

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

JENNY SANCHEZ CABALLERO,

Petitioner,

v.

Case No. 0:26-cv-00456-DSD-DJF

DAVID EASTERWOOD, Director St. Paul
Field Office, U.S. Immigration and Customs
Enforcement; KRISTI NOEM, Secretary
of Homeland Security; and PAMELA
BONDI, Attorney General of the U.S.,
in their official capacities,

Respondents.

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

On January 23, 2026, Federal Respondents filed a response brief in opposition to Petitioner's Writ of Habeas Corpus. The Respondents argue that Ms. Sanchez Caballero's detention is mandatory under 8 U.S.C. § 1225(b)(2). However, this argument fails for numerous reasons. Respondents argue that because Ms. Sanchez Caballero entered and has remained in the U.S. without inspection or admission and is thus deemed an "applicant" for admission, subject to mandatory detention. They also argue that as a U-visa applicant, she is "seeking admission" and therefore subject to mandatory detention. Respondents'

sweeping interpretations of the law are unpersuasive, and the Court should grant Ms. Sanchez Caballero's Petition.

ARGUMENT

I. Respondents' textual arguments fail.

A. Respondents' erroneous interpretation of 8 U.S.C. § 1225 fails to account for § 1226.

The Supreme Court's decision in *Jennings v. Rodriguez* confirms Petitioner's correct interpretation of the statute. 583 U.S. 281 (2018). In *Jennings*, the Supreme Court made it clear that § 1225(b) applies to "aliens seeking admission into the country," while § 1226(a) applies to "certain aliens already in the country." *Jennings*, 583 U.S. at 289. Respondents' primary argument is that the plain text of 8 U.S.C. § 1225(b)(2) mandates Ms. Sanchez Caballero's detention. However, 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). This erroneous interpretation of § 1225(b)(2) fails to acknowledge the existence of § 1226.

As stated in *Jennings*, § 1226 applies to people "inside the United States" and "present in the country." *Jennings*, 583 U.S. at 288-89. A straightforward reading of § 1226(a) suggests that it applies to a noncitizen like Ms. Sanchez Caballero and allows for the arrest of a noncitizen on a warrant "pending a decision on whether the alien is to be removed from the U.S." 8 U.S.C. § 1226(a). It further provides that unless the person falls into the mandatory detention category of § 1226(c), DHS may detain or release the noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a)(1)–(2); *Jennings*, 583 U.S. at

289 (explaining that § 1226(c) “carves out a statutory category of aliens who may not be released under § 1226(a)”). Notably, “the plain text of Section 1226(c) includes noncitizens who are ‘inadmissible’ (meaning they have not been admitted to the United States) as well as those who are ‘deportable’ (meaning they were previously admitted to the United States.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256 (W.D. Wash. Apr. 24, 2025). As such, § 1226 accounts for noncitizens who are already present in the U.S., like Ms. Sanchez Caballero.

Additionally, recent amendments to § 1226(c) resulting from the passage of the Laken Riley Act in 2025 render Respondents’ interpretation of § 1225(b)(2) superfluous. The amendments call for mandatory detention of a noncitizen who is *both* charged as inadmissible as an “alien present in the United States without being admitted or paroled” under 8 U.S.C. § 1182(a)(6)(A)(i), *and* “charged with, is arrested for, convicted of, or admits” to committing certain crimes. 8 U.S.C. § 1226(c)(1)(E). This amendment would be wholly unnecessary were Respondents correct that § 1225(b)(2) already mandated the detention of every noncitizen who is present in the U.S. without being admitted. *See Dominguez Sanchez v. Bondi*, No. 25-cv-03682 (D. Minn. Oct. 1, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025). Only where the criminal conduct criterion is also satisfied has Congress determined that such a noncitizen must be subject to mandatory detention. *See Zadvydas v. Davis*, 533 U.S. 678, 696 (2001); *Gomes*, 2025 WL 1869299, at *6. “That express exception” to Section 1226(a)’s discretionary framework “implies that there are no other circumstances under which” detention is mandated for noncitizens, like Sanchez Caballero, who are subject to

Section 1226(a). *Jennings*, 583 U.S. at 300 (citing A. Scalia & B. Garner, Reading Law 107 (2012)); *Gomes*, 2025 WL 1869299, at *6.

