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*Attorney for Petitioner*

**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF CALIFORNIA**

**YUNUS ALPTEKIN**,

Petitioner,

vs.

**JEREMY CASEY**, WARDEN, IMPERIAL REGIONAL DETENTION FACILITY,

**DANIEL A. BRIGHTMAN**, SAN DIEGO FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT AND REMOVAL OPERATIONS ("ICE/ERO"),

**TOD M. LYONS**, ACTING DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE"),

**KRISTI NOEM**, SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY; AND,

**PAM BONDI**, ATTORNEY GENERAL OF THE UNITED STATES,

IN THEIR OFFICIAL CAPACITIES

Respondents.

**Case No. 3:26-cv-00714-DMS-SBC**

**PETITIONER'S TRAVERSE RESPONSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

## TRAVERSE

Petitioner Yunus Alptekin ("Petitioner" or "Mr. Alptekin") complied with every condition of his release for three years, building a life with his friends and fiancé while pursuing his legal right to seek asylum. On January 15, 2026, as part of an ongoing quota-driven dragnet, Respondents arrested and detained Petitioner without warning or process. Respondents made no individualized custody determination before transferring him to the Imperial Regional Adult Detention Facility in Calexico, California where he is currently detained. Even now, one month into his detention, Respondents have yet to provide any lawful basis for his detention. Respondents' continued detention of Mr. Alptekin without the most basic due process protections violates the constitutional principle that "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

### I. Incorporation by Reference

Mr. Alptekin incorporates and re-alleges each fact and each legal argument advanced in his Petition for Writ of Habeas Corpus filed with this Court on February 5, 2026.

### II. Respondents' Position

On February 12, 2026, the government filed with this Court "Response to Petition" made in opposition to Petitioner's Petition for Writ of Habeas Corpus and serves as its argument on the merits of the habeas petition.

Respondents claim that Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) because Mr. Alptekin was present in the US without being admitted or paroled. Petitioner asserts that the application of 8 U.S.C. § 1225(b) to his detention status is a violation

of the Immigration and Nationality Act ("INA") because he is instead subject to discretionary detention under 8 U.S.C. § 1226(a). According to the respondents, "the distinction between §§ 1225 and 1226 is not the location where a noncitizen is found or the duration of their presence in the United States. Rather, applying § 1225 instead of § 1226 turns on whether the noncitizen was admitted to the United States at the time of entry."

Respondents do not address the remaining claims in petitioner's § 2241 application.

## III. The BIA's Holding in *Matter of Hurtado* Incorrectly Provides that Petitioner is Subject to Mandatory Detention Under Section 1225(b)(2)(A) and not Section 1226(a), In Violation of Federal Law

Federal immigration detention prior to a final order of removal is governed by two statutory provisions—8 U.S.C. §§ 1225 and 1226—which operate in distinct and mutually exclusive spheres. The Supreme Court has emphasized that § 1225 applies to "aliens seeking admission into the country," whereas § 1226 applies to "aliens already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Understanding this division is essential to determining the scope of the government's detention authority and the procedural protections that accompany it.

### a. Section 1225: Mandatory detention of arriving applicants for admission

By its text and structure, § 1225 governs inspection and detention at or near the border—not the arrest of long-term residents inside the United States. Paragraph (a)(1) provides that "an alien who arrives in the United States," or "is present in the United States but has not been admitted," shall be treated as "an applicant for admission." 8 U.S.C. § 1225(a)(1). Subsection (b)(1)(A)(i) requires an immigration officer to order an "arriving" noncitizen removed without further hearing if inadmissible under §§ 1182(a)(6)(C) or (a)(7), unless the person expresses a fear of

persecution or intent to seek asylum. Id. § 1225(b)(1)(A)(i). This expedited-removal process applies only to noncitizens who have been physically present in the United States for less than two years. Id. § 1225(b)(1)(A)(iii)(II).

Section 1225(b)(2)(A)—the provision at issue here—covers the remaining category of individuals who are "applicants for admission" and who are "seeking admission" but not subject to expedited removal. It states that "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." 8 U.S.C. § 1225(b)(2)(A). Individuals detained under § 1225(b)(1) or (b)(2) receive no bond hearing and may be released only through humanitarian parole "for urgent humanitarian reasons or significant public benefit." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018); *Oliveros v. Kaiser*, 2025 WL 2677125, at *3 (N.D. Cal. Sept. 18, 2025); 8 U.S.C. § 1182(d)(5).

