

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JOSE LUIS HERRADA RUBALCAVA,

Petitioner,

v.

Case No.: 3:26-cv-162-WWB-SJH

RONNIE WOODALL, Warden at Baker
County Detention Center; **GARRETT J.
RIPA**, Director of the ICE Miami Field
Office; **TODD LYONS**, Acting Director of
ICE; and **KRISTI NOEM**, Secretary of the
U.S. Department of Homeland Security; in
their official capacities,

Respondents.

_____ /

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Jose Luis Herrada Rubalcava challenges his detention by U.S. Immigration and Customs Enforcement (ICE), arguing that his detention violates 8 U.S.C. § 1226 *i.e.*, § 236 of the Immigration and Nationality Act (INA), the decision in *Maldonado Bautista et al. v. SantaCruz, Jr., et al.*, (C.D. Cal. Dec 18, 2025), and due process. Because the decision to detain Petitioner is not subject to review, the Court lacks jurisdiction to entertain the relief sought or, alternatively, Petitioner fails to state a claim upon which relief can be granted. Further, because Rubalcava's detention is lawful, there is no due process violation. The Federal Respondents—Garret J. Ripa in his official capacity as the Director of the ICE Miami Field Office; Todd Lyons in his official capacity as the Acting Director of ICE; and Kristi Noem in her official capacity as Secretary of the Department of Homeland Security—respectfully request that Rubalcava's Petition be denied and this action be dismissed.

Factual Background

Rubalcava is a native and citizen of Mexico. Doc. 1, ¶ 13. Petitioner contends he entered without inspection or admission at or near Laredo Texas on or about June 25, 2006. Exhibit A at p 3 (I-213). Petitioner was encountered by a Customs and Border Patrol (CBP) agent in Florida on October 9, 2025, during a traffic stop. *Id.* Rubalcava was identified as being illegally present in the country and was taken into custody. *Id.* at p 4. Petitioner was ordered detained. *Id.* at p. 8 (Order to Detain or Release Alien).

DHS issued a Notice to Appear on November 12, 2025. Exhibit A at p. 19 (Notice to Appear). Rubalcave was charged with being inadmissible from the United States under INA 212(a)(6)(A)(i), as amended 8 U.S.C. § 1182(a)(6)(A)(i) (alien present in the U.S. without being admitted or parole), and INA 212(a)(7)(A)(i)(I), as amended 8 U.S.C. § 1182(a)(7)(A)(i)(I) (not in possession of valid documents). Exhibit A at p. 7.

Rubalcava had two in custody determinations—on December 12, 2025 and March 2, 2026—and the immigration judge denied bond, determining that as an “applicant for admission” Petitioner’s detention was mandatory under § 1225(b)(2). See Exhibit A at pp. 19-25 (Notice to Appear dated December 12, 2025 and Notice to Appear dated March 2, 2026).

Rubalcava filed his Petition on January 28, 2026; at that time, he had been detained for approximately 104 days. As of this filing, he has been detained for approximately 157 days.

Legal Standard

Federal courts may grant writs of habeas corpus for a petitioner “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021); *Martin v. Beto*, 397 F.2d 741, 749 (5th Cir. 1968).

Discussion

As explained below, the Court lacks jurisdiction. However, even if the Court disagrees, Rubalcava’s claims fail on the merits.

A. Habeas Return on Detention

In a habeas case, the respondent “shall make a return certifying the true cause of the detention.” *Id.* ICE is detaining Rubalcava under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). Rubalcava is free to contend his detention under § 1225 is unlawful or argue he should instead be detained under § 1226(a). But § 1225(b)(2)—not § 1226—is the certified basis on which ICE is detaining Rubalcava.

B. Jurisdiction

The Federal Respondents acknowledge that the legal question in this case regarding the Court’s jurisdiction, or lack thereof, pursuant 8 U.S.C. § 1252(g), substantially overlaps with the jurisdictional question in *Abughali v. Warden, North Florida Detention Center, et al.*, Case No. 3:25-cv-1086-WWB-SJH (Doc. 15, pp 4-6) (Feb. 2, 2026). The Respondents respectfully disagree with the Court’s decision in *Abughali* regarding jurisdiction. However, in the interest of judicial economy and to expedite the

Court's consideration of this matter, the Federal Respondents make the following arguments for preservation purposes:

1. 8 U.S.C. § 1252(g) bars review of Rubalcava's claims. See Exhibit B, *Abughali*, No. 3:25-cv-1086-WWB-SJH (Doc. 7 at p. 4-7) (M.D. Fla.).¹
2. 8 U.S.C. § 1252(b)(9) bars review of these claims. *Id.* at 7-8.

