UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ESTEBAN MARTINEZ NOGUEZ, Petitioner, v. TOM BROPHY, Field Office Director of Enforcement and Removal Operations, Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the United States Department of Homeland Security; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, United States Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, Respondents.	Case No.: 9:26-CV-0030 (MAD)

RESPONDENTS' RESPONSE TO PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

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INTRODUCTION

Under 8 U.S.C. § 1225(b)(2)(A), aliens who enter the United States without inspection remain applicants for admission and must be detained pending removal proceedings unless they clearly and beyond a doubt are entitled to admission. Petitioner is a Mexican national detained at the Broome County Correctional Facility in the Northern District of New York under that statutory mandate. He entered without inspection, has never been admitted, and has not demonstrated entitlement to admission.

Petitioner contends that he is entitled to be considered for release on bond under 8 U.S.C. § 1226(a) because he is a member of the class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-1873 (C.D. Cal.). The district court in that case held that class members may not be denied bond consideration under § 1225(b)(2)(A), and the government has appealed that decision to the Ninth Circuit. That judgment—issued in another habeas case, involving different detainees and custodians, and to which neither petitioner nor his immediate custodian were parties—cannot bind this Court, extend beyond the Central District of California, or override the custodial or territorial limits Congress imposed on habeas review under 28 U.S.C. § 2241.

Courts are divided on whether § 1225(b)(2)(A) or § 1226(a) governs detention of aliens who enter without inspection; many courts have applied § 1226(a), while several—including within this Circuit—have held that § 1225(b)(2)(A) mandates detention. The Second Circuit is currently considering the issue in *Barbosa da Cunha v. Moniz*, No. 25-3141, where briefing is underway and expedited review has been granted.

The facts here are undisputed. Petitioner entered without inspection, was placed in removal proceedings under 8 U.S.C. § 1229a, and is detained as an applicant for admission under § 1225(b)(2)(A). He sought a bond hearing before an immigration judge, which was denied under

binding Board of Immigration Appeals precedent interpreting § 1225(b), and he did not appeal. Instead, he filed this habeas petition, relying solely on the Central District of California's declaratory judgment in *Maldonado Bautista* to argue entitlement to a bond hearing, and contending that exhaustion would be futile.

Petitioner's claims fail for two independent reasons. First, the statute itself forecloses them: a noncitizen who enters without inspection remains an applicant for admission and is subject to mandatory detention under § 1225(b)(2)(A). No exception applies. Second, a declaratory judgment issued in another district, involving different detainees and custodians and to which neither petitioner nor his immediate custodian were parties, has no binding effect here and cannot override the statutory custodial and territorial limits on habeas jurisdiction.

The statute is clear. Mandatory detention applies, and the petition must be denied.

BACKGROUND

I. Statutory Background

A. The pre-IIRIRA framework gave preferential treatment to aliens who unlawfully entered and remained in the United States.

The Immigration and Nationality Act (INA), as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens who unlawfully enter the United States or are otherwise removable and the requirements for when the Executive is obligated to detain aliens pending removal.

Before 1996, the INA distinguished between aliens who presented at a port of entry and those who entered the United States without inspection. *Yajure Hurtado*, 29 I. & N. Dec. 216, 222–24 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251(a) (1994)); *see Hing Sum v. Holder,* 602 F.3d 1092, 1099–1100 (9th Cir. 2010) (same). "Entry" meant "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 dictated the type of immigration proceeding applicable and whether the alien would be detained pending those proceedings. *Hing Sum,* 602 F.3d at 1099.[1]

At the time, the INA "provided for two types of removal proceedings: deportation hearings and exclusion hearings." *Hose v. I.N.S.,* 180 F.3d 992, 994 (9th Cir. 1999) (en banc). An alien who arrived at a port of entry would be placed in "exclusion proceedings and subject to mandatory detention, with potential release solely by means of a grant of parole." *Hurtado*, 29 I. & N. Dec. at 223; *see* 8 U.S.C. §§ 1225(a)–(b) (1994), 1226(a) (1994). In contrast, an alien who evaded inspection and physically entered the United States would be placed in deportation proceedings. *Hurtado*, 29 I. & N. Dec. at 223, *Hing Sum*, 602 F.3d at 1100. Aliens in deportation proceedings, unlike those in exclusion proceedings, "were entitled to request release on bond." *Hurtado*, 29 I. & N. Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)).

