**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

EDVIN MISAEL ALVAREZ JUAREZ **PETITIONER**

V. **CIVIL ACTION NO. 5:26-cv-00030-DCB-BWR**

**RAFAEL VERGARA, WARDEN,
ADAMS COUNTY CORRECTIONAL CENTER** **RESPONDENT**

**RESPONSE IN OPPOSITION TO PETITION
FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

Respondent Rafael Vergara, Warden of Adams County Correctional Center, by and through the United States Attorney for the Southern District of Mississippi, and the undersigned Assistant United States Attorney, submits this response in opposition to Petitioner Edvin Misael Alvarez Juarez's petition [1] for writ of habeas corpus under 28 U.S.C. § 2241.

I. INTRODUCTION

On January 28, 2026, Petitioner Edvin Misael Alvarez Juarez filed a § 2241 petition, challenging his detention within the institutional custody of Immigration and Customs Enforcement ("ICE") and requesting immediate release. *See* Dkt. No. 1, at 1. He also seeks an order enjoining his transfer out of this District and ordering Respondent to return all personal property taken in connection with his arrest and detention. *See id.* at 10.

As explained below, Alvarez Juarez has not exhausted his administrative remedies, as his removal proceedings are still pending, and the immigration judge has not yet ruled on his motion for a bond hearing. Additionally, under the Fifth Circuit's reasoning in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), Alvarez Juarez is unambiguously an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Furthermore, a habeas petition is not the proper avenue for asserting claims regarding conditions of confinement.

And to the extent Alvarez Juarez seeks relief based on the class action lawsuit and order from the District of Massachusetts a in *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS (D. Mass. Dec. 19, 2025), that claim, too, should be denied, as it is neither binding nor applicable here and presents no basis for granting the petition. Accordingly, his petition should be denied.

II. Background

Alvarez Juarez is a native and citizen of Guatemala. *See* Ex. A, at 1, *Notice to Appear*. He entered the United States without inspection at an unknown place and time. *See id.*

On December 31, 2025, Alvarez Juarez was arrested by ICE and served a Notice to Appear, charging him under section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), with being an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and under 212(a)(7)(A)(i)(I) with being "an immigrant who, at the time of

application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act." *See id.* at 4. He was also served a Warrant for Arrest and Notice of Rights. *See* Ex. B, at 3, *Form I-213*; Ex. C, *Warrant for Arrest.*

Following his apprehension by ICE, Alvarez Juarez requested a bond hearing with an immigration judge. *See* Dkt. No. 1, at ¶ 17(a). This request remains pending.

Alvarez Juarez is being detained pursuant to 8 U.S.C. § 1225(b)(2)(A). He does not have a final order of removal.

III. LEGAL FRAMEWORK

A. The Pre-IIRIRA Framework Gave Preferential Treatment to Aliens Unlawfully Present in 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. *See Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010). "Entry" referred to "any coming of an alien into the United States." 8 U.S.C. § 1101(a)(13) (1994). 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.

At the time, the INA "provided for two types of removal proceedings: deportation hearing and exclusion hearings." *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc). "A deportation hearing was the 'usual means of proceeding against an alien already physically in the United States,' while an exclusion hearing was the 'usual means of proceeding against an alien outside the United States seeking admission.'" *Id.* Aliens in deportation proceedings, unlike those in exclusion proceedings, were entitled to request release on bond. *See Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (2012) ("'Non-citizens who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' while non-citizens who actually presented themselves to authorities for inspection were restrained by 'more summary exclusion proceedings.'").

B. IIRIRA Eliminated the Preferential Treatment of Aliens Unlawfully Present in the United States and Mandated Detention of all "Applicants for Admission."

Congress discarded that regime through enactment of IIRIRA[1], Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996). Among other things, that law had the goal of "ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA – in the

[1] The Illegal Immigration Reform and Immigrant Responsibility Act.

position of an 'applicant for admission.'" *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, "[u]nder the new regime, 'admission' now determines whether a non-citizen is subject to grounds of deportability or inadmissibility within the context of a removal proceeding." *Hing Sum*, 602 F.3d at 1100.

IIRIRA effected these changes through several provisions codified in Section 1225 of Title 8:

Section 1225(a): Section 1225(a) codifies Congress's decision to make lawful "admission," rather than physical entry, the touchstone. That provision states that an alien "present in the United States who has not been admitted or who arrives in the United States" "shall be deemed ... an applicant for admission":

> An alien *present in the United States who has not been admitted* or *who arrives in the United States* (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) *shall* be deemed for purposes of this chapter an *applicant for admission*.

8 U.S.C. § 1225(a)(1) (emphasis added). "All aliens ... who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States" are required to "be inspected by [an] immigration officer[]." *Id.* § 1225(a)(3).

Section 1225(b): IIRIRA also divided removal proceedings into two tracks—expedited removal and non-expedited Section 240 proceedings—and mandated that applicants for admission be detained pending those proceedings. *See* 8 U.S.C. §§ 1225(b)(1)-(2).

