UNITED STATES DISTRICT COURT
DISTRICT COURT OF COLORADO

Miguel Conchas Ramirez,

Petitioner,

v.

Robert Hagan, Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Juan Baltazar, Warden of the Aurora Detention Facility

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner Miguel Conchas Ramirez brings this petition for a writ of habeas corpus to challenge his unlawful detention. Under the law, he should be detained under 8 U.S.C. 1226(a) and therefore eligible for bond. Petitioner is in physical custody of Respondents at the ICE Detention Facility in Aurora, Colorado. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) erroneously claim that Petitioner is detained under 8 C.F.R. §1225(b)(2) and therefore ineligible for bond. Petitioner requests that Respondent immediately release him from custody, or in the alternative to provide him a bond hearing at which the government shall bear the burden to justify the continued detention.

II. PARTIES

1. Petitioner is a citizen of Mexico who has been detained by ICE since October 15, 2025. Petitioner has resided in the United States since June 2009.
2. Robert Hagan is the ICE Field Office Director of the Denver ICE Field Office and is sued in his official capacity. Mr. Guadian is the immediate custodian of Petitioner and is responsible for Petitioner's detention and removal.
3. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

4. Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. Mr. Lyons is responsible for Petitioner's illegal detention and has custodial authority over him.
5. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.
6. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.
7. Respondent Juan Baltazar is the Warden of the Aurora Facility where ICE jails Petitioner, and is an employee of the GEO Group, the for-profit prison company that operates the facility. Mr. Baltazar is a legal custodian of Petitioner. He is sued in his official capacity.

III. JURISDICTION AND VENUE

1. Petitioner is in physical custody of Respondents. Petitioner is detained at the ICE Detention Center in Aurora, Colorado.
2. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
3. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

4. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Colorado, the judicial district in which Petitioner currently is detained.

5. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Colorado.

IV. FACTUAL BACKGROUND

1. Petitioner is a 50-year-old Mexican citizen who entered the United States on June 2009. He has not departed in the ensuing 16 years. Petitioner does not have a criminal history and is an upstanding member of his community. He has lived at his same address in Cortez, Colorado for thirteen years. He lives there with his wife and two sons. Braulio Conchas Flores (21 years old) is a Mexican citizen. M[redacted](13 years old) is a U.S. citizen by birth.

2. On October 15, 2025, Petitioner was detained by immigration officials at his home in Cortez, Colorado. On that same date, removal proceedings were initiated against Petitioner through the issuance of a Notice to Appear. *Notice to Appear.* Mr. Conchas-Ramirez's notice to appear classifies him as a noncitizen present without admission or parole rather than as an arriving noncitizen. *Id.* The Notice to Appear is accompanied by a "Warrant for Arrest of Alien." *Warrant for Arrest of Alien.* The warrant cites INA 236 for its authority to detain Mr. Conchas-Ramirez. Petitioner has remained in custody since October of 2025. This was Petitioner's first interaction with immigration authorities in his sixteen-year residence in the United States.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Petitioner need not exhaust his administrative remedies. Exhaustion is not required where the Petitioner challenges the constitutionality of the agency procedure itself, "such that the question of the adequacy of the administrative remedy is for all practical purposes identical with the merits of the plaintiff's lawsuit." *McCarthy v. Madigan,* 503 U.S. 140, 148 (1992). In this case, Petitioner challenges the constitutionality of the procedures by which Respondent reviews his custody status – erroneously finding that he is detained under 8 U.S.C. § 1225. A party need not exhaust administrative remedies, however, when the available remedies would "provide no genuine opportunity for adequate relief" or when "administrative appeal would be futile. *Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d ----, 2025 WL 3295903, at *30 (S.D.N.Y. Nov. 26, 2025); *Garza v. Davis*, 596 F.3d 1198, 1204 (10th Cir. 2010).

Petitioner here lacks a genuine administrative remedy. His only avenue for review, the Executive Office for Immigration Review, is bound by the Board of Immigration Judge's precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 224 (BIA 2025)(holding that all noncitizens present without admission are subject to mandatory detention under 8 U.S.C. § 1225). *Barco Mercado v. Fancis,* at 30 ("To force Mr. Barco to request a bond hearing from an immigration judge — which would be denied under the BIA's recent decision and, even if it were held, would result in release being denied under that decision — and then appeal that denial to the same BIA that has prevented immigration judges from hearing bond requests in the first place, all before allowing Mr. Barco to seek judicial review of his arrest and redetention, would be "Kafkaesque." Exhaustion of administrative remedies would be futile.")

