

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 26-60197-CIV-DAMIAN**

MARTIN ANASTACIO ZARAGOZA
VASQUEZ,

Petitioner,

v.

KRISTI NOEM, Secretary of
Department of Homeland
Security, et al.,

Respondents.

**RESPONDENTS' RESPONSE IN OPPOSITION
TO THE PETITION FOR WRIT OF HABEAS CORPUS**

Pursuant to the Court's January 29, 2026, Order to Show Cause, [D.E. 9] Respondents, by and through the undersigned Assistant United States Attorney, submit the following response in opposition to the Petition for Writ of Habeas Corpus [D.E. 1] ("Petition"). For the reasons set forth below, the Petition should be denied.¹

INTRODUCTION

Petitioner Martin Anastacio Zaragoza Vasquez, ("Petitioner") in relevant part, asks this Court to "order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before an immigration judge within fourteen (14) days of this Court's order" as his detention should be governed by 8 U.S.C. § 1226, not 8 U.S.C. § 1225. *See* Petition, D.E. 1, at ¶ 40, Prayer for Relief. But this request is moot as Petitioner has already obtained a custody redetermination hearing before an immigration judge, the very relief sought through his Petition. Indeed, the immigration judge granted him bond. However, by operation of the Immigration and Nationality Act, ("INA") the Department of Homeland Security ("DHS") exercised its right to appeal that determination and stay the release of the Petitioner. That appeal is still pending before the Board of Immigration Appeals ("BIA"); however, that does not abrogate the fact he already has obtained the bond hearing he seeks.

¹ Respondents recognize that courts in this District have rejected similar arguments in granting habeas petitions. *See, e.g., Perez v. Parra*, Case No. 25cv24820 (S.D. Fla.). Nonetheless, Respondents maintain and preserve these arguments for the record in this case.

Nevertheless, it is the Respondents' position that, as set forth below, Petitioner's ongoing mandatory detention is in accordance with 8 U.S.C. § 1225(b), which mandates mandatory detention pending removal for individuals seeking admission to the United States. Thus, this case comes down to a question of statutory interpretation. Specifically, what statutory provision controls Petitioner's detention. Section 1225(b)(2)(A) mandates detention for "an alien who is an applicant for admission." 8 U.S.C. § 1225(b)(2)(A). Pursuant to § 1225(a), "[a]n alien present in the United States who has not been admitted ... shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner admits that he illegally entered the U.S. on or 2005, and remains without authorization. See Petition, D.E. 1, at ¶ 19. Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A). For the reasons explained more fully below, the Petition should be denied.

Petitioner also claims that he is further entitled to relief as he is a member of a class of individuals identified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)." See Petition, D.E. 1, at ¶ 29. But Petitioner is not a member of the *Maldonado Bautista* class as that court lacks jurisdiction to issue habeas relief to all class members confined outside the Central District of California. Without membership in the *Maldonado Bautista* class, this case comes down to a question of statutory interpretation.

DECISIONS IN SIMILAR MATTERS

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b)(2), because he was present in the United States without being admitted or paroled. See *Buenrostro-Mendez v. Bondi*, No. 25-20496, 25-40701, ___ F. 4th ___, 2026 WL 323330 (Feb. 6, 2026 5th Cir.); *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025); *Morales v. Noem*, et al., No. 25-62598-CIV SINGHAL, ECF No. 10 (S.D. Fla. Jan. 29, 2026). In *Buenrostro*, the Fifth Circuit Court of Appeals recognized that presence without admission renders an individual like Petitioner to be both an "applicant for admission" and "seeking admission" under 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention--regardless of how much time the individual has been present in the United States. *Buenrostro-Mendez*, at *4-9.

