UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:26-cv-60008-AHS

HENRY J. HERNANDEZ TINIGUAR,

Plaintiff,

v.

GARRETT J RIPA, Field Office Director of Enforcement and Removal Operations, MIAMI Field Office, Immigration and Customs Enforcement; TODD LYONS, Acting Director U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; and EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Defendants.
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RESPONDENTS' RETURN IN OPPOSITION
TO THE PETITION FOR WRIT OF HABEAS CORPUS

Respondents,[1] by and through the undersigned Assistant United States Attorney and pursuant to the Court's Order to Show Cause, [D.E. 5], submit the following return in opposition to the Petition for Writ of Habeas Corpus [D.E. 1] ("Petition"). For the reasons set forth below, the Petition should be denied.[2]

[1] Respondents request that the Court dismiss this Petition against all Respondents except Carlos Nunez, in his official capacity as Acting Warden of the Broward Transitional Center, who is the Petitioner's immediate custodian and should have been named as a Defendant. *See Rumsfeld v. Padilla*, 542 U.S. 426, 449, 124 S. Ct. 2711, 2726, 159 L. Ed. 2d 513 (2004) (holding that a petition for writ of habeas corpus challenging physical custody must name the immediate custodian of the petitioner as the respondent).

[2] Respondents recognize that courts in this District have rejected similar arguments in granting habeas petitions. *See, e.g., Perez v. Parra*, Case No. 25-cv-24820 (S.D. Fla.). Nonetheless, Respondents maintain and preserve these arguments for the record in this case.

INTRODUCTION

Petitioner Henry J. Hernandez Tiniguar, ("Petitioner") in relevant part, asks this Court to "[i]ssue a Writ of Habeas Corpus requiring Respondents to release Petitioner unless they provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within seven days." *See* D.E. 1, Petition at p. 11. However, as set forth below, his ongoing mandatory detention is in accordance with 8 U.S.C. § 1225(b), which mandates mandatory detention pending removal for individuals seeking admission to the United States.

This case comes down to a question of statutory interpretation. 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 has resided in the United States without admission or parole since 2019 but has applied for immigration status through a U Visa Application, including deferred action and a work authorization. *See* D.E. 1, Petition, at ¶¶ 15, 18. Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission who is seeking admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A).[3] For the reasons explained more fully below, the Petition should be denied.

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[3] Petitioner notes in his Petition that he has pending U visa application that has provided him with deferred action work authorization. *See* Complaint, D.E. 1, at ¶ 18. However, this status does not preclude his detention or the execution of a removal order. "Deferred action" is an exercise of prosecutorial discretion to make an alien a lower priority for removal from the United States." *See* USCIS Policy Manual, Vol. 3, Part C, Ch. 5, available at https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5 (last visited Jan. 13, 2026.) Moreover, the filing of a U-visa petition "has no effect on ICE's authority to execute a final order . . .." 8 C.F.R. § 214.14(c)(1)(ii). USCIS's adjudication of a U-visa petition can continue even if someone is overseas. *See also* 8 C.F.R. § 214.14(c)(5)(i)(B).

In addition to seeking this relief pursuant to an argument based on statutory interpretation, Petition also contends that he is entitled to relief as a member of the "Bond Denial Class" certified in *Maldonado Bautista v. Noem*, No. 5:25-CV-01873 (C.D. Cal.). *See* D.E. 1, Petition at ¶ 1. However, the *Maldonado Bautista* court, based in the Central District of California, lacks jurisdiction to rule on Petitioner's Petition.

BACKGROUND

Petitioner is a native and citizen of Guatemala who entered the United States without inspection or admission on March 11, 2019. *See* Record of Deportable/Inadmissible Alien, (Form I-213), dated March 15, 2019, attached and redacted as Exhibit A; *see also* Declaration of Deportation Officer Jiesys Miranda (Jan. 13, 2026), attached and redacted as Exhibit B. The Petitioner entered with his mother and brother. *See* Ex. A, Form I-213; Ex. B, Declaration of Officer Miranda.