Section 1225(b)(1) provides for so-called "expedited removal proceedings," *DHS v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020), which can potentially be applied to a subset of aliens—those who (1) are "arriving in the United States," or who (2) have "not been admitted or paroled into the United States" and have "not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(i)-(iii). As to these aliens, the immigration officer shall "order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum ... or a fear of persecution." *Id.* § 1225(b)(1)(A)(i). In that event, the alien "shall be detained pending a final determination of credible fear or persecution and, if found not to have such a fear, until removed." *Id.* § 1225(b)(1)(B)(iii)(IV); *see also* 8 C.F.R. § 235.3(b)(4)(ii). An alien processed for expedited removal who does not indicate an intent to apply for a form of relief from

removal is likewise detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(iii).

Section 1225(b)(2) is a "catchall provision that applies to all applicants for admission not covered by [subsection (b)(1)]." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). It requires that these aliens be detained pending Section 240 removal proceedings:

> Subject to subparagraphs (B) and (C), in the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title [Section 240].

8 U.S.C. § 1225(b)(2)(A) (emphasis added);[2] *see* 8 C.F.R. § 253.3(b)(1)(ii) (mirroring Section 1225(b)(2) detention mandate); *Jennings*, 583 U.S. at 302 (holding that Section 1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin").

While Section 1225(b)(2) does not allow for aliens to be released on bond, the INA grants DHS discretion to exercise its parole authority to temporarily release an applicant for admission, but "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Parole, however, "shall not be regarded as admission of the alien." *Id.*; *Jennings*, 583 U.S. at 288 (discussing parole authority). Moreover, when the Secretary determines that "the purposes of such parole ... have been

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[2] Subsection (b)(2) does not apply to (1) aliens subject to expedited removal, (2) crewmen, (3) stowaways, or (4) aliens who "arriv[e] on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States." 8 U.S.C. § 1225(b)(2)(B)-(C).

served," the "alien shall ... be returned to the custody from which he was paroled" and be "dealt with in the same manner as that of any other applicant for admission to the United States." 8 U.S.C. § 1182(d)(5)(A).

In sum, the key distinction between sections (b)(1) and (b)(2) of 1225 is that only (b)(1) provides for expedited removal, while section (b)(2) provides for standard removal proceedings under § 1229a. Both sections require mandatory detention pending conclusion of the inspection process, whether it is by expedited removal or the conclusion of § 1229a removal proceedings.

Section 1226: IIRIRA also created a separate authority addressing the arrest, detention, and release of aliens generally (versus applicants for admission specifically). *See* 8 U.S.C. § 1226. This is the only provision that governs the detention of aliens who, for example, lawfully enter the country but overstay or otherwise violate the terms of their visas, or are later determined to have been improperly admitted. *See Jennings*, 583 U.S. at 303 (stating that "§ 1226 applies to aliens already present in the United States"). The statute provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." *Id.* § 1226(a). Detention under this provision is generally discretionary: The Attorney General "may" either "continue to detain the arrested alien" or release the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2).[3]

[3] Conditional parole under Section 1226(a) is broader than parole under Section 1182(d)(5)(A).

That "default rule," however, does not apply to certain criminal aliens who are being released from detention by another law enforcement agency. *Jennings*, 583 U.S. at 288; *see* 8 U.S.C. § 1226(c). Section 1226(c) provides that "[t]he Attorney General shall take into custody" certain classes of criminal aliens—those who are inadmissible or deportable because the alien (1) "committed" certain offenses delineated in 8 U.S.C. §§ 1182 and 1227; or (2) engaged in terrorism-related activities. 8 U.S.C. § 1226(c)(1)(A)-(E). The Executive must detain these aliens "when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense." *Id.*

Congress recently amended Section 1226(c) through the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3, (2025), which requires detention of (and prohibits parole for) aliens who (1) are inadmissible because they are physically present in the United States without admission or parole, have committed a material misrepresentation or fraud, or lack required documentation; and (2) are "charged with, [] arrested for, [] convicted of, admit[] having committed, or admit[] committing acts which constitute the essential elements of" certain listed offenses. 8 U.S.C. § 1226(c)(1)(E).[4]

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[4] The Laken Riley Act's addition of § 1226(c) does not invalidate §1225(b)'s mandatory detention requirement merely because it could appear redundant. As the Supreme Court has acknowledged, "redundancies are common in statutory drafting … redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute…" *Barton v. Barr*, 590 U.S. 222, 239 (2020).

IV. ARGUMENT

In this case, Alvarez Juarez seeks release under Section 1226(a). Alvarez Juarez, however, has not exhausted his administrative remedies, as his request for a bond hearing before an immigration judge as well as his removal proceedings are still pending. He is also unambiguously an "applicant for admission" subject to mandatory detention under Section 1225(b)(2), as he entered the country without inspection and without being admitted into the United States.

