IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-00385-DDD-TPO

JOSE LARA MEJIA,

Petitioner,

v.

JUAN BALTAZAR, Warden of the Aurora Contract Detention Facility, in his official capacity;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;
ROBERT GUADIAN, Director of the Denver Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, in his official capacity;
KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity;
TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity;
PAMELA BONDI, Attorney General of the United States, in her official capacity;
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;
SIRCE OWEN, Acting Director for Executive Office of Immigration Review, in her official capacity; and
U.S. DEPARTMENT OF HOMELAND SECURITY,

Respondents.

PETITIONER'S COMBINED RESPONSE TO ORDER TO SHOW CAUSE AND REPLY IN SUPPORT OF PETITION FOR HABEAS CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

Petitioner Jose Lara Mejia seeks a ruling that he—like the thousands of other recent DHS/ICE detainees throughout the country—is entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a). Respondents' arguments that Petition is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) are unpersuasive. This Court should join the vast majority of courts across the Nation and in this District to have addressed the issues raised herein and should find that § 1226(a) applies. The Court should therefore grant the Petition and the Motion for a Temporary Restraining Order and Preliminary Injunction (the "Motion"). In addition, as set forth in the Emergency Motion for Expedited Decision filed in conjunction with this Reply, Petitioner respectfully asks for this Court to grant him relief before his next immigration court hearing on March 19, 2026, so that the immigration judge can properly evaluate his motion for bond under the proper statute.

ARGUMENT

The Court should grant Petitioner's Motion because he has demonstrated that he is entitled to a bond hearing under 8 U.S.C. § 1226(a) rather than being subject to mandatory detention under § 1225(b)(2)(A). In opposing the Motion, Respondents rely heavily on the existence of and reasoning from the Fifth Circuit's split decision in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), a strategy that has been uniformly rejected in this District (as elsewhere).[1] This Court should also find that Respondents' positions are unpersuasive.

---

[1] As of filing, Petitioner's counsel has found 22 cases in the District of Colorado that cite *Buenrostro-Mendez*. In each one, the judges in this District have refused to follow it and have rejected its reasoning, often by referring to the analysis in *Singh v. Baltazar*, No. 1:26-cv-00336-CNS, 2026 U.S. Dist. LEXIS 26444 (D. Colo. Feb. 9, 2026).

I. The Weight of Authority Runs Contrary to the *Buenrostro-Mendez* Decision.

Petitioner recognizes that, given the absence of controlling Tenth Circuit precedent, this Court has the discretion to evaluate the *Buenrostro-Mendez* decision as it sees fit. Petitioner also recognizes that with so many similar cases being filed, briefed, and decided on a daily basis, the Court has no shortage of persuasive authority to consider. It should be recognized, however, that the Seventh Circuit has "expressed disagreement" with the Fifth Circuit, nullifying any perceived advantage Respondents might seek by relying on a circuit court decision. *See Castanon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1061 (7th Cir. 2025). Moreover, among Tenth Circuit district courts and within this District, a strong consensus has emerged that *Buenrostro-Mendez* is unpersuasive. Petitioner respectfully asks the Court to consider the following decisions as examples of this well-reasoned consensus:

- *Murillo v. Baltasar*, No. 25-cv-04163-TPO, 2026 U.S. Dist. LEXIS 48199 (D. Colo. Mar. 9, 2026);
- *Hernandez v. Baltazar*, No. 26-cv-0524-WJM, 2026 U.S. Dist. LEXIS 37849 (D. Colo. Feb. 24, 2026);
- *Singh v. Baltazar*, No. 1:26-cv-00336-CNS, 2026 U.S. Dist. LEXIS 26444 (D. Colo. Feb. 9, 2026).

Petitioner next addresses the specific arguments raised by Respondents, which generally are reflected in *Buenrostro-Mendez* and are also addressed in the cases cited above.

II. Respondents' Arguments Are Unpersuasive.

In his Petition and Motion, the Petitioner showed that § 1226(a) governs his detention and requires a bond hearing in immigration court. Respondents focus their opposition on an overly-expansive reading of § 1225(b)(2)(A), glossing over the statutory structure and failing to account for the illogical implications of their position.