C. Failure to Exhaust

Rubalcava has yet to exhaust his administrative remedies. DHS makes initial decisions about custody and bond—which an IJ may review. 8 C.F.R. § 1003.19(a). But to get a bond hearing, the alien (or his lawyer) must make an application to the IJ for bond redetermination. *Id.* § 1003.19(b)-(c). The IJ's bond redetermination is "separate and apart from" the removal proceedings. *Id.* § 1003.19(d). If the alien disagrees with the IJ's decision, he may appeal to the Board of Immigration Appeals ("BIA"). *Id.* § 1003.1(b)(7).

Even if the Court decides that it has jurisdiction over Petitioner's claim, it must still deny this Petition because Rubalcava has failed to exhaust his administrative remedies. Individuals "seeking habeas relief, including relief pursuant to § 2241, are subject to administrative exhaustion requirements." *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015) (internal citations omitted). While administrative exhaustion is not a jurisdictional requirement, it is still one that must be met. *Id.* The Eleventh Circuit

¹ The Federal Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of efficiency, the Federal Respondents respectfully request that the Court suspend application of the rule in this instance. See M.D. Fla. Local R. 1.01(a)-(b); Fed. R. Civ. P. 1.

explained that “courts may [not] disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense.” *Id.*

Here, Rubalcava has not alleged that he sought review of the denial of bond. This moots his assertions related to being denied a bond. See *Juarez Alfredo v. Warden, Glades Cnty. Detention Ctr.*, No. 2:25-cv-00610-SPC-KCD (Doc. 5) (M.D. Fla. Oct. 17, 2025). To the extent that Rubalcava may argue futility in seeking review of denial of bond, he is mistaken. Futility is not a blank check to relieve Petitioner’s duty to exhaust his remedies. Even if the Court decides that it has jurisdiction over Petitioner’s claim, it must still deny this Petition because he has failed to exhaust his administrative remedies. Individuals “seeking habeas relief, including relief pursuant to § 2241, are subject to administrative exhaustion requirements.” *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015) (internal citations omitted). While administrative exhaustion is not a jurisdictional requirement, it is still one that must be met. *Id.* The Eleventh Circuit explained that “courts may [not] disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense.” *Id.* Here, Federal Respondents assert that Rubalcava has failed to exhaust his administrative remedies.

D. **Merits**

At bottom, Rubalcava alleges ICE’s decision to detain him under § 1225 rather than § 1226 violates the INA (Count 2), the judgment in *Maldonado Bautista v. Noem*, Case No. 5:25-cv-1873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec 18, 2025) (Count 1), and due process under the Fifth Amendment (Count 3). While Rubalcava packages his arguments as three separate claims, they are all one. Nevertheless, these claims fail as a matter of law because he is lawfully detained pursuant to §1225(b)(2).

1. Rubalcava is lawfully detained pursuant to § 1225(b)(2).

To interpret the relevant parts of the INA, courts first turn to the “plain meaning of the statute.” *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2017). If the statutory text is clear, the analysis ends. *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 674 (2020).

The statutory scheme in § 1225(a) provides: “An 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); *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Applicants for admission under this section fall into one of two categories. First, those initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation fall under § 1225(b)(1). Second, everyone else not encompassed by § 1225(b)(1) falls under the § 1225(b)(2) catchall. *Jennings*, 583 U.S. at 287.

Under § 1225(b)(1), aliens are detained for the purpose of expedited removal. Under § 1225(b)(2), the “alien shall be detained for a proceeding under section 1229a”—*i.e.*, full removal proceedings—after “the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Read plainly, these subsections “mandate detention of applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297.

Given its statutory obligation, ICE detained Rubalcava under § 1225(b)(2). Rubalcava does not argue he entered the United States legally and authorization, see generally Doc. 1. Thus, the Parties do not dispute that Rubalcava entered the country illegally and without any authorization. Rubalcava’s detention pending his removal proceedings is not unlawful; rather, it’s statutorily required. 8 U.S.C. § 1225(b)(2)(A); see *Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025).

Essentially, Rubalcava argues § 1225(b)(2) does not apply to aliens—like him—who enter without inspection and are encountered after evading inspection for years. See *generally* Doc. 1. But nothing in the statutory language supports this conclusion. The term alien is expressly contemplated by § 1225(a)(1)—defining applicants as a present alien “who has not been admitted or who arrives in the United States.” Where the statutory text is otherwise clear, courts cannot add words or make up exceptions. *King v. Burwell*, 576 U.S. 473, 486 (2015).