Thus, the INA's prior framework distinguishing between aliens based on "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 General of U.S.,* 693 F.3d 408, 413 n.5 (3d Cir. 2012)), *see 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").

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[1] Aliens who arrive at a port of entry have physically "entered" the United States, but under the longstanding "entry fiction" doctrine, they are treated for due process purposes as if stopped at the border. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

B. IIRIRA eliminated that preferential treatment and mandated detention of "applicants for admission."

Congress eliminated that regime through the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996). Among other things, IIRIRA added § 1225 to "ensure[] that all immigrants who have not been lawfully admitted, regardless of their physical 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).

IIRIRA replaced the prior focus on physical "entry" with lawful "admission" as the 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 no longer distinguish between aliens who dutifully presented to an immigration officer and those who evaded detection. Instead, the "pivotal factor in determining an alien's status" is "whether or not the alien has been *lawfully* admitted." House Rep. at 225 (emphasis added); *see Hing Sum*, 602 F.3d at 1100 (similar). IIRIRA also eliminated the exclusion/deportation dichotomy and consolidated both sets of proceedings into removal proceedings." *Hurtado*, 29 I. & N. Dec. at 223.

IIRIRA effected these changes through several provisions codified in § 1225 of Title 8.

Section 1225(a): Section 1225(a) codifies Congress's decision to make lawful "admission," rather than physical entry, the benchmark. That provision states that an alien "present in the United States who has not been admitted or who arrives in the United States shall be deemed an applicant for admission":

> An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in

> international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.

8 U.S.C. § 1225(a)(1). Moreover, "[a]ll aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers." *Id.* § 1225(a)(3). The inspection by an immigration officer is designed to determine whether the alien may be lawfully "admitted" to the country or, instead, must be referred to immigration proceedings.

Section 1225(b): IIRIRA also provided for expedited removal and non-expedited "Section 240" proceedings and mandated that applicants for admission be detained pending those proceedings. 8 U.S.C. § 1225(b)(1)–(2).

Section 1225(b)(1) provides for so-called "expedited removal proceedings," *Thuraissigiam,* 591 U.S. at 109–13, which may be applied to a subset of certain aliens—those who (1) are "arriving in the United States," or (2) have "not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(iii)(II). As to these aliens, the immigration officer shall "order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution." *Id.* § 1225(b)(1)(A)(i). In that event, the alien "shall be detained pending a final determination of credible fear of persecution and, if found not to have such fear, until removed. *Id.* § 1225(b)(1)(B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(4)(ii). An alien processed for expedited removal who does not indicate an intent to apply for asylum or a fear of persecution or who is determined not to have a credible fear is likewise detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(iii).

Section 1225(b)(2) is a "catchall provision that applies to all applicants for admission not covered by [subsection (b)(1)]." *Jennings v. Rodriguez,* 583 U.S. 281, 287 (2018).[2] It requires that those aliens be detained pending § 240 removal proceedings:

> Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title [Section 240].

8 U.S.C. § 1225(b)(2)(A) (emphasis added); *see* 8 C.F.R. § 235.3(b)(1)(ii) (mirroring § 1225(b)(2)'s detention mandate); *Jennings,* 583 U.S. at 302 (holding that § 1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin").