However, the Government acknowledges that Judges in this District have reached the opposite conclusion. See, e.g., *Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3, 8 (S.D. Fla. Oct. 15, 2025) ("§ 1226(a), not § 1225(b)(2), governs Petitioner's

detention”); *Gil-Paulino v. Sec’y of the U.S. Dep’t of Homeland Sec.*, 25-24292-CIV-WILLIAMS, D.E. 41, (S.D. Fla. Oct. 10, 2025) (“§ 1226 governs Petitioner’s detention”); *Hernandez Alvarez v. Acting Warden Roger Morris, et al.*, Case No. 25-24806-CIV-WILLIAMS, D.E. 6 (S.D. Fla. Oct. 27, 2025) (agreeing with petitioner that “detention is governed by 8 U.S.C. § 1226(a), which allows for the release of noncitizens on bond . . . not § 1225(b)(2), applicable to noncitizen “applicant[s] for admission” to the United States.); *Cerro Perez v. Parra, et al.*, Case No. 25-24820-CIV-WILLIAMS, D.E. 9 (S.D. Fla. Oct. 27, 2025) (same); *Alvarez Puga v. Assistant Field Office Director Krome, et al.*, No. 25-24535-CIV-ALTONAGA (S.D. Fla. Oct. 15, 2025) (concluding that “prudential exhaustion requirements are excused for futility” and finding that “section 1226(a) and its implementing regulations govern Petitioner’s detention, not section 1225(b)(2)(A)”); *Zamora Policarpo v. Parra*, Case No. 25-25236-CIV-COHN, D.E. 8 (S.D. Fla. Dec. 22, 2025) (finding good cause to excuse Petitioner’s failure to exhaust administrative remedies where it is evident the BIA will reject Petitioner’s request for a bond hearing or release and that Petitioner is subject to detention under § 1226(a) and entitled to a bond hearing before an immigration judge); *Penagos Quintero v. Ripa, et al.*, Case No. 25-25746-CIV-BECERRA, D.E.14 (Jan. 5, 2026) (concluding that jurisdiction is not barred by 8 U.S.C. § 1252, exhaustion was not required, and that the petitioner’s detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)); *Martinez v. Field Off. Dir.*, No. 25-26026-CIV-LEIBOWITZ, D.E. 7 (S.D. Fla. Jan. 14, 2026) (“Pending the Eleventh Circuit’s resolution of this issue, the Court continues to side with the clear weight of existing authority in finding that Petitioner here is entitled to a prompt, individualized bond hearing under 8 U.S.C. § 1226(a)”); *Espinal Encarnacion v. ICE Field Office Director, et al.*, No. 25-61898-CIV-DAMIAN, D.E. 29 (Dec. 23, 2025) (“this Court finds that 8 U.S.C. § 1226(a) and its implementing regulations govern Petitioner’s detention, and not Section 1225(b)”); *Ocegueda Gonzalez v. Noem, et al.*, No. 25-62261-CIV-MIDDLEBROOKS/AGUSTIN-BIRCH, D.E. 25 (Dec. 23, 2025) (“Having concluded that Petitioner’s detention is governed by 8 U.S.C. § 1226(a), Petitioner is entitled to an individualized bond hearing before an immigration judge.”); *Acosta v. Ripa, et al.*, Case No. 25-62360-CIV-DIMITROULEAS, D.E. 19 at 7 (S.D. Fla. Dec. 26, 2025) (“§ 1226(a) and its implementing regulations govern Petitioner’s detention, not § 1225(b)(2)(A)”); and *Fuentes Granados v. Secretary of Homeland Security*, Case No. 26-60020-CIV-SMITH, D.E. 7 (S.D. Fla. Jan. 27, 2026) (“Petitioner is being unlawfully detained due to his improper classification as “an alien who is an

applicant for admission” pursuant to 8 U.S.C. § 1225(b)(2)(A)[;] . . .Petitioner’s proper classification is a detainee pursuant to 8 U.S.C. § 1226(a)”). Nonetheless, Respondents maintain and preserve these arguments for the record in this case.

The government is appealing the judgment that 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b), governs detention under the facts presented in the cases above to the Eleventh Circuit in *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, et al., No. 25-14065 (11th Cir.) and *Cerro Perez v. Assistant Field Office Director*, et al., No. 25-14075 (11th Cir.). Until the foregoing appeals are resolved, however, the government acknowledges that this Court’s recent decisions, *see, e.g., Espinal Encarnacion v. ICE Field Office Director*, et al., No. 25-61898-CIV-DAMIAN, D.E. 29 (Dec. 23, 2025), would control the result here if the Court determines that it has jurisdiction and adheres to that decision, as the facts are not materially distinguishable for purposes of the Court’s decision on the legal issue of which statutory provision authorizes Petitioner’s detention.