A. The Court should deny the petition for failure to exhaust administrative remedies.

A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. *See, e.g., Gallegos-Hernandez v. United States*, 688 F.3d 190, 194 (5th Cir. 2012) (holding that a federal prisoner seeking habeas relief under § 2241 must first exhaust all available administrative remedies); *Hinojosa v. Horn*, 896 F.3d 305, 314 (5th Cir. 2018) (same); *United States v. Cleto*, 956 F.2d 83, 84 (5th Cir. 1992) (same); *accord Lee v. Gonzales*, 410 F.3d 778, 786 (5th Cir. 2005) ("[A] petitioner must exhaust available avenues of relief and turn to habeas only when no other means of judicial review exists."); *see also Amaya-Velis v. Raycraft*, No. 4:26-cv-73, 2026 WL 100596, at *4-5, *6 (N.D. Ohio Jan. 14, 2026) (dismissing petition for lack of exhaustion, noting that his case might "be one in which the agency changes or refines its policy announced in *Matter of Yajure Hurtado* through agency adjudication. That prerogative belongs in the first instance to the agency, which also has the knowledge and ability and to adopt policies that are more tailored to the statutory scheme

it is tasked with implementing in a way that courts are not."); *Quinonez Mercado as next friend of Abarca-Jovel v. Dep't of Homeland Sec.*, No. 1:25-CV-12066-JEK, 2025 WL 2430423, at *3 (D. Mass. Aug. 22, 2025) (denying habeas petition where petitioner never sought a bond hearing immigration court); *Palacios v. Venegas*, No. 1:25-CV-00108, 2025 WL 1999169, at *3 (S.D. Tex. June 9, 2025), *report and recommendation adopted*, No. 1:25-CV-00108, 2025 WL 1994779 (S.D. Tex. July 17, 2025) (dismissing case for lack of exhaustion where the petitioner admitted he had "never been to a court" or gone before an immigration judge); *Singh v. U.S. Immigr. & Customs Enf't*, No. CV H-22-3432, 2023 WL 3571958, at *2 (S.D. Tex. Apr. 26, 2023) (finding habeas relief unwarranted where the petition had not requested a bond hearing before an immigration judge before filing his petition).

"Exhaustion allows an agency the first opportunity to apply [its] expertise and obviat[es] the need for [judicial] review in cases in which the agency provides appropriate redress." *Brito v. Garland*, 22 F.4th 240, 256 (1st Cir. 2021) (internal quotations omitted). It also "create[s] a useful record for subsequent judicial consideration." *Id.*

Here, Alvarez Juarez asserts that § 1226, not § 1225(b)(2) applies to him, and requests a bond hearing. *See* Dkt. No. 1, at ¶¶ 41-45. However, his request for a bond hearing is still pending before an immigration judge. Furthermore, his removal proceedings are still pending, as he does not have a final order of removal. Accordingly, his petition should be denied for failure to exhaust administrative remedies.

B. Even on the merits, Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) and is not entitled to release.

1. Petitioner is an "applicant for admission."

Alvarez Juarez asserts that he is entitled to a bond hearing under 8 U.S.C. § 1225(b). *See* Dkt. No. 1, at ¶ 41. Alvarez Juarez, however, unambiguously meets every element in the text of 8 U.S.C. § 1225(b)(2)(A), which mandates his detention.

The applicable detention statute, 8 U.S.C. § 1225(b)(2)(A), is simple and unambiguous. As noted above, the statute expressly provides "in the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

The first relevant term is "applicant for admission," which is statutorily defined. *See* 8 U.S.C. § 1225(a)(1). The statute deems any alien (a person who is not a citizen or national of the United States, 8 U.S.C. § 1101(a)(3)) "present in the United States who has not been admitted" to be an "applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, under its plain terms, all unadmitted foreign nationals in the United States, like Alvarez Juarez, are "applicants for admission," regardless of their proximity to the border, the length of time they have been present here, or whether they ever had the subjective intent to properly apply for admission. *See id.; see also Buenrostro-Mendez,* 2026 WL 323330, at *4 ("Presence without admission deems the petitioners to be applicants for admission.").

The next relevant portion of the statute is whether Alvarez Juarez is "seeking admission." *See* 8 U.S.C. § 1225(b)(2)(A). The Fifth Circuit's recent decision in *Buenrostro-Mendez* is instructive. In *Buenrostro-Mendez,* the Fifth Circuit found that petitioners, who had "entered illegally many years ago," were "seeking admission" under § 1225(b)(2)(A). 2026 WL 323330, at *1. The Court noted that "[w]hen a person applies for something, they are necessarily seeking it." *Id.* at *4. "Just as an applicant to a college seeks admission, an applicant for admission to the United States is 'seeking admission' to the same, regardless whether the person actively engages in further affirmative acts to gain admission.'" *Id.* at *4. Therefore, "[t]he everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission.'" *Id.* Rather, "'seeking admission' is equivalent to being an 'applicant for admission.'" *Id.* at *5. Accordingly, like the petitioners in *Buenrostro-Mendez,* Alvarez Juarez is "seeking admission" to the United States under § 1225(b)(2), and, therefore, "shall be detained."