While § 1225(b)(2) does not allow for aliens to be released on bond, the INA grants DHS discretion to exercise its parole authority to temporarily release an applicant for admission, but "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Parole, however, "shall not be regarded as an admission of the alien." *Id.*; *Jennings,* 583 U.S. at 288 (discussing parole authority). Moreover, when the Secretary determines that "the purposes of such parole . . . have been served," the "alien shall . . . be returned to the custody from which he was paroled" and be "dealt with in the same manner as that of any other applicant for admission to the United States." 8 U.S.C. § 1182(d)(5)(A).

Section 1226: IIRIRA also created a separate authority addressing the arrest, detention, and release of aliens generally (not "applicants for admission" specifically). *See* 8 U.S.C. § 1226.

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[2] Section 1225(b)(2)(A) also does not apply to (1) crewmen or (2) stowaways. 8 U.S.C. § 1225(b)(2)(B). In addition, the Executive has discretion to return aliens who have arrived on land from a contiguous territory to that territory pending removal proceedings. *Id.* § 1225(b)(2)(C).

This provision governs the detention of aliens who were admitted to the country but later become deportable and are subject to removal proceedings under § 1229a—for example, admitted aliens who overstay or otherwise violate the terms of their visas.

The statute provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Detention under this provision is generally discretionary. The arrested alien "may" either "continue to [be] detain[ed]" or "may" be released on bond or conditional parole. *Id.* § 1226(a)(1)–(2).[3] DHS makes the initial custody determination. 8 C.F.R. § 236.1(d)(1). The alien may seek custody redetermination (a bond hearing) before an immigration judge and can appeal an immigration judge's custody determination to the Board of Immigration Appeals (BIA). 8 C.F.R. §§ 236.1(c)(8), (d), 1236.1(d)(1), 1003.19.

That "default rule" of discretionary detention does not apply to certain criminal aliens. *Jennings,* 583 U.S. at 288; *see* 8 U.S.C. § 1226(c). Section 1226(c) provides that "[t]he Attorney General shall take into custody" certain classes of criminal aliens—those who are inadmissible or deportable because the alien (1) "committed" certain offenses delineated in 8 U.S.C. §§ 1182 and 1227, or (2) engaged in terrorism-related activities. 8 U.S.C. § 1226(c)(1), *see Nielsen v. Preap,* 586 U.S. 392, 398–99 (2019). Such aliens may be released only if DHS determines "that release of the alien from custody is necessary" to protect a witness to a "major criminal activity" or a similar person, and then only if the alien "will not pose a danger" to public safety and is not a flight risk. *Id.* § 1226(c)(4).

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[3] Conditional parole under § 1226(a) is distinct from parole under § 1182(d)(5)(A). *Matter of Cabrera-Fernandez,* 28 I. & N. Dec. 747, 749 (BIA 2023); *see Ortega-Cervantes v. Gonzalez,* 501 F.3d 1111, 1116 (9th Cir. 2007).

Congress recently amended § 1226(c) through the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3 (2025), which additionally requires detention of aliens who (1) are inadmissible because they are physically present in the United States without admission or parole (8 U.S.C. § 1182(a)(6)(A)), have committed a material misrepresentation or fraud, (*id.* § 1182(a)(6)(C)), or lack required documentation, (*id.* § 1182(a)(7)); and (2) are "charged with, [] arrested for, [] convicted of, admit[] having committed, or admit[] committing acts which constitute the essential elements of" certain listed offenses. *Id.* § 1226(c)(1)(E).

C. Section 1225(b)(2)(A) requires detention of all applicants for admission.

For many years after IIRIRA, DHS and most immigration judges treated aliens who entered the United States without admission as being subject to discretionary detention under 8 U.S.C. § 1226(a), rather than mandatory detention under 8 U.S.C. § 1225(b)(2). *Hurtado*, 29 I. & N. Dec. at 225 n.6. Until last year, however, the BIA had not issued any controlling opinion on the appropriate detention authority for such individuals.