A. Respondents' Claim That Petitioner Is an Alien "Seeking Admission" Ignores the Statutory Text.

Petitioner's detention is governed by § 1226(a) because, as this Court has recognized, § 1225 "applies to 'applicants for admission'—aliens 'who arrive[] in the United States' —and [§ 1226] applies to aliens who have been physically present in the United States continuously for at least two years." *See Richards v. Choate*, No. 25-cv-03134-DDD-STV, 2025 U.S. Dist. LEXIS 275032, at *5 (D. Colo. Dec. 5, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 287-89 (2018) and *DHS v. Thuraissigiam*, 591 U.S. 103, 108-09 (2020)). Contrary to this previously well-settled understanding, Respondents argue that an alien found in the interior of the country after years is still an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under § 1225. (Respondents' Combined Response to Order to Show Cause and Motion for Temporary Restraining Order and Preliminary Injunction ("Resp.") at 8-9.) This interpretation is fatally flawed, which is why the vast majority of courts continue to reject it.

Initially, the use of the active verbs in § 1225(b)(2) undermines Respondents' proposed broad reading by indicating that it applies at a "moment in time when a noncitizen is crossing or has recently crossed a border." *Carbajal v. Wimmer*, No. 2:26-cv-00093, 2026 U.S. Dist. LEXIS 27425, at *4-5 (D. Utah Feb. 9, 2026). As a court in this District concluded in *Paguada v. Choate*, the "'seeking admission' [element] requires a noncitizen to *continue* to want to *go into* the country." No. 25-cv-03970-STV, 2026 LX 131240, at *13 (D. Colo. Mar. 5, 2026) (citing *Hernandez v. Baltazar*, No. 1:25-cv-3688-SKC-SBP, 2025 LX 505411, (D. Colo. Dec. 23, 2025)) (emphasis in original). Thus, after someone has "go[ne] into" the country, § 1225(b)(2)

no longer applies and § 1226 does. *See id.* (calling § 1226 "the catchall provision that applies to those aliens already in the country pending the outcome of their removal proceedings").

Moreover, Respondents ignore that § 1225(b)(2) is titled "Inspection of other aliens." Courts have looked to how the term "inspection" is used elsewhere in the INA and found that such usages "support[] a definition of 'inspection' as the process by which immigration officers determine whether a noncitizen is legally allowed to enter the United States." *Tanchez v. Noem*, No. 2:25-cv-1150, 2026 U.S. Dist. LEXIS 9334, at *22 (D. Utah Jan. 16, 2026). Thus, the statutory text supports the conclusion "that inspection is a process that occurs at the border. And that meaning should extend to how the court interprets the term 'inspection' as it is used in § 1225 as well." *Id.*

For these reasons, this Court should conclude that § 1226 applies to someone, like Petitioner, who is not inspected at or near the border.

B. Respondents' Reliance on *Jennings v. Rodriguez* Is Misplaced, and They Fail to Address *DHS v. Thuraissigiam*.

Respondents rely heavily on language from *Jennings v. Rodriguez*, 583 U.S. 281 (2018), for their argument that the term "applicant for admission" applies both to an alien arriving at the border and an alien found in the interior of the United States without having been admitted. (Resp. 4-6.) This reliance is not well-founded. While Respondents point out that, in expressing disapproval of *Buenrostro-Mendez*, the Seventh Circuit in *Castanon-Nava* did not "closely analyze" *Jennings*, other courts have. (Resp. 12 n.5.) At least some have found that *Jennings* runs contrary to Respondents' position. *See Singh v. Baltazar*, No. 1:26-cv-00336-CNS, 2026 U.S. Dist. LEXIS 26444, at *11 (D. Colo. Feb. 9, 2026) ("U.S. immigration law authorizes the Government to detain certain aliens *seeking admission into the country* under §§ 1225(b)(1) and

(b)(2). It also authorizes the Government to detain certain aliens *already in the country pending the outcome of removal proceedings* under §§ 1226(a) and (c).") (quoting *Jennings*, 583 U.S. at 289) (emphasis in original).

Moreover—unlike Respondents—courts have also analyzed another Supreme Court case, *Thuraissigiam*, when addressing § 1225 and § 1226. That case involved an asylum seeker who was apprehended at the border and sought to be released. In explaining that, if released into the country, he would still be subject to arrest, detention, and removal, the Court did not cite § 1225(b)(2); it cited § 1226(a). 591 U.S. at 119. Thus, "the Court understood that an asylum seeker who had not been admitted to the United States and who was subject to the detention provisions of § 1225(b) at the border would nevertheless be subject to arrest and detention under § 1226(a) if he were released into the country[.]" *Tanchez*, 2026 U.S. Dist. LEXIS 9334, at *39-40.

