IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

JUAN CHAVEZ CAMPA, Petitioner,	)	
v.	)	CIV-26-1-HE
JOSHUA JOHNSON, *et al.*, Respondents.	)	

RESPONDENTS' OBJECTION TO REPORT AND RECOMMENDATION

Respondents respectfully object to the Report and Recommendation ("R&R") entered on February 3, 2026 (Doc. 12). While this objection expressly reasserts and does not waive the arguments set forth in the Response (Doc. 7) or Supplemental Brief (Doc. 11), it focuses on the R&R's failure to apply the plain meaning of § 1225(b)(2)(A). In doing so, Respondents acknowledge this Court's prior rulings[1], but since those rulings and the issuance of the R&R, the Fifth Circuit Court of Appeals in *Victor Buenrostro-Mendez v. Pamela Bondi, et al.*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026) ruled that § 1225(b)(2)(A) applies to the detention of petitioners in the same circumstances as Petitioner in this case. This objection is submitted for the Court to consider this recent

[1] *See Rojas v. Noem*, No. CIV-25-1236-HE, 2026 WL 94641 (W.D. Okla. Jan. 13, 2026); *Toledo Santos v. Grant*, No. CIV-25-1433-SLP, 2026 WL 184287 (W.D. Okla. Jan. 23, 2026); *Hernandez v. Grant*, No. CIV-25-1525-SLP, 2026 WL 184288 (W.D. Okla. Jan. 23, 2026); *Lopez v. Corecivic Cimmaron Corr. Fac.*, No. CIV-25-1175-SLP, 2026 WL 165490 (W.D. Okla. Jan. 21. 2026); *Cortes v. Holt*, No. CIV-25-1176-SLP, 2026 WL 147435 (W.D. Okla. Jan. 20, 2026). *See also*; *Valdez v. Holt*, No. CIV-25-1250-R, 2025 WL 3709021 (W.D. Okla. Dec. 22, 2025); *Colin v. Holt*, No. CIV-25-1189-D, 2025 WL 3645176 (W.D. Okla. Dec. 16, 2025); *Escarcega v. Olson*, No. CIV-25-1129-J, 2025 WL 3243438 (W.D. Okla. Nov. 20, 2025).

appellate decision, to preserve appellate issues and because other courts have also "gone the other way," including two judges in this District. *Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344 (W.D. Okla. Jan. 6, 2026); *Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025).

ARGUMENT

Although the R&R reviews the title and structure of the §§ 1225 and 1226, the crux of the recommendation turns on what it means to be "seeking admission." The R&R concludes that it requires an application at the border. But that conclusion cannot be squared with the text, structure, title, and history of § 1225.

I. The Plain Language of § 1225(b)(2)(A) Applies to Petitioner

The deeming provision of § 1225(a)(1) expressly states that "[a]n alien present in the United States who has not been admitted … shall be deemed … an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner falls squarely within this provision. Any conclusion to the contrary is inconsistent with the plain and unambiguous language of the statute.

The R&R in large part bases its conclusion on whether Petitioner is "seeking admission." Specifically, the R&R contends that "seeking admission" must mean some additional steps beyond merely being an "applicant for admission," and using context and history, construes "seeking admission" to limit the provision to noncitizens seeking admission at the border. R&R at 15-20. *See also Cortes*, 2026 WL 147435 at *4. But the "text and context of § 1225 contradict" that conclusion. *Buenrostro-Mendez*, 2026 WL 323330, at *4. "Just as an applicant to a college seeks admission, an applicant for admission

to the United States is 'seeking admission' to the same, regardless whether the person actively engages in further affirmative acts to gain admission." *Id.* A finding to the contrary effectively nullifies the "present in the United States" deeming provision of § 1225(a)(1), and courts should "avoid interpreting statutes in a manner that makes any part superfluous." *Fuller v. Norton*, 86 F.3d 1016, 1024 (10th Cir. 1996). *See also Sosa*, 2026 WL 36344, at *3 ("Everything turns on the meaning of the phrase 'applicant for admission.'"); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2026 WL 44683, at *5 (N.D. Tex. Jan. 7, 2026) ("[petitioner's] hair-splitting emphasis on the phrase 'seeking admission' elevates form over substance. As the Court previously explained, there is no material disjunction—by the terms of the statute or the English language—between the concept of 'applying' for something and 'seeking' something." (cleaned up)). Indeed, the Supreme Court has treated § 1225(b)(2)(A) as applying to "*all applicants for admission* not covered by § 1225(b)(1)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (emphasis added); *see also Buenrostro-Mendez*, 2026 WL 323330, at *8 ("And it suggests that when the Supreme Court described § 1225 as applying to aliens 'seeking admission,' it understood that to mean aliens who, like the petitioners here, are present in the United States without admission"); *Sandoval v. Acuna*, Case No. 6:25-cv-01467, 2025 WL 3048926, *5 n.5 (W.D. La. Oct. 31, 2025); *Montoya*, 2025 WL 3733302, at *9.