2. Petitioner's mandatory detention does not violate due process.

Alvarez Juarez argues that his detention since December 31, 2025, violates due process. *See* Dkt. No. 1, at ¶ 29. This claim lacks merit.

a. Petitioner's claims do not sound in procedural due process.

The Constitution prohibits the federal government and States from "depriv[ing]" a "person" of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. The Supreme Court has recognized two types of due-process claims. *See Department of State*

v. Muñoz, 602 U.S. 899, 910 (2024). A procedural-due-process claim takes as given the substantive determinations that would justify a deprivation of life, liberty, or property, but challenges the "adequacy of the[] procedures" for making those determinations. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). For example, the statute in *Mathews* made the availability of disability benefits turn on whether a person is "completely disabled" within the meaning of the statute. *Id.* at 323, 336. The procedural due process claim did not challenge the statute's substantive criteria for who may receive benefits, but the adequacy of the procedures available to test whether a person fits within the criteria. *Id.* at 325-26. By contrast, a substantive due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation "at all, no matter what process is provided." *Reno v. Flores*, 507 U.S. 292, 302 (1993).

Here, Alvarez Juarez does not challenge the adequacy of the procedures for determining whether he is an "applicant for admission" as a factual matter, and thus subject to mandatory detention under § 1225(b)(2)(A). Instead, he claims that due process requires additional procedures in the form of a bond hearing. *See* Dkt. No. 1, at ¶ 29. But a bond hearing is merely the vehicle for making the substantive determination about flight risk or dangerousness. Because § 1225(b)(2)(A) does not require such determinations, Alvarez Juarez's claim is more of a substantive-due-process challenge, not a procedural one.

Put differently, Congress decided as a substantive policy matter to impose mandatory detention on all applicants for admission, such as Alvarez Juarez. Whether those

aliens are flight risks or dangerous is irrelevant under that policy choice. Due process does not require procedures to adjudicate immaterial facts. What Alvarez Juarez is actually attempting is to override Congress's substantive judgment that all applicants for admission must be detained regardless of whether they are dangerous or flight risks. Procedural due process can do no such thing.

This Supreme Court's decision in *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1 (2003), is definitive on this point. The statute in that case required sex offenders to register with the State so their information could be published on a sex-offender registry. *Id.* at 4-5. John Doe, who had previously been convicted of a sex offense, claimed that the statute violated his procedural-due-process rights by requiring him to register without a "hearing to determine whether" he was "currently dangerous." *Id.* at 4 (citation omitted).

The Court rejected *Doe's* claim. It explained that "due process does not require the opportunity to prove a fact that is not material to the State's statutory scheme," and "the fact that [Doe] seeks to prove—that he is not currently dangerous—[wa]s of no consequence under" the relevant statute, which required him to register based on his prior conviction alone. *Id.* at 7. So "[u]nless [Doe] c[ould] show that that substantive rule of law [wa]s defective (by conflicting with the Constitution), any hearing on current dangerousness [would be] a bootless exercise." *Id.* at 8. The upshot: any claim that *Doe* was entitled to a hearing to adjudicate facts a legislature had not made relevant "'must ultimately be analyzed' in terms of substantive, not procedural, due process." *Id.* at 7-8.

The rule of *Connecticut Department of Public Safety* is simple and straightforward: "Plaintiffs who assert a right to a hearing under the Due Process Clause must show that the facts they seek to establish in that hearing are relevant under the statutory scheme." 538 U.S. at 9. The Fifth Circuit applied that rule in *Duarte v. City of Lewisville, Texas*, 858 F.3d 348 (5th Cir. 2017), in a similar context. *See id.* ("procedural due process does not entitle the Duarte Family to a hearing to 'establish a fact that is not material' under the Ordinance" (quoting *Connecticut Department of Public Safety*, 538 U.S. at 7)).

The Fifth Circuit also applied that same rationale to reject a procedural due process challenge against mandatory detention under §1226(c) in *Wekesa v. U.S. Attorney*, No. 22-10260, 2022 WL 17175818 (5th Cir. Nov. 22, 2022). There, Wekesa filed a habeas petition, alleging that "his continued detention without an individualized bond hearing violates his due process rights." *Id.* at *1. The Court rejected that claim. It explained that under §1226(c) "mandates detention of any alien falling within its scope" and allows release "'only if' the aliens is released for witness-protection purposes." *Id.* And "[b]ecause Wekesa d[id] not meet the statutory requirements for release under Section 1226(c)(2)," this Court affirmed the district court's denial of habeas petition. *Id.* In other words, because Wekesa indisputably was subject to detention under § 1226(c), nothing he hoped to ascertain through a bond hearing would be "relevant under the statutory scheme." *Conn. Dep't of Pub. Safety*, 538 U.S. at 9.

Accordingly, Alvarez Juarez has no procedural due process right to a bond hearing on whether he is a flight risk or danger to the community. Individualized findings about flight risk and danger are irrelevant to § 1225(b)(2), which subjects Alvarez Juarez to mandatory detention based on his uncontested status as an "applicant[] for admission" who has not shown (and cannot show) he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(a)(1), (b)(2)(A).

b. Even if Petitioner was otherwise asserting a viable due process claim, it would be meritless.