Courts have repeatedly held that these detention provisions are limited to border inspection contexts. The statute's title — "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing"—and its repeated references to "examining immigration officers" confirm Congress's focus on inspection and admission procedures at ports of entry. *Lepe v. Andrews*, 2025 WL 2716910, at *4 (E.D. Cal. Sept. 23, 2025); *Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025); *Vazquez v. Feeley*, 2025 WL 2676082, at *12–14 (D. Nev. Sept. 17, 2025). Section 1225(b)(2)(A) applies only when an "examining immigration officer" determines that an individual is (1) an "applicant for admission," (2) "seeking admission," and (3) "not clearly and beyond a doubt entitled to be admitted." *Martinez*,

2025 WL 2084238, at *2; *Lopez Benitez v. Francis*, 2025 WL 2371588, at *5 (S.D.N.Y. Aug. 13, 2025).*

The present-tense phrase "seeking admission" provides the statute's limiting force. It denotes an ongoing effort to gain lawful entry—not the condition of a person who entered years ago and has since resided in the interior. *Lopez Benitez*, 2025 WL 2371588, at *7; *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025).* As *Lopez Benitez* explained, applying § 1225(b)(2) to someone long settled in the country "pushes the statutory text beyond its breaking point." See *U.S. v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir. 2024) (rejecting "perpetual applicant" theory); *Torres*, 976 F.3d at 922–26. Reading "seeking admission" as synonymous with "applicant for admission" would erase Congress's deliberate distinction and violate the rule against surplusage. *Valencia Zapata v. Kaiser*, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025); *Martinez*, 2025 WL 2084238, at *6.*

The statute's design reinforces this interpretation. Its subsections repeatedly reference inspection, "arriving" aliens, and "stowaways," all of which presuppose encounters at the border or a port of entry. See 8 U.S.C. § 1225(a)(3), (b)(1), (b)(2), (d). Reading § 1225(b)(2) to reach noncitizens arrested deep in the interior "ignores the statute's context, structure, and purpose." *Vazquez*, 2025 WL 2676082, at *13–14.*

Accordingly, consistent with *Jennings*, *Lepe*, *Lopez Benitez*, *Oliveros*, and *Vazquez*, courts have uniformly concluded that § 1225(b) governs only individuals encountered at or near the border during inspection. Extending it to long-time residents already living within the United States "disregards the plain meaning of the statute, the structure of the INA, and decades of agency practice." *Rodriguez v. Bostock*, 2025 WL 2782499, at *3 (W.D. Wash. Sept. 30, 2025).*

**b. Section 1226: Discretionary detention of noncitizens already present in the United States**

Where § 1225 regulates inspection and detention at the threshold of entry, § 1226 governs the apprehension and detention of individuals already present in the United States pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (explaining that § 1226 "generally governs the process of arresting and detaining aliens who are already in the country"); *Vazquez v. Feeley,* No. 2:25-cv-01542-RFB-EJY, 2025 WL 2676082, at *14 (D. Nev. Sept. 17, 2025) (contrasting § 1225's inspection regime with § 1226's post-entry detention authority).

Section 1226(a) authorizes arrest and detention pending a decision on removability, and—crucially—permits release on bond or conditional parole "except as provided in subsection (c)." 8 U.S.C. § 1226(a)(1)–(2); *Jennings*, 583 U.S. at 303.

Implementing regulations provide for bond hearings before an immigration judge, at which a noncitizen may present evidence bearing on danger and flight risk. 8 C.F.R. § 1236.1(d); *In re Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *Martinez v. Clark*, 124 F.4th 775, 783 (9th Cir. 2024).

Section 1226 thus establishes a discretionary detention framework with individualized process for people already living in the country. *Lopez Benitez v. Francis*, No. 25-CIV-5937 (DEH), 2025 WL 2371588, at *3, *8 (S.D.N.Y. Aug. 13, 2025); *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO, 2025 WL 2716910, at *5 (E.D. Cal. Sept. 23, 2025).

**c. Harmonizing §§ 1225 and 1226: Statutory Structure, Legislative History, and Judicial Consensus**

Sections 1225 and 1226 operate in parallel but distinct spheres of the Immigration and Nationality Act. Section 1225 governs inspection and detention at the threshold of entry, whereas

§ 1226 regulates the post-entry detention of individuals already present in the United States pending removal proceedings. See *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018) (§ 1225 applies to "aliens seeking admission," while § 1226 applies to "aliens already in the country"). Reading § 1225 to extend to long-term residents encountered in the interior would collapse this statutory distinction and override Congress's carefully maintained two-track structure.

