board of Immigration Appeals, following DHS's timely appeal and automatic stay of the Immigration Judge's bond order. *See* Exh. H (Board of Immigration Appeals Filing Receipt). That appeal squarely presents the statutory detention question Petitioner raises here. Exhaustion serves important interests of agency autonomy, judicial economy, and the creation of a complete administrative record.

Although exhaustion under § 2241 may be prudential, courts routinely require exhaustion in detention cases absent exceptional circumstances. *See Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). Petitioner has not shown that administrative review is unavailable, futile, or incapable of providing relief. Indeed, the BIA is the appropriate forum to resolve the legal issues

surrounding detention authority under §§ 1225 and 1226. Petitioner's attempt to bypass the BIA simply because of disagreement with its precedent does not excuse exhaustion.

IV. The *Bautista* Class Action Does Not Entitle Petitioner to Relief

Petitioner argues that he is a member of the *Bautista* class and is therefore entitled to a bond redetermination hearing (ECF No. 1 at ¶¶ 29, 58-61). On December 18, 2025, the United States immediately filed an appeal of the *Bautista* order to the United States Court of Appeals for the Ninth Circuit. *See Lazaro Maldonado Bautista et al v. Ernesto SantaCruz Jr et al*, 5:25-cv-01873-BFM (2025) (granting plaintiffs' class certification motion for only the nationwide bond eligible class as to grant individualized bond hearings).

In many circumstances, a declaratory judgment will have preclusive effect as between the parties in future litigation. *See* Restatement (Second) of Judgments § 33. But the treatises recommend caution in imposing res judicata based on a declaratory judgment that remains subject to appeal. *See* 9 A.L.R.2d 984 (“both the rule under which the operation of a judgment as res judicata is, and the one under which it is not, affected by the pendency of an appeal, have very unfortunate consequences”). Not applying res judicata will result in delay of applying the final judgment. But by applying res judicata during the pendency of an appeal, the “evil result[]” is that if the first judgment is ultimately reversed, it could meanwhile lead to another judgment “from which it may be impossible to obtain relief notwithstanding such reversal.” *Id.*; *see also* Federal Practice & Procedure § 4044 (“Awkward problems can result from the rule that preclusive effects attach to the first judgment” while that judgment is subject to an appeal). In the circumstances here, and particularly given § 1252(f)(1), it would not be proper to impose res judicata effect on a class-wide basis while the declaratory judgment is pending on appeal. *See* 9 A.L.R.2d 984 (the “only one safe way of avoiding conflicting judgments on the same cause . . . [is for] the final decision on the merits of the second suit should be delayed until the decision on appeal has been rendered”). It would not be proper to impose res judicata effect on a *Bautista* class-wide basis while the declaratory judgment is pending on appeal. Thus, the new order issuing a declaratory judgment to the *Bautista* class does not have preclusive effect due to the United States' appeal.

CONCLUSION

For the reasons set forth above, the Petition for Writ of Habeas Corpus should be denied.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that on January 6, 2026, I uploaded the attached document to the Court's PACER system.

By: /s/ John Ghannam
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Assistant United States Attorney