VI. DISCUSSION

A. Legal Authority for Immigration Detention

The two detention statutes at play in this petition are 8 U.S.C. § 1226 and 8 U.S.C. § 1225. 8 U.S.C. § 1226 permits release on bond. 8 U.S.C. § 1225 mandates detention during the removal proceedings. Respondent maintains that Mr. Conchas-Ramirez is subject to mandatory detention under § 1225. Petitioner maintains he should be eligible for discretionary release under § 1226.

Section 1226(a) sets out a default rule: a noncitizen may be detained pending a decision whether they are to be removed from the United States. *Jennings v. Rodriguez*, 583 U.S. 281, 288, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018). 8 U.S.C. § 1226(c) creates an exception to that default rule, explaining that inadmissible aliens with certain criminal histories are subject to mandatory custody and may therefore not seek discretionary release on bond. *Id.; Ramon Rodriguez Vazquez, v. Drew Bostock, et al.*, 3:25-cv-05240 (W.D. Wash. Apr.24, 2025). The exception in § 1226(c) proves the rule that the detention of inadmissible noncitizens such as those present without admission is generally governed under 8 U.S.C. § 1226(a). *Ramon Rodriguez Vazquez, v. Drew Bostock, et al.*, 3:25-cv-05240 (W.D. Wash. Apr.24, 2025), at 52.

> A plain reading of this exception implies that the default discretionary bond procedures in Section 1226(a) apply to a noncitizen who, like Rodriguez, is present without being admitted or paroled but has not been implicated in any crimes as set forth in Section 1226(c). See § 1226(a) (Attorney General may release noncitizen on bond "except as provided in subsection (c)"). As the Supreme Court has recognized, when Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010). This lends strong textual support to Rodriguez's position that "inadmissible" noncitizens like himself are included within Section 1226.

A noncitizen subject to 8 U.S.C. § 1225 is detained mandatorily and may only be released on a grant of parole. *Jennings v. Rodriguez*, 583 U.S. 281, 285. As the Supreme Court recognized, § 1225 is concerned "primarily [with those] seeking entry, *Jennings v.*

Rodriguez, 583 U.S. 281, 297 (2018), i.e., cases "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Id.* at 287. Section 1225 is split into two paragraphs (b)(1) and (b)(2) which apply to different subsets of noncitizens. 8 U.S.C. § 1225. Paragraphs (b)(1) and (b)(2) reflect the understanding that § 1225 is concerned with noncitizens seeking entry. Paragraph (b)(1)—which concerns "expedited removal of inadmissible arriving [noncitizens]"—encompasses only the "inspection" of certain "arriving" noncitizens and other recent entrants the Attorney General designates, and only those who are "inadmissible under section 212(a)(6)(c) or 212(a)(7)." 8 U.S.C. § 1225 (b)(1)(A)(i). These grounds of inadmissibility are for those who misrepresent information to an examining immigration officer or do not have adequate documents to enter the United States. Thus, subsection (b)(1)'s text demonstrates that it is focused only on people *arriving* at a port of entry or who have *recently* entered the United States and not those already residing here. Paragraph (b)(2) is similarly limited to people "seeking admission" when they *arrive* in the United States or very shortly thereafter. The title explains that this paragraph addresses the "[i]inspection of other [noncitizens]," i.e., those noncitizens who are "seeking admission" but who (b)(1) does not address. Put succinctly, 8 U.S.C § 1225(b)(2) mandates the detention of certain noncitizens who are (1) applicants for admission, (2) seeking admission, and (3) not clearly and beyond a doubt entitled to be admitted. 8 U.S.C § 1225(b)(2); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at *12 (D. Colo. Oct. 22, 2025); *Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d ----, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025). "Seeking admission" is a present-tense action[1]. *Id.*, at 12; see also *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020)

[1] "[S]omeone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as "seeking admission" to the theater. Rather, that

(en banc)(An individual submits an "application for admission" only at "the moment in time when the immigrant actually applies for admission into the United States).

