UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VILLA DELGADO Petitioner, v. FEDERAL DETENTION CENTER PHILADELPHIA et al., Respondents.	Case No. 2:26-cv-00158-HB Honorable Harvey Bartle, III Petitioner's Reply Brief in Support of Petition for Writ of Habeas Corpus

PETITIONER'S REPLY BRIEF IN SUPPORT OF THE PETITION FOR WRIT OF HABEAS CORPUS

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ISSUES PRESENTED

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ARGUMENT

I. This Court Has Jurisdiction Over This Matter

Respondents claim that 8 U.S.C. § 1252(g) bars Petitioner's claim, contending this claim is a challenge to Respondents' actions to commence removal proceedings. Resp'ts' Resp. 6-7, ECF No. 6. Respondents further argue that 8 U.S.C. § 1252(b)(9) deprives this Court of jurisdiction[1] because it is an action taken by Respondents to remove the Petitioner. Resp'ts' Resp. 8-10. Lastly, Respondents argue that 8 U.S.C. § 1252(a)(2)(B)(ii) shields discretionary decisions like what charges of inadmissibility to lodge. Resp'ts' Resp. 10. All of Respondents' arguments are unavailing.

Of all of the known decisions supporting Respondents' interpretation of jurisdiction for these cases, none of them have found that they lacked jurisdiction

[1] Respondents note they are currently reviewing the Third Circuit's decision issued in *Khalil v. President, United States,* No. 25-2162, 2026 WL 111933, and its impact on cases such as Petitioner's. *See* Respt's' Resp. 2 n.2, ECF No. 6. Section 1252(b)(9) does not strip the Court of jurisdiction over Petitioner's challenge to his continued detention because the challenge is collateral to "the removal process," and is not "inextricably linked" to any removal action. *Gada Leon v. Bondi et al.,* No. 26-cv-00716, at 3 n.2 (D.N.J. Jan. 26, 2026) (citing *Khalil v. President, United States*, No. 25-2162, 2026 WL 111933, at *9 (3d Cir. Jan. 15, 2026)) (citing *Kourouma v. Jamison*, No. 26-0182, 2026 WL 120208, at *3 (E.D. Pa. Jan. 15, 2026) ("[W]hether a bond hearing is required prior to detention . . . is collateral to the removal process." (cleaned up))); *Cantu-Cortes v. O'Neill*, No. 25-6338, 2025 WL 3171639, at *1 (E.D. Pa. Nov. 13, 2025) (same); *see also Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018) (explaining that § 1252(b)(9) did not bar consideration of bond related issues under 8 U.S.C. §§ 1225 and 1226 because the noncitizens "[were] not asking for review of an order of removal, [were] not challenging the decision to detain them in the first place or to seek removal, and [were] not . . . challenging any part of the process by which their removability [was to] be determined" (cleaned up)).

to consider Petitioners' claims. *See Vargas Lopez v. Trump*, No. 25-0526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-2325, 2025 WL 2730228, at *5 (S.D. Cal. Sept. 24, 2025); *Pena v. Hyde,* No. 25-11983, 2025 WL 2108913, at *2 (D. Mass. July 28, 2025); *Pipa-Aquise v. Bondi*, No. 25-cv-091094-MSN-WBP (E.D, of VA. August 5, 2025); *see also C.B. v. Oddo*, No. 25-0263, 2025 WL 2977870, at *2 (W.D. Pa. Oct. 22, 2025).

Respondents' opposition adopts a much broader reading of 8 U.S.C. § 1252(g) than the law supports. Respondents' reading ignores controlling precedent limiting § 1252(g) to three narrow actions, none of which are at issue here. The Supreme Court cautioned that the jurisdiction bar under § 1252(g) is "narrow" and only "limits review of cases 'arising from' decisions 'to commence proceedings, adjudicate cases, or execute removal orders.'" *Dept. of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 12 (2020) (emphasis added). "We have previously rejected as 'implausible' the Government's suggestion that § 1252(g) covers 'all claims arising from deportation proceedings' or imposes 'a general jurisdictional limitation.'" *Id.* (emphasis added) (quoting *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)). "Section 1252(g)'s bar on judicial review of claims arising from the government's decision to execute removal orders does not preclude jurisdiction over the challenges to the legality of the detention at issue here." *Kong v. United States*, 62 F.4th 608 (1st Cir. 2023) (emphasis added). Petitioner's unconstitutional detention is not tied to a

decision to "commence" removal proceedings, rather the claimed statutory basis for his detention.