The statutory text and context also show that being an "applicant for admission" is a means of "seeking admission." Section 1225(b)(2)(A) 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." (emphasis

added). In other words, every "applicant for admission" is inherently and necessarily "seeking admission," at least absent a choice to withdraw their applications for admission or seek voluntary departure. *Buenrostro-Mendez*, 2026 WL 323330, at *8 ("Elsewhere in *Jennings*, the Supreme Court explained that '§ 1225(b) applies to aliens seeking entry into the United States . . .' That language supports the government's contention that 'applicants for admission' are according to the statute seeking entry or admission.") (citation omitted). No additional affirmative step is necessary. *Sosa*, 2026 WL 36344, at *4 ("And once deemed an 'applicant for admission,' an alien is necessarily 'seeking admission.' Thus, Congress's use of 'seeking admission' is perfectly consistent with its unambiguous definition of 'applicant for admission,' which sweeps in *all* aliens present in the United States but not yet admitted.").

Section 1225(a)(3) confirms this by providing that all noncitizens "who are applicants for admission or *otherwise seeking admission* ... shall be inspected by immigration officers." *Montoya*, 2025 WL 3733302, at *7 (emphasis added). The word "'[o]therwise' means 'in a different way or manner.'" *Tex. 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 Att'y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024); *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019); Black's Law Dictionary 1101 (6th ed. 1990). Being an "applicant for admission" is thus a particular "way or manner" of seeking admission, such that any alien who is an "applicant for admission" *is* "seeking admission" for purposes of Section

1225(b)(2)(A). *Montoya*, 2025 WL 3733302, at *8 ("The better reading starts with the period-correct definitions of 'otherwise,' which are '[i]n a different manner; in another way, or in other ways.'" (citing *Otherwise*, Black's Law Dictionary (6th ed. 1990)). Thus, Respondents' position does not render "applicant for admission" and "seeking admission" superfluous because being an applicant for admission is only one way to "seek" admission.[2] *See Montoya*, 2025 WL 3733302, at *9 ("So, all 'applicants for admission' are 'seeking admission.' The former is sufficient (but not necessary) for the latter, and the latter is necessary (but not sufficient) for the former.").

The everyday meaning of the statutory terms also supports this reading. One *applying* for something necessarily is *seeking* it. *Accord Mejia Olalde*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *3 ("To 'seek' is a synonym of to 'apply' for."). For example, a person who is "applying" for a job or admission to college is "seeking" the job or admission to the college. *See* The American Heritage Dictionary of the English Language 63 (1980) ("American Heritage Dictionary") ("apply" means "[t]o request or *seek* employment, acceptance, or *admission*" (emphasis added)). Likewise, an alien who is "applying" for admission to the United States (*i.e.*, an "applicant for admission") necessarily is "seeking admission" to the United States. *See Calderon Lopez*, 2026 WL 44683, at *5 ("Insofar as the term 'applicant for admission' is more passive than 'seeking

[2] Stowaways are not "applicants for admission" but are still subject to inspection for admissibility. *See* 8 U.S.C. §§ 1182(a)(6)(D); 1225(a)(2). Similarly, lawful permanent residents returning to the United States are not "applicants for admission," but they still may be deemed to be "seeking admission" in some circumstances. *See* 8 U.S.C. § 1101(a)(13)(C).

admission,' this is inherent in the nature of agent nouns and their corresponding gerunds." As such, Section 1225 cannot be read to limit its application to aliens 'arriving' at the border." (cleaned up)).

All of this confirms that neither the duration of a noncitizen's unlawful presence in the United States nor his distance from the border when apprehended alters the legal reality that an "applicant for admission" is "seeking admission." "Congress knows how to limit the scope" of the Immigration and Nationality Act ("INA") "geographically and temporally when it wants to." *Mejia Olalde*, 2025 WL 3131942, at *4. For example, Section 1225(b)(1) may apply to aliens "arriving in the United States" or who "ha[ve] been physically present in the United States continuously for [a] 2-year period." 8 U.S.C. § 1225(b)(1). So, "[i]f Congress meant to say that an alien no longer is 'seeking admission' after some amount of time in the United States, Congress knew how to do so." *Mejia Olalde*, 2025 WL 3131942, at *4; see also *Sosa*, 2026 WL 36344, at *3. But it did not do so. *Montoya*, 2025 WL 3733302, at *2 ("The statute gives no temporal or geographic limitations on the status of being an applicant for admission.").