B. Respondent's recent interpretation of § 1225b defies the plain meaning of the statute, the structure of the statute, Supreme Court precedent, and decades of practice

a. The plain language of § 1225b makes it inapplicable to noncitizens present in the United States without "seeking admission."

8 U.S.C. §1225(b)(2) reads in relevant part:

> (2)Inspection of other aliens
> (A)In general
> 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.

8 U.S.C. § 1225(b)(2). By its own terms, this section is limited to persons who are "applicants for admission," "seeking admission," and "not clearly…entitled to be admitted." *Id.; Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at *12 (D. Colo. Oct. 22, 2025); *Barco Mercado v. Francis*, No. 25-cv-6582, --- F. Supp. 3d ----, 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025). 8 U.S.C. § 1225(a)(1) describes what noncitizens will be "treated as" an applicant for admission for purposes of § 1225.

> A[] [noncitizen] 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 a[] [noncitizen] who is brought to the United States after having been interdicted in

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person would be described as already present there. Even if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as "seeking admission" (or "seeking" "lawful entry") at that point—one would say that they had entered unlawfully but now seek a lawful means of remaining there." *Loa Caballero v. Baltazar*, at 13 (citations omitted).

> international or United States waters) shall be deemed for purposes of this chapter an applicant for admission

8 U.S.C. § 1225(a)(1). Respondent's position that all applicants for admission are mandatorily detained under this subsection would render the requirement that they be "seeking admission" superfluous. *Diaz Lopez v. Noem et al*, No. 1:2025cv04089 (D. Colo. 2026), at 6; *Corley v. United States*, 556 U.S. 303, 314, 129 S. Ct. 1558, 173 L. Ed. 2d 443 (2009) ("[O]ne of the most basic interpretive canons" is that "a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.") (quoting *Hibbs v. Winn*, 542 U.S. 88, 101, 124 S. Ct. 2276, 159 L. Ed. 2d 172 (2004)); see also *Fuller v. Norton*, 86 F.3d 1016, 1024 (10th Cir. 1996). The phrase "seeking" admission requires the noncitizen to be "presently and actively seeking lawful entry into the United States." *Diaz Lopez v. Noem et al.,* at 6 (citing *Loa Caballero v. Baltazar et al*, No. 1:2025cv03120 - (D. Colo. 2025), at 6)(further citations omitted). Therefore, a noncitizen simply residing in the United States for years without applying for legal status is not "seeking admission"[2] within the meaning of § 1225(b)(2)(A). *Id.*

b. The statutory structure demonstrates that § 1226 not § 1225 generally applies to noncitizens present in the United States without admission.

The structure of the statutes further exposes the limits of Respondent's interpretation. Section 1226(a) is the "default rule" applying to all persons "pending a decision on whether

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[2] The phrase "seeking admission" cannot be subsumed by Petitioner's treatment as an "applicant for admission." Such a finding would "violate[] the meaningful-variation canon of statutory interpretation by assigning the same meaning to an 'applicant for admission' and a person 'seeking admission'." *Diaz Lopez v. Noem et al.*, at 7 (citing *Loa Caballero,* at 6, *Pulsifer v. United States*, 601 U.S. 124, 149 (2024), and *Lopez Benitez*, 795 F. Supp. 3d at 488. This interpretation is further supported the differentiation between the class of persons who are actually applying for admission and those who are merely "treated" or "deemed" as applicants for admission. 8 U.S.C. 1225(a)(1). There would be no need for 8 U.S.C. 1225(a)(1) to specify that this class of noncitizens should be "treated as" an applicant for admission if their mere non-admission operated as an actual application for admission such that they are "seeking admission" by their mere presence.

the [noncitizen] is to be removed." *Rodriguez Vazquez*, 779 F.Supp.3d at 1246; *Jennings*, 582 U.S. at 281. Notably, the plain language of § 1226 applies to people charged as inadmissible for entering without inspection. E.g., 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible individuals makes clear that, by default, inadmissible individuals not subject to subparagraph (E)(ii) are entitled to a bond hearing under subjection (a). As the *Rodriguez-Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez-Vazquez*, 779 F.Supp.3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Respondent's interpretation, if true, would render significant portions of § 1226(c) meaningless.

