

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Julio RODRIGUEZ TALLEDOS,

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; Pamela BONDI, U.S.
Attorney General; Juan BALTASAR, Warden
of Denver Contract Detention Facility; Todd
LYONS, Acting Director, Immigration and
Customs Enforcement and Removal Operations;
Robert GUADIAN, Field Office Director of
Enforcement and Removal Operations,
Immigration and Customs Enforcement;

Respondents.

Case No. 1:26-CVV-00113

**REPLY TO
RESPONSE TO
HABEAS PETITION
AND MOTION FOR
PRELIMINARY
INJUNCTION**

**Challenge to Unlawful
Incarceration; Request for
Declaratory and Injunctive
Relief**

ARGUMENT

1. Petitioner is likely to succeed on the merits of his claim because Section 1226(a), not Section 1225(b)(2)(A), governs Petitioner's custody

The government contends that this Court should ignore the voluminous number of decisions finding that Section 1226(a), not Section 1225(b)(2)(A), detention applies here. *See generally* Doc. 10 at 7-8. To date, district courts have issued hundreds of decisions either outright rejecting the government's novel interpretation,ⁱ or finding that noncitizens challenging the government's interpretation were substantially likely to prevail on the merits.ⁱⁱ

Instead of relying on these numerous decisions, the government cites a handful of the minority of courts who have found that such persons are subject to mandatory detention. Doc. 10 at 7-8. However, it is not difficult to understand why the overwhelming majority of federal district courts have rejected the government's novel interpretation.ⁱⁱⁱ By its terms, 8 U.S.C. § 1225(b)(2)(A) only applies to noncitizens who are "seeking admission," and Congress defined "admission" as 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). Accordingly, "[c]onstruing section 1225(b)(2) to apply to noncitizens already residing in the country would read the word 'entry' out of the definitions of 'admitted' and 'admission.'" *Chafla v. Scott*, No. 25-437, 2025 LX 422663 (D. Maine Sept. 21, 2025) (citing 8 U.S.C. 1101(a)(13)(A)).

Thus, Petitioner prevails regardless of the scope of § 1225(a)(1)'s definition of "applicant for admission." This is because classification as an "applicant for admission" is not sufficient to render someone subject to mandatory detention under § 1225(b)(2). The "applicant for admission" must also be "seeking admission," and that is clearly not the case for Petitioner.

Again, the plain text of § 1226 demonstrates that subsection (a) applies to Petitioner. Section 1226(a) permits the release of noncitizens who are detained "pending a decision on

whether the [noncitizen] is to be removed from the United States.” 8 U.S.C. § 1226(a). While § 1226(a) provides the right to seek release, § 1226(c) carves out specific categories of noncitizens—including certain categories of noncitizens who are inadmissible under 8 U.S.C. § 1182(a)—and subjects them instead to mandatory detention. See, e.g., § 1226(c)(1)(A), (C). If § 1226(a) could never apply to inadmissible noncitizens, there would be no reason to specify that § 1226(c) governs certain persons who are inadmissible; instead, § 1226(c) would only have needed to address people who are deportable for certain offenses under 8 U.S.C. § 1227(a).

The government also fails to address that its expansive interpretation of 1225(b) renders the Laken Riley Amendment (LRA) to Section 1226 superfluous. Indeed, under the government's interpretation of 1225(b)(2), there would already be automatic mandatory detention for all of the noncitizens newly covered by 1226(c). In that case, there would be no need to specifically provide for mandatory detention of those charged with certain crimes under Section 1226, as the LRA did. Thus, the government's position does indeed render the LRA superfluous. See *Pelico v. Kaiser*, 25-cv-07286-EMC (EMC) (N.D. Cal. Oct 3, 2025) (distinguishing and refusing to adopt the analysis in *Sixtos Chavez v. Noem*); Government Response at 4.

To further illustrate, the LRA added language to § 1226 that directly references those who are inadmissible under § 1182(a)(6) because they are present without admission or under § 1182(a)(7) because of the lack of valid documentation. See LRA Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). By including such individuals under § 1226(c) and carving them out of § 1226(a) if they have been arrested, charged with, or convicted of certain crimes, Congress reaffirmed that § 1226(a) covers persons charged under § 1182(a)(6) or (a)(7). See *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *14 (W.D. Wash. June 6, 2025) (explaining these amendments explicitly provide that § 1226(a) covers people like Petitioner

because the “specific exceptions’ [in the LRA] for inadmissible noncitizens who are arrested, charged with, or convicted of the enumerated crimes logically leaves those inadmissible noncitizens not criminally implicated under Section 1226(a)’s default rule for discretionary detention.”); *Diaz Martinez v. Hyde*, 2025 WL 2084238, at *7 (D. Mass. July 24, 2025) (“if, as the Government argue[s], . . . a non-citizen’s inadmissibility were alone already sufficient to mandate detention under section 1225(b)(2)(A), then the 2025 amendment would have no effect.” 2025 WL 2084238, at *7; *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (similar). *See also Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010) (observing that a statutory exception would be unnecessary if the statute at issue did not otherwise cover the excepted conduct).