FACTUAL BACKGROUND

Petitioner is a native and citizen of Mexico. *See* Form I-213, Record of Deportable/Inadmissible Alien (Form I-213), dated November 18, 2025, attached as Exhibit A. Petitioner claims to have last entered the United States without admission or inspection on or about March 16, 2005, near Naco, Arizona. *See id.*

On November 18, 2025, Petitioner was encountered by U.S. Customs and Border Protection (CBP) during a traffic stop. *See id.* CBP determined that Petitioner had no lawful status in the United States. *See id.* On or about November 20, 2025, Petitioner was transferred to the custody of the U.S. Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”). *See* Form I-203, Order to Detain or Release Alien, dated November 18, 2025, attached as Exhibit B; *see also* Detention History, attached as Exhibit C. On December 13, 2025, U.S. Department of Homeland Security (“DHS”) filed the Notice to Appear (“NTA”) with the Executive Office for Immigration Review (“EOIR”) Miami Immigration Court, charging Petitioner with inadmissibility under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). *See* Form I-862, Notice to Appear (“NTA”), dated November 18, 2025, attached as Exhibit D.

On December 11, 2025, Petitioner filed a request for a custody hearing with the Krome Immigration Court, and on December 22, 2025, the Immigration Judge granted Petitioner’s request for a change in custody status. *See* Order of the Immigration Judge, dated December 22, 2025,

attached as Exhibit E. The Immigration Judge ordered Petitioner's release from custody under a bond of \$4,000. *See id.* On that same date, the DHS reserved appeal of this decision and filed its Notice of ICE Intent to Appeal Custody Redetermination. *See id.*; *see also* Form EOIR-43, Notice of ICE Intent to Appeal Custody Redetermination (Form EOIR-43), dated December 22, 2025, attached as Exhibit F. The filing of this Notice automatically stayed the Immigration Judge's custody redetermination decision unless ICE failed to file a notice of appeal within ten business days of the issuance of the order of the Immigration Judge or upon ICE's withdrawal of the intent to appeal. *See id.*; *see also* 8 C.F.R. §1003.09(i)(2). On the same day, DHS filed its Notice of Appeal of the Immigration Judge's custody redetermination order with the Board of Immigration Appeals. *See* Filing Receipt for Appeal Filed by DHS, dated December 22, 2025, attached as Exhibit G.

Petitioner remains in ICE ERO custody at the Broward Transitional Center ("BTC"). *See* Ex. C, Detention History. Petitioner's next hearing before the Immigration Court is scheduled for March 3, 2026. *See* Notice of Hearing, dated January 30, 2026, attached as Exhibit H.

ARGUMENT

I. Improper Parties-Defendant Must Be Dismissed

As a preliminary matter, Petitioner has named several improper parties to this suit. Petition, ¶¶ 20–23, 25. A writ of habeas corpus should "be directed to the person having custody of the person detained." 28 U.S.C. § 2243. In cases involving physical confinement, Supreme Court precedent confirms that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004).

Petitioner is detained at Broward Transitional Center, a detention facility in Broward County, Florida. His immediate custodian is Acting Field Office Director Carlos R. Nunez. Accordingly, the only proper respondent to this case is Mr. Nunez, in his official capacity. He should be substituted as the sole respondent to this action and all other named respondents should be dismissed. *See id.* at 435 ("[I]n habeas challenges to present physical confinement—'core challenges'—the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official."); *see also* *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1300 (S.D. Fla. 2020) (Williams, J.) (citing *Padilla* for the proposition that the sole proper respondent to a habeas petition is the official who has custody over the petitioner).