Canons of statutory interpretation aid in this analysis, especially the principle that statutes should be construed so that “no clause, sentence, or word shall be superfluous, void, or insignificant.” *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)). Respondents’ reading of § 1225(b)(2) fails to account for the statutory framework already established in § 1226. Congress has mandated detention for noncitizens who meet certain criminal criteria, which has recently been confirmed in the 2025 amendments through the Laken Riley Act. Respondents’ argument that the plain text of § 1225(b)(2) mandates detention of noncitizens like Ms. Sanchez Caballero results in an unharmonious reading of the Immigration and Nationality Act and renders certain sections superfluous. Petitioner’s interpretation that she should be classified under § 1226(a) does not.

B. Petitioner is not “seeking admission” as Respondents assert.

The Respondents’ interpretation of § 1225(b)(2) does not follow from the plain language of the text, as Respondents argue. Ms. Sanchez Caballero is not “seeking admission.” 8 U.S.C. § 1225(b)(2). For § 1225(b)(2) to apply, “an examining immigration officer” must determine that 1) the noncitizen is “an applicant for admission”; 2) the noncitizen is “seeking admission”; and 3) the noncitizen “is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Ms. Sanchez Caballero is not “seeking admission.” Courts have found “seeking admission” to mean “presently attempting to gain admission into the United States.” *Dominguez Sanchez v. Bondi*, No. 25-cv-03682 (D.

Minn. Oct. 1, 2025); *see also* *Martinez v. Hyde*, 2025 WL 2084238, *6 (D. Mass. July 24, 2025) (discussing the plain meaning of “seeking”); *Lopez Benitez v. Francis*, 2025 WL 2371588, *7 (S.D.N.Y. Aug. 13, 2025) (interpreting “seeking admission” to mean a person who is actively “seeking” “lawful entry”); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, *7 (E.D. Mich. Aug. 29, 2025) (“‘[S]eeking admission’ . . . implies action—something that is currently occurring, and in this instance, would most logically occur at the border upon inspection.”) Here, Ms. Sanchez Caballero is not actively “seeking” “lawful entry” because she entered the U.S. years ago.

As stated in *Martinez*, “this active construction of ‘seeking admission’ is in harmony with the Government’s treatment of similar language in at least one other context.” *Id.* at *7. Under 8 U.S.C. § 1182(a)(9)(B), a noncitizen who is unlawfully present in the U.S., and then departs or is removed is inadmissible for a certain period of time if they again seek admission. The Government has previously cited to *Matter of Lemus-Losa*, 25 I&N Dec. 734 (BIA 2012), to support their position, which analyzes this same provision. However, this fails to acknowledge how the U.S. Citizenship and Immigration Service (“USCIS”), the adjudicating entity of unlawful presence waivers, interprets this provision in practice. The USCIS Policy Manual provides guidance, stating that the clock begins to run on the day of departure or removal. *See* USCIS Policy Manual, vol. 8, pt. O, ch. 6. The guidance continues:

This statutory period continues to run, without interruption, regardless of whether or how the alien returned to the United States during the 3-year or 10-year period. *Thus, it is immaterial whether the alien has spent the applicable statutory 3-year or 10-year period in or out of the United States.*

As long as the alien again seeks admission more than 3 or 10 years after the relevant departure or removal, the alien is not inadmissible under [section 1182(a)(9)(B)]

Id. (emphasis added). The *Martinez* court found that “in other words, at least in the Government’s estimation, a noncitizen’s presence in the United States is ‘immaterial’ to the determination of when he is considered to have ‘sought admission’ for purposes of section 1182(a)(9)(B), even where the noncitizen’s presence might be unlawful.” *Martinez*, 2025 WL 2084238, at *7. “Seeking admission” requires a “separate, finite action” to “trigger it.” *Id.* *Matter of Lemus-Losa* fails to acknowledge that one can be an applicant for admission, but not be actively seeking admission. *See* 25 I&N Dec. 734 (BIA 2012). Thus, the USCIS Policy Manual supports Petitioner’s position that she is not “seeking admission,” and Respondents’ arguments are unpersuasive.