8 U.S.C. § 1225 further defines its scope by reference to “inspections”—a term not defined in the INA, but which typically connotes an examination on or soon after physical entry. *See* 8 U.S.C. § 1225 (titled “Inspection by immigration officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing”); §§ 1225(b)(1)–(2) (referring to “inspections” in their titles); § 1225(b)(2)(A), (b)(4) (referring to “examining immigration officers”); § 1225(d)(1) (authorizing immigration officials to search certain conveyances in order to conduct “inspections” where noncitizens “are being brought into the United States”); *see also Dubin v. United States*, 599 U.S. 110, 120–21 (2023) (emphasis added) (relying on section title to help construe statute). Many statutory provisions, various regulations, and agency precedent also discuss “inspection” in the context of admission processes at ports of entry, further supporting the conclusion that § 1225 has a limited temporal and geographic scope. *See, e.g.*, 8 U.S.C. §§ 1187(h)(2)(B)(i), 1225A; 8 U.S.C. § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010)); *King v. Burwell*, 576 U.S. 473, 492 (2015) (looking to an Act’s “broader structure . . . to determine [the

statute's] meaning").

The statutory and regulatory text's use of the present and present progressive tenses further excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States. *See* 8 U.S.C. § 1225(b)(2)(C) (addressing the "[t]reatment of [noncitizens] arriving from contiguous territory," i.e. those who are "arriving on land") (emphasis added). As the Supreme Court recognized, this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [] [noncitizen] seeking to enter the country is admissible," and § 1225 is concerned "primarily [with those] seeking entry." *Jennings v. Rodriguez*, 583 U.S. 281, 287, 297 (2018).

Moreover, the Justice Department's own regulations only preclude immigration judges from granting bond to "[a]rriving aliens," 8 C.F.R. 1003.19(h)(1)(B)(ii), as distinct from noncitizens who previously entered the country and are merely present without admission. When the Justice Department created these regulations following notice and comment, it specifically stated that "aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." *Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. April 24, 2025) (quoting 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)). And, "an administrative agency may not slip by the notice and comment rule-making requirements needed to amend a rule by merely adopting a de facto amendment to its regulation through adjudication." *Marseilles Land & Water Co. v. FERC*, 345 F.3d 916, 920 (D.C. Cir. 2003) (Silberman, J.) (citing cases). *See also Patel v. INS*, 638 F.2d 1199, 1202 (9th Cir. 1980) (rejecting BIA decision that imposed additional requirement that the INS declined to impose during notice and comment rulemaking).

The legislative history of the Illegal Immigration Reform and Immigrant Responsibility

Act of 1996 (IIRIRA), Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585, also supports the conclusion that § 1226(a) applies to Petitioner. In passing IIRIRA, Congress was focused on the perceived problem of recent arrivals to the United States who did not have documents to remain. *See* H.R. Rep. No. 104-469, pt. 1, at 157–58, 228–29; H.R. Rep. No. 104-828, at 209. Notably, Congress did not say anything about subjecting all people present in the United States after an unlawful entry to mandatory detention if arrested. This is important because prior to IIRIRA, people like Petitioner were not subject to mandatory detention. *See* 8 U.S.C. § 1252(a)(1) (1994) (authorizing Attorney General to arrest and release noncitizens physically present in the United States pending a determination of deportability). Had Congress intended to make such a monumental shift in immigration law (potentially subjecting millions of people to mandatory detention), it would have explained so or spoken more clearly. *See Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468–69 (2001). But to the extent it addressed the matter, Congress explained precisely the opposite, noting that the new § 1226(a) merely “restates the current provisions in [INA] section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond a [] [noncitizen] who is not lawfully in the United States.” H.R. Rep. No. 104- 469, pt. 1, at 229 (emphasis added); *see also* H.R. Rep. No. 104-828, at 210 (same).