On July 8, 2025, U.S. Customs and Immigrant Enforcement (ICE) issued interim guidance reflecting that DHS "revisited its legal position on detention and release authorities" and brought the Executive's practices in line with the statute's plain text. *See, e.g.*, Memorandum from Rodney S. Scott, U.S. Customs & Border Protection, *Detention of Applicants for Admission* (July 10, 2025).[4] Specifically, DHS concluded that "applicants for admission are subject to mandatory detention under INA § 235(b) [, 8 U.S.C. § 1225(b),] and may not be released from DHS custody except by INA § 212(d)(5) parole." *Id.* As a result, the "only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under the INA § 236(a) [, 8

[4] https://www.cbp.gov/sites/default/files/2025-09/intc-46100_-_c1_signed_memo_-_07.10.2025.pdf

U.S.C. § 1226(a),] are aliens admitted to the United States and chargeable with deportability under INA § 237 [, 8 U.S.C. § 1227]." *Id.*

The BIA recently held as much in *Hurtado*. The BIA concluded that 8 U.S.C. § 1225(b)(2)'s mandatory detention regime applies to all aliens who entered the United States without inspection and admission:

> Aliens . . . who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer. Remaining in the United State for a lengthy period of time following entry without inspection, by itself, does not constitute an 'admission.'

29 I. & N. Dec. at 228. Thus, under Board precedent, immigration judges "lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *Id.* at 225.

II. The *Maldonado Bautista* Decisions

The *Maldonado* Bautista litigation began in the Central District of California when aliens in ICE custody challenged their detention under 8 U.S.C. § 1225(b)(2)(A), arguing that they were being improperly treated as "applicants for admission" rather than evaluated under § 1226(a). Petitioners specifically challenged the DHS policy that required ICE to classify all noncitizens apprehended in the United States as § 1225 applicants.

The district court initially issued temporary restraining orders granting relief to individual petitioners, including bond hearings and restrictions on relocation. *See Bautista v. Santacruz (Maldonado Bautista I)*, 2025 WL 3289861, at *1–2 (C.D. Cal. Nov. 20, 2025). In November 2025, the court granted partial summary judgment, holding that the government's interpretation "is at odds with the plain language of the INA," *id.* at *8, and that it impermissibly "collapse[d] § 1226 into nonexistence under a wide-reaching interpretation of 'applicants for admission.'" *Id.* at *11.

Later that month, the court certified a nationwide class of noncitizens, defined as follows:

> **Bond Eligible Class:** All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

See Maldonado Bautista v. Santacruz (Maldonado Bautista II), 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The court extended the declaratory relief previously granted to the individual petitioners to the entire class.

On December 18, 2025, the court granted in part and denied in part a petition for reconsideration or clarification, confirming that its prior summary judgment had declared the DHS policy unlawful and vacated it under the Administrative Procedure Act, while denying vacatur of the BIA's decision in *Hurtado*, 29 I. & N. Dec. 216. *See Maldonado Bautista v. Santacruz (Maldonado Bautista III)*, 2025 WL 3713982, at *7 (C.D. Cal. Dec. 18, 2025).

The United States has filed a notice of appeal, and the case is pending before the Ninth Circuit. See *Maldonado Bautista v. DHS*, No. 25-7958 (9th Cir. filed Dec. 18, 2025).

III. Factual Background

Petitioner is a Mexican national who entered the United States without inspection at an unknown date. See Ortman Decl. ¶ 4; Ex. A at 6–7, 9. On October 14, 2025, U.S. Border Patrol took Petitioner into custody and issued a Notice to Appear (Form I-862) and a Warrant for Arrest of Alien (Form I-200). Ortman Decl. ¶ 5; Ex. A at 1–8.

On November 24, 2025, Petitioner was issued a corrected NTA, charging removability under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I) for entering without admission, parole, or a valid entry document. Ortman Decl. ¶ 6; Ex. A at 9–12.