Respondents argue that applicants for admission are both those individuals present without admission and those who arrive in the United States, and that both groups are “seeking admission.” The term “seeking admission” “limits [8 U.S.C. § 1225(b)(2)’s] application to aliens actively attempting to lawfully enter the United States. That interpretation is supported by Section 1225’s repeated reference to ‘arriving aliens’ and the existence of Section 1226—a separate statute that allows for detention and removal of noncitizens already present in the country.” *Garcia v. Noem*, 2025 U.S. Dist. LEXIS 214695, at *8 (M.D. Fla. Oct. 31, 2025). Further, Respondents’ argument that “seeking admission” is synonymous with applying for admission renders the language “seeking admission” superfluous: “If § 1225(b)(2)(A) applied to every ‘applicant for admission,’ there would be no reason to include the phrase ‘seeking admission’ in § 1225(b)(2)(A).”

Herrera Avila v. Bondi, 2025 WL 2976539 (D. Minn. Oct. 21, 2025). 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*, 556 U.S. at 314. Respondents’ erroneous interpretation of the statute does just that.

II. Respondents mischaracterize Petitioner’s pursuit of a U-visa.

Respondents inaccurately characterize Ms. Sanchez Caballero’s application for a U-visa as “seeking admission.” Dkt. 7 at 6. Respondents state that Ms. Sanchez Caballero’s U-visa application distinguishes her case from prior habeas petitions this Court has decided. *Id.* However, many courts across the country, including the District of Minnesota, have found that a Petitioner’s pursuit of a U-visa does not mean that the Petitioner is “seeking admission.” See *Victor F.M. v. Bondi*, 2026 LEXIS 367, at *4 (D. Minn. Jan. 5, 2026); *N.A. v. LaRose*, 2025 LEXIS 253321, at *5 (S.D. Cal. Dec. 8, 2025) (finding petitioner who had resided in the U.S. for seventeen years at the time of his arrest and was pursuing a U visa was not “seeking admission” and fell within § 1226’s discretionary detention procedures); *Patel v. Hardin*, 2025 LEXIS 233409, at *1, *5-6 (M.D. Fla. Dec. 1, 2025) (granting § 1226(a) bond hearing to petitioner who had been in the country since 2011 and pursuing U visa); *Ramirez v. Noem*, 2025 LEXIS 230420 (D. Nev. Nov. 24, 2025) (finding petitioner who had resided in the United States for over a decade and had been “granted deferred action from removal after [USCIS] found his U-Visa application was *bona fide*” was entitled to § 1226(a) bond hearing); *Calel v. Larose*, 2025 LEXIS 223788 (S.D. Cal. Nov. 13, 2025) (finding petitioner who had resided in the United States for 18

years and was "currently pursuing a U-visa with USCIS" was not "seeking admission" under § 1225(b)(2)).

In *Victor F.M. v. Bondi*, the Court concluded that "a noncitizen who entered the country without authorization and years later pursued a U visa is not 'seeking admission' under § 1225(b)(2) and falls within § 1226's discretionary detention procedures." Ms. Sanchez Caballero entered the U.S. without inspection in 2003 and then applied for a U-visa in 2018. In *Fuentes v. Olson*, this Court found that a petitioner who entered the country more than two decades ago and was pursuing a U-visa was not "seeking admission," and was subject to detention under 8 U.S.C. § 1226(a) and thus eligible for a bond hearing. 2025 LEXIS 254239, at *1-2, *4 (D. Minn. Dec. 9, 2025). This finding accurately describes, and thus applies to, Ms. Sanchez Caballero's case.

