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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Miguel Garcia-Vasquez,

Petitioner

vs.

Laura HERMOSILLO, et al.,

Respondents

Case No. 2:26-cv-00120-TMC

PETITIONER'S REPLY TO
GOVERNMENT'S RETURN

The Government claims that Mr. Garcia is subject to detention under 8 U.S.C. §1225(b), citing an outlier case, *Vargas Lopez v. Trump*, 802 F. Supp. 3d 1132, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (holding petitioner detained under 8 U.S.C. § 1225(b)(2)).¹ The

¹ The Government also cites the decision in *Sixtos Chavez v. Noem*, 801 F. Supp. 3d 1133 (S.D. Cal. Sept. 24, 2025), denying an ex parte temporary restraining order on the basis that the petitioners had not proved a likelihood of success on the argument. The Government fails to point out that the *Sixtos Chavez* court later reversed course and granted a temporary restraining order, concluding that the petitioners had demonstrated a likelihood of success on the claim that they are not subject to detention under §1225(b) but instead are eligible for bond under §1226(a). *Sixtos Chavez v. Noem*, 2026 U.S. Dist. LEXIS 8503 (S.D. Cal. Jan. 16, 2026), relying on *Maldonado Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025).

1 Government's argument is that Mr. Garcia is an "applicant for admission" because he is "present
2 in the United States [and] has not been admitted," *see* 8 U.S.C. §1225(a)(1), and as such he is
3 subject to the provisions (including the detention provisions) of §1225(b). That argument is
4 based on a gross misunderstanding of the statute.

5 Section 1225(b)(1) – the provisions for "expedited removal" of noncitizens – by its very
6 terms applies to a person who "is arriving in the United States." 8 U.S.C. §1225(b)(1).² Mr.
7 Garcia has been living in the United States for more than 25 years. The Government does not
8 argue – and could not plausibly argue – that Mr. Garcia "is arriving in the United States."

9 The Government apparently argues that Mr. Garcia is subject to the detention provisions
10 of §1225(b)(2) because he is an "applicant for admission." But here, the Government misreads
11 the statute. For the provisions of (b)(2) to apply, two conditions must be met: first, the
12 noncitizen must be an "applicant for admission"; and second, the noncitizen must be "seeking
13 admission." 8 U.S.C. §1225(b)(2)(A). And a person who has been residing in the United States
14 for several years is not "seeking admission." In addition to this court's prior decision in
15 *Rodriguez Vazquez v. Bostock*, 2025 U.S. Dist. LEXIS 193611 (W.D. Wash. Sept. 30, 2025),
16 "[j]udges across the country—the vast majority who have considered this question—have told
17 the Government many times in the past few months that its interpretation of the law is wrong."
18 *Rivero v. Mina*, 2026 U.S. Dist. LEXIS 13724, *10-12 (S.D. Fla. Jan. 26, 2026). *See, e.g.,*
19 *Reyes v. Rose*, 2026 U.S. Dist. LEXIS 4325, *10 (E.D. Penn. Jan. 9, 2026); *Flores-*

20 ² The expedited removal provisions can also be applied to certain other individuals who are not
21 "arriving" but have been in the United States for less than two years. 8 U.S.C.
22 §1225(b)(1)(A)(iii). That provision is not relevant here because Mr. Garcia has been living in
the United States for many more than two years.