II. Petitioner's Request for a Custody Redetermination Hearing is Moot.

The Petitioner's request for a bond hearing before an immigration judge should be denied as moot. A district court must dismiss an action if the court lacks jurisdiction over the subject matter of the suit. *See* Fed. R. Civ. P. 12(b)(1), 12(h)(3). A claim is properly dismissed "when it no longer presents a live controversy with respect to which the court can give meaningful relief." *Crown Media, LLC v. Gwinnett County, GA*, 380 F.3d 1317, 1324 (11th Cir. 2004) (internal citation and quotation omitted); *Bathazi v. U.S. Dep't of Homeland Sec.*, 667 F. Supp.2d 1375, 1378 (S.D. Fla. 2009) (quoting *Fla. Ass'n of Rehab. Facilities, Inc. v. Fla. Dep't of Health and Rehab. Servs.*, 225 F.3d 1208, 1216–17 (11th Cir. 2000)) ("A case is moot 'when it no longer presents a live controversy.'"). A Rule 12(b)(1) motion may be either facial, where the inquiry is confined to the allegations in the complaint, or factual, where the court is permitted to look beyond the complaint to extrinsic evidence. *McElmurray v. Consol. Gov't of Augusta-Richmond Cnty.*, 501 F.3d 1244, 1251 (11th Cir. 2007); *see also MAO-MSO Recovery II, LLC v. Boehringer Ingelheim Pharm., Inc.*, No. 1:17-CV-21996-UU, 2017 WL 4682335, at *3 (S.D. Fla. Oct. 10, 2017) (quoting the standard from *McElmurray*, 501 F.3d at 1251).

The case-or-controversy requirement of Article III, Section 2 of the United States Constitution subsists through all stages of federal judicial proceedings. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998), (quoting *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477–478 (1990) and citing *Preiser v. Newkirk*, 422 U.S. 395, 401 (1975)). Although jurisdiction is usually determined at filing, after-arising events can affect jurisdiction because the case-or-controversy requirement of Article III, section 2 of the United States Constitution subsists through all stages of federal judicial proceedings. *Id.* As the Supreme Court explained in *Lewis*, "[t]o invoke the jurisdiction of a federal court, a litigant must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." *Lewis*, 494 U.S. at 477 (citing *Allen v. Wright*, 468 U.S. 737, 750–751 (1984); *Valley Forge Christian College v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 471–473 (1982)). Further, the plaintiff "must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." *Id.* When there is nothing for the Court to redress, a case is moot. *Spencer*, 523 U.S. at 17. Mootness deprives a court of the power to act when there is nothing to remedy. *Id.* at 18.

The Petitioner has already had a bond hearing. As discussed below, there is an appeal process set forth in the INA—the statutes the Petitioner asks the Court to adhere to in Count II of his Petition—that now controls the resolution of that hearing. But the existence of the appeal does not mitigate the fact that he has already been afforded the primary relief that he seeks through this Petition.

III. Petitioner’s Bond is on Appeal.

To the extent that Petitioner seeks relief beyond a bond hearing before an immigration judge, the Petition should be dismissed because the Petitioner’s bond is under appeal and, therefore, not final. Petitioner’s bond determination is currently on appeal before the Board of Immigration Appeals following DHS’s timely appeal and automatic stay of the Immigration Judge’s bond order. *See* Exhibit G, Filing Receipt for Appeal or Motion. That appeal squarely presents the statutory detention question Petitioner raises here. Exhaustion serves important interests of agency autonomy, judicial economy, and the creation of a complete administrative record.

Although exhaustion under § 2241 may be prudential, courts routinely require exhaustion in detention cases absent exceptional circumstances. *See Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). Petitioner has not shown that administrative review is unavailable, futile, or incapable of providing relief. Indeed, the BIA is the appropriate forum to resolve the legal issues surrounding detention authority under §§ 1225 and 1226. Petitioner’s attempt to bypass the BIA simply because of disagreement with its precedent does not excuse exhaustion.

Moreover, pursuant to 8 U.S.C. § 1226(e), “the Attorney General’s discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention of any alien or the revocation or denial of bond or parole.” Therefore, this petition should be denied since this court cannot intervene with the process of the BIA, which involves the mandatory detention of the petitioner while the BIA reviews the appeal.