For more than a century, the rule has been that for aliens who have never "been admitted into the country pursuant to law, the decisions of executive and administrative officers, acting within the powers expressly conferred by Congress, are due process of law." *DHS v. Thuraissigiam*, 591 U.S. 103, 138 (2020) (quoting *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892)).[5] This is true even of aliens "paroled elsewhere in the country for years pending removal" who have developed significant ties to the country. *Thuraissigiam*, 591 U.S. at 139 (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). They are "'treated' for due process purposes 'as if stopped at the border.'" *Id.* This includes those that successfully evade inspection at the border: "[A]n alien who tries to enter the country

[5] Although *Thuraissigiam* "was apprehended within 25 yards" of the border, the Supreme Court's reasoning in that case was not so limited. Rather, the Court emphasized the broader principle that "[a]n alien who tries to enter the country illegally is treated as an 'applicant for admission,'" and "aliens who arrive at ports of entry—even those paroled elsewhere in the country for years pending removal—are 'treated' for due process purposes 'as if stopped at the border[.]'" *Thuraissigiam* , 591 U.S. at 139-40.

illegally is treated as an 'applicant for admission'"—i.e., treated the same as if they lawfully presented themselves at a port of entry or were caught at the border. *Id.* at 140.

The Supreme Court has elsewhere made clear that lawful admission—not physical entry—is the touchstone for when aliens gain due process interests that could potentially require procedures beyond what Congress has provided (and thus all that the due process clause requires under the entry fiction doctrine). For example, in *Landon*, 459 U.S. 21 (1982), the Court observed that only "once an alien gains admission to our country and begins to develop the ties that go with permanent residence [does] his constitutional status change[]." *Id.* at 32 (emphasis added). "Th[is] rule," the Court explained, "rests on [the] fundamental proposition" that "the power to admit or exclude aliens is a sovereign prerogative," and "the Constitution gives the political department of the government plenary authority to decide which aliens to admit." *Id.* at 32; *see also Nishimura Ekiu*, 142 U.S. at 659.

This understanding that additional procedures can only be required for those who have been lawfully admitted (and not even lawfully paroled) was confirmed years before in *Kaplan v. Tod*, 267 U.S. 228 (1925). There, the Supreme Court held that a child lawfully paroled into the care of relatives for nearly nine years—but never lawfully admitted—must be "regarded as stopped at the boundary line" and "had gained no foothold in the United States." *Id.* at 230-31. That was so even though the child had been living in the interior of the country with her naturalized-citizen father and thus was presumably forming connections to the United States. *Id.* at 229. Still, because she had never been lawfully

admitted, the Due Process Clause did not require any additional procedures beyond what Congress provided. *Id.* at 229-30.

That same result should follow here. Alvarez Juarez, like the petitioner in *Kaplan*, was never lawfully admitted into the United States. Thus, he is receiving all the process due to him under the statute; that is "due process of law." *Thuraissigiam*, 591 U.S. at 138.

c. Petitioner also does not have a substantive due process right to a bond hearing.

In contrast to a procedural due process claim, which takes as a given the substantive determinations that would justify a deprivation of life, liberty, or property, a substantive due process claim challenges the substance of the determinations themselves, arguing that they are inadequate to justify the deprivation "at all, no matter what process is provided." *Flores*, 507 U.S. at 302.

i. Petitioner's detention without a bond hearing during the pendency of his removal proceedings does not implicate any fundamental rights.

"[P]rior to 1907 there was no provision permitting bail for any aliens during the pendency of their deportation proceedings," *Demore*, 538 U.S. at 510, 523 n.7 (2003), so such a right cannot possibly be "objectively, deeply rooted in this Nation's history and tradition." *Muñoz*, 602 U.S. at 910 (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997)). Accordingly, rational-basis review is the appropriate standard for analyzing Alvarez Juarez's substantive-due-process claims. *Glucksberg*, 521 U.S. at 728. Under that standard,

detention under § 1225(b)(2) is constitutionally permissible as long as it is "rationally related to legitimate government interests." *Id.*

Section 1225 easily clears the rational basis bar. In *Demore,* the Supreme Court considered a "substantive due process" challenge to detention under §1226(c). *Demore,* 538 U.S. at 515. In that case, the respondent "argued that his detention under § 1226(c) violated due process because the [government] had made no determination that he posed either a danger to society or a flight risk." *Id.* at 514. The Court rejected that claim. The Court explained that its cases had long "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process," because "deportation proceedings 'would be vain if those accused could not be held in custody pending the inquiry into their true character.'" *Id.* at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)); *see also id.* at 526 (reiterating the "Court's longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings"). Therefore, because "[d]etention during removal proceedings is a constitutionally permissible part of that process," the Court held that the aliens substantive due process "claim must fail." *Id.* at 531.