In an attempt to support their position, Respondents cite 8 U.S.C. § 1158(c)(1), a statute relating to the privileges associated with a grant of asylum. Dkt. 7 at 6. Petitioner in this case is not an applicant for asylum. Respondents also cite *Chen*, where a Court found that an asylum applicant was "seeking admission." Dkt. 7 at 6. Ms. Sanchez Caballero is not an asylum applicant. Rather, she has received a bona fide determination for her U-visa application and is currently waiting for a visa to become available. Respondents' arguments regarding asylum are unpersuasive and inapplicable to Petitioner's case.

III. The Board of Immigration Appeals' decision in *Matter of Yajure Hurtado* is not entitled to deference under *Loper Bright Enterprises*.

Under *Loper Bright Enterprises*, courts are required to exercise their independent judgment and "may not defer to an agency interpretation of the law simply because a statute

is ambiguous.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024). In *Matter of Yajure Hurtado*, the Board of Immigration Appeals recently adopted Respondents’ broad interpretation of 8 U.S.C. § 1225(b)(2), stating that individuals like Ms. Sanchez Caballero who entered the U.S. without inspection are subject to mandatory detention without the possibility of bond. 29 I&N Dec. 216 (BIA 2025). *Yajure Hurtado* upended the previous practice of classifying noncitizens like Ms. Sanchez Caballero under 8 U.S.C. § 1226(a) and thus eligible for bond. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1244 (W.D. Wash. 2025). Respondents, in essence, argue that this prior agency practice is no longer entitled to judicial deference under *Loper Bright*. However, *Loper Bright* states that “the longstanding practice of the government—like any interpretive aid—can inform [a court’s] determination of what the law is.” *Loper Bright*, 603 U.S. at 386. Other district courts analyzing the Respondents’ interpretation of § 1225(b) have agreed with the Petitioner in stating that the new practice of classifying noncitizens as ineligible for bond under § 1225(b) is unlawful and not entitled to agency deference. *See Maldonado*, 2025 WL 2374411, at *11; *Reyes v. Raycraft*, 2025 WL 2609425, at *6–7 (E.D. Mich. Sept. 9, 2024); *Rosado v. Figueroa et al.*, 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025); *Dominguez Sanchez v. Bondi*, No. 25-cv-03682 (D. Minn. Oct. 1, 2025); *Amaya v. Bondi*, 2025 LEXIS 404841 (D.N.J. Oct. 30, 2025). The Court in *Reyes* found it “difficult to square a noncitizen’s continued presence with the term ‘seeking admission,’ when that noncitizen never attempted to obtain lawful status.” *Reyes*, 2025 WL 2609425 at *6. The “decades of consistent agency practice also support [Ms. Sanchez Caballero’s]” argument and entitlement to a bond redetermination so that she will not continue to be detained

unlawfully. *Id.* at *7. The Court is not required to adopt the BIA's interpretation of § 1225(b)(2), and past agency practice is a persuasive tool in statutory interpretation.

CONCLUSION

This Petition should be granted, and this Court should “join[] [the] chorus” of courts rejecting Respondents’ erroneous interpretation of the law, unlawfully detaining bond-eligible noncitizens like Ms. Sanchez Caballero. *See Dominguez Sanchez v. Bondi*, No. 25-cv-03682 (D. Minn. Oct. 1, 2025).

Date: January 25, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The undersigned certifies that this memorandum complies with the type-volume limitation of D. Minn. LR 7.1(f) and the type size limitation of D. Minn. LR 7.1(h). The memorandum has 2,543 words of type, font size 13. The brief was prepared using Microsoft Word, which includes all text, including headings, footnotes, and quotations in the word count.

Respectfully submitted,

Dated: January 25, 2026

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