Congress' 2025 enactment of the Laken Riley Act confirms that dichotomy. By adding § 1226(c)(1)(E), Congress required mandatory detention only for certain "inadmissible" noncitizens — including those "present in the United States without being admitted or paroled," 8 U.S.C. § 1182(a)(6)(A) — who are charged with or convicted of enumerated crimes. See *Vazquez v. Feeley*, No. 2:25-cv-01542-RFB-EJY, 2025 WL 2676082, at *19 (D. Nev. Sept. 17, 2025). By negative implication, § 1226(a) continues to govern all other inadmissible individuals arrested in the interior. As the Supreme Court has long held, when Congress carves out specific exceptions to a rule, "the specsific exceptions prove that the rule applies generally." *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010). Were § 1225(b) read to mandate detention for everyone "present in the United States who has not been admitted," the newly enacted § 1226(c)(1)(E) would be meaningless — a result forbidden by the anti-surplusage canon. See *Corley v. United States*, 556 U.S. 303, 314 n.5 (2009).

The statute's history and administrative application reinforce this reading. For decades after IIRIRA, DHS and EOIR consistently placed long-term residents who entered without inspection into § 1229a proceedings and afforded them bond hearings under § 1226(a), unless § 1226(c) applied. See *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1259 (W.D. Wash. 2025) (describing the government's "longstanding agency practice [of] applying § 1226(a) to inadmissible

noncitizens already residing in the country"); *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 n.6 (BIA 2025). When Congress amended § 1226 in 2025, it legislated against that settled backdrop, triggering the interpretive presumption that new provisions "should be understood to work in harmony with what has come before." *Monsalvo Velazquez v. Bondi*, 145 S. Ct. 1232, 1242 (2025) (quoting *Haig v. Agee*, 453 U.S. 280, 297–98 (1981)).

Courts applying ordinary canons of construction have reached the same conclusion. They have consistently held that § 1225(b)(2)(A) applies only where a noncitizen is "seeking admission" in the active, border-inspection sense — not to those arrested years after entry. See, e.g., *Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at *5–7 (S.D.N.Y. Aug. 13, 2025).* As those courts explain, interpreting § 1225 to govern anyone merely "present" without admission would render the term "seeking admission" superfluous, erase the role of § 1226(c)(1)(E), and contradict *Jennings'* recognition that § 1226 "generally governs" the detention of persons already in the United States. See also *Oliveros v. Kaiser*, No. 25-cv-07117-BLF, 2025 WL 2677125, at *4 (N.D. Cal. Sept. 18, 2025); *Vazquez*, 2025 WL 2676082, at *15–16.*

The judiciary has now spoken with near-total unanimity. Every district court to consider the question — across the First, Second, Fourth, Fifth, Sixth, Eighth, Ninth, and Tenth Circuits — has held that noncitizens arrested in the interior are detained under § 1226(a), not § 1225(b).. *See, e.g.*, *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, —— F.Supp.3d ——, ——, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal.

Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, —— F.Supp.3d ——, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE, Doc. 20, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); Doc. 11, *Benitez v. Noem*, No. 5:25-cv-02190 (C.D. Cal. Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-BEM, —— F.Supp.3d ——, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, —— F.Supp.3d ——, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted* 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); Doc. 11, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025); *Lepe v. Andrews,* No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *4 (E.D. Cal. Sept. 23, 2025). No court has adopted the government's expansive § 1225 theory.

In sum, the text, structure, legislative context, and overwhelming judicial consensus all confirm that § 1226 — not § 1225 — governs the detention of noncitizens like Mr. Alptekin who have resided within the United States for years. His detention is therefore governed by § 1226(a)'s discretionary framework, which guarantees individualized bond consideration before a neutral adjudicator.

**IV. Conclusion**

Respondents' assertion that Mr. Alptekin is detained under section 1225(b)(2)(A) is a fundamental misapplication of an immigration detention statute, and a blatant denial of due

process. For the foregoing reasons, the Court should grant the writ of habeas corpus and order the remedy that "law and justice require" to protect Petitioner from this unlawful deprivation and restore his fundamental right to liberty. *See* 28 U.S.C. §2243.

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Respectfully Submitted,

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