In reaching its holding, *Demore* distinguished its prior decision in *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001), which addressed the constitutionality of indefinite detention after a final order of removal under a different provision of the INA. *Id.* at 682, 690, 692. First, the aliens challenging their detention in *Zadvydas* were aliens for whom removal was "no

longer practically attainable." *Id.* at 690. Under the circumstances, the Court explained, "the detention ... did not serve its purported immigration purpose." *Id.* at 690. By contrast, §1226(c) applies to aliens "pending their removal proceedings," and so "necessarily serves the purpose of preventing" those aliens "from fleeing prior to or during their removal proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully removed." *Demore*, 538 U.S. at 528. As *Demore* noted, Congress "had before it evidence suggesting that permitting discretionary release of aliens pending their removal hearings" would result in "large numbers" of aliens "skipping their hearings and remaining at large in the United States unlawfully." *Id.* at 528.

Second, and in the same vein, *Demore* emphasized that "the period of detention at issue in *Zadvydas* was 'indefinite' and 'potentially permanent,'" whereas detention under § 1226(c) pending removal proceedings "is of a much shorter duration" and "ha[s] a definite termination point." *Demore*, 538 U.S. at 530.

ii. The same reasons for upholding mandatory detention under § 1226(c) apply to § 1225(b)(2)(A).

Alvarez Juarez does not allege that his ultimate removal is "unattainable," so detention under § 1225(b)(2)(A) serves the same legitimate interest recognized by *Demore*— "preventing" aliens "from fleeing prior to or during their removal proceedings, thus increasing the change that, if ordered removed, the aliens will be successfully removed." 538 U.S. at 528. As *Buenrostro-Mendez* recognized, "the Department of Justice Inspector General found in 1997 that 'when aliens are released from custody, nearly 90 percent

abscond and are not removed from the United States," and "[t]hat situation exists today at a much larger scale." *Buenrostro-Mendez*, 2026 WL 323330, at *9 (quoting 62 Fed Reg. 10312, 10323 (Mar. 6, 1997)).

Nor is detention under §1225(b)(2)(A) "indefinite" or "permanent." *Demore*, 538 U.S. at 530. As with §1226(c), detention under §1225(b)(2)(A) lasts only for the duration of "a proceeding under section 1229a of this title." 8 U.S.C. §1225(b)(2)(A); *see Jennings*, 583 U.S. at 302-03. Even then, nothing requires aliens to contest removal; to the contrary, most or all can avoid detention by withdrawing their objections to removal and voluntarily departing from the United States. *See* 8 U.S.C. §1225(a)(4) (authorizing aliens "applying for admission" to "depart immediately from the United States").

In short, removal remains a practically attainable goal, and while the proceedings remain pending, Alvarez Juarez's detention under § 1225(b)(2) bears a reasonable relation to the legitimate purposes that the Supreme Court identified in *Demore*. Section 1225(b)(2)(A) is therefore constitutional as applied to Alvarez Juarez. Accordingly, his due process claim should be denied.

C. Petitioner's conditions of confinement claims are not cognizable under Section 2241.

Alvarez Juarez asks the Court to enjoin Respondent from transferring him out of this District during the pendency of these proceedings and to order Respondent to return all personal property taken in connection with his arrest and detention. *See* Dkt. No. 1, at 10. Habeas, however, "is not available to review questions unrelated to the cause of

detention[.]" *Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021). The "sole function" of habeas is to "grant relief from unlawful imprisonment or custody and it cannot be used properly for any other purpose." *Pierre v. United States*, 525 F.2d 933, 935–36 (5th Cir. 1976). Indeed, the Fifth Circuit has long recognized that habeas corpus actions are the proper vehicle to "challenge the fact or duration of confinement," whereas allegations that challenge an individual's "conditions of confinement" are "properly brought in civil rights actions." *Schipke v. Van Buran*, 239 F. App'x 85, 85–86 (5th Cir. 2007); *see also Sacal-Micha v. Longoria*, No. 1:20-cv-37, 2020 WL 1815691, at *4 (S.D. Tex. Apr. 9, 2020) ("A detention facility's protocols for isolating individuals, controlling the movement of its staff and detainees, and providing medical care are part and parcel of the conditions in which the facility maintains custody over detainees.").

As Alvarez Juarez's conditions of confinement claim does not challenge the cause or duration of his confinement, it must be dismissed. *See Burgess v. California*, No. 2:22-CV-0573, 2022 WL 4238265, at *1 (E.D. Cal. Sept. 14, 2022), *report and recommendation adopted*, 2022 WL 17178361 (E.D. Cal. Nov. 23, 2022) ("Indeed, courts in every circuit have held that property claims cannot be raised in habeas.") (collecting cases); *Marcello v. Pascagoula Restitution Ctr.*, No. CIVA3:09CV442DPJ-JCS, 2009 WL 4827910, at *2 (S.D. Miss. Dec. 10, 2009) ("Petitioner is not challenging the fact or duration of his confinement, as is necessary in bringing an action by a writ of habeas corpus. Rather, Petitioner asserts that his personal property has not been returned to him. Therefore, because Petitioner's claim is a

constitutional challenge to the conditions of his confinement[.]"); *Kelly v. Farquharson*, 256 F. Supp. 2d 93, 102-03 (D. Mass. 2003) ("Mr. Kelly's claims concerning his repeated transfers between facilities in and outside of this state, the deprivation of his legal materials as well as his claims about the quality and nature of his treatment (particularly in light of the allegations of possible mental health problems) . . . are not properly the subject of a habeas petition.").