IV. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

To the extent that the Court must resolve any additional regarding statutory interpretation of 8 U.S.C. §§ 1225 and 1226, the Government contends that Petitioner’s detention should be governed by 8 U.S.C. § 1225. Under the plain language of § 1225(b)(2), the Government is

required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) (“Our analysis begins and ends with the text.”).

A. The Plain Language of § 1225(b)(2) Mandates Detention of Applicants for Admission.

“As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms.” *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). Section 1225(a) deems all aliens who either “arrive[] in the United States” or who are “present in the United States [and] who ha[ve] not been admitted” to be “applicant[s] for admission.” 8 U.S.C. § 1225(a)(1). And “admission” under the Immigration and Nationality Act (“INA”) means lawful entry after inspection by immigration authorities, and not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). *See also Buenrostro-Mendez*, at 2 (“an alien's status as an applicant for admission does not turn on where or how the alien entered the United States”); *Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) (“[R]egardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission.”). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien’s presence in the United States or the alien’s distance from the border.

In turn, § 1225(b)(2) provides that “an alien who is an applicant for admission” “shall be detained” pending removal proceedings if the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statute’s use of the term “shall” makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien’s presence in the country or where in the country the alien is located. Therefore, the statute’s plain text mandates that the Government detain all “applicants for admission” who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was “present in the United States,” and there is no dispute that he has “not been admitted.” 8 U.S.C. § 1225(a); *See Exhibit*.

B, Form I-213. Moreover, Petitioner cannot establish—and has not even alleged that he can establish—that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Therefore, § 1225(b)(2) mandates Petitioner “be detained for a proceeding under [8 U.S.C. § 1229a].” 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for Admission under § 1225(b)(2) are seeking to be legally admitted into the United States.

As explained above, Petitioner is an “applicant[] for admission” under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an “applicant for admission” *is* necessarily “seeking admission.” Moreover, an alien like Petitioner, who is identified by immigration authorities as unlawfully present, and who does not choose to withdraw their application for admission and depart from the United States voluntarily, is “seeking admission,” i.e., seeking legal authority to remain in the United States.

1. The “seeking admission” clause does not negate or otherwise limit the statutorily defined term “applicant for admission”.

Section 1225(b)(2) requires the detention of an “applicant for admission, if the examining officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statutory text and context show that being an “applicant for admission” is a means of “seeking admission”—no additional affirmative step is necessary. In other words, every “applicant for admission” is inherently and necessarily “seeking admission.”

For example, § 1225(a) provides that “[a]ll aliens ... who are applicants for admission *or otherwise* seeking admission or readmission ... shall be inspected.” 8 U.S.C. § 1225(a)(3) (emphasis added). The word “[o]therwise” means “in a different way or manner[.]” *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster’s Third New International Dictionary 1598 (1971)); *see also Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) (“or otherwise” means “the first action is a subset of the second action”). Being an “applicant for admission” is thus a particular “way or manner” of seeking admission, such that an alien who is an “applicant for admission” *is* “seeking admission” for purposes of § 1225(b)(2)(A).² No separate affirmative act is necessary.

² As § 1225 shows, being an “applicant for admission” is only *one* “way or manner” of “seeking admission,” not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents

See Matter of Lemus-Losa, 25 I & N. Dec. 734, 743 (BIA 2012) (“[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be ‘seeking admission’ under the immigration laws”). Accordingly, § 1225(b) unambiguously provides that an alien who is an “applicant for admission” is “seeking admission,” even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute.

As explained above, an “applicant for admission” is “seeking admission” under § 1225. To the extent this reading results in some redundancy in § 1225(b)(2)(A), that “is not a license to rewrite” § 1225 “contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 239 (2020); *see Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) (“sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance” especially when “the arguably redundant words that the drafters employed ... are functional synonyms” (alterations accepted and emphasis in original)).