Petitioner submitted two requests for custody redetermination before the immigration court. He withdrew the first request on December 15, 2025. On December 29, 2025, an

immigration judge denied the second request, reasoning that Petitioner was detained under § 1225(b) and was not entitled to a bond hearing pursuant to *Hurtado*, 29 I. & N. Dec. 216.[5] Ortman Decl. ¶ 7; Ex. A at 13–16. Petitioner did not appeal that decision to the Board of Immigration Appeals.

Petitioner remains detained at the Broome County Correctional Facility pending removal proceedings. Ortman Decl. ¶ 8.

IV. Procedural History

On January 6, 2026, Petitioner filed a petition for a writ of habeas corpus. Dkt. No. 1. On January 12, 2026, the Court ordered Respondents to respond by January 26, 2026. Dkt. No. 5.

In the petition, Petitioner seeks to enforce his asserted rights as a member of the class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873 (C.D. Cal.). Petition ¶¶ 1, 5–6, 26–28. He alleges unlawful detention at the Broome County Correctional Facility because Respondents have not complied with the declaratory judgment in that case. Petition ¶¶ 1, 4, 8, 30.

Petitioner further asserts that, as a class member, he is entitled to consideration for release on bond under § 1226(a), and that Respondents' continued adherence to *Hurtado* and their application of § 1225(b)(2) is inconsistent with the INA and the Central District of California's judgment. Petition ¶¶ 19, 30.

Accordingly, Petitioner requests that the Court order his release within one day or, in the alternative, require an individualized bond hearing under § 1226(a) within seven days. Petition ¶¶ 10–11; Prayer for Relief.

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[5] *See* 8 C.F.R. § 1003.1(g)(1) ("Except as Board decisions may be modified or overruled by the Board or the Attorney General, decisions of the Board and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States.").

LEGAL STANDARD

The writ of habeas corpus extends to a prisoner who is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). District courts may grant such a writ "within their respective jurisdictions." *Id.* § 2241(a). When a § 2241 petitioner challenges his present physical custody, he must file the petition in the district of confinement and name his immediate custodian as respondent. *Ozturk v. Hyde*, 136 F.4th 382, 390 (2d Cir. 2025) (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004)).

ARGUMENT

The text of 8 U.S.C. § 1225(b)(2)(A) resolves this case. Congress mandates the detention of aliens, like Petitioner, who enter the United States without inspection and are placed in removal proceedings. That mandate applies regardless of the alien's duration of unlawful presence or the distance from the border at which he is apprehended. *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.").

Petitioner's reliance on the Central District of California's decision in *Maldonado Bautista* is misplaced. That judgment—issued in another habeas case, involving different detainees and custodians, and to which neither petitioner nor his immediate custodian were parties—cannot bind this Court, extend beyond the Central District of California, or override Congress's custodial or territorial limits. The decision conflicts with the text of § 1225(b)(2)(A) and frustrates Congress's design for mandatory detention. It is also subject to appeal before the Ninth Circuit.

The statute is clear. Petitioner is subject to mandatory detention under § 1225(b)(2)(A), and his petition must be denied.

I. Petitioner Is Lawfully Detained Under 8 U.S.C. § 1225(b)(2)(A) and Is Not Entitled to a Bond Hearing

Section 1225(a) defines all aliens who are "present in the United States [and] ha[ve] not been admitted or who arrive[] in the United States" as "applicant[s] for admission." 8 U.S.C. § 1225(a)(1). "Admission" requires "lawful entry after inspection" by immigration authorities. 8 U.S.C. § 1101(a)(13)(A). An alien who enters without inspection remains an applicant for admission, regardless of the length of unlawful presence or distance from the border. *See Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932, at 1–4 (W.D.N.Y. Dec. 4, 2025); *Chen v. Almodovar*, No. 1:25-cv-8350, 2025 WL 3484855, *1, *4–8 (S.D.N.Y. Dec. 4, 2025), notice of appeal filed Dec. 16, 2025; *Chen v. Almodovar*, No. 25-CV-09670, 2026 WL 100761, at *6–13 (S.D.N.Y. Jan. 14, 2026). Numerous other courts have reached the same conclusion.[6]