In this matter, Respondents misstate Petitioner's claim. Petitioner is not challenging Respondents' right to commence proceedings, adjudicate his case, the execution of any final removal order that may result, or even their discretionary decision to detain him. *Demirel v. Federal Detention Center Philadelphia, et al.*, No. 2:25-cv-05488 (E.D. Pa. Nov. 18, 2025). Petitioner is challenging the legality of his current detention, specifically, his detention pursuant to 8 U.S.C. § 1225(b)(2). "Habeas corpus proceedings have long served as a mechanism by which aliens challenge Executive interpretations of immigration laws. They also have served as a means through which aliens have challenged the legality of immigration-related detention." *See Rico-Tapia v. Smith*, No. 25-00379, 2025 WL 2950089 (D. Haw. Oct. 10, 2025) (citing *I.N.S. v. St. Cyr*, 533 U.S. 289, 301-07 (2001)).

Additionally, Respondents' reliance on 8 U.S.C. § 1252(b)(9) is an answer to a question that has not yet been asked. Section 1252(b)(9) prohibits habeas corpus review of final orders of removal, or, as Respondents frame it, "an action taken to remove" the Petitioner. Petitioner has not yet been ordered removed; thus, this action is not brought to contest what has not yet happened, or may never happen.

Respondents' argument regarding the applicability of 8 U.S.C. § 1252(a)(2)(B)(ii) also misses the point. First, Petitioner is not challenging the grounds of inadmissibility brought against him, but the statutory authority for his detention. While district courts may not review discretionary decisions made by immigration

authorities, they may review immigration-related detentions to determine whether they comply with requirements of the Constitution. *Id.* (citing *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001)). Whether Petitioner's detention is subject to Section 1225 or 1226 is not a discretionary decision; it is a matter guided by the plain text of those statutes.

The District Court of Hawaii, in *Rico-Tapia v. Smith*, tackled the same jurisdictional issue that Respondents raise here and found, "Rico-Tapia has brought this habeas action to challenge the constitutionality of his detention without a bond hearing. "As '[h]abeas is the exclusive remedy . . . for the prisoner who seeks "immediate or speedier release" from confinement,' *Skinner v. Switzer*, 562 U.S. 521, 525 (2011) (quoting *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005)), Rico-Tapia's challenge is properly within this Court's habeas jurisdiction." *See Rico-Tapia v. Smith* at 9.

As the vast majority, if not all, of the district courts have found, this Court has jurisdiction over this matter.

II. Because § 1225 Only Applies to the Inspection of Recent Arrivals, § 1226 Governs the Detention of Residents like Juan Luis.

The text, structure, and purpose of the INA all support Juan Luis's argument that § 1226(a) governs his detention, and not § 1225(b)(2)(A). *See Lopez-Campos*, *supra*. The Court does not owe any deference to the agency's new interpretation of §§ 1225 and 1226. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024). Here, the agency believes that the language of the statute is plain such that there

are no gaps for the agency to fill. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025).

Many District Courts, including the ones located within the Third Circuit, have rejected the holding of *Matter of Yajure Hurtado*. *See* Respt's' Resp. n.1, ECF No. 6, citing *Patel v. McShane,* No. 25-cv-5975 (E.D. Pa. Nov. 20, 2025) (Brody, J.)*; Ndiaye v. Jamison,* No. 25-cv-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025) (Sánchez, J.)*; Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025); *Demirel v. Federal Detention Center Philadelphia, et al.*, No. 2:25-cv-05488 (E.D. Pa. Nov. 18, 2025); *Cantu-Cortes v. O'Neill*, No. 25-6338, 2025 WL 317639 (E.D. Pa. Nov. 13, 2025); *see also Bethancourt Soto v. Soto, et al.*, No. 25-16200, 2025 WL 2976572 (D.N.J. Oct. 22, 2025), *Zumba v. Bondi*, No. 25-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lomeu v. Soto, et al.*, No. 25-16589, 2025 WL 2981296, at *8 (D.N.J. Oct. 23, 2025); *del Cid v. Bondi*, No. 25-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025); *see also Mugliza Castillo v. Lyons*, No. 25-16219, 2025 WL 2940990 (D.N.J. Oct. 10, 2025); *Buestan v. Chu*, No. 25-16034, 2025 WL 2972252, at *1 (D.N.J. Oct. 21, 2025). In decision after decision, federal courts have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. The plain

text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Juan Luis.