Section 1225 (b)(1) concerns "expedited removal of inadmissible arriving [noncitizens]"—encompasses only the "inspection" of certain "arriving" noncitizens and other recent entrants the Attorney General designates, and only those who are "inadmissible under section 212(a)(6)(c) or 212(a)(7)." 8 U.S.C. § 1225(b)(1). Subsection (b)(1)'s text demonstrates that it is focused only on people *arriving* at a port of entry or who have *recently* entered the United States and not those already residing here. Paragraph (b)(2) is similarly limited to people "seeking admission" when they *arrive* in the United States or very shortly thereafter. The title explains that this paragraph addresses the "[i]nspection of other [noncitizens]," i.e., those noncitizens who are "seeking admission" but who (b)(1) does not address. Moreover, subparagraph (b)(2)(C) addresses "[t]reatment of [noncitizens] *arriving* from contiguous territory," i.e., those who are "*arriving* on land." 8 U.S.C. § 1225(b)(2)(C) (emphasis added). This language further underscores Congress' focus in § 1225 on those who are *arriving* in the United States—not those already *residing* here for years. Similarly, the title

of § 1225 refers to the "inspection" of "inadmissible *arriving*" noncitizens. *See Dublin v. United States*, 599 U.S. 110, 120–21 (2023) (emphasis added) (relying on section title to help construe the statute). Finally, the entire statute is premised on the idea that an inspection occurs near the border and shortly after arrival, as the statute repeatedly refers to "examining immigration officer[s]," 8 U.S.C. § 1225 (b)(2)(A), (b)(4), or officers conducting "inspection[s]" of people "*arriving* in the United States," *Id.* § 235(a)(3), (b)(1), (b)(2), (d) (emphasis added); *see also King v. Burwell*, 576 U.S. 473, 492 (2015) (looking to an Act's "broader structure . . . to determine [the statute's] meaning").

Respondent's interpretation would further nullify recent congressional acts adding to the mandatory custody exceptions in § 1226(c). *Loa Caballero v. Baltazar,* at 15. Congress' passage of the Laken Riley Act, amending § 1226 reflects a shared understanding that § 1226(a) applies to inadmissible noncitizens and not just removable ones. In January 2025, Congress amended § 1226, adding § 1226(c)(1)(E). *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Section 1226(c)(1)(E) provides that the "Attorney General shall take into custody any alien who-"

> (E)(i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a) of this title; and
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> (ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person, 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.

8 U.S.C. § 1226(c)(1)(E). This provision would be meaningless if noncitizens already residing in the United States were already subject to mandatory detention under § 1225(b)(2). *Redondo v. Bondi*, 2026 U.S. Dist. LEXIS 23450, *9 citing *Salcedo Aceros v. Kaiser*, 2025 WL

2637503, at *10 (N.D. Cal. Sept. 12, 2025) ("If Congress amended Section 1226 to create mandatory detention for certain inadmissible noncitizens, it follows that those noncitizens were not already subject to mandatory detention.")

c. *Jennings* forecloses Respondent's interpretation of the relationship between § 1226 and §1225

Supreme Court precedent supports Petitioner's reading of 8 U.S.C. § 1225 and 8 U.S.C. § 1226. In *Jennings*, the Supreme Court summarized the interplay between §§ 1226 and 1225 as follows:

> In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] *seeking admission* into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).

Jennings v. Rodriguez, 582 U.S. 281, 289 (2018) (Alito, J., emphasis added). This District Court has already stated that to interpret § 1225(b)(2)(A) to mandate detention for all "applicants for admission" would render the "seeking admission" language superfluous. *Lopez v. Noem*, 2026 U.S. Dist. LEXIS 14990, *6 citing 2025 U.S. Dist. LEXIS 208290, [WL2025 U.S. Dist. LEXIS 2082902025 U.S. Dist. LEXIS 208290] at *7. The Supreme Court's framework only makes sense if some noncitizens fall outside the "applicants for admission" category, because treating every noncitizen as such would eliminate any distinction between the two sections.

d. Respondent's abrupt change in interpretation runs contrary to decades of its own practice.