D. The *Guerrero Orellana* declaratory judgment has no preclusive effect outside the District of Massachusetts and over custodians who are located outside that District.

Alvarez Juarez asks the Court to declare that he is a class member of *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 3687757 (D. Mass. Dec. 19, 2025). *Guerrero Orellana,* however, is foreclosed by the Fifth Circuit's decision in *Buenrostro-Mendez*, 2026 WL 323330, which held that applicants for admission, like Alvarez Juarez, are subject to mandatory detention.

Guerrero Orellana is also inapplicable to Alvarez Juarez, as the district court expressly limited the scope of the relief to mandatory detentions of similarly situated noncitizens under 8 U.S.C. § 1225(b)(2)(A) "who are either detained within Massachusetts or subject to the jurisdiction of an immigration court in Massachusetts." *Guerrero Orellana*, 2025 WL 3687757, at *1. Alvarez Juarez meets neither of these conditions. *See* Ex. D, *Form I-830 dated Jan. 18, 2026* (reflecting Alvarez's transfer to ICE detention facility in Alexandria, Louisiana on Jan. 16, 2026); Ex. E, *Form I-830 dated Jan. 21, 2026* (reflecting Alvarez's transfer to Adams

County Correctional Center on Jan. 20, 2026); Ex. F, *Notice of In-Person Hr'g* (showing that a master hearing in Jena Immigration Court in Jena, Louisiana was scheduled for Jan. 27, 2026).

Furthermore, *Guerrero Orellana* has no preclusive effect outside the District of Massachusetts and over custodians who are located outside that District. The *Guerrero Orellana* class sought a declaratory judgment that class members were unlawfully detained under 8 U.S.C. § 1225(b)(2), rather than § 1226(a). 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. *See 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 . . . statutes.").

Here, the vast majority of *Guerrero Orellana* class members are confined *outside* of the District of Massachusetts by immediate custodians who are also *outside* the District of Massachusetts and have not been named in the lawsuit. Therefore, the *Guerrero Orellana* court lacked jurisdiction to issue habeas relief to all class members who are confined outside the District of Massachusetts 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, 618 (1990). Indeed, another federal district court has already held that a similar judgment, the *Maldonado Bautista* declaratory judgment, does not have preclusive effect. *See Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025).

In sum, the *Guerrero Orellana* court's declaratory judgment purporting to grant relief that at its core sounds in habeas is a legal nullity outside that District. At the time of filing this habeas petition, Alvarez Juarez was detained at the Adams County Correctional Center, which is outside the District of Massachusetts. That ends the matter. But if more were needed, Alvarez Juarez's immediate custodian is Rafael Vergara, Warden of Adams County Correctional Center, who also is not in the District of Massachusetts. Subjecting the immediate custodian to the judgment of the District of Massachusetts would be inconsistent

with the immediate custodian rule. *Padilla*, 542 U.S. at 439-40; *see also Doe v. Garland*, 109 F.4th 1188, 1196 (9th Cir. 2024) (holding immediate custodian and not supervisory ICE Field Office Director should be named in habeas petition).

But even if the *Guerrero Orellana* declaratory judgment could have preclusive effect outside the District of Massachusetts, that judgment has been appealed to the First Circuit, *Guerrero Orellana v. Moniz et al.*, No. 26-1094 (1st Cir.), and this Court should not afford preclusive effect to that judgment or to any underlying legal issues in deciding whether to grant habeas relief in this case.

Courts must exercise significant caution before giving preclusive effect to declaratory judgments that are on appeal. Reflexively granting preclusive effect to such judgments could lead to subsequent judgment "from which it may be impossible to obtain relief" even if the first judgment is reversed on appeal. 9 A.L.R.2d 984. Courts should strive to avoid this "evil result[]." *Id.* ("both the rule under which the operation of a judgment as res judicata is, and the one under which it is not, affected by the pendency of an appeal, have very unfortunate consequences"); *see also* 18 Fed. Prac. & Prod. Juris. § 4404 ("Awkward problems can result from the rule that preclusive effects attach to the first judgment" while that judgment is subject to an appeal); 18A Fed. Prac. & Proc. Juris. § 4433 (the rule that a decision is final for the purposes of preclusion while that decision is pending appeal creates "[s]ubstantial difficulties").

This problem can be "avoided . . . by delaying further proceedings in the second action pending conclusion of the appeal in the first action." *Collins v. D.R. Horton, Inc.*, 505 F.3d 874, 882–83 (9th Cir. 2007) (citing Wright & Miller § 4433). In the circumstances here it would not be proper to impose res judicata effect on a class-wide basis while the declaratory judgment is pending on appeal. *See* 9 A.L.R.2d 984 (the "only one safe way of avoiding conflicting judgments on the same cause . . . [is for] the final decision on the merits of the second suit [to] be delayed until the decision on appeal has been rendered").