A. The rules of statutory interpretation show that § 1226 applies here.

Sections 1226(a) and 1225(b)(2)(A) work in tandem to cover different categories of noncitizens: § 1226 provides a discretionary detention scheme for individuals who are "already in the country" and are detained "pending the outcome of removal proceedings," *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), while § 1225 (including its subsection (b)(2)(A)) is a processing and inspection scheme that applies to those "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible," *Id.* at 287. Conversely, § 1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings." *Id.* at 289. Indeed, there is a "line historically drawn between these two sections" and the categories of noncitizens they respectively cover. *Martinez v. Hyde*, No. 25-11613,—F. Supp. 3d—, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025).

This understanding situates each detention provision "in their context and with a view to their place in the overall statutory scheme." *King v. Burwell*, 576 U.S. 473, 486 (2015) (citation omitted). *See also Biden v. Texas*, 597 U.S. 785, 799-800 (2022) (looking to statutory structure to inform interpretation of INA provision). Placing a provision in its larger context is especially important where

the provision "may seem ambiguous in isolation" but can be "clarified by the remainder of the statutory scheme . . . because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law." *United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 371 (1988). And the one meaning which permits a logical and compatible effect here is that § 1225 and § 1226 each cover different categories of noncitizens.

Section 1225's plain text shows that it focuses on inspecting people who are arriving in or have just entered the United States. *See generally* 8 U.S.C. § 1225(a)-(b), (d). That section repeatedly refers to "examining immigration officer[s]," 8 U.S.C. § 1225(b)(2)(A), (b)(4); sets out procedures for "inspection[s]" of people "arriving in the United States," *id.* § 1225(a)(3), (b)(1), (b)(2), (d); and discusses "stowaways, "crewm[e]n," and noncitizens "arriving from contiguous territory." *Id.* § 1225(a)(2), (b)(2)(B), (b)(2)(C). Even the title of § 1225 refers to the "inspection" of "inadmissible arriving" noncitizens (emphasis added). *Cf. Dubin v. United States*, 599 U.S. 110, 120-21 (2023) (relying on section title to help construe statute). Thus, by its own text, § 1225, read as a whole, makes clear that it is intended to apply to recent arrivals at or near the U.S. border. Juan Luis, of course, arrived at the border over three years ago and has been residing in the United States since. *See* Pet'r's Ex. C, ECF No. 1.

On the other hand, § 1226(a) is a separate detention authority that applies broadly to any noncitizen arrested "on a warrant . . . pending a decision on whether [they are] to be removed from the United States." *See also Jennings,* 583 U.S. at

289 (§ 1226(a) applies to those "already in the country" who are detained "pending the outcome of removal proceedings"). On its face, the provision plainly applies to Juan Luis, who was arrested "on a warrant" years after he entered the U.S. and is now detained "pending a decision on" his removal. *See* Pet'r's Exs. A, B, C, G, ECF No. 1. Thus, § 1226(a), and not § 1225(b)(2)(A), is clearly the proper detention authority for Juan Luis.

1. Section 1225(b)(2) cannot apply to Juan Luis because he is not an "applicant for admission."

Respondents first argue that, despite having lived in this country for over three years, Juan Luis is an "applicant for admission" and can be detained under § 1225(b)(2)(A) as if he were fictionally at the border attempting entry.[2] Respondents zoom too far into the statute. The term "applicant for admission," when viewed in its statutory context, cannot be understood without acknowledging Congress's choice to deploy the term within § 1225's border inspection scheme. By contrast, the term "applicant for admission" appears nowhere in § 1226. This comparative context thus clarifies that the term refers to a specific category of "arriving" noncitizens being "inspected" at or near the border. *See* 8 U.S.C. § 1225. Indeed, in *Bautista v. Santacruz Jr.*, the court rejected this exact argument, finding that the petitioners—who had been residing in the U.S.—were not "applicants for

[2] Respondents' reliance on *DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020), to support this statutory fiction is misleading at best. The Supreme Court was clearly referring to the scope of due process protections in the context of people who physically "arrive at ports of entry" (airports are offered as an example). *Id.*

admission." No. 25-01873, 2025 WL 2670875 (C.D. Cal. July 28, 2025), Dkt. 14 at 7-8.