The agency’s interpretation of IIRIRA soon after its enactment is consistent with this history. As noted in a recent decision from this judicial district, “a 1997 interim rule issued ‘to implement the provisions of [IIRIRA],’ which had passed six months earlier . . . explained that ‘[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.’” *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025)

(quoting 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)).

The BIA acknowledged that reading 8 U.S.C. § 1225(b)(2)(A) to apply to individuals who entered without inspection would create a redundancy in the statute by subjecting such individuals to mandatory detention under two separate provisions. *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 222. The BIA dismissed such redundancy as permissible and posited that the LRA did not purport to “overrule” 8 U.S.C. § 1225(b)(2)(A). *Id.* at 219, 222. But once again, in reaching this conclusion, the BIA did not address the requirement of 8 U.S.C. § 1225(b)(2)(A) that an individual must be “seeking admission” to be subject to § 1225(b)(2)(A). To give substance to the phrase “seeking admission” would both ensure fidelity to the plain language of the statute and eliminate concerns about redundancies between § 1226(c) and § 1225(b)(2)(A): individuals who entered without inspection and have been present in the United States for more than two years would not be subject to detention, unless they were subject to one of the mandatory detention provisions of the LRA. Petitioner also notes that there is a pending motion to reconsider in *Matter of Yajure Hurtado*.

The government claims the Maldonado Bautista class certification does not apply here because Petitioner is detained in a district outside of where that decision was issued. Doc. 10 at 8. *See Maldonado Bautista*, 5:25-cv-01873 (C.D. Cal. Nov. 20, 2025) (Sykes, J.). However, the court there expressly extended the declaratory relief to the Bond Eligible Class, which is nationwide and encompasses:

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 id. Petitioner in this case is thus a class member and covered by the declaratory relief granted

in *Maldonado Bautista*.

For these reasons, the Court should grant Petitioner's Habeas Petition and Motion for a Preliminary Injunction.

Dated: 02/12/2026

Respectfully Submitted,

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CERTIFICATE OF SERVICE

This certifies that I filed this document electronically, which will send a notice to all counsel of record.

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ⁱ See, e.g., *Hernandez-Parrilla v. Anda-Ybarra*, 2025 WL 362769 (D.N.M. Dec. 15, 2025) (Strickland, J.); *Cortez- Gonzalez v. Noem*, 2025 WL 3485771 (D.N.M. Dec. 4, 2025) (Garcia, J.); *Moreno Madrid v. Acuna*, 3:25-CV-01572 (W.D. La. Dec. 12, 2025); *Sanabria v. Rosa*, 25-4429 (D. Ariz. Dec. 11, 2025) (Tuchi, J.); *H.L.P.F. V. Wamsley*, 25-1899 (D. Or. Dec. 10, 2025) (Aiken, J.); *Millan-Osuna v. Cantu*, 25-4019 (D. Ariz. Nov. 26, 2025); (Liburdi, J.); *Soto v. Noem*, 25-4178 (D. Ariz. Nov. 26, 2025) (Liburdi, J.); *Vargas-Murillo v. Bondi*, 25-03396 (D. Ariz. Nov. 25, 2025) (Liburdi, J.); *Perez Camacho v. Holinshead*, 25-593 (D. Id. Nov. 19, 2025) (Winmill, J.); *Macilla Ruiz v. Larose*, No. 25-379 (S.D. Cal. Nov. 18, 2025) (Bashant, J.); *Maravilla Amaya v. Noem*, 25-2892 (S.D. Cal. Nov. 13, 2025) (Moskowitz, J.); *Hernandez-Luna v. Noem*, 25-1818 (D. Nev. Nov. 6, 2025) (Navarro, J.); *Castellanos Lopez v. Warden*, No. 25-2527 (S.D. Cal. Oct. 27, 2025) (Huie, J.); *Esquivel-Ipina v. Larose*, No. 25-2672 (S.D. Cal. Oct. 24, 2025) (Sammartino, J.); *Benitez-Cornejo v. Cantu*, No. 25-3672 (D. Ariz. Oct. 17, 2025) (Tuchi, J.); *Torres v. Wamsley*, 2025 WL 2855379 (W.D. Wash. Oct. 8, 2025) (Menendez, J.); *BDVS v. Forestal*, No. 25-1968 (S.D. Ind. Oct. 8, 2025) (Evans Barker, J.); *Eliseo v. Olson*, No. 25-3381 (Oct. 8, 2025) (Blackwell, J.); *Buenrostro-Mendez v. Bondi*, No. 25-3726, (S.D. Tex. Oct. 7, 2025) (Rosenthal, J.); *Echevarria v. Bondi*, No. 25-3252, 2025 LX 492534 (D. Ariz. Oct. 3, 2025) (Joun, J.); *Belsai D.S. v. Bondi*, No. 25-3682 (D. Minn. Oct. 1, 2025) (Menendez, J.); *Santiago Santiago v. Noem*, No. 25-361 (W.D. Tex. Oct. 1, 2025) (Cardone, J.); *Quispe-Ardiles v. Noem*, No. 25-1382, 2025 WL 2783799 (E.D. Va. Sept. 30, 2025) (Nachmanoff, J.); *Rodriguez Vazquez v. Bostock*, No. 25-5240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (Cartwright, J.); *Da Silva v. ICE*, No. 25-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025) (McCafferty, J.); *Quispe v. Crawford*, No. 25-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025) (Trenga, J.); *Inlago Tocagon v. Moniz*, No. 25-12453, 2025 WL 2778023 (D. Mass. Sept. 29, 2025) (Joun, J.); *Barrios v. Shepley*, No. 25-406, 2025 WL 2772579 (D. Maine Sept. 29, 2025) (Woodcock, Jr.); *J.U. v. Maldonado*, No. 25-4836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025) (Merchant, J.); *Savane v. Francis*, No. 25-6666, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025) (Woods, J.); *Zumba v. Bondi*, No. 25-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025) (Hayden, J.); *Villanueva Herrera v. Tate*, No. 25-3364 (S.D. Tex. Sept. 26, 2025) (Hittner, J.); *Gamez Lira v. Noem*, No. 25-855 (D.N.M. 25-855) (Johnson, J.); *Singh v. Lewis*, No. 25-96, 2025 LX 400065 (W.D. Ky. Sept. 22, 2025) (Jennings, J.); *Chafla v. Scott*, No. 25-437, 2025 LX 422663 (D. Maine Sept. 21, 2025) (Neumann, J.); *Hasan v. Crawford*, No. 25-1408, 2025 LX 499354 (E.D. Va. Sept. 19, 2025) (Brinkema, J.); *Barrera v. Tindall*, No.