Sections 1225(a)(1) and (b)(2) are unambiguous. There are no geographic qualifiers or any time limitations imposed. 8 U.S.C. § 1225(b)(2). Notably, Congress included such time limitations in other parts of the same statute. For instance, 8 U.S.C. § 1225(b)(1)(A)(iii)(II)—enacted contemporaneously with § 1225(b)(2)—applies a two-year continuous physical presence requirement. When Congress includes language in one part of a statute but omits it in another, it does so intentionally. *E.g.*, *Shotz v. City of Plantation, Fla.*, 344 F.3d 1161, 1168 (11th Cir. 2003). Under these principles, the Court cannot read an additional “place of detention” or “period of residence” requirement into § 1225(b)(2) when it simply isn’t there. Short of legislating, the Court cannot impose limitations on § 1225(b)(2) that Congress did not include. See *Germain v. U.S. Att’y Gen.*, 9 F.4th 1319, 1325 (11th Cir. 2021).

As discussed, an alien’s place of detention or period of residence is irrelevant under the plain language. What is relevant, however, is an alien’s manner of entry. 8 U.S.C. § 1225(a)-(b). Congress members said as much when amending the INA. See *Sturgeon v. Frost*, 587 U.S. 28, 54 (2019) (stating “[t]he legislative history (for those who consider it) confirms, with unusual clarity, all we have said so far.”). The statutory scheme

that § 1225 and § 1226 replaced was structured so aliens who entered the United States undetected retained certain benefits—such as the availability of bond—where those who presented themselves at the border did not:

This subsection is intended to replace certain aspects of the current “entry doctrine,” under which 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 at a port of entry. Hence, the pivotal factor in determining an alien’s status will be whether or not the alien has been lawfully admitted.

H.R. Rep. No. 104-469, pt. 1, at 225 (1996). Recognizing that such a scheme incentivized evasion over presenting oneself at a port of entry, Congress set out to restructure the law to distinguish between deportability—applicable to admitted aliens—and inadmissibility—applicable to those present without admission. *Id.* at 226. So, aliens who enter surreptitiously “will not be considered to have been admitted.” *Id.* Rubalcava’s reading seeks to retroactively nullify this legislative fix and once again restore incentives to circumvent rather than comply with the INA.

While there is no binding precedent in the Eleventh Circuit, the overwhelming number of recent decisions in this District and around the country have been adverse to ICE’s position. See *E.g.*, *Juan Miguel Gomez-Pena v. Secretary, DHS*, No. 3:25-cv-1287-MMH-MCR (Doc. 13) (M.D. Fla. Jan. 12, 2026); *Padilla Orellana v. Warden*, No. 2:25-cv-1195-SPC-NPM (Doc. 13) (M.D. Fla. Jan. 6, 2026); *Garcia Raya v. ICE*, No. 2:25-cv-1109-KCD-DNF (Doc. 7) (M.D. Fla. Dec. 22, 2025); *Melgar v. Secretary*, No. 2:25-cv-1002-JES-DNF (Doc. 12) (M.D. Fla. Dec. 16, 2025). However, a growing number of district court have ruled in the Federal Respondents’ favor on this issue including at least one recent decision in this District and one in the Southern District of

Florida. See, E.g., *Iraheta Morales v. Noem*, --- F. Supp. 3d ---, Case No. 25-62598-Civ-Singhal, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026); *Andres Diaz Lopez v. Director of Enforcement and Removal Operations et al.*, --- F. Supp. 3d ---, Case No. 3:25-cv-1313-JEP-SJH, 2026 WL 261938 (M.D. Fla. Jan. 26, 2026).²

