

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No.: 26-20217-CIV-BECERRA

ADAN SANCHEZ-MORALEZ,

Petitioner,

v.

FIELD OFFICE DIRECTOR,

Miami Field Office,
U.S. Immigration and Customs Enforcement,
et al.,

Respondents.

PETITIONER'S TRAVERSE

The Petitioner hereby submits his Traverse in Response to the Respondent's Return [ECF No. 8], and in support of his Petition for Writ of Habeas Corpus [ECF No. 1].

In the response [ECF No. 8], the Respondent presents various unconvincing arguments regarding statutory interpretation and congressional intent in support of their reading that § 1225(b)(2) controls the Petitioner's detention. [ECF No. 8, pp. 4-10]. The Petitioner responds in turn.

- I. Section 1226(a) governs the Petitioner's detention because he was apprehended inside the United States and is not an alien actively seeking admission at the border.**

The Respondent contends that the Petitioner is an applicant for admission under section 1225(b)(2)(A) of the Immigration and Nationality Act (INA) which requires mandatory detention without entitlement to a bond hearing. [ECF No. 8]. The Respondent's position is that section 1225 is applicable because the Petitioner was not admitted after inspection by an immigration officer when entering the United States in 2006. [ECF No. 8, p. 5]. Therefore, the Respondent considers

the Petitioner an “applicant for admission” under section 1225. However, this Court has repeatedly ruled that section 1225 covers only “inspection-stage applicants for admission” (i.e. at a port of entry) while section 1226 governs “post inspection” noncitizens. *Ocampo-Fernandez v. Ripa*, Case No. 1:25-cv-24981-LEIBOWITZ (S.D. Fla. Nov. 25, 2025).¹ The Court has gone to say that such an overreaching interpretation is “dangerously broad” given that it calls for all aliens who have entered the United States without admission regardless of where or when they arrived in the United States to be subject to mandatory detention. *Id.* Such a reading would essentially capture all noncitizens present in the United States who have not yet been admitted. *Id.*

a. The Plain Language of Section 1226 Governs the Detention of the Petitioner.

The Respondent’s interpretation of section 1225(b)(2), that it mandates detention of any alien who is “not clearly and beyond a doubt entitled to be admitted” [ECF No. 8, p. 5] is problematic and conflicts with the plain language of the statute. To begin with, this interpretation outright ignores the key “seeking admission” portion of the statute which requires **current** action. *Ocampo-Fernandez v. Ripa*, Case No. 1:25-cv-24981-LEIBOWITZ at *13 (citations omitted); see also *Lopez-Campos v. Raycraft*, No. 25-124865, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025) (acknowledging that seeking admission “implies action” which would most logically happen at the border). If section 1225(b)(2)(A) applied to **every** applicant for admission, there would be no reason to include the phrase “seeking admission.” Here, the Petitioner, who has lived in the United States for twenty years, could not possibly be considered to have been seeking admission at the time of his detention whether literally, as he was not at the border pursuing admission, or constructively, such as with an application for adjustment of status or a visa to enter into United

¹ *Garcia-Gomez v. Ripa*, No. 25-CV-25567-BECERRA (S.D. Fla. Dec. 31, 2025); *Ardon-Quiroz v. Assistant Field Off. Dir.*, No. 25-CV-25290-BECERRA, 2025 WL 3451645, at *5-7 (S.D. Fla. Nov. 20, 2025); *Boffill v. Field Off. Dir.*, No. 25-CV-25179-BECERRA, 2025 WL 3246868, at *15-16 (S.D. Fla. Nov. 20, 2025).

States.

Now, section 1226(a), unlike its mandatory counterpart, establishes a discretionary detention framework for noncitizens arrested and detained on a warrant issued by the Attorney General. 8 U.S.C. § 1226(a). This Court has found:

“[W]hereas section 1225 governs removal proceedings for ‘arriving aliens’ section 1226(a) serves as a catchall . . . that applies to aliens already present in the United States . . . The inclusion of a catchall provision in section 1226, particularly following the more specific provision in section 1225, is likely no coincidence, but rather a way for Congress to capture noncitizens who fall outside of the specified categories . . . The circumstances surrounding Petitioner’s detention align with section 1226(a), not section 1225(b)(2) . . . [T]herefore, he is entitled to an individualized bond hearing before an IJ. As such, Petitioner’s mandatory detention under section 1225(b) without conducting a dangerousness and risk of flight determination rests on an incorrect statutory interpretation and contravenes the INA.”