It is worth repeating that Respondents fail to address the Supreme Court's understanding in *Thuraissigiam*. This Court—which has previously cited *Thuraissigiam* in *Richards*—should conclude that the Supreme Court's precedent indicates that § 1226 governs detention during removal proceedings for individuals arrested within the United States.

C. Respondents' Argument That § 1226 Is Merely Redundant Is Inconsistent With the Statutory Structure of the INA.

Petitioner's reading of § 1225(b)(2) and § 1226 gives each provision purpose and effect as reflected in this Court's previously-expressed understanding in *Richards*. In contrast, Respondents interpretation of § 1225(b)(2) cannot be squared with § 1226. Respondents argue that § 1226(c) is more general than § 1225(b)(2) and so cannot "displace" it and that any resulting redundancies in the statutory scheme should simply be accepted. (Resp. 10.) The

issue, however, is not redundancy; it is that Respondents' theory creates unnecessary and untenable conflict between statutory provisions. Petitioner's reading creates no such conflict, giving purpose to both provisions and the overall statutory scheme. *See Singh*, 2026 U.S. Dist. LEXIS 26444, at *11 ("If one possible interpretation of a statute would cause some redundancy and another interpretation would avoid redundancy, that difference in the two interpretations can supply a clue as to the better interpretation of a statute.") (quoting *Rimini St., Inc. v. Oracle USA, Inc.*, 586 U.S. 334, 336 (2019)).

Interpreting § 1225(b)(2) to apply to noncitizens arrested in the interior of the United States would create a "legal morass related to parole eligibility." Specifically, it would dramatically expand eligibility for humanitarian or public-benefit parole under §1182(d)(5)(A). *See Carbajal v. Wimmer*, No. 2:26-cv-00093, 2026 U.S. Dist. LEXIS 27425, *10–12 (D. Utah Feb. 9, 2026); *Tanchez*, 2026 U.S. Dist. LEXIS 9334 at *26–28. Under Respondents' theory, individuals who have lived in the United States for years would still be treated as "applicants for admission," meaning they could seek humanitarian parole as if they were newly arriving at the border. But parole under § 1182(d)(5)(A) carries significant statutory consequences, including potential eligibility for adjustment of status under § 1255(a), eligibility for employment authorization, and other benefits, because it is treated as a form of lawful entry. By contrast, individuals detained under § 1226(a) may only receive conditional release pending removal proceedings, which does not confer those benefits.

Thus, applying § 1225 to interior arrests would collapse the statutory distinction Congress created between border inspection and interior detention and would improperly expand the humanitarian parole framework beyond its intended context. *See Tanchez*, 2026 U.S. Dist.

LEXIS 9334, at *26–28. The result would be a statutory scheme in which long-term residents arrested within the United States are treated identically to individuals stopped at the border. *Id.* at *27. Interpreting § 1225 as governing border processing and § 1226 as governing detention of individuals encountered inside the country avoids that conflict and gives coherent effect to both provisions of the INA.

As reflected in the thorough analysis of the above-cited authority and many other cases, Petitioner's position avoids the counter-intuitive and inconsistent application of the statutes at issue. This Court should conclude that because Petitioner was not seeking admission at the border, his detention is governed by § 1226(a).

D. Respondents' Argument Regarding Legislative Intent Are Misguided.

In his opening brief, Petitioner also showed that the well-accepted view that his detention is governed by § 1226(a) is consistent with Congress's intent. Respondents dispute that the cited Federal Register entry is clear, arguing that it "implicitly" acknowledges that someone in Petitioner's situation is still an "applicant for admission." (Resp. 12.) They continue that the decades of immigration enforcement inconsistent with their position was just "a matter of administrative discretion." (Resp. 13.) Respondents are mistaken on both counts.

First, Respondents do not directly address the express language in the Federal Register passage:

> Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.

Detention and Removal of Aliens, 62 Fed. Ref. 10312, 10323 (Mar. 6, 1997). Thus, even assuming Respondents are correct that someone like Petitioner is an "applicant for admission,"

this "confirms that Congress intended for noncitizens who have not committed [certain] crimes and who 'are present' in the country to continue to be eligible for bond and bond redetermination hearings." *Carbajal*, 2026 U.S. Dist. LEXIS 27425, at *17.