² See also *Chen v. Almodovar*, No. 25 CIV. 9670 (JPC), 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026); *Goyo Martinez v. Villegas*, No. 1:25-CV-256-H, 2026 WL 114418 (N.D. Tex. Jan. 15, 2026); *Cutiopala v. Noem*, No. 1:25-CV-00211-MAL, 2026 WL 113567 (E.D. Mo. Jan. 15, 2026); *Sanchez v. Soto*, No. CV 25-19082 (SDW), 2026 WL 125576 (D.N.J. Jan. 16, 2026); *Ordonez v. Frink*, No. 4:25-CV-06386, 2026 WL 143153 (S.D. Tex. Jan. 20, 2026); *Singh v. Noem*, No. CIV 25-1110 JB/KK, 2026 WL 146005 (D.N.M. Jan. 20, 2026); *Phurtskhvanidze v. Field Office Dir. of Enf't and Removal Operations*, No. 1:25-CV-827, 2026 WL 160833 (S.D. Ohio Jan. 21, 2026); *Espinoza Hernandez v. Olson*, No. 25-CV-1670-BHL, 2026 WL 161509 (E.D. Wis. Jan. 21, 2026); *Karastorian v. Bondi*, No. 5:25-CV-00233, 2026 WL 194391 (S.D. Tex. Jan. 22, 2026); *Benitez Reyes v. Johnson*, No. 1:26-CV-026-H, 2026 WL 274492 (N.D. Tex. Jan. 22, 2026); *Jandres-Ordonez v. Bondi*, No. 6:25-CV-084-H, 2026 WL 274493 (N.D. Tex. Jan. 23, 2026); *Weng v. Genalo*, No. 25 CIV. 09595 (JHR), 2026 WL 194248 (S.D.N.Y. Jan. 25, 2026); *Lopez v. Dir. of Enf't & Removal Operations*, -- F.Supp.3d --, No. 3:25-CV-1313-JEP-SJH, 2026 WL 261938 (M.D. Fla. Jan. 26, 2026); *Ramirez v Holt*, No. 2:25-CV-00156-SCM, 2026 WL 226964 (E.D. Ky. Jan. 28, 2026); *Amaya-Velis v. Raycraft*, No. 4:26-CV-73, 2026 WL 214360 (N.D. Ohio Jan. 28, 2026); *Alvacora v. Olson*, No. 0:26-CV-00675-DMT-SGE, 2026 WL 220417 (D. Minn. Jan. 28, 2026); *Mejia Giron v. Noem*, No. 4:26-CV-00086, 2026 WL 252370 (S.D. Tex. Jan. 28, 2026); *Morales v. Noem*, -- F.Supp.3d --, No. 25-62598-CIV, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026); *Negrete Ramirez v. Noem*, No. 1:25-CV-00206-CMS, 2026 WL 251725 (E.D. Mo. Jan. 30, 2026); *Higareda-Cano v. Noem*, No. 1:25-CV-225-H, 2026 WL 274495 (N.D. Tex. Jan. 30, 2026); *Hernandez Gomez v. Daley*, No. 2:25-CV-00150-SCM, 2026 WL 252496 (E.D. Ky. Jan. 30, 2026); *Perez Quintero, v. Francis*, No. 25-CV-10107 (MKV), 2026 WL 265921 (S.D.N.Y. Feb. 2, 2026); *Espinoza Lopez v. Noem*, No. 26 CIV. 00345 (JHR), 2026 WL 266597 (S.D.N.Y. Feb. 2, 2026); *Acosta v. Arteta*, No. 1:25-CV-9916 (MKV), 2026 WL 263470 (S.D.N.Y. Feb. 2, 2026); *N. v. Bondi*, No. 26-258 (PAM/DLM), 2026 WL 272403 (D. Minn. Feb. 2, 2026); *Martinez Rodriguez v. Warden, Bluebonnet Detention Facility*, No. 1:26-CV-044-H, 2026 WL 278020 (N.D. Tex. Feb. 3, 2026); *Guevara v. Easterwood*, No. 0:26-CV-00789-DMT-LIB, 2026 WL 278924 (D. Minn. Feb. 3, 2026); *Arana v. Arteta*, No. 1:26-CV-240-GHW, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026); *Singh v. Noem*, No. 1:26-CV-036-H, 2026 WL 306395 (N.D. Tex. Feb. 3, 2026); *Guzman Diaz, v. Noem*, No. 3:25-CV-3008-X-BN, 2026 WL 309938 (N.D. Tex. Feb. 5, 2026); *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026); *Zhuang v. Bondi*, No. 1:25-CV-00201-CMS, 2026 WL 352872 (E.D. Mo. Feb. 9, 2026); *Vergara v. Noem*, No. 3:25-CV-2075-E (BT), 2026 WL 353026 (N.D. Tex. Feb. 9, 2026); *Perez Chavez v. Noem*,