1 *Boziere v. Bondi*, 2026 U.S. Dist. LEXIS 1859, *15 (W.D. Tex. Jan. 5, 2026); *Kashranov v.*
 2 *Jamison*, 2025 U.S. Dist. LEXIS 224644, *17 (E.D. Penn. Nov. 14, 2025); *Huamani*
 3 *v. Francis*, 2025 U.S. Dist. LEXIS 219101, *12 (S.D.N.Y. Nov. 4, 2025); *Soto v. Soto*,
 4 2025 U.S. Dist. LEXIS 207818, *19 (D. N.J. Oct. 22, 2025); *Guerrero Orellana v. Moniz*,
 5 2025 U.S. Dist. LEXIS 196282 (D. Mass. Oct. 3, 2025); *Belsai D.S. v. Bondi*, 2025 U.S. Dist.
 6 LEXIS 194262, *13 (D. Minn. Oct 1, 2025). *See also Jennings v. Rodriguez*, 583 U.S. 281,
 7 289 (2018) (the Government may “detain certain [noncitizens] seeking admission into the
 8 country” under §1225(b); on the other hand, §1226 “authorizes the Government to detain certain
 9 [noncitizens] already in the country pending the outcome of removal proceedings”). The
 10 bottom line is that mandatory detention under §1225 does not apply to noncitizens who are
 11 already present in this country. “[T]he Government is wrong, and plainly so.” *Rivero v. Mina*,
 12 2026 U.S. Dist. LEXIS 13724, at *9.

13 The Government also cites three jurisdictional provisions in 8 U.S.C. §1252 in support of
 14 its claim that this court lacks jurisdiction. There is no legitimate basis for the Government’s
 15 jurisdictional claim.

16 1. The Government asserts that 8 U.S.C. §1252(g) bars review of Petitioner’s claim of
 17 unlawful detention because the claim arises from the government’s decision to commence
 18 removal proceedings. That argument borders on the frivolous:

19 [The Government’s] argument beggars belief and appears to deliberately mislead the
 20 Court about the law and the record. It is well-settled that courts have habeas jurisdiction
 21 to consider “challenges to the lawfulness of immigration-related detention.” *Zadvydas v.*
 22 *Davis*, 533 U.S. 678, 687 (2001).

1 *Rivero v. Mina*, 2026 U.S. Dist. LEXIS 13724, *5 (M.D. Fla. Jan. 26, 2026). A person's claim
2 that his or her detention is unlawful is – by its own terms – not a challenge to the decision to
3 commence removal proceedings. “The Government’s argument to the contrary is, in a word,
4 inexplicable. ... As a legal matter, even if removal proceedings had already begun, this Court
5 still has jurisdiction to consider the legal basis for his detention, based on decades-old
6 precedent.” *Id.* at *6, citing *Madu v. U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006). *See*
7 *also Rodriguez Vazquez v. Bostock*, 2025 U.S. Dist. LEXIS 193611, *27 (W.D. Wash. Sept. 30,
8 2025) (“[t]he government’s broad reading of §1252(g) would lead to a result that is not
9 contemplated in the statute and that has been disavowed by the Supreme Court,” citing *Reno v.*
10 *American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (recognizing that
11 §1252(g)’s “narrow” scope does not sweep in non-discretionary, purely legal questions).

12 2. The Government argues that 8 U.S.C. §1252(b)(9) bars the Court from hearing
13 Petitioner’s claim because his claim that detention is unlawful arises from the government’s
14 decision to commence removal proceedings, and thus constitutes an “action taken . . . to remove
15 an alien from the United States.” However, as this Court explained: “the Supreme Court has
16 directly considered and rejected the argument that section 1252(b)(9) bars review of legal
17 questions concerning the detention provisions of sections 1225 and 1226.” *Vazquez v. Bostock*,
18 *supra* at *29, citing *Jennings v. Rodriguez*, 583 U.S. 281, 294-295 (2018) (where noncitizens
19 challenged the legality of their detention, “§1252(b)(9) does not present a jurisdictional bar”),
20 and *Nielsen v. Preap*, 586 U.S. 392, 402 (2019) (rejecting argument that §1252(b)(9) bars the
21 Court from considering a class action comprised of noncitizens challenging their mandatory
22 detention).