25-451, 2025 LX 435572 (W.D. Ky. Sept. 19, 2025) (Jenning, J.); *Salazar v. Dedos*, No. 25-835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025) (Urias, J.); *Garcia Cortes v. Noem*, No. 25-2677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025) (Sweeney, J.); *Lopez Santos v. Noem*, 2025 WL 2642278 (W.D. La. Sept. 11, 2025) (Doughty, J.); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (White, J.); *Sampiao v. Hyde*, No. 25-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (Kobick, J.); *Jimenez v. FCI Berlin*, No. 25-326, 2025 LX 360066 (D.N.H. Sept. 8, 2025) (McCafferty, J.); *Doe v. Moniz*, No. 25-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025) (Talwani, J.); *Lopez Benitez v. Francis*, No. 25-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) (Ho, J.); *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (McMillion, J.); *Diaz v. Mattivelo*, No. 25-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025) (Kobick, J.); *Jose J.O.E. v. Bondi*, No. 25-3051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) (Tostrud, J.); *Leal-Hernandez v. Noem*, No. 25-2428, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (Rubin, J.); *Romero v. Hyde*, No. 25-11631, __ F.Supp.3d __, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (Murphy, J.); *Samb v. Joyce*, No. 25-6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025) (Ho, J.); *dos Santos v. Noem*, No. 25-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (Kobick, J.); *Diaz Martinez v. Hyde*, No. 25-11613, __ F.Supp.3d __, 2025 WL 2084238 (D. Mass. July 24, 2025) (Murphy, J.); *Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299 (D. Mass. July 7, 2025) (Kobick, J.). *But see Singh v. Noem*, No. 25-110 2026 WL 146005 (D.N.M. Jan. 20, 2026). *Barrios Sandoval v. Acuna*, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.) (denying habeas petition); *Silva Oliveira v. Patterson*, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (Joseph, J.) (same).