More than a quarter-century of practice supports the interpretation that noncitizens like Petitioner are subject to detention under § 1226 rather than §1225. Both the § 1226 and § 1225

detention provisions were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Following the enactment of the IIRIRA in 1996, EOIR wrote regulations applicable to proceedings before Immigration Judges explaining that, in general, people who entered the country without inspection (also known as "present without admission") were not detainable under § 1225 and instead could only be detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("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"). Thus, in the following decades, people who entered without inspection and did not have certain criminal legal contacts received § 1226(a) bond hearings. That practice was itself consistent with additional decades of pre-IIRIRA practice, in which noncitizens who were not "arriving" or seeking entry into the United States were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting the new § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

Until July of 2025, the parties agreed that 8 U.S.C. § 1226(a) applied to noncitizens like petitioner. *Memorandum from Todd Lyons, Acting ICE Dir., to ICE Employees, Interim Guidance Regarding Detention Authority for Applicants for Admission* (July 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission. Respondent adopted the novel interpretation that all noncitizens present without admission are subject to mandatory custody under § 1225 in the context of a

"determined campaign to arrest and remove as many noncitizens as possible." *Barco Mercado v. Francis*, at 24 – 25. The Board of Immigration Appeals adopted that position as a precedential decision in September of 2025. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025). This Court owes no deference to such an interpretation that is "so inconsistent with the text, structure, and history of the relevant statute as well as precedent and the record in this case." *Barco Mercado v. Francis*, at 24 – 25 (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385-86, 144 S. Ct. 2244, 219 L. Ed. 2d 832 (2024).)

Respondents' treatment of Petitioner contradicts its own legal position as to his detention. *Loa Caballero v. Baltazar,* at 17. ("Respondents' treatment of Petitioner appears to conflict with their assertion that he is detained pursuant to § 1225"). *Lopez Benitez v. Francis*, ---F. Supp. 3d ----, 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025) ("Respondents' own exhibits unequivocally establish that Mr. Lopez Benitez was detained pursuant to Respondents' discretionary authority under § 1226(a). The warrants for Mr. Lopez Benitez's respective arrests in 2023 and 2025 explicitly authorized those arrests pursuant to 'section 236 of the Immigration and Nationality Act'—i.e., § 1226.") In this case, Mr. Conchas-Ramirez was detained pursuant to a warrant. That warrant indicates that Conchas-Ramirez is being detained under INA 236. His Notice to Appear also classifies him as present without admission rather than as an arriving alien. The Department's own documents thus bely the Government's position that Petitioner is detained under § 1225.

C. This District Court and approximately fifty others around the Country have agreed that Respondent's interpretation results in the unlawful mandatory detention of petitioner's similarly situated to Mr. Conchas-Ramirez.

As this Court found in *Lopez v. Noem,* "[t]his Court following the clear weight of persuasive authority, has already rejected Respondents' position." *Lopez v. Noem,* at 5 (citing *Loa Caballero v. Baltazar,* at 5 ("[F]ederal courts have overwhelmingly rejected Respondents' 'broad interpretation of section 1225(b)(2).'"). Petitioners like Mr. Conchas-Ramirez have prevailed in more than 350 cases decided by more than 160 judges in courts all across the country. *Barco Mercado v. Francis,* at 9 – 10; See e.g.: *Martinez v. Hyde*, 792 F. Supp. 3d 211, 2025 WL 2084238 (D. Mass. 2025); *Bautista v. Santacruz*, No. 25-cv-01873, 2025 U.S. Dist. LEXIS 171364, 2025 WL 2670875 (C.D. Cal. July 28, 2025); *Gonzalez v. Noem*, No. 25-cv-02054, 2025 U.S. Dist. LEXIS 206688, 2025 WL 2633187 (C.D. Cal. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *dos Santos v. Noem*, No. 25-cv-12052, 2025 U.S. Dist. LEXIS 157488, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-cv-01789, 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Maldonado v. Olson*, No. 25-cv-3142, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631, 2025 U.S. Dist. LEXIS 160622, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 Civ. 6373, 2025 U.S. Dist. LEXIS 161109, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-cv-06248, 2025 U.S. Dist. LEXIS 163056, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Quinonez Mercado v. Dep't Homeland Sec.*, No. 25-cv-12066, 2025 U.S. Dist. LEXIS 163487, 2025 WL 2430423 (D. Mass. Aug. 22, 2025); *Leal-Hernandez v. Noem*, No. 25-cv-02428, 2025 U.S. Dist. LEXIS 165015, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 25-1093, 2025 U.S. Dist. LEXIS 167280, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, No. 25-cv-12226, 2025 U.S. Dist. LEXIS