Finally, the Court need not await a ruling staying or vacating the *Guerrero Orellana* declaratory judgment before declining to give it preclusive effect. As noted by the U.S. District Court for the Northern District of Texas regarding the *Maldonado Bautista* declaratory judgment:

> A dispute in this posture is unusual, but not unheard of. As Justice Story remarked, the traditional comity between courts "does not prevent an inquiry into the jurisdiction of the court in which the original judgment was given." *Old Wayne Mut. Life Ass'n v. McDonough*, 204 U.S. 8, 16, 27 S.Ct. 236, 51 L.Ed. 345 (1907) (quoting Joseph Story, Commentaries on the Constitution of the United States § 1313 (1833)). It is "a subject [that] may be inquired into every other court, when the proceedings in the former are relied upon, and brought before the latter, by a party claiming the benefit of such proceedings." *Williamson v. Berry*, 49 U.S. (8 How.) 495, 540, 12 L.Ed. 1170 (1850); *Old Wayne*, 204 U.S. at 16–17, 27 S.Ct. 236 (same). Indeed, traditional habeas proceedings normally could only challenge "the power and authority of the court" or other detaining authority "to act." *Brown v. Davenport*, 596 U.S. 118, 129, 142 S.Ct. 1510, 212 L.Ed.2d 463 (2022) (quotation omitted). While the conclusions of another court, when enforced onto a peer court, are generally "unassailable collaterally," an exception has always existed for "lack of jurisdiction." *Treinies v. Sunshine Mining Co.*, 308 U.S. 66, 78, 60 S. Ct. 44, 84 L.Ed. 85 (1939); *Ex parte Watkins*, 28 U.S. (3 Pet.) 193, 202–03, 7 L.Ed. 650 (1830) (Marshall, C.J.) (same).

When the issuing court lacks jurisdiction, "its judgments and orders are nullities; they are not voidable, but simply void, and form no bar to a recovery sought ... in opposition to them; they constitute no justification, and all persons concerned in executing such judgments ... are considered in law as trespassers." *Williamson*, 49 U.S. at 541 (quoting *Elliott v. Piersol*, 26 U.S. (1 Pet.) 328, 329, 7 L.Ed. 164 (1828)); *Watkins*, 28 U.S. at 203 ("An imprisonment under a judgment cannot be unlawful, unless that judgment be an absolute nullity[.]"). Thus, this Court must consider the Central District's authority to issue the November 20, November 25, and December 18, 2025 orders.

For several independent reasons, the Court concludes that it is not bound by the Central District's purported relief. In light of longstanding jurisprudence and precedent, the three orders—including the December 18 vacatur order—are advisory opinions. In addition, given Supreme Court precedent and the plain language of the Immigration and Nationality Act, the Central District lacked authorization or jurisdiction to extend declaratory and vacatur relief to a nationwide class of similarly situated detainees. Finally, the two necessary implications of the Central District's purported relief—reconstitution of all bond-hearing injunction claims in the Central District or the mandatory application of the Central District's reasoning in all district courts nationwide—would require this Court to violate Supreme Court precedent.

. . .

The Court issues this Order with some reluctance. The business of another court is generally beyond this Court's concern. But the petitioner seeks relief based on the Central District's orders, leaving this Court no choice but to address their binding effect. Here, a fellow district judge purports to bind all pending and future cases involving the mandatory-detention issue to her reasoning in an advisory opinion, disrupting this Court's extensive immigration docket and the dockets of fellow courts across the Nation. But the Central District's orders are not binding because the Central District lacked authorization to issue them. The orders are unauthorized because they are advisory and because they violate the INA's limits on judicial review. Additionally, they would require this Court to act in defiance of Supreme Court precedent. Thus, the Court rejects the petitioner's assertion that it is bound by the Central District's orders and must grant relief as a result.

Lopez v. Lyons, No. 1:25-CV-226-H, 2025 WL 3683918, at *6 & 14 (N.D. Tex. Dec. 19, 2025).

Thus, because the *Guerrero Orellana* declaratory judgment is void for the reasons discussed above, this Court is not required to wait for a court of appeals to stay or vacate that judgment before this Court declines to give it preclusive effect.

Regardless, even if the Court does not treat the *Guerrero Orellana* judgment as void *now*, the blatant jurisdictional flaws and other points noted above counsel strongly in favor of the Court declining to give it preclusive effect.

V. CONCLUSION

For the aforementioned reasons, Alvarez Juarez's § 2241 petition should be denied. As an inadmissible alien seeking admission, he is subject to mandatory detention for the duration of his removal proceedings pursuant to 8 U.S.C. § 1225(b)(2) and is not entitled to release.

Date: February 23, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jessica Bourne Williams, Assistant United States Attorney, hereby certify that, on this date, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which sent notice to all counsel of record.

DATE: February 23, 2026

By: */s/Jessica Bourne Williams*
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