UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Pedro Xavier Cornejo Chuqui,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department of Homeland Security,

Department of Homeland Security,

Todd M. Lyons, Acting Director of Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Daren K. Margolin, Director for Executive Office for Immigration Review,

Executive Office for Immigration Review,

and

David Easterwood, Acting Director, St. Paul Field Office, Immigration and Customs Enforcement.

Respondents.

0:26-cv-00078-ECT-JFD

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

INTRODUCTION

This Court should rule consistently with its previous determinations in this District and its sister districts. The Court has already decided multiple cases that are nearly identical to Petitioner's. In fact, the Court requested Respondents distinguish the present case from *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *See* ECF No. 4. The government failed to state any facts or law that would materially distinguish the present matter from *Jose J.O.E.*, or the many other similar cases granted in recent months. Petitioner was detained in the interior of the United States in 2020 after entering without inspection. District courts in every corner of the country have validated the Court's previous conclusion. The Court should grant the requested relief and order a bond hearing within seven days or Petitioner's immediate release.

Petitioner will not reiterate the well-worn arguments on this issue but, like Respondents, asks to preserve arguments made in materially similar briefs filed by Petitioner's counsel in case of appeal.

REPLY ARGUMENT

As articulated above, countless cases within this circuit have exercised jurisdiction and subsequently found that the detention of individuals in materially identical positions with Petitioner was improper under 8 U.S.C. § 1225(a)(2)(B). Those individuals, like Petitioner, were entitled to bond hearings under 8 U.S.C. §

1226(a). Respondents point to a few contrary decisions. The weight of the authority, consistent with the record, plain text, context, congressional intent, and long held practice all illustrate why this writ must issue.

a. The Government is Unable to Materially Distinguish this Case from Jose J.O.E.

This Court ordered the government to provide an including "Respondents' view as to whether—and if so, why—this matter is materially distinguishable, either factually or legally, from *Jose J.O.E. v. Bondi, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670 (D. Minn. Aug. 27, 2025) See* ECF. No. 4. The government has failed to do so. Instead, the government erroneously conflates that Petitioner attempts to seek intervention in his removal proceedings.

The cases to which Respondents point are unconvincing.[1] In *Sandoval v. Acuna*, the court selectively read *Jennings*, focusing only on the two classes of people in 8 U.S.C. 1225 but failing to engage in the language of "seeking admission," "inspection," and "examination." No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); ECF. No. 5, at 5-6. The court failed to acknowledge that 8 U.S.C. 1226(a) specifically discusses apprehension. *Chen v.*

[1] Respondents' point to the increase in the minority position following the decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). However, *Yajure Hurtado* is owed no deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 369 (2024). It mimics the arguments that a multitude of courts have rejected, including this Court.

Almodovar, 2025 WL 3484855 (S.D.N.Y Dec. 4, 2025), reflects the flaw in the few adverse decisions that exist. *Chen* and others do not engage what constitutes "seeking," nor do they acknowledge the administrative record that shows that Respondents apprehended, and sometimes initially released, a person under § 1226. *Chen*, for example, tries to suggest that most courts have contrived a third requirement in which a person has to be seeking an admission consistent with the definition of admission set forth in 8 U.S.C. § 1101(a)(13)(A). *Cabanas v. Bondi*, 2025 WL 3171331 (S.D. Tx. Nov. 13, 2025), merges the actor and the action as if they are one in the same.

Furthermore, *Chen*, *Cabanas*, and cases like them maintain that § 1225(b)(2) becomes meaningless given the majority interpretation. However, this is not true. There is a bevy of case law demonstrating that § 1225(b)(2) applies to numerous individuals who are not arriving aliens. Most notably, it applies to lawful permanent residents who do not qualify or satisfy the returning resident exemption, individuals seeking *re*admission under automatic revalidation rules after traveling to Canada or Mexico for less than 30 days, and individuals in transit through the United States. Section 1225(b)(2) requires the detention of such individuals until an immigration court determines whether the person is a returning resident or not. This is a very large population of individuals. It includes people who have been abroad for too long, criminality, national security concerns, and other grounds.

Chen lastly makes the fatal mistake of making an application for relief, such as asylum, into some form of seeking admission. This is contrary to law and Board of Immigration Appeals precedent. Relief is not admission. *Chen* and others simply fail to recognize that precedent and statute contradict their supposition.