“The canon against surplusage is not an absolute rule.” *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). “Redundancies are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication.” *Barton*, 590 U.S. at 239. “[R]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text.” *Id.* Thus, as the Supreme Court explained in *Barton*, “[s]ometimes the better overall reading of a statute contains some redundancy.” *Id.*

Moreover, “the surplusage cannon ... must be applied with statutory context in mind” and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present

returning to the United States are not “applicants for admission” because they are already admitted, but they still may be deemed to be “seeking admission” in some circumstances. *See* 8 U.S.C. § 1103(A)(13)(C).

themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

3. Applicants for admission are seeking admission when they seek to lawfully remain in the United States.

Even if this Court finds that “seeking admission” requires some separate affirmative conduct by the alien, an applicant for admission who attempts to avoid removal from the United States, rather than trying to withdraw their application for admission and voluntarily depart, is “seeking admission.”

Section 1225(b)(2)(A) applies to an alien who is present in the United States unlawfully, regardless of how long the alien has been in the United States. Although the alien may not have been affirmatively seeking admission during those years of illegal presence, § 1225(b)(2) is not concerned with the alien’s pre-inspection conduct. Rather, the statute’s use of present tense language (“seeking” and “determines”) shows that its focus is a specific point in time—when “the examining immigration officer” is making a “determin[ation]” regarding the alien’s admissibility. 8 U.S.C. § 1225(b)(2)(A). At *that* point, the alien is “seeking” admission into the United States, and this is a continuing application. *See* The American Heritage Dictionary of the English Language (defining “seek” and “seeking” as “to endeavor to obtain”). If it were otherwise, the applicant would not attempt to show that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). That inference is confirmed by § 1225(a)(4), which authorizes an alien to withdraw their application for admission and voluntarily “depart immediately from the United States.” 8 U.S.C. § 1225(a)(4). An applicant who forgoes that statutory option and instead endeavors to prove admissibility when placed in § 240 removal proceedings by DHS—proceedings in which the alien has the “burden of establishing that [he] is clearly and beyond a doubt entitled to be admitted,” *id.* § 1229a(c)(2)(A)—is endeavoring to obtain admission to the United States in the same way someone who is encountered just after crossing the border is attempting to obtain admission to the United States. Nevertheless, the Respondents’ position remains: mere presence in the United States, after entering without being admitted, renders an alien an “applicant for admission” who is subject to mandatory detention.

C. Section 1226 Does Not Support Petitioner’s Argument.

Petitioner’s reliance upon, and reference to, 8 U.S.C. § 1226 is unavailing. Petitioner’s detention is controlled by § 1225(b)(2), not § 1226. Sections 1225 and 1226 are separate statutory

provisions that provide independent bases for detention and, generally, apply to different groups of aliens. While, as explained below, there is some overlap between the aliens subject to detention under the two detention provisions, that overlap does not create a redundancy because the two statutes provide for different bases for release.

Section 1226(a) authorizes the Executive to “arrest[] and detain[]” *any* “alien” pending removal proceedings. Section 1226(a) provides the detention authority for the significant group of aliens who are *not* deemed “applicants for admission” subject to § 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now removable, like those who overstay a visa or lawful permanent residents who engage in conduct that renders them removable.³ Thus, section 1225(b)(2) is the more specific detention provision. *See RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) (“the specific governs the general”). Accordingly, § 1226(a) does not control Petitioner’s detention.

Section 1226(c) provides for mandatory detention and is an exception to § 1226(a)’s discretionary detention regime. It requires the Executive to detain “any alien” who is deportable or inadmissible for having committed specified offenses or engaged in terrorism-related actions. *See* 8 U.S.C. § 1226(c)(1)(A)-(E). Petitioner has not committed one of the specified offenses and has not engaged in terrorism-related actions. Accordingly, he is not detained under § 1226(c).

D. The Government’s Reading Comports with Congressional Intent.

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA 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. Accordingly, the Government’s reading of the statute is not only supported by the express language of § 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to a result “that Congress designed the Act to avoid”); *New York State Dep’t of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) (“We cannot interpret federal statutes to negate their own stated purposes.”).

³ The detention of any of the millions of aliens who have overstayed their visas is governed by § 1226(a), because those aliens (unlike Petitioner) *were* lawfully admitted to the United States.