Thus, when § 1225(a)(1) describes "applicants for admission" as a noncitizen "present in the United States who has not been admitted," the larger context of § 1225 clarifies that this definition refers to individuals who were apprehended in the interior of the country after having recently crossed the border. In sum, Juan Luis—who has resided here for more than three years—is not an "applicant for admission" as that term should be understood within the INA, and thus he cannot be mandatorily detained under § 1225(b)(2)(A).

2. Section 1225(b)(2) cannot apply to Juan Luis because he is not "seeking admission" to the United States.

Even if Juan Luis were an "applicant for admission," § 1225(b)(2)(A) also requires an independent and separate showing that he is "seeking admission" to the United States. Respondents' interpretation of "seeking admission" has even less statutory footing: they argue that the term encompasses anyone seeking "a lawful means of entering" the country without regard to where or when that right may be granted, thus mandating the detention of any noncitizen present in the United States who has not been lawfully admitted or paroled. Such a broad interpretation of "seeking admission" flies in the face of the INA's text, structure, and purpose, and defies the common-sense meaning of the term.

Interpreting the INA properly shows that "seeking admission" describes a much narrower class: recent arrivals who are presenting themselves for admission

at or near the border. Again, the text and structure of § 1225 clearly show that it deals with inspections of recent arrivals at or near the border. *See supra* Section I. By deploying "seeking admission" within § 1225's border inspection scheme—and not § 1226—Congress intended for this term to cover the detention of noncitizens seeking admission at or near the border. That is why the statute's implementing regulations, which were "promulgated mere months after passage of the statute and have remained consistent over time," *Lopez Benitez v. Francis*, No. 25-5937,—F. Supp. 3d—, 2025 WL 2371588 at *7 (S.D.N.Y. Aug. 13, 2025), describe those seeking admission as "arriving aliens," 8 C.F.R. § 235.3(c)(1), who are "coming or attempting to come into the United States," 8 C.F.R. § 1.2 (emphasis added). *See Martinez*, 2025 WL 2084238 at *6 (the regulations' use of "arriving alien" is "roughly interchangeable with an 'applicant . . . seeking admission'" as used in § 1225(b)(2)(A)); *see also Lopez Benitez*, 2025 WL 2371588, at *7 (same). Thus, only those who take affirmative steps to seek admission while "coming or attempting to come into the United States" can reasonably be said to be "seeking admission" under § 1225(b)(2)(A). *See Gonzalez v. Noem*, No. 25-02054, 2025 WL 2633187 at 8 (C.D. Cal. Aug. 13, 2025).

The word "seeking" is the present participle of the verb "seek." It thus has a temporal element-Petitioner must have been in the process of seeking admission at the time of the inspection. *United States v. Balint*, 201 F.3d 928, 933 (7th Cir. 2000) ("[U]se of . . . the present participle, or '-ing' form of an action verb, generally indicates continuing action."). It is difficult to see how Juan Luis could

be deemed to be "seeking" admission at the time of his encounter with ICE while reporting, as instructed. *See* Pet'r's Ex. D, ECF No. 1. By that point, he had been present in the U.S. for over three years. *See* Pet'r's Ex. C, ECF No. 1. If he became an "applicant for admission" at the time of his initial entry, by Respondents' interpretation he would be in a perpetual state of seeking admission the entire time between his entry and encounter. This "would seem to push the statutory text beyond its breaking point." *Echevarria v. Bondi*, No. 25-03252, 2025 WL 2821282 at *12 (D. Ariz. Oct. 3, 2025).

Juan Luis is not presenting himself for admission at the border; he arrived there over three years ago and has been residing in the Philadelphia area ever since. *See* Pet'r's Ex. C. He simply wishes to remain in the country, not to enter it. All that Respondents can say in response to this obvious fact is that noncitizens like Juan Luis must be seeking admission. But even Respondents' massive presumption does not make their case. Regardless of whether Juan Luis desired a lawful means of entering, the reality is that he is not trying to enter the United States; he is already here. Thus, he cannot be considered "seeking admission" in any reasonable way, rendering § 1225(b)(2)(A) wholly inapplicable to his detention.