Second, the legislative history and the Laken Riley Act demonstrate that the long-standing view of § 1225 and § 1226 was not just a matter of administrative discretion. When Congress passed the IIRIRA, which added § 1226(c) to the code, it estimated that this provision would require the detention of 45,000 new immigrants. *See Buenrostro-Mendez*, 166 F.4th 24-25. Because of the burden this would impose on the executive branch, Congress provided for delayed implementation. *Id.* But the IIRIRA did not include a similar delayed implementation provision for § 1225(b)(2)(A) even though "it would require the detention of far more than 45,000 aliens." *Id.* The *Buenrostro-Mendez* majority did not want to "speculate" about why Congress allowed for this incongruity. *Id.* at 25. But at least one court concluded that no speculation is necessary: "the far simpler explanation for Congress's failure to provide a provision delaying implementation for the detention of millions of people is that Congress did not intend for such detention to occur." *Carbajal*, 2026 U.S. Dist. LEXIS 27425, at *18. In other words, Congress's actions reflect its understanding that § 1225(b)(2)(A) applied at the border while § 1226 applied in the interior.

Further, contrary to Respondents' protestations, the Laken Riley Act supports Petitioner on this point. In *Buenrostro-Mendez*, the majority argued that the Laken Riley Act was passed to "substantial effect" because "the Executive was still declining to exercise its full enforcement authority under the INA." *Buenrostro-Mendez*, 166 F.4th at 19. But to achieve its purposes, Congress *amended § 1226* rather than § 1225. This demonstrates that because Congress

understood that aliens within the country were entitled to a bond hearing, restricting that right had to come through circumscribing § 1226 rather than through amending § 1225, which already provided for mandatory detention. *See Carbajal*, 2026 U.S. Dist. LEXIS 27425, at *21-22. In sum, if Respondents' view of the statutes is correct, the Laken Riley Act would never have been necessary.

The legislative history of the relevant immigration statutes supports Petitioner's argument that his detention is governed by § 1226.

III. The Government Has Violated Petitioner's Due Process Rights.

Petitioner has shown that unlawful mandatory detention violates his due process rights. In addressing this logical conclusion, Respondent relies on *Demore v. Kim*, 538 U.S. 510 (2003), for the proposition that detention can be a lawful part of a deportation. (Resp. 14 (quoting *Demore*, 538 U.S. at 526).) Respondents also point to this Court's analysis in *Richards*. (Resp. 13.) But *Demore* and *Richards* dealt with immigrants already found to be subject to mandatory detention. *See Merchan-Pacheo v. Noem*, No. 1:25-cv-03860-SBP, 2026 U.S. Dist. LEXIS 5493, at *14, 19 (D. Colo. Jan. 12, 2026). Thus, "it does not follow that all forms of detention of noncitizens during removal proceedings and all related procedures comport with due process." *Merchan-Pacheo*, 2026 U.S. Dist. LEXIS 5493 at *12.

In this case, the due process violation is ongoing in the "form" of Petitioner's continued detention. Because he is being detained improperly under § 1225(b)(2), he has not received the bond hearing to which he is lawfully entitled under § 1226. This is the type of "statutory right" that Respondents concede does support a due process violation. (Resp. 14.) Thus, it appears the parties agree that if the Court concludes (as it should) that § 1226 governs his detention,

Petitioner is entitled to receive immediately withheld due process in the form of a bond hearing. This is why Petitioner is filing an Emergency Motion for Expedited Decision in conjunction with this brief.

CONCLUSION

For the foregoing reasons, the Court should grant the Petition and should do so prior to March 19, 2026 so that the immigration judge can properly evaluate his motion for bond under § 1226(a).

Respectfully submitted this 16th day of March, 2026.

s/*Samantha Wolfe*
Samantha D. Wolfe
Christopher Thomas
HOLLAND & HART LLP
555 17th Street, Suite 3200
Denver, CO 80202-3921
Telephone: 303.295.8000
sdwolfe@hollandhart.com
clthomas@hollandhart.com

Joshua D. Hurwit
HOLLAND & HART LLP
800 W. Main Street, Suite 1750
Boise, ID 83702
Telephone: 208.383.3920
jdhurwit@hollandhart.com

Attorneys for Petitioner

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing paper complies with the length limitation set forth in DDD Civ. P.S. III(A)(1).

s/*Samantha Wolfe*
Samantha D. Wolfe
HOLLAND & HART LLP

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2026, I have caused to be electronically filed the foregoing with the Clerk of Court using CM/ECF system which will send notification of such filing to all counsel of record.

s/*Samantha Wolfe*
Samantha D. Wolfe
HOLLAND & HART LLP

37269991_v2