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically “entered” the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); see *Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). “Entry” referred to “any coming of an alien into the United States,” 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) “dictated what type of [removal] proceeding applied” and whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA’s prior framework, which distinguished between aliens based on physical “entry,” had

the ‘unintended and undesirable consequence’ of having created a statutory scheme where aliens who entered without inspection ‘could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,’ *including the right to request release on bond*, while aliens who had ‘actually presented themselves to authorities for inspection ... were subject to mandatory custody.

Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att’y General of U.S.*, 693 F.3d 408, 413 n.5 (2012)); see also *Hing Sum*, 602 F.3d at 1100 (similar); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) (“House Rep.”) (“illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection”).

Congress discarded that regime through enactment of IIRIRA. Among other things, that law had the goal of “ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, IIRIRA replaced the prior focus on physical “entry” and instead made lawful “admission” the governing touchstone. IIRIRA defined “admission” to mean “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) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been

lawfully admitted.” House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner’s interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner’s interpretation. *King*, 576 U.S. at 492 (rejecting “petitioners’ interpretation because it would ... create the very [thing] that Congress designed the Act to avoid”).

The Government’s reading, on the other hand, is true to Congress’s intent and should be adopted.

E. The Government’s Reading Accords with *Jennings*.

The Government’s interpretation is consistent with the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to “impos[e] an implicit 6-month time limit on an alien’s detention” under § 1225(b) and § 1226. *Id.* at 292. The Court held that neither provision is so limited. *Id.* at 292, 296–306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with the Government’s reading, the Court recognized in its description of § 1225(b) that § “1225(b)(2) ... serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* at 287.

F. Under *Loper Bright*, the Statute Controls, Not Prior Agency Practice

Any argument that prior agency practice applying § 1226(a) to Petitioner is unavailing because under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 411 (2024) (overturning *Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984)), the plain language of the statute and not prior practice controls. *Hurtado*, 29 I. & N. Dec. at 225–26. In overturning *Chevron*, the Supreme Court recognized that courts often change precedents and “correct[] our own mistakes.” *Loper Bright*, 603 U.S. at 411. *Loper Bright* overturned a decades old agency interpretation of the Magnuson-Stevens Fishery Conservation and Management Act that itself predated IIRIRA by

twenty years. *Id.* at 380. Thus, longstanding agency practice carries little, if any, weight under *Loper Bright*.

V. The Decisions and Certifications in *Maldonado Bautista v. Santacruz* are not binding on this Court.

The Petitioner is not a member of the *Maldonado Bautista* class; therefore, the December 18, 2025, partial final judgment in *Moldonado Bautista v. Santacruz*, No. 5:25-CV-01873 (C.D. Cal. Dec. 18, 2025), D.E. 92, is neither binding nor applicable here and presents no basis for granting the petition. The *Maldonado Bautista* class sought a declaratory judgment that class members such as Petitioner were unlawfully detained under 8 U.S.C. § 1225(b)(2). This is core habeas relief that must be brought as a habeas claim alone. As the Supreme Court made clear just this year, “[r]egardless of whether [] detainees formally request release from confinement,” if “their claims for relief necessarily imply the invalidity of their confinement[], their claims fall within the core of the writ of habeas corpus and thus must be brought in habeas.” *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (internal quotations omitted).

The Supreme Court has imposed two fundamental limits on federal court jurisdiction over core habeas claims. First, “jurisdiction lies in only one district: the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also J.G.G.*, 604 U.S. at 672. Second, a habeas petitioner must name the petitioner’s immediate custodian—*i.e.*, the custodian who has actual custody over the petitioner and can produce the “corpus.” *Padilla*, 542 U.S. at 435. “Failure to name the petitioner’s custodian as a respondent deprives federal courts of personal jurisdiction” needed to issue relief. *Stanley v. Cal. Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994); *Padilla*, 542 U.S. at 444. Thus, a federal district court is wholly without authority to issue the writ in favor of a habeas petitioner who seeks habeas relief in a judicial district in which he is not confined and the immediate custodian is not located. *Padilla*, 542 U.S. at 442-43. And a “judgment entered without personal jurisdiction over a defendant is void as to that defendant.” *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442 (D.C. Cir. 1987).