B. Congressional intent shows that § 1226(a) applies to Juan Luis.

Congress intended for § 1226 to govern the detention of noncitizens who entered the U.S. without inspection. Congress most recently expressed this understanding earlier this year in the Laken Riley Act. This act added a subsection to § 1226 that specifically mandated detention for noncitizens who are

inadmissible under §§ 1182(a)(6)(A) (noncitizens present without being admitted or paroled, like Petitioner), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and have been arrested for, charged with, or convicted of certain crimes. *See* 8 U.S.C. § 1226(c)(1)(E); Pub. L. No. 119-1, 139 Stat. 3 (2025).

Respondents' interpretation of the statutes renders this recently amended section superfluous. *Lopez-Campos*, *supra*. If Congress intended or understood § 1225 to govern the detention of noncitizens like Juan Luis, who were apprehended years after entering the country, it would have placed these amendments within § 1225, not § 1226.

When Congress amended § 1225(b)'s predecessor statute—which authorized detention only of arriving noncitizens—to include individuals who had not been admitted, legislators expressed concerns about recent arrivals to the United States who lacked the documents to remain in the country. There is no suggestion in the legislative history that Congress intended to subject all people present in the United States after an unlawful entry to mandatory detention and thereby transform immigration detention and sweep millions of noncitizens into § 1225(b). *See* H.R. Rep. No. 104-469, pt. 1, at 157–58, 228–29 (1996); H.R. Rep. No. 104-828, at 209 (1996) (Conf. Rep.).

C. Long-standing agency practice shows that § 1226(a) applies here.

Petitioner's position is not a novel interpretation of the INA. It has been Respondents' own understanding of these provisions since they were first enacted

thirty years ago—a view they held until suddenly reversing course six months ago in a policy ICE issued "in coordination with the Department of Justice."

Following IIRIRA, the agency drafted new regulations that provided: "[a]liens 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." Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). The relevant regulations restrict only "arriving aliens" from an immigration court bond hearing. 8 C.F.R. § 1003.19(h)(2)(i)(B). An "arriving alien" is, as relevant here, "an applicant for admission coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1001.1(q).

In fact, as recently as August 4, the Attorney General designated for publication a decision in which the BIA reviewed under § 1226(a) the merits of a bond request by a noncitizen who unlawfully entered the United States. *Matter of Akhmedov*, 29 I&N Dec. 166, 166 n.1 and 166-67 (BIA 2025). "The longstanding practice of the government can inform a court's determination of 'what the law is.'" *Loper Bright*, 603 U.S. at 385-86.

IV. Due Process Entitles Juan Luis to a Bond Hearing.

Respondents claim that Juan Luis is only due the removal procedures provided by Congress. While that may be true for some people apprehended while crossing the border, *see Thuraissigiam*, 591 U.S. at 139, that is not true for people

like Juan Luis who have resided in the United States and "develop[ed] the ties that go with" that longtime residence, *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Indeed, there has long been a legal "distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality." *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) (emphasis added).

And the process due here is governed by the classic balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 334-335 (1976). Juan Luis invokes "the most elemental of liberty interests—the interest in being free from physical detention by one's own government." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Meanwhile, the government's interest in detaining Juan Luis is limited to ensuring his appearance at future immigration proceedings and preventing danger to the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). But because Respondents denied Juan Luis a proper bond hearing, "there is nothing in the record demonstrating that [he] is a flight risk or a danger to the community." *Lopez Benitez,* 2025 WL 2371588 at *12. Therefore, the risk of erroneously depriving Juan Luis of his physical freedom continues to be unbearably high. *See id.* Without the bond hearing that he is entitled to under § 1226(a), Juan Luis will never be able to present the compelling reasons that he is neither a flight risk nor a danger. Due process thus requires that he be afforded a bond hearing under § 1226(a). *See Lopez-Campos, supra.*

Importantly, Respondents contend that Juan Luis's detention is not unreasonably prolonged, citing that other courts in this District have held that detentions under § 1225(b) considerably longer than his detention were not unreasonable; however, "[i]t is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *See Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)).

CONCLUSION

Juan Luis respectfully requests that this Honorable Court grant his petition for writ of habeas corpus because he is detained in violation of federal law and/or the Constitution. Petitioner further requests that this Court order his immediate release from custody. We ask that this Court take into consideration the overwhelming number of decisions holding that the government's conduct is illegal, and its persistence not only in continuing to engage in this unlawful conduct, but also in fighting these cases across the land.

Dated: January 26, 2026

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Certificate of Service

I hereby certify that on January 26, 2026, I electronically filed the foregoing paper with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the parties of record.

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