On or about March 12, 2019, the Petitioner and family were encountered by Customs and Border Protection (CBP) in the Rio Grande Valley. *See* Ex. A, Form I-213. Petitioner and family were transferred to Immigration Customs and Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") custody. *See* Form I-200, Warrant for Arrest of Alien, dated March 5, 2019, attached and redacted as Exhibit C; *see also* Form I-286, Notice of Custody Determination, dated March 15, 2019, attached and redacted as Exhibit D. On March 18, 2019, the Petitioner was issued an order of release on recognizance. *See* Form I-220A Order of Release on Recognizance, dated March 18, 2019, attached and redacted as Exhibit E.

On October 21, 2019, ICE initiated proceedings by filing a Notice to Appear with the Executive Office for Immigration Review ("EOIR"), charging the Petitioner with inadmissibility under INA § 212(a)(6)(A)(i) 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* Notice to Appear (NTA), dated March 15, 2019, attached and redacted as Exhibit F. On March 19, 2024, the Immigration Judge dismissed proceedings for the entire family unit "[p]ursuant to Prosecutorial Discretion." See Immigration Judge Order, dated March 19, 2024, attached and redacted as Exhibit G.

On September 27, 2025, Florida Fish and Wildlife Commission officers contacted U.S. Border patrol agents, who determined the Petitioner did not possess any valid immigration documents that would allow him to be legally present in the United States and transferred Petitioner to ICE ERO custody. *See* Form I-213, dated Sept 27, 2025, attached and redacted as Exhibit H; *see also* Form I-200 Warrant of Arrest, dated September 27, 2025, attached and redacted as Exhibit I; *see also* Form I-286 Notice of Custody Detention, attached and redacted as Exhibit J; Detention History , attached and redacted as Exhibit K.

On October 17, 2025, ICE filed a subsequent Notice to Appear with EOIR, charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i) 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 and INA § 212(a)(7)(A)(i)(I), as an as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211 (a) of the Act. *See* Notice to Appear (NTA), dated September 27, 2025, attached and redacted as Exhibit L.

On October 22, 2025, the Petitioner filed a Motion to Terminate with the Krome Immigration Court, and on November 1, 2025, the Immigration Judge denied Petitioner's motion. *See* Immigration Judge Order, dated November 1, 2025, attached and redacted as Exhibit M. On November 5, 2025, at the master calendar hearing, the two charges of removability were sustained. *See* Ex. B, Declaration of Officer Miranda. On November 21, 2025, the Petitioner filed an appeal from the Immigration Judge's Order denying the Motion to Terminate. *See* Board of Immigration Appeals Filing Receipt, dated November 24, 2025, attached and redacted as Exhibit N. The appeal is still pending. *See* Ex. B, Declaration of Officer Miranda. The next hearing before EOIR at the Immigration Court at the Broward Transitional Center (BTC) is on January 14, 2026. *See* Ex. O, Notice of Hearing.

On November 26, 2025, Petitioner requested a custody determination hearing before the Immigration Court, and on December 5, 2025, the Immigration Judge determined that the court lacked authority because the Petitioner is subject to mandatory detention, citing *Matter of Yajure Hurtado.* See Notice of Hearing issued on November 28, 2025, attached and redacted as Exhibit P; *see also* Immigration Judge Order, dated December 5, 2025, attached and redacted as Exhibit Q. Petitioner remains detained at BTC) in Pompano Beach, Florida. *See* Ex. 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), the Government 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) deems all aliens who either "arrive[] in the United States" or who are "present in the United States [and] who ha[ve] not been admitted" to be "applicant[s] for admission." 8 U.S.C. § 1225(a)(1). And "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). 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 the Government 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 has not identified any basis to contend that he has "been admitted." 8 U.S.C. § 1225(a);

see Petition at ¶¶ 15–18. 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 withdraw their application for admission and 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 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 of their application for admission.

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).[4] No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 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." *Barton v. Barr*, 590 U.S. 222, 239 (2020); *see 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)).

[4] 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 deemed to be "seeking admission" in some circumstances. *See* 8 U.S.C. § 1103(A)(13)(C).