-- F.Supp.3d --, No. CV-26-00323-PHX-MTL (JFM), 2026 WL 381618 (D. Ariz. Feb. 9, 2026); *D.M.R.D. v. Andrews*, No. 1:26-CV-00081-WBS-CSK, 2026 WL 353405 (E.D. Cal. Feb. 9, 2026); *Perez Garcia v. Noem*, No. CV 26-0177, 2026 WL 373863 (W.D. La. Feb. 10, 2026); *Saamishvili v. Flanagan*, No. 25-CV-6178 (BMC), 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026); *Alvarado Quezada v. Francis*, No. 26 CIV. 387 (JPC), 2026 WL 380711 (S.D.N.Y. Feb. 11, 2026); *Cortez v. Lynch*, No. 1:25-CV-822, 2026 WL 82039 (S.D. Ohio Jan. 12, 2026); *Garibay-Robledo v. Noem*, -- F. Supp. 3d --, No. 1:25-CV-177-H, 2026 WL 81679 (N.D. Tex. Jan. 9, 2026); *Singh v. Noem*, No. 2:25-CV-00157-SCM, 2026 WL 74558 (E.D. Ky. Jan. 9, 2026); *Benitez v. Bradford*, No. 4:25-CV-06178, 2026 WL 82235 (S.D. Tex. Jan. 8, 2026); *Cruz Rodriguez v. Olson*, -- F. Supp. 3d --, No. 1:25-CV-12961, 2026 WL 63613 (N.D. Ill. Jan. 8, 2026); *D.M.R.D. v. Andrews*, No. 1:26-CV-00081-WBS-CSK, 2026 WL 61504 (E.D. Cal. Jan. 8, 2026); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2026 WL 44683 (N.D. Tex. Jan. 7, 2026); *Naikpay v. Sukkar*, No. 2:25-CV-1167-KCD-DNF, 2026 WL 44820 (M.D. Fla. Jan. 7, 2026) (Dudek, J.); *Azizzadeh v. Rhoney*, No. 25-CV-1288 (JLS), 2026 WL 44324 (W.D.N.Y. Jan. 6, 2026); *Gutierrez Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344 (W.D. Okla. Jan. 6, 2026); *Parra v. Sec'y, DHS*, No. 2:25-CV-1116-KCD-DNF, 2026 WL 21243 (M.D. Fla. Jan. 5, 2026) (Dudek, J.); *Rodriguez v. Jeffreys*, No. 8:25CV714, 2025 WL 3754411 (D. Neb. Dec. 29, 2025); *Zuniga v. Lyons*, No. 1:25-CV-221-H, 2025 WL 3755126 (N.D. Tex. Dec. 29, 2025); *Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Pastor v. Dir. of Detroit Field Off.*, No. 4:25-CV-02761, 2025 WL 3746495 (N.D. Ohio Dec. 24, 2025); *Masis Lucero, v. Field Office Director of Enforcement and Removal Operations*, No. 1:25-CV-823, 2025 WL 3718730 (S.D. Ohio Dec. 23, 2025); *A.M. v. Joyce*, No. 2:25-CV-00615-LEW, 2025 WL 3706922 (D. Me. Dec. 22, 2025); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Rivera Hernandez v. Noem*, No. 9:25-CV-00326, 2025 WL 3754434 (E.D. Tex. Dec. 19, 2025); *Zapata v. Chestnut*, No. 1:25-CV-01922-WBS-CKD, 2025 WL 3687643 (E.D. Cal. Dec. 19, 2025); *Bartolon v. Bondi*, No. 1:25-CV-747, 2025 WL 3674604 (S.D. Ohio Dec. 18, 2025); *E.R.J.B. v. Wofford*, No. 1:25-CV-01843-WBS-SCR, 2025 WL 3683118 (E.D. Cal. Dec. 18, 2025); *Romero Rebolledo v. Chestnut*, No. 1:25-CV-01904-WBS-CKD, 2025 WL 3683122 (E.D. Cal. Dec. 18, 2025); *Padilla v. Galovich*, No. 25-CV-865-JDP, 2025 WL 3640960 (W.D. Wis. Dec. 16, 2025); *Coronado v. Sec'y, DHS*, No. 1:25-CV-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *Liang v. Almodovar*, No. 1:25-cv-09322, 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); *P. B. v. Bergami*, No. 3:25-CV-02978-O, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025); *Delgado v. Noem*, No. 9:25-CV-00329, 2025 WL 3639439 (E.D. Tex. Dec. 12, 2025); *Garcia v. U.S. Attn'y Gen.*, No. 2:25-CV-1053-KCD-DNF, 2025 WL 3537592 (M.D. Fla. Dec. 10, 2025) (Dudek, J.); *Rodriguez v. Noem*, No. 9:25-CV-00320, 2025 WL 3639440 (E.D. Tex. Dec. 10, 2025); *Oliveria v. Albarran*, No. 1:25-CV-01760 WBS AC, 2025 WL 3525923 (E.D. Cal. Dec. 9, 2025); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025); *Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025); *Chen v. Almodovar*, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL

Respondents acknowledge there is clearly a split amongst district courts across the country on applying § 1225 or § 1226. Recently, the Fifth Circuit decided in favor of the Federal Respondents in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (2026),³ holding that unadmitted applicants for admission apprehended within the United States are seeking admission and are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and reversing the district court's orders which had directed the Government to either provide the petitioners with bond hearings or release them from immigration detention. *Id.* at 498.⁴ Currently, there are active appeals regarding this

3482630 (C.D. Cal. Dec. 2, 2025); *Suarez v. Noem*, No. 1:25-cv-00202-JMD, 2025 WL 3312168, at *2-3 (E.D. Mo. Nov. 28, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519 WBS SCR, 2025 WL 3208284, at *1-5 (E.D. Cal. Nov. 17, 2025); *Manzo Valencia v. Chestnut*, No. 1:25-cv-01550 WBS JDP, 2025 WL 3205133, at *1-4 (E.D. Cal. Nov. 17, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-cv-09785-SVW-AJR, 2025 WL 3199872, at *4-9 (C.D. Cal. Nov. 12, 2025); *Montoya Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331, at *3-7 (S.D. Tex. Nov. 13, 2025); *Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *2-5 (E.D. Mo. Nov. 10, 2025); *Oliveira v. Patterson*, No. 6:25-cv-01463-DCJ-DJA, 2025 WL 3095972, at *2-6 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926, *2-6 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, at *2-10 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, No. 1:25-cv-00177-H (Doc. 9) (N.D. Tex. Oct. 24, 2025); *Kum v. Ross*, No. 6:25-cv-00451-DCJ-CBW, 2025 WL 3113646, at *1-2 (W.D. La. Oct. 22, 2025); *Vargas v. Lopez*, No. 25-CV-526, 2025 WL 2780351, at *4-9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250CAB-SBC, 2025 WL 2730228 at *4-5 (S.D. Cal. Sept. 24, 2025).

³ *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025).

⁴ *But see Cinto v. Warden, Florida Soft Sided Facility South*, No. 2:26-cv-00459-SPC-NPM, 2026 WL 657091, at *1 n.1 (M.D. Fla. Mar. 9, 2026) (rejecting the reasoning of *Buenrostro-Mendez*) and *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1061-62 (7th Cir. 2025) (motions panel decision which determined the Government was "not likely to succeed on the merits" of its argument that aliens present in the United States without admission are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A)).

issue in the Eleventh Circuit and oral argument is scheduled for March 26, 2026, see *Hernandez Alvarez v. Warden, Federal Detention Center Miami et al.*, No. 25-14065 (11th Cir.) and *Cerro Perez v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, No. 25-14075 (11th Cir.),⁵ and active appeals in at least two other circuits, see, e.g., *Lopez-Campos v. Raycraft*, No. 25-1965 (6th Cir.) (Doc. 29) (argument scheduled for March 18, 2026); *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir.) (Doc. 60) (argued and submitted on March 4, 2026).⁶

Rubalcava contends his detention under § 1225 is improper and his detention should be under § 1226(a). See generally Doc. 1. But Rubalcava did not meet his burden to establish detention under § 1226 should apply to him. Section 1226 is far broader than § 1225. Specifically, § 1226 applies to any “alien.” 8 U.S.C. § 1226(a). An “alien” is “any person not a citizen or national of the United States.” *Id.* § 1101(a)(3). Meanwhile, the phrase “applicant for admission” in § 1225(b)(2) has distinct meaning, and not every single alien entering without inspection falls under this provision. Rather, the facts and circumstances concerning Rubalcava demonstrate he is an applicant for admission under § 1225(b)(2).

⁵ See *Hernandez Alvarez v. Warden, Federal Detention Center Miami, et al.*, Case No. 1:25-cv-24806-KMW (S.D. Fla. Oct. 27, 2025); *Cerro Perez v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, Case No. 1:25-cv-24820-KMW (S.D. Fla. Oct. 27, 2025).

⁶ The district court decisions from which those appeals were taken are *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, No. 1:25-cv-24806-KMW (S.D. Fla. Oct. 27, 2025), *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771 (E.D. Mich. Aug. 29, 2025), and *Rodriguez v. Bostock*, 802 F. Supp. 3d 1297 (W.D. Wash. Sept. 30, 2025).

Rubalcava illegally entered the United States, according to him, nearly twenty years ago. He has no permission or status to remain in this country. So, it's undisputed Rubalcava has not been admitted to the United States.

Due to Rubalcava's unlawful immigration status, ICE is pursuing removal proceedings. Rubalcava has not stipulated that he is removable; nor has he indicated he will not contest removal. At any point, Rubalcava can seek release from detention to depart the United States voluntarily. 8 U.S.C. § 1229c(a). But again, there is no indication he has any intention of doing so. Everything suggests Rubalcava will not agree to leave.