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[6] *See Sandoval v. Acuna*, No. 25 Civ. 1467, 2025 WL 3048926, at *5 (W.D. La. Oct. 31, 2025) (rejecting petitioner's assertion that he was detained pursuant to § 1226(a) rather than § 1225(b)(2)); *Rojas v. Olson,* No. 25-CV-1437, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025), at *7; *Mejia Olalde v. Noem*, No. 25-cv-168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025) (same); *Vargas Lopez v. Trump*, No. 25 Civ. 526, 2025 WL 2780351, at *9 (D. Neb. Sept. 30, 2025) (same); *Alonzo v. Noem*, No. 25 Civ. 1519, 2025 WL 3208284, at *2-5 (E.D. Cal. Nov. 17, 2025) (discussing interplay between §§ 1225(b) and 1226(a) and denying application for temporary restraining order brought by aliens contending that they were entitled to a bond hearing pursuant to Section 1226(a)); *Altamirano Ramos v. Lyons*, No. 25 Civ. 9785, 2025 WL 3199872, at *8 (C.D. Cal. Nov. 12, 2025) (same); *Chavez v. Noem*, No. 25 Civ. 2325, 2025 WL 2730228, at *5 (S.D. Cal. Sept. 24, 2025) (same).

The Government acknowledges that a number of district courts have accepted arguments that § 1225(b)(2)(A) does not apply in comparable circumstances. *See, e.g., Cardenas v. Almodovar*, No. 25 Civ. 9169, 2025 WL 3215573, at *2 (S.D.N.Y. Nov. 18, 2025) (surveying cases and noting "scores of decisions—in this Circuit and beyond—on the Section 1226(a) side of the split"). Nevertheless, as noted above, the Government recently filed a notice of appeal in the Western District of New York challenging a grant of habeas relief on substantially similar facts, arguing that § 1226(a), not § 1225(b)(2)(A), governs. *Barbosa da Cunha v. Moniz*, 25-cv-6532 (W.D.N.Y. Nov. 25, 2025), No. 25-3141 (2d Cir.). The Government filed its opening brief on January 16, 2026, and the Second Circuit has granted expedited review.

Section 1225(b)(2) then prescribes the consequences. It provides that an alien who is an applicant for admission "shall be detained" pending removal proceedings unless clearly and beyond a doubt entitled to be admitted." 8 U.S.C. §1225(b)(2)(A). The term "shall" leaves no discretion. *See Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998); *see Jennings*, 583 U.S. at 302 (holding that § 1225(b)(2) "mandate[s] detention"). Subsection (b)(2) contains no exception based on the alien's length of presence or geographic location.

Petitioner falls squarely within these provisions. He entered without inspection, has never been admitted, and is not clearly and beyond a doubt entitled to admission. Ortman Decl. ¶ 4; Ex. A at 1, 6, 7, 9. Section 1225(b)(2)(A) therefore mandates that he be detained pending proceedings under § 1229a.

Petitioner is not entitled to a bond hearing under § 1226(a), and his petition should be denied. To the extent the Court determines that Petitioner's detention is properly governed by § 1226(a) rather than § 1225(b)(2)(A), the appropriate relief would be a bond hearing before an immigration judge, and Petitioner should be required to exhaust that process before seeking release from this Court.[7]

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[7] Section 1226(a) authorizes arrest and detention of aliens pending removal proceedings. 8 U.S.C. § 1226(a); *see Nielsen v. Preap*, 586 U.S. 392, 409 (2019) (Secretary has broad discretion to detain or release); 8 C.F.R. § 236.1(c)(8) (initial DHS custody determination). An alien may request a bond hearing before an immigration judge, at which *the alien* must establish that he does not pose a danger to the community and is likely to appear for future proceedings. *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8)). Courts in this Circuit require prudential exhaustion before seeking habeas relief. *See, e.g., Perez v. Francis*, No. 25 Civ. 8112, 2025 WL 3110459, at *3 (S.D.N.Y. Nov. 6, 2025); *Castillo Lachapel v. Joyce*, 786 F. Supp. 3d 860, 864 (S.D.N.Y. 2025); *Capunay Guzman v. Joyce*, 786 F. Supp. 3d 865, 869–71 (S.D.N.Y. 2025). Exceptions to exhaustion—futility, irreparable harm, or substantial constitutional claim—do not apply because Petitioner may seek relief through a § 1226(a) bond hearing. *See Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.).