The construction adopted in the R&R implicitly suggests a new class of noncitizens; namely, those that are in the country illegally, wanting to stay, and not departing, but that are somehow still not construed as "seeking" admission. That construction finds no basis in the INA and should be rejected. *See Montoya*, 2025 WL 3733302, at *2 ("The statute does not create a third 'non-seeking applicant' category, and the 'applicant for admission' category explicitly includes both arriving and present unadmitted aliens."); *Coronado v.*

DHS, 25-cv-831, 2025 WL 3628229, at *9 (S.D. Ohio Dec. 15, 2025) ("one would also assume that Congress would have provided some directives as to the contours of that subset, *e.g.*, factors to consider in deciding whether a given 'applicant for admission' (an expressly defined term) is also 'seeking admission.' But Congress did not do so.").

II. The Title, Structure, and History of § 1225 Are Inconsistent with the R&R's Construction

As discussed above, the plain language of the statute is clear and unambiguous, making reliance on a statutory title unnecessary. *Fla. Dep't of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 47 (2008) ("To be sure, a subchapter heading cannot substitute for the operative text of the statute."); *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 212 (1998) ("The title of a statute cannot limit the plain meaning of the text." (cleaned up)). But a fulsome analysis of the statutory title and structure also supports Respondents' position.

The reasoning in the R&R focuses on the reference to "arriving" aliens in the statutory title, but ignores the rest of the title. R&R at 13-14. The title of § 1225 reads:

> Inspection by immigration officers, *expedited removal of inadmissible arriving aliens*, **referral for hearing.**

The underlined portion is a reference to subpart (a)'s inspection obligations. The italicized portion refers to the expedited proceedings of (b)(1) for "arriving aliens." Importantly, however, the bolded portion is a reference to the full removal proceedings under (b)(2)(A) for noncitizens present in the country. That is because "arriving aliens" under (b)(1) are subject to *expedited* removals and do not get full removal hearings pursuant to § 1229a. In contrast, noncitizens present in the country with arguably more established interests are

provided *full* removal hearings. *See* § 1225(b)(2)(A); *Sandoval*, 2025 WL 3048926, at *4. Respondents' reading accords with that difference, whereas the R&R's exclusive focus on the "arriving" limitation cannot. *Montoya*, 2025 WL 3733302, at *6 ("The Government also correctly points out that the R. & R.'s focus on § 1225's title is misplaced.").

That same conclusion is also apparent from the subtitles within § 1225. The title of (b)(1) is "Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled." In contrast, (b)(2) has *no* reference to arriving aliens. It reads "Inspection of other aliens." Critically, the use of "arriving" in (b)(1) but not (b)(2) must be given effect. The R&R's interpretation renders the "arriving" in (b)(1) superfluous if all of § 1225 only applies to "arriving aliens."

More generally, Congress used the phrase "arriving alien" throughout Section 1225. *See, e.g.* 8 U.S.C. §§ 1225(a)(2), (b)(1), (c)(1), (d)(2). The phrase distinguishes a noncitizen presently or recently "arriving" in the United States from other "applicants for admission" who, like Petitioner, have been in the United States without being admitted. But Congress *did not* use the word "arriving" to limit the scope of § 1225(b)(2)(A)'s mandatory-detention provision. *Montoya*, 2025 WL 3733302, at *2 ("The statute gives no temporal or geographic limitations on the status of being an applicant for admission."). Had Congress intended to limit § 1225(b)(2)(A)'s scope to "arriving" noncitizens, it would have used that phrase like it did in § 1225(b)(1), a mere one subsection prior. Or it could have included a general provision that the section only applies to arriving noncitizens. But Congress did not and that election to selectively use "arriving" must be given effect. *Russello v. United States*, 464 U.S. 16, 23 (1983) ("Where Congress includes particular language in one

section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." (cleaned up)); *Sosa v. Alvarez-Machain*, 542 U.S. 692, 711 n.9 (2004) ("The Government's request that we read [a specific] phrase into [a statutory] exception, when it is clear that Congress knew how to specify [those words] when it wanted to, runs afoul of the usual rule that when the legislature uses certain language in one part of the statute and different language in another, the court assumes different meanings were intended.").

Finally, the analysis in the R&R contradicts the purpose of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA") and effectively repeals a Congressionally enacted statutory fix. As the Court is aware, prior to the passage of IIRIRA, an "anomaly" existed whereby "immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully." *Cortes*, 2026 WL 147435 at *6. While the IIRIRA did not entirely replace the prior immigration scheme, focusing on "arriving" to contradict the plain language of the statute negates one purpose of the IIRIRA. Indeed, the R&R's construction incentivizes noncompliance with immigration laws by providing more protection to those that bypass border inspections and evade detection to reside within the United States. *See Chavez*, 2025 WL 2730228, at *4; *Sandoval*, 2025 WL 3048926, at *6 n.7; *Oliveira*, 2025 WL 3095972, at *6.