ⁱⁱ *See, e.g., Dolmo Martinez v. Rice*, 2025 WL 3554620 (W.D. La. Dec. 11, 2025) (Edwards, J.); *Rueda Padilla v. Bowen*, 25-cv-10780 (C.D. Cal. Nov. 21, 2025) (Snyder, J.); *Sandigo Manzanarez v. Bondi*, 25-1536 (E.D. Cal. Nov. 20, 2025) (Coggins, J.); *Orozco Acosta v. Bondi*, 25-9601 (N.D. Cal. Nov. 19, 2025) (Gillam, J.); *Diaz v. Albarran*, 25-cv-9601 (N.D. Cal. Nov. 18, 2025) (Corley, J.); *Estuardo Marin v. Andrews*, 25-cv-1422 (E.D. Cal. Nov. 13, 2025) (Boone, J.); *Lopez v. Lyons*, 25-3174 (E.D. Cal. Nov 7, 2025) (Calabretta J.) *Castillo v. Wamsley*, 25-2054 (W.D. Wash. Nov 5, 2025) (Cartwright, J.); *Pineda Parada v. Rice*, 2025 WL 3146250 (W.D. La. Nov. 4, 2025) (Drell, J.); *Arce-Cervera v. Noem*, 25-1895 (D. Nev. Oct. 28, 2025); *Martinez Lopez v. Noem*, No. 3:25-2734 (S.D. Cal. Oct. 23, 2025) (Park, J.); *Ventura Martinez v. Trump* (W.D. La. Oct. 22, 2025) (Edwards, J.); *Sabi Polo v. Chestnut*, No. 25-1342 (E.D. Cal. Oct. 17, 2025) (Thurston, J.); *Menjivar Sanchez v. Wofford*, No. 25-1187 (E.D. Cal. Oct. 17, 2025) (Oberto, J.); *E.C. v. Noem*, 2025 WL 2916264 (D. Nev. Oct. 14, 2025) (Boulware, J.); *Rico-Tapia v. Smith* No. 25-379 (D. Haw. Oct. 10, 2025) (Park, J.); *Alvarez Chavez v. Kaiser*, 2025 WL 2909526 (N.D. Cal. Oct. 9, 2025) (Beeler, J.) *Flores v. Noem*, No. 25-2490, 2025 LX 444718 (C.D. Cal. Sept. 29, 2025) (Birotte, J.); *Roa v. Albarran*, No. 25-7802, 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025) (Seeborg, J.); *Lopez v. Hardin*, No. 25-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025) (Dudek, J.); *Guerrero Lepe v. Andrews*, No. 1:25-cv-01163 (E.D. Cal. Sept. 23, 2025) (Sherriff, J.); *Aceros v. Kaiser*, No. 25-06924, 2025 LX 330524 (N.D. Cal. Sept. 12, 2025) (Chen, J.); *Guzman v. Andrews*, No. 25-01015, 2025 LX 354551 (E.D. Cal. Sept. 9, 2025) (Sherriff, J.); *Mosqueda v. Noem*, No. 25-2304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025) (Snyder, J.); *Nieves v. Kaiser*, No. 25-6921, 2025 LX 320701 (N.D. Cal. Sept. 3, 2025) (Beeler, J.); *Garcia v. Noem*, No. 25-2180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025) (Sabraw, J.); *Garcia v. Kaiser*, No. 25-06916, 2025 LX 322337 (N.D. Cal. Aug. 29, 2025) (Gonzalez Rogers, J.); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (Edwards, J.); *Benitez v. Noem*, No. 25-02190, 2025 LX 322897 (C.D. Cal. Aug. 26, 2025) (Klausner, J.); *Ramirez Clavijo v. Kaiser*, No. 25-06248,

2025 WL 2419263 (N.D. Cal. Aug. 21, 2025) (Freeman, J.); *Arazola-Gonzalez v. Noem*, No. 25-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025) (Wright, J.); *Maldonado v. Olson*, No. 25-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (Nelson, J.); *Maldonado Bautista v. Santacruz*, No. 25-01873, 2025 LX 341363 (C.D. Cal. July 28, 2025); *Vazquez v. Bostock*, No. 25-05240, 779 F. Supp. 3d 1239 (W.D. Wash. April 24, 2025) (Cartwright, J.). *But see Sixtos Chavez v. Noem*, No. 25-2325 (S.D. Cal. Sep. 24, 2025) (Bencivengo, J.) (denying temporary restraining order); *Villanueva v. Chestnut*, No. 25-2 (E.D. Cal. Oct. 24, 2025) (Sheriff, J.) (same).

ⁱⁱⁱ Petitioner notes that since the filing of this petition the Fifth Circuit has issued a 2-1 decision adopting the government’s position on the statutory interpretation issue, but failing to reach the due process issue. *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026). Because this case falls outside of this Circuit this Court should not adopt its reasoning. Indeed, as Judge Douglas explained in the dissent, “[t]he Congress that passed IIRIRA would be surprised to learn it had also required the detention without bond of two million people. For almost thirty years there was no sign anyone thought it had done so, and nothing in the congressional record or the history of the statute’s enforcement suggests that it did.”