Yet, he has no status and was never admitted to the United States. Put differently, Rubalcava must be an applicant for admission if he wants to stay here. *Vargas Lopez*, 2025 WL 2780351, at *9 (stating petitioner "wishes to stay in this country. This makes [him] an 'applicant for admission,' consistent with the conclusion of the BIA in *Hurtado* and *Jennings*."). The alternative would be seeking an order to somehow remain unlawfully in the United States. *Id.* (stating that petitioner "illegally remained in this country for years does not mean that he is suddenly not an 'applicant for admission' under § 1225(b)(2)."); *Hurtado*, 29 I&N at 221 (stating "[i]f he is not admitted to the United States (as he admits) but he is not 'seeking admission' (as he contends), then what is his legal status?"). At bottom, unless Rubalcava wants to leave, he is either an applicant for admission or seeking to remain here illegally.

To be clear, any alien intending to stay in the United States on any permanent basis must be admitted even if that's twenty years after arriving. In the context of immigration law, "admission" is not like sneaking into a second showing at the movie theater where entry is de facto admission. Rather, this is a legal term of art. *Matter of*

Lemus Losa, 25 I. & N. Dec. 734, 743 n.6 (BIA 2012) (noting “seeks admission” used by Congress “as a term of art”). The terms “admission” or “admitted” here 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).

Congress knows how to use a term of art. *E.g.*, *FAA v. Cooper*, 566 U.S. 284, 292 (2012) (stating “it is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken.” (cleaned up)). Rubalcava may have been living in the United States illegally for several years; but he was never admitted—which is what makes his presence unlawful in the first instance. 8 U.S.C. § 1182(a)(6)(A)(i) (inadmissibility for presence “without being admitted”). The INA treats aliens as seeking admission even if they entered illegally and never formally applied. 8 U.S.C. § 1225(a)(1); *Lemus Losa*, 25 I. & N. Dec. at 743 n.6 (Unlawful entrants “deemed *constructive* applicants for admission by operation of” § 1225(a)(1).). Legislative word choices—especially terms of art—must have meaning. Congress chose to define “applicants for admission” as “[a]n alien present in the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1).

The recent enactment of the Laken Riley Act bolsters this conclusion. See Pub. L. No. 119-1, 139 Stat. 3 (2025). There, the categories of individuals subject to mandatory detention expanded to include those who entered the United States and were charged as inadmissible under § 1182(a)(6)(A)(i) or (a)(7) and have committed—or been charged or convicted of—certain specified crimes. See 8 U.S.C. § 1226(c)(1)(E). Were “applicant for admission” under § 1225 interpreted as narrow as Rubalcava argues, then there would

be no need to pass *Laken Riley*. Those aliens now covered by § 1226(c)(1)(E) would have already been subject to mandatory detention. Even if there are redundancies, those “are common in statutory drafting” and provide no “license to rewrite or eviscerate another portion of the statute contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 229 (2020) (stating “[t]he Court has often recognized: Sometimes the better overall reading of the statute contains some redundancy.” (cleaned up)).

Likewise, ICE’s position has been consistent since detaining Rubalcava. ICE initiated removal proceedings are under § 1229a—not § 1225 or § 1226. When ICE detained Rubalcava, it did so under the provision tailored to his circumstances (*i.e.*, § 1225(b)(2)).

Finally, the fact that longstanding practice may have differed is not dispositive. The Constitution empowers the Judiciary to exercise judgment regarding the interpretation of laws independent from the political branches. U.S. Const. art. 3, § 2, cl. 1; *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024). The question for this Court is not ICE’s historical practice; instead, the inquiry is the correct statutory interpretation. As discussed, the best reading of the INA is what its words say—confirming ICE may detain Rubalcava under § 1225(b)(2). As explained, Rubalcava’s detention under § 1225(b)(2) is lawful. The INA mandates his detention.

2. ***Maldonado Bautista* should not be applied**

Contrary to Rubalcava’s assertions, the *Maldonado Bautista* decisions should not be applied in this case and, thus, do not entitle him to the relief he seeks.