"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*, "[s]ometimes the better overall reading of a statute contains some redundancy." *Id.*

Moreover, "the surplusage canon … must be applied with 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.

3. Applicants for admission are seeking admission when they seek to lawfully remain in the United States.

Even if the Court finds that "seeking admission" requires some separate affirmative conduct by the alien, an applicant for admission who attempts to avoid removal from the United States, rather than trying to withdraw their application for admission, is "seeking admission."

Section 1225(b)(2)(A) applies to an alien who is present in the United States unlawfully, regardless of how long the alien has been in the United States. Although the alien may not have been affirmatively seeking admission during those years of illegal presence, § 1225(b)(2) is not concerned with the alien's pre-inspection conduct. Rather, the statute's use of present tense

language ("seeking" and "determines") shows that its focus is a specific point in time—when "the examining immigration officer" is making a "determin[ation]" regarding the alien's admissibility. 8 U.S.C. § 1225(b)(2)(A). At that point, the alien is "seeking" admission into the United States, and continues to be an alien seeking admission as the application is an ongoing one. *See* The American Heritage Dictionary of the English Language (defining "seek" and "seeking" as "to endeavor to obtain"). If it were otherwise, the applicant would not attempt to show that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). That inference is confirmed by § 1225(a)(4), which authorizes an alien to voluntarily withdraw their application for admission and "depart immediately from the United States." 8 U.S.C. § 1225(a)(4). Therefore, an applicant for admission whom DHS places in § 240 removal proceedings and who forgoes that statutory option—of withdrawing their application--and instead endeavors to prove admissibility through § 240 removal proceedings—proceedings in which the alien has the "burden of establishing that [he] is clearly and beyond a doubt entitled to be admitted," *id.* § 1229a(c)(2)(A)—is seeking admission to the United States in the same way someone who is encountered just after crossing the border is attempting to obtain admission to the United States.

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, as explained below, there is some overlap between the aliens subject to detention under the two detention provisions, that overlap does not create a redundance 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. Section 1226(a) provides the detention authority for the significant group of

aliens who are *not* deemed "applicants for admission" subject to § 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now removable, like those who overstay a visa or lawful permanent residents who engage in conduct that renders them removable.[5] Thus, section 1225(b)(2) is the more specific detention provision. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) ("the specific governs the general"). Accordingly, § 1226(a) does not control Petitioner's detention.

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 aliens subject to detention under § 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). Congress's desire to limit the parole power with respect to criminal aliens was one of the principal reasons that it enacted the Laken Riley Act.

[5] The detention of any of the millions of aliens who have overstayed their visas is governed by § 1226(a), because those aliens (unlike Petitioner) *were* lawfully admitted to the United States.

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 double 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 a 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, 222-23 (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.

Hurtado, 29 I&N Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y Gen.*, 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 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, IIRIRA replaced the prior focus on physical "entry" and instead made lawful "admission" the governing touchstone. 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 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.

F. Under *Loper Bright*, the Statute Controls, Not Prior Agency Practice

Any argument that prior agency practice applying § 1226(a) to Petitioner is unavailing because under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 411 (2024) (overturning *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984)), the plain language of the statute and not prior practice controls. *Hurtado*, 29 I&N Dec. at 225–26. In overturning *Chevron*, the Supreme Court recognized that courts often change precedents and "correct[] our own mistakes." *Loper Bright*, 603 U.S. at 411. *Loper Bright* overturned a decades old agency interpretation of the Magnuson-Stevens Fishery Conservation and Management Act that itself predated IIRIRA by twenty years. *Id.* at 380. Thus, longstanding agency practice carries little, if any, weight under *Loper Bright*.

II. The Decisions and Certifications in *Maldonado Bautista v. Santacruz* are not binding on this Court.

The Court should deny Petition for the reasons noted above. Additionally, the December 18, 2025, partial final judgment in *Moldonado Bautista v. Noem*, No. 5:25-CV-01873 (C.D. Cal. Dec. 18, 2025), D.E. 92, is neither binding nor applicable here and presents no basis for granting the petition. The *Bautista* class sought a declaratory judgment that class members such as Petitioner were unlawfully detained under 8 U.S.C. § 1225(b)(2). This is core habeas relief that must be brought as a habeas claim alone. As the Supreme Court made clear just this year, "[r]egardless of whether [] detainees formally request release from confinement," if "their claims for relief necessarily imply the invalidity of their confinement[], their claims fall within the core of the writ of habeas corpus and thus must be brought in habeas." *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (internal quotations omitted).