The government's reliance on the District of Nebraska's decision in *Melgar v. Bondi et al.* is misplaced. 2025 WL 3496721 (D. Neb. Dec. 5, 2025). In that case, the court held that the petitioner was properly detained under 8 U.S.C. § 1225. As in *Chen*, the *Melgar* court incorrectly concluded that an application for relief (in *Melgar*, an application for non-cancellation of removal) constitutes a request for admission. *Id.* at 24. By citing *Melgar*, the government perpetuates the erroneous theory that seeking relief is equivalent to seeking admission. See ECF No. 4 at 11. That theory is unequivocally rejected by Supreme Court precedent.

As the Supreme Court has explained, relief from removal does not afford a person "admission"—defined as "the lawful entry . . . after inspection and authorization by an immigration officer," 8 U.S.C. § 1101(a)(13)(A)—but instead affords them "lawful status," a "distinct concept[] in immigration law." *Sanchez v. Mayorkas*, 593 U.S. 409, ___ (2021). Thus, the Court in *Sanchez* concluded that an individual who had entered the country unlawfully and subsequently received Temporary Protected Status ("TPS")—a form of temporary relief from deportation, *see* 8 U.S.C. § 1254a—was not constructively "admitted," but instead granted a

"lawful status." *Id.* at 415–16 (explaining that ("a grant of TPS does not come with a ticket of admission").

The same distinction applies for other forms of relief from removal, like: Deferred Action for Childhood Arrivals, *Resendiz v. Exxon Mobil Corp.*, 72 F.4th 623, 625, 627 (4th Cir. 2023); petitions under the Violence Against Women Act, *Enriquez v. Barr*, 969 F.3d 1057, 1060 (9th Cir. 2020), *withdrawn on other grounds sub nom.*, *Enriquez v. Wilkinson*, 988 F.3d 1210 (9th Cir. 2021); benefits under the Nicaraguan Adjustment and Central American Relief Act, *Fuentes v. Lynch*, 837 F.3d 966, 967 (9th Cir. 2016) (per curiam); Family Unity Program benefits, *Medina-Nunez v. Lynch*, 788 F.3d 1103, 1105 (9th Cir. 2015); asylum, *Matter of V-X-*, 26 I. & N. Dec. 147, 150 (BIA 2013); T-nonimmigrant visas for victims of trafficking, *Villatoro v. Noem*, No. 25-CV-05306 (OEM), 2025 WL 2880140, at *1, n.1 (E.D.N.Y. Oct. 9, 2025); and, Special Immigrant Juvenile designees, *see also Osorio-Martinez v. Att'y Gen.*, 893 F.3d 153, 163 (3d Cir. 2018).[2]

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[2] The only exception arises in the post-entry adjustment of status context where individuals who entered without inspection and later adjusted status are deemed *retroactively* to have been admitted when they adjusted status for the limited purpose of removability for certain criminal offenses. *See, e.g.*, *Diaz Esparza v. Garland*, 23 F.4th 563, 575 (5th Cir. 2022); *Mauricio-Vasquez v. Whitaker*, 910 F.3d 134, 137 (4th Cir. 2018); *Negrete-Ramirez v. Holder*, 741 F.3d 1047, 1052 (9th Cir. 2014). This judge-created exception is meant to avoid the "absurd result" of certain noncitizens falling into a gap in the statute by lacking a starting date to determine *deportability*. *Negrete-Ramirez*, 741 F.3d at 1052. This exception does not apply here to Petitioner or other noncitizens facing removal for being *inadmissible*, having entered without inspection.

In no iteration that Petitioner's potential paths of relief can he be construed to be seeking admission. Petitioner will seek relief, not admission.

There is a constant theme in the few negative cases of not engaging with the positive caselaw and maintaining tunnel vision. An applicant for admission must be fulfilling the condition of seeking admission for 8 U.S.C. 1225(b) to apply. None of these negative cases engage in the definition of admission, which is defined in the Act. None of the cases that Respondents cite move the needle. The Court must continue to see that there is a difference from fitting the mold as an applicant for admission and doing something to seek admission. There is no action here that invokes § 1225(b)(2). In fact, the only action is the government apprehending consistent with § 1226.[3]

CONCLUSION

For the reasons set forth, Respondent cannot be detained under 8 U.S.C. § 1225, and the writ of habeas corpus, requiring release or, alternatively, a prompt bond hearing, must issue.

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[3] As shown through Respondents' Exhibits, Petitioner was marked as "an alien present in the United States who has not been admitted or paroled," not "arriving alien," on his Notice to Appear. *See* ECF. No. 5-1.

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Respectfully submitted,

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