Given that a challenge to the legality of detention is a core habeas claim, class-wide declaratory relief is inappropriate in the habeas context. *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) (declaratory judgment action not appropriate to address “validity of a defense the State may, or may not, raise in a habeas proceeding” in part because “the underlying claim must be adjudicated in a federal habeas proceeding”); *Fusco v. Grondolsky*, No. 17-1062, 2019 WL

13112044, at *1 (1st Cir. June 18, 2019) (declaratory judgment action must be dismissed when habeas available). Indeed, a class-wide declaratory judgment imposed from outside the district of confinement cannot be squared with the district-of-confinement requirement of habeas, where the relief is an order of release, 28 U.S.C. § 2241(a), not a declaration of legal rights that can later be enforced. *See Calderon*, 523 U.S. at 747 (1998); *Fusco*, 2019 WL 13112044, at *1; *LoBue v. Christopher*, 82 F.3d 1081, 1082 (D.C. Cir. 1996) (holding that the “availability of a habeas remedy in another district ousted us of jurisdiction over an alien’s effort to pose a constitutional attack . . . by means of a suit for declaratory judgment”); *Monk v. Sec. of Navy*, 793 F.2d 364, 366 (D.C. Cir. 1986) (“In adopting the federal habeas corpus statute, Congress determined that habeas corpus is the appropriate federal remedy for a prisoner who claims that he is ‘in custody in violation of the Constitution . . . of the United States,’ This specific determination must override the general terms of the declaratory judgment . . . statute.”).

Therefore, the *Maldonado Bautista* court lacked jurisdiction to issue habeas relief to all class members who are confined outside the Central District of California by immediate custodians outside that District, and a court’s judgment cannot be binding and preclusive against a party over which it lacked jurisdiction. *Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). Indeed, federal district courts have held or recommended that the *Maldonado Bautista* declaratory judgment does not have preclusive effect. *See, e.g.*, Order, D.E. 10, *Morales v. Noem, et al.* Case No. 26-62598-CIV-SINGHAL (S.D. Fla. Jan. 29, 2026); Report and Recommendation, D.E. 25, *Ocegueda Gonzalez v. Noem*, No. 0:25-CV-62261 (S.D. Fla. Dec. 23, 2025), *adopted* at D.E. 28 (Jan. 15, 2026); Order, D.E. 12, *Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025). Petitioner is detained at BTC. Subjecting the immediate custodian to the judgment of the Central District of California would be inconsistent with the immediate custodian rule. *Padilla*, 542 U.S. at 439-40.

Finally, in *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022) the Supreme Court held that § 1252(f)(1) deprives district courts of jurisdiction to issue class wide “injunctions that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out the specific statutory provisions.” *Id.* at 548, 550. Accordingly, the *Maldonado Bautista* court lacks jurisdiction to issue any relief that would be dispositive in this case.⁴

⁴ Section 1252(f)(1) includes one exception, “other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.”

CONCLUSION

For the reasons set forth above, the Petition for Writ of Habeas Corpus should be denied.

Dated: February 9, 2026

Respectfully submitted,

**JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY**

/s/ David Werner

DAVID WERNER

Assistant United States Attorney

Fla. Bar. No. 113436

99 N.E. 4th Street

Miami, Florida 33132

Telephone: (786) 439-3194

Facsimile: (305) 530-7139

Email: David.Werner@usdoj.gov

Counsel for United States of America

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the Service List via CM/ECF.

/s/ David Werner

David Werner

Assistant United States Attorney

Juliana G. Lamardo, Esq.

Law Offices of Juliana G. Lamardo, P.A.

2414 SW 22nd Street, 2nd Floor

Miami, Florida 33145

(305) 444-0099

JLamardo@LamardoLaw.com

Counsel for Petitioner

8 U.S.C. § 1252(f)(1). Pursuant to this one exception, “lower courts retain the authority to ‘enjoin or restrain the operation of’ the relevant statutory provisions ‘with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.’” *Aleman Gonzalez*, 596 U.S. at 550. Accordingly, this Court retains jurisdiction to act in this case.