II. The *Maldonado Bautista* Declaratory Judgment Does Not Entitle Petitioner to the Relief Sought

Petitioner's reliance on the declaratory judgment in *Maldonado Bautista* fails because it cannot bind courts, custodians, or detainees outside the Central District of California, including Petitioner and his immediate custodian here. *See Calderon Lopez v. Lyons*, No. 1:25-CV-226, 2025 WL 3683918, at *6 (N.D. Tex. Dec. 19, 2025); *Rodriguez v. Jeffreys*, 2025 WL 3754411, at *7–8 (D. Neb. Dec. 29, 2025); *Ore Falcon v. Wofford*, No. 1:26-CV-00181, 2026 WL 171927, at *2 (E.D. Cal. Jan. 25, 2026). Congress has limited habeas relief to the district of confinement, 28 U.S.C. § 2241(a), and settled preclusion principles confirm that this Court need not—and should not—afford extraterritorial effect to a judgment entered without jurisdiction over the petitioner or his custodian.

A. A Declaratory Judgment Pending Appeal Warrants No Preclusive Effect

The judgment on which Petitioner relies is currently on appeal to the Ninth Circuit. *Maldonado Bautista v. DHS*, No. 25-7958 (9th Cir. filed Dec. 18, 2025). That posture alone counsels strongly against giving it preclusive effect.

Courts have long recognized the unfairness of imposing preclusion based on a judgment that may later be reversed or vacated. "The major problem is that a second judgment based upon the preclusive effects of the first judgment should not stand if the first judgment is reversed." 18A Charles Alan Wright, *et al.*, *Federal Practice and Procedure* § 4433. Applying preclusive effect before appellate review would compel compliance with a judgment that may be overturned, creating conflicting obligations and irreparable consequences for the government and the courts. *See Calderon Lopez*, 2025 WL 3683918, at *13 (noting that *Maldonado Bautista* may be reversed on appeal but, until then, the government must defend against repeated attempts to enforce it in other districts). The risk is heightened in habeas cases, where relief directly affects physical

custody.

Even apart from the appeal, this Court need not await a stay or vacatur to decline preclusive effect. Federal courts may always assess the issuing court's jurisdiction, and principles of comity do not require unquestioning deference. *See id.* at *6 (citing *Old Wayne Mut. Life Ass'n v. McDonough*, 204 U.S. 8, 16–17 (1907)); *see also Rodriguez v. Jeffreys*, No. 8:25-CV-714, 2025 WL 3754411 (D. Neb. Dec. 29, 2025), at *7–8 (holding that the court could inquire into the jurisdiction of the court in *Maldonado Bautista* and explaining why that court lacked authority). Multiple courts have recognized that the Central District of California lacked authority to issue relief binding detainees or custodians outside that district. *See Calderon Lopez*, 2025 WL 3683918, at *1; *Rodriguez*, 2025 WL 3754411, at *1; *Ore Falcon*, 2026 WL 171927. This Court should reach the same conclusion.

B. Preclusion Principles Do Not Apply Here, Particularly in Habeas Proceedings and Against the Government.

Even if the *Maldonado Bautista* judgment were final, preclusion would still be improper.