III. The Laken Riley Act Does Not Render § 1225(b)(2)(A) Superfluous

The R&R asserts that the Laken Riley Act ("LRA") would be superfluous if Respondents' reading of § 1225(b)(2)(A) is accepted. R&R at 17. But some overlap

between provisions does not make them superfluous. *Melgar v. Bondi*, 8:25CV555, 2025 WL 3496721, at *12 (D. Neb. Dec. 5, 2025) ("Thus, the Court concludes that the two statues 'overlap' as to aliens they cover, like a Venn Diagram."). Instead, in both 1996 and 2025, Congress wanted *more* enforcement of immigration restrictions and enacted complementary provisions with different means to effectuate that purpose.[3] *Sosa*, 2026 WL 36344, at *5 ("Any overlap between the two provisions is thus better understand as a belt-and-suspenders approach to an immigration crisis.").

Section 1226(a)'s general detention authority, which permits the issuance of warrants to detain all noncitizens for their removal proceedings, must be read alongside § 1225, which specifically addresses the detention of applicants for admission which is a subset of noncitizens subject to § 1226. And § 1226 does not displace the more specific provisions in § 1225 governing the detention of applicants for admission. It is well established that where "there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one." *Guidry v. Sheet Metal Workers Nat. Pension Fund*, 493 U.S. 365, 375 (1990) (citation omitted). Here, § 1225 is narrower in scope than § 1226. It applies only to "applicants for admission," which includes noncitizens present in the United States who have not been admitted. *See* 8 U.S.C. § 1225(a)(1).

[3] *See Cabanas*, 2025 WL 3171331 *6 ("[T]he Laken Riley Act did have such effect, given that it required mandatory detention for criminal, inadmissible aliens who had not been subject to it—under either § 1225 or § 1226—by longstanding practice of prior Administrations. But this means only that Congress determined to narrow aspects of the discretion available to any Administration prioritizing removal proceedings toward § 1226. It doesn't follow that the Laken Riley Act undercuts the more fulsome, executive authority that Congress provided to exist independently under the text of § 1225(b)(2)(A).").

To be sure, as amended by the LRA, § 1226(c)(1)(E) mandates detention for a group of noncitizens that includes a narrow subset of applicants for admission that may also be subject to § 1225(b)(2)(A) detention. *See, e.g., Am. Car Rental Ass'n v. Humphreys*, 789 F. Supp. 3d 1043, 1049 (D. Colo. May 29, 2025). But the Supreme Court has acknowledged that some overlap and redundancies "are common in statutory drafting." *Barton v. Barr*, 590 U.S. 222, 239 (2020). "Redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Id.* Overlap, alone, is not a basis to disregard the plain meaning of statutory text. *Am. Car Rental Ass'n*,789 F. Supp. 3d at 1049; *Cabanas*, 2025 WL 3171331 *6. The absence of a cross-reference to § 1225(a)(1) in § 1226(c)(1)(E)(i), or simply a reference to all "applicants for admission," further demonstrates that the LRA amendment is not limited to "applicants for admission." *Montoya*, 2025 WL 3733302, at *12 (The LRA does not "allow the Court to impute the term 'arriving' to each subsection of § 1225."). Indeed, the plain language of § 1226 applies to *all* noncitizens and is not limited to applicants for admission. *Sandoval*, 2025 WL 3048926, at *5 ("Petitioner's argument that § 1226 would be rendered superfluous under Respondents' interpretation of § 1225(b)(2) is unpersuasive. The statutory scheme of the INA does not render these two provisions mutually exclusive, and there are many other categories of aliens to whom § 1226(a) is applicable, but not § 1225(b)(2)"); *Hernandez Cruz v. Noem*, No. 8:25-CV-02566-SB-MAA, 2025 WL 3482630, at *4 (C.D. Cal. Dec. 2, 2025) ("But the fact that Congress added this provision as part of the Laken Riley Act in 2025 cannot be read to displace or supersede § 1225's requirement that all applicants for admission, including those who unlawfully came to the United States without inspection,

be detained."); *Cabanas*, 2025 WL 3171331 *6 ("Simply put, amendment by the recent Laken Riley Act to § 1226 isn't superfluous. Beyond that, and regardless, the Supreme Court holds, redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text." (cleaned up)).

CONCLUSION

Respondents object to the R&R, and based on the recent *Victor Buenrostro-Mendez* decision and the other reasons stated above, respectfully request the Petition be denied and the case dismissed.

Respectfully submitted,

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