Boffill v. Field Off. Dir., No. 25-CV-25179-BECERRA, 2025 WL 3246868, at *5-7 (S.D. Fla. Nov. 20, 2025) (cleaned up, internal quotations and citations omitted).

Case law has also held that the two provisions may be reconciled **only** if they apply to different classes of aliens.” *Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (quoting *Matter of M-S-*, 27 I&N Dec. 509, 516 (Att’y Gen. 2019) (emphasis added). Federal immigration regulations delineate this clear distinction. For instance:

“Despite 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.”

Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

Similarly, section 1225 contemplates that all aliens who are applicants for admission “shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3). Under applicable regulations, these officers conduct such inspections at designated **ports of entry**. 8 CFR § 234.1(a) (emphasis added) (“Application to lawfully enter the United States shall be made in person to an immigration officer

at a U.S. port-of-entry . . . “). Thus, the plain language of the statute, which requires a noncitizen to actively pursue admission into the United States, is clear and direct in that only section 1226 could govern the Petitioner’s detention in this case.

b. The Government’s Reading Does Not Comport with Congressional Intent.

The Respondent pointedly argued that their reading of section 1225 is aligned with congressional intent, in part, due to the passing of the Illegal Immigration Reform and Immigration Responsibility Act (IRIRA), Pub. L. 104-208, 110 Stat. 3009 (Sep. 30, 1996), which it claims the government intended “specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry.” [ECF No. 8, p. 6]. First, the overhaul of our immigration code through the passing of IRIRA, which included countless changes to our nation’s immigration laws and to the agencies that enforced them, was motivated by a number of factors including the political climate in place over thirty-six years ago.² It would be impossible to boil down the sentiment of such a change, which also benefitted many groups of noncitizens, to such a narrative.

The Respondent’s statement also implies that the Petitioner is attempting to seek some sort of immigration benefit or privilege to which he is not entitled to because he didn’t enter lawfully. [ECF No. 8, p. 6]. However, the Petitioner has not made any such request in his petition. [ECF No. 1]. The Petitioner’s request before this Court is limited to a declaratory judgment ordering that a bond hearing be scheduled with an immigration judge in bond-only proceedings. Notwithstanding, the Respondent cites to a Ninth Circuit case, *Hing Sum v. Holder*, 602 F.3d 1092 (CA9 2010) which deals with a Chinese national contesting an application for waiver of

² H.R. Rep. No. 104-828 (1996) (Conf. Rep) available at <https://www.congress.gov/committee-report/104th-congress/house-report/828/1#:~:text=Hyde%2C%20from%20the%20committee%20of,insert%20the%20following:%20SECTION%201.>

inadmissibility. Such a case has nothing to do with the relief the Petitioner is seeking before this Court or even before an Immigration Court.

Second, if the Court adopts the Respondent's interpretation, Congress' 2025 amendment to § 12226(c) in the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), would be rendered superfluous. Statutes "should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]" *Corley v. United States*, 556 U.S. 303, 314 (2009) (citation omitted). If the Respondent's interpretation is correct and section 1225(b)(2) mandates detention of any alien present in the country and who has not been admitted, section 1226(c)(1)(E) would be meaningless as all aliens who are present in the country, and have not been admitted, would be subject to mandatory detention under section 1225(b)(2). The Court should decline to interpret section 1225(b)(2) in such an expansive manner as it would render 1226(c)(1)(E) superfluous. See *Puga*, 2025 WL 2938369, at *5 (citing *Lepe v. Andrews*, No. 25-CV-01163, 2025 WL 2716910, at *6 (E.D. Cal. Sept. 23, 2025)); see also *Gonzalez v. Field Off. Dir. of ICE Atlanta Field Off.*, No. 25-CV-6080, 2025 WL 3145764, at *7 (N.D. Ga. Nov. 3, 2025).

c. The Government's Reading Does Not Accord with *Jennings*.

The Respondents argue that in *Jennings*, the Court did not resolve the precise groups of aliens subject to § 1225(b) or § 1226, and for that reason it does not support the petitioner's claim. [ECF No. 8, p. 8]. That is a complete mischaracterization of the holding given that *Jennings* began its analysis by emphasizing the temporal and categorical distinction between the detention statutes. *Jennings v. Rodriguez*, 583 U.S. 281 (2018). It also held that section 1225 applies to noncitizens who are "seeking admission into the country" at the border or port of entry, whereas section 1226 governs those already in the United States "pending the outcome of removal proceedings." *Id.* at 285-89.