First, a federal court may entertain a habeas petition only if two traditional requirements are met: the petition must be filed in the district of confinement, and the petitioner's immediate custodian must be named. *Ozturk v. Hyde*, 136 F.4th 382, 390 (2d Cir. 2025). Petitioner is detained in the Northern District of New York, and his immediate custodian—the warden of the Broome County Detention Facility—was not a party to the Central District of California litigation. For that reason, the *Maldonado Bautista* court lacked jurisdiction to bind either Petitioner or the Broome County warden to its decision. *See id.*; *see also* Calderon *Lopez*, 2025 WL 3683918, at *6; *Rodriguez*, 2025 WL 3754411, at *1, 7–9; *Ore Falcon*, 2026 WL 171927 *3, n.1.

Second, Petitioner relies on nonmutual offensive issue preclusion against the United States. But nonmutual offensive issue preclusion is unavailable against the United States. *See Trump v.*

CASA, 606 U.S. 831, 852 n.13 (2025). Allowing nonparties to estop the government would freeze the development of significant legal questions and disrupt the appellate process. *See United States v. Mendoza*, 464 U.S. 154, 160–62 (1984). That principle applies squarely here: Petitioner was not a party, and he seeks to bind the United States nationwide based on a single district court's resolution of a contested statutory issue.

Third, preclusion applies with diminished force in habeas proceedings, if at all. Habeas is not governed by conventional notions of finality. *See Sanders v. United States*, 373 U.S. 1, 8–9 (1963). In fact, the Second Circuit has declined to give res judicata effect to prior judgments in habeas cases. *See Muniz v. United States,* 236 F.3d 122, 126 (2d Cir. 2001), 236 F.3d at 126 ("it is well-settled that res judicata has no application in the habeas corpus . . . context").

Finally, the widespread split of authority highlights the unfairness of preclusion. When courts nationwide have reached divergent conclusions on § 1225(b)(2)(A) and § 1226(a), and the issue is presently pending before the Second Circuit, reliance on a single out-of-Circuit judgment on appeal is particularly inappropriate.

C. A Single District Court Cannot Impose Nationwide Relief in a Habeas Proceeding

The relief Petitioner seeks would allow one district court to dictate detention outcomes for detainees and custodians nationwide. That result is incompatible with the territorial limits Congress imposed on habeas jurisdiction. Under 28 U.S.C. § 2241(a), a habeas petition may be entertained only in the district of confinement and only against the petitioner's immediate custodian. *Ozturk*, 136 F.4th at 390. A declaratory judgment issued elsewhere cannot override those limits.

Extending the *Maldonado Bautista* declaratory judgment beyond the Central District of California would risk converting that decision into precisely the type of universal relief the

Supreme Court has repeatedly condemned. Federal courts lack authority to issue remedies that bind nonparties or noncustodians nationwide, particularly in habeas proceedings, where jurisdiction is strictly limited. *See Padilla*, 542 U.S. at 443.

As the Supreme Court recently reaffirmed, and as other courts have explained in declining to afford preclusive effect to *Maldonado Bautista*, relief that seeks to control the conduct of officials beyond the parties before the court raises serious questions about the proper equitable authority of federal courts and their respect for the authority of other courts. *See CASA*, 606 U.S. at 837, 841–42; *Rodriguez v. Jeffreys*, 2025 WL 3754411, at *9 (declining to follow *Maldonado Bautista* and explaining that a class-action workaround to *CASA's* bar on "universal injunctions" is untenable in a habeas action); *Calderon Lopez*, 2025 WL 3683918, at *13–14 (same); *Ore Falcon*, 2026 WL 171927, at *3 (same). Enforcing *Maldonado Bautista* in this habeas case would invite precisely those concerns by allowing a single district court to dictate detention decisions nationwide, notwithstanding contrary rulings by other courts and the absence of appellate review.

Petitioner cites no authority allowing a class-based declaratory judgment to displace local habeas jurisdiction or to bind nonparty custodians in other districts. This Court should decline the invitation to do so.

CONCLUSION

For these reasons, the petition for a writ of habeas corpus should be denied.

Dated: January 26, 2026

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