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1 3. Finally, according to the Government this Court lacks jurisdiction because 8 U.S.C.
 2 §1252(e)(3) precludes judicial review of a “determination under section 1225(b)” and its
 3 implementation. That argument has no merit. As the District Court for the Northern District of
 4 California explained:

5 In accordance with its title and structure, the Ninth Circuit has consistently described
 6 § 1252(e)(3) as providing a “limited grant of jurisdiction to the D.C. district court” to
 decide challenges to “regulation[s] that [are] ‘entirely linked’ to the expedited removal
 process”—that is, the process established by §1225(b)(1).

7 *Pinchi v. Noem*, 2025 U.S. Dist. LEXIS 265062, *34-35 (N.D. Cal. Dec. 19, 2025), citing
 8 *Mendoza-Linares v. Garland*, 51 F.4th 1146, 1156-57 (9th Cir. 2022); *East Bay Sanctuary*
 9 *Covenant v. Biden*, 993 F.3d 640, 667 (9th Cir. 2021); *Shunaula v. Holder*, 732 F.3d 143, 146
 10 (2d Cir. 2013) (“§1252(e)(3) provides for review of constitutional challenges to the validity of
 11 the expedited removal system and statutory challenges to its implementing regulations and
 12 written policies”); *Duran v. Bernacke*, No. 2:25-CV-02105-RFB-EJY, 2025 WL 3237451, at *5
 13 (D. Nev. Nov. 19, 2025) (§1252(e)(3) does not apply because “Respondents do not assert that
 14 Petitioner is subject to expedited removal”); *Innovation L. Lab v. Nielsen*, 342 F. Supp. 3d 1067,
 15 1075 (D. Or. 2018) (“The jurisdiction-stripping provisions of ... §1252(e) apply only to detainees
 16 subject to expedited removal proceeding[s] under § 1225(b)(1).”). *See also* *Bautista v.*
 17 *Santacruz*, 2025 U.S. Dist. LEXIS 233085, *11 C.D. Cal. Nov. 20, 2025) (“Because the premise
 18 of Petitioners’ claim is that the proper governing authority over their detention is §1226 rather
 19 than §1225, the Court does not find §1252(e)(3)(A) to strip this Court of jurisdiction.”)

20 4. This Court recently rejected the Government’s jurisdictional arguments in reasoning
 21 that applies here:

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1 Petitioner's habeas petition does not seek review of the Government's decision to
2 commence removal proceedings or to take an action to remove her from the United
3 States, nor does she seek to challenge the removal process writ large. Her petition does
4 not seek review of anything related to her removal proceedings. ... The Government has
not presented any persuasive argument that the Court lacks the jurisdiction to review
Petitioner's constitutional claim, and the Court therefore rejects the Government's
jurisdictional challenge.

5 *Yildirim v. Hermosillo*, 2026 U.S. Dist. LEXIS 8282, *5-6 (W.D. Wash. Jan. 15, 2026), citing
6 *Jennings v. Rodriguez*, 583 U.S. 281, 293 (2018) (holding that challenges to pre-removal
7 detainment such as a claim for prolonged detention are judicially reviewable despite
8 §1252(b)(9)); *Munoz Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, 2025 WL 2630826, at
9 *10 (S.D.N.Y. Sep. 12, 2025) (neither §1252(g) nor §1252(e)(3) strips a court's jurisdiction to
10 hear procedural challenges to re-detention of an individual previously released from immigration
11 detention). *See also Padilla v. ICE*, 354 F. Supp. 3d 1218, 1225 (W.D. Wash. 2018) ("Although
12 [the jurisdictional scheme in §1252] restricts jurisdiction in the federal courts in some respects, it
13 does not limit habeas jurisdiction over constitutional claims or questions of law").

14 CONCLUSION

15 This Court has already considered and rejected the Government's arguments. *Rodriguez*
16 *Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).
17 The Government provides no basis for the Court to change its view. For the foregoing reasons,
18 the Court should reject the Government's arguments and grant Mr. Garcia the requested habeas
19 relief.

1 Dated this 2nd day of February, 2026.

2
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10 I certify that this brief contains 1,712 words,
11 in compliance with the Local Civil Rules.
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