First, as of March 6, 2026, the Ninth Circuit has administratively stayed the December 18, 2025 declaratory judgments entered in *Maldonado Bautista* “insofar as

the district court's judgment extends beyond the Central District of California (Dkt Nos. 93 and 94)⁷ and the February 18, 2026 order vacating *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216,⁸ pending a ruling on the Government's emergency motion for a stay pending appeal. Exhibit C (*Maldonado Bautista, et al., v. US DHS, et al.*, No. 26-1044 (9th Cir. March 6, 2026)). As a result, the *Maldonado Bautista* decisions do not extend beyond the borders of California. Thus, *Hurtado* remains binding on ICE and immigration judges. See 8 U.S.C. §1103(a)(1) (stating "determination and ruling by the Attorney General to all questions of law shall be controlling").

Second, even if Petitioner does fit within the class in *Maldonado Bautista*, that decision is not binding on this Court because "absent the application of *res judicata* or collateral estoppel, a district court is not bound by another district's judgment," *Iraheta Morales*, --- F. Supp. 3d ---, Case No. 25-62598-Civ-Singhal (Doc. 10 at 16), 2026 WL

⁷***Maldonado Bautista, et al., v. Santacruz, Jr., et al.***, --- F.Supp.3d ---, Case No. 5:25-cv-1873-SSS-BFM (Dkt 93), 2025 WL 3713987 (C.D. Cal. Dec 18, 2025) (amended order consolidating the court's order on motion for partial summary judgment, class certification, and application for reconsideration or clarification (Dkt. Nos. 81, 82, 87)). ***Maldonado Bautista, et al., v. Noem, et al.***, --- F.Supp.3d ---, Case No. 5:25-cv-1873-SSS-BFM (Dkt 94), 2025 WL 3678485 (C.D. Cal. Dec 18, 2025) (final judgment, declaring (1) that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b); (2) that, pursuant to Defendants' regulations, see 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), re not subject to mandatory detention under § 1225(b), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge; and vacating (3) the DHS policy described in the July 8, 2025, "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the APA as not in accordance with law, 5 U.S.C. § 706(2)(A)).

⁸***Maldonado Bautista, et al., v. Noem, et al.***, Case No. 5:25-cv-1873-SSS-BFM (Dkt 116) (C.D. Cal. Feb 18, 2026) ("vacat[ing] *Matter of Yajure Hurtado* as contrary to law under the APA.")

236307, at *8 (S.D. Fla. Jan 29, 2026) (citing *Stone v. First Union Corp.*, 371 F.3d 1305, 1310 (11th Cir. 2004)). Here, Petitioner has not argued *res judicata* or collateral estoppel; and neither would apply to her case. *Id.* Hence, this Court should not give preclusive effect to the declaratory final judgment entered in *Maldonado Bautista* on December 18, 2025.

Third, even without the Ninth Circuit stay, the declaratory judgment entered in *Maldonado Bautista* has no preclusive effect outside of the Central District of California and over custodians who are located outside of that District. See *Calderon v. Ashmus*, 523 U.S. 740, 747 (1998). See also *Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). Hence, the Court should not apply the declaratory judgment entered in *Maldonado Bautista* to this case.

3. No Due Process Violations.

In Count 3, Rubalcava argues that his detention violates due process under the Fifth Amendment. Doc. 1 at ¶¶ 32-42. However, Petitioner is in removal proceedings. The Supreme Court has held that §1225(b)(2) “mandate[s] detention of aliens throughout the completion of applicable proceedings [for removal] and not just until the moment those proceedings begin.” *Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018). Because § 1225(b)(2) is the proper basis for detention, there is no Fifth Amendment violation caused by detaining Petitioner or denial of bond hearing.

Dated: March 14, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 14, 2026, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send notice of filing and a downloadable copy of the filed document to the following CM/ECF participant listed below:

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EXHIBITS

A COMPOSITE EXHIBIT-RUBALCAVA'S ICE RECORDS

- I-213 dated Oct 9, 2025 (pp 1-5)
- I-265 dated Oct 9 2025 (p 6)
- I-862 dated Oct 9, 2025 (p 7)
- Order to Detain or Release Alien (p 8)
- Notice to Appear, Bond, and Custody Processing Sheet (p. 9)
- Notificacion de Derechos Y Solicitud de Resolucion (p 10)
- In Custody Redetermination Proceedings dated March 2, 2026 (pp 11-14)
- In Custody Redetermination Proceedings dated Dec 12, 2025 (pp 15-18)
- Notice to Appear (pp 19-22)
- Notice to Appear (pp 23-25)
-

B *Abughali v. Warden, North Florida Detention Center, et al.*, Case No. 3:25-cv-1086-WWB-SJH (Doc. 7) (Nov 24, 2025) (Redacted)

C *Maldonado Bautista, et al., v. US DHS, et al.*, No. 26-1044 (9th Cir. March 6, 2026)