The Supreme Court has imposed two fundamental limits on federal court jurisdiction over core habeas claims. First, "jurisdiction lies in only one district: the district of confinement."

Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004); *see also J.G.G.*, 604 U.S. at 672. Second, a habeas petitioner must name the petitioner's immediate custodian—*i.e.*, the custodian who has actual custody over the petitioner and can produce the "corpus." *Padilla*, 542 U.S. at 435. "Failure to name the petitioner's custodian as a respondent deprives federal courts of personal jurisdiction" needed to issue relief. *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994); *Padilla*, 542 U.S. at 444. Thus, a federal district court is wholly without authority to issue the writ in favor of a habeas petitioner who seeks habeas relief in a judicial district in which he is not confined and the immediate custodian is not located. *Padilla*, 542 U.S. at 442-43. And a "judgment entered without personal jurisdiction over a defendant is void as to that defendant." *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442 (D.C. Cir. 1987).

Given that a challenge to the legality of detention is a core habeas claim, class-wide declaratory relief is inappropriate in the habeas context. *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (declaratory judgment action not appropriate to address "validity of a defense the State may, or may not, raise in a habeas proceeding" in part because "the underlying claim must be adjudicated in a federal habeas proceeding"); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL 13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Indeed, a class-wide declaratory judgment imposed from outside the district of confinement cannot be squared with the district-of-confinement requirement of habeas, where the relief is an order of release, 28 U.S.C. § 2241(a), not a declaration of legal rights that can later be enforced. *See Calderon*, 523 U.S. at 747 (1998); *Fusco*, 2019 WL 13112044, at *1; *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir. 1996) (holding that the "availability of a habeas remedy in another district ousted us of jurisdiction over an alien's effort to pose a constitutional attack . . . by means of a suit for declaratory judgment"); *Monk v. Sec. of Navy*, 793 F.2d 364, 366

(D.C. Cir. 1986) ("In adopting the federal habeas corpus statute, Congress determined that habeas corpus is the appropriate federal remedy for a prisoner who claims that he is 'in custody in violation of the Constitution . . . of the United States,' . . . . This specific determination must override the general terms of the declaratory judgment . . . statute.").

Therefore, the *Bautista* court lacked jurisdiction to issue habeas relief to all class members who are confined outside the Central District of California by immediate custodians outside that District, and a court's judgment cannot be binding and preclusive against a party over which it lacked jurisdiction. *Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). Indeed, federal district courts have held or recommended that the *Bautista* declaratory judgment does not have preclusive effect. *See, e.g.*, Report and Recommendation, D.E. 25, *Ocegueda Gonzalez v. Noem*, No. 0:25-CV-62261 (S.D. Fla. Dec. 23, 2025); Order, D.E. 12, *Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025). Petitioner is detained at BTC. Subjecting the immediate custodian to the judgment of the Central District of California would be inconsistent with the immediate custodian rule. *Padilla*, 542 U.S. at 439-40.

Finally, In *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022) the Supreme Court held that § 1252(f)(1) deprives district courts of jurisdiction to issue class wide "injunctions that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out the specific statutory provisions." *Id.* at 548, 550. Accordingly, the *Maldonado Bautista* court lacks jurisdiction to issue any relief that would be dispositive in this case.[6]

[6] Section 1252(f)(1) includes one exception, "other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1). Pursuant to this one exception, "lower courts retain the authority to 'enjoin or restrain the operation of' the relevant statutory provisions 'with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.'" *Aleman Gonzalez*, 596 U.S. at 550. Accordingly, this Court retains jurisdiction to act in this case.

CONCLUSION

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

Dated: January 13, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the Service List via CM/ECF.

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