The Supreme Court in *Jennings* unequivocally held that Section 1226 applies to “aliens already present in the United States.” *Id.* at 289. And, as many courts have held, section 1225’s “seeking” and “arriving” language implies **action**. Action that is occurring and would “most logically occur at the border upon inspection.” *Puga v. Assistant Field Off. Dir., et al.*, No. 25-24535-CIV, 2025 WL 2938369, at *4 (S.D. Fla. Oct. 15, 2025) (citations omitted). Section 1226 authorizes the Government to detain certain aliens **already** in the country pending the outcome of removal proceedings. *Jennings*, 583 U.S. at 289. More specifically, *Jennings* found that “U.S. immigration law authorizes the Government to detain certain aliens **seeking admission** into the country under §§ 1225(b)(1) and (b)(2).” *Id.* (emphasis added).

The Respondents also argue that the catchall provision of 1225(b)(2) should apply to the petitioner as he is not covered by 1225(b)(1). [ECF No. 8, p. 8]. “Section 1225(b)(1) applies to all aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Jennings*, 538 U.S. at 289. Such noncitizens are generally subject to expedited removal without further hearing or review. Now, section 1225(b)(2)—the catchall provision—covers noncitizens detained for removal proceedings “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted” into the country. 8 U.S.C. § 1225(b)(2)(A). The facts of this case clearly distinguish the Petitioner from the class of aliens that would be covered under either 1225(b)(1) and (b)(2) given that he was never placed in expedited removal proceedings, has not had a credible fear interview, and otherwise never came across immigration officials until his recent detention after residing in the United States for twenty years.

For these reasons, the Petitioner’s claim is aligned with the holding in *Jennings* and the Court should find, in accordance with that holding, that section 1226 governs the Petitioner’s

detention.

II. The Court Has the Authority to Grant Relief to Petitioner on an Individual Basis as a Class Member as Defined in *Bautista*.

In the Respondent's opposition [ECF No. 8, pp. 9-10] they oppose injunctive relief that would grant the Petitioner a bond hearing because of his membership in the certified class as per *Bautista v. Santacruz*, — F. Supp. 3d —, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025) (partial summary judgment on declaratory relief), and *Bautista v. Santacruz*, — F.R.D. —, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) (class certification). *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), judgment entered, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). The Respondent argues specifically that § 1252(f)(1) prohibits lower courts from entering injunctions that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out the specified statutory provisions. [ECF No. 8, p. 10].

However, the Respondent's conclusion is erroneous as, since the entry of that final judgment, at least one other district court facing an argument from the government that "the final judgment entered in *Bautista* was merely declaratory, not injunctive relief requiring they provide bond hearings to class members" has ruled against the government. *Espinosa Castillo v. Noem*, No. CV-25-04867-PHX-KML (MTM), 2026 WL 18914, at *1 (D. Ariz. Jan. 2, 2026) (citing to *Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208, n. 8 (D.C. Cir. 1985) (declaratory judgement "where federal officers are defendants" is "the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court"); *Bader Cath., Inc. v. Walsh*, 620 F.3d 775, 782 (CA7 2010) ("A litigant who tries to evade a federal court's judgment—and a declaratory judgment is a real judgment, not just a bit of friendly advice—will come to regret it.")).

For this reason, the Court should similarly grant relief on an individual basis to the Petitioner and order a custody redetermination hearing as he is an individual class member as defined in *Bautista*.

CONCLUSION

For these reasons, the Court should find that the Petitioner is not subject to mandatory detention under section 1225(b)(2)(A). Rather, it should find that section 1226 applies, and order a custody redetermination hearing before an immigration judge in accordance with 8 U.S.C. § 1226(a) and its implementing regulations and case law.

Dated: January 22, 2026

s/Maitte Barrientos

Fla. Bar No. 1010180

s/ Anthony Dominguez

Fla. Bar No. 1002234

Prada Dominguez, PLLC

12940 SW 128 Street, Suite 203

Miami, FL 33186

c. 786.447.8897

o. 786.703.2061

adominguez@pradadominguez.com

maitte@pradadominguez.com

Counsel for the Petitioner