166667, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 25-cv-12486, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Francisco T. v. Bondi*, No. 25-CV-03219, 2025 U.S. Dist. LEXIS 179562, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Chogllo Chafla v. Scott*, No. 25-cv-00437, 2025 U.S. Dist. LEXIS 170279, 2025 WL 2531027 (D. Me. Sept. 2, 2025); *Salvador v. Bondi*, No. 25-cv-07946, 2025 U.S. Dist. LEXIS 211770, 2025 WL 2995055 (C.D. Cal. Sept. 2, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921, 2025 U.S. Dist. LEXIS 171892, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Garcia v. Noem*, No. 25-cv-02180, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Doe v. Moniz*, No. 25-cv-12094, 2025 U.S. Dist. LEXIS 173360, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Mosqueda v. Noem*, No. 25-cv-02304, 2025 U.S. Dist. LEXIS 174828, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326, 2025 U.S. Dist. LEXIS 176165, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Guzman v. Andrews*, No. 25-cv-01015, 2025 U.S. Dist. LEXIS 176145, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizzaro Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Hernandez Marcelo v. Trump*, No. 25-cv-00094, 2025 U.S. Dist. LEXIS 190973, 2025 WL 2741230 (S.D. Iowa Sept. 10, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 U.S. Dist. LEXIS 183412, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-06924, 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Munoz Materano v. Arteta*, No. 25 Civ. 6137, 2025 U.S. Dist. LEXIS 179608, 2025 WL 2630826 (S.D.N.Y. Sept. 12, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 U.S. Dist. LEXIS 181837, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025);

Cortes v. Noem, No. 25-cv-02677, 2025 U.S. Dist. LEXIS 181582, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Vazquez v. Feeley*, No. 25-cv-01542, 2025 U.S. Dist. LEXIS 182412, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Salazar v. Dedos*, No. 25-cv-00835, 2025 U.S. Dist. LEXIS 183335, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Oliveros v. Kaiser*, No. 25-cv-07117, 2025 U.S. Dist. LEXIS 183943, 2025 WL 2677125 (N.D. Cal. Sept. 18, 2025); *Castellanos v. Kaiser*, No. 25-cv-07962, 2025 U.S. Dist. LEXIS 183957, 2025 WL 2689853 (N.D. Cal. Sept. 18, 2025); *Barrera v. Tindall*, No. 25-cv-541, 2025 U.S. Dist. LEXIS 184356, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 25-cv-00479, 2025 U.S. Dist. LEXIS 184134, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Hasan v. Crawford*, No. 25-cv-1408, 2025 U.S. Dist. LEXIS 184734, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 U.S. Dist. LEXIS 185696, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Chogllo Chafla v. Scott*, No. 25-cv-00437, 2025 U.S. Dist. LEXIS 184909, 2025 WL 2688541 (D. Me. Sept. 22, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 U.S. Dist. LEXIS 187233, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 U.S. Dist. LEXIS 188085, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Barrajas v. Noem*, No. 25-cv-00322, 2025 U.S. Dist. LEXIS 189643, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Roman v. Noem*, No. 25-cv-01684, 2025 U.S. Dist. LEXIS 186389, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); *Roa v. Albarran*, No. 25-cv-07802, 2025 U.S. Dist. LEXIS 189485, 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 U.S. Dist. LEXIS 188368, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Valencia Zapata v. Kaiser*, No. 25-cv-07492, 2025 U.S. Dist. LEXIS 190934, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496 (D.N.J. Sept. 26, 2025);

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WL 3187521 (S.D. Tex. Nov. 14, 2025); *Cardona-Lozano v. Noem*, No. 25-CV-1784, 2025 U.S. Dist. LEXIS 226361, 2025 WL 3218244 (W.D. Tex. Nov. 14, 2025); *Morillo v. Albarran*, No. 25-cv-01533, 2025 U.S. Dist. LEXIS 224965, 2025 WL 3190899 (E.D. Cal. Nov. 15, 2025); *Faizyan v. Casey*, No. 25-cv-02884, 2025 U.S. Dist. LEXIS 225957, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025); *Aguilar v. Noem*, No. 25 C 12731, 2025 U.S. Dist. LEXIS 225444, 2025 WL 3204568 (N.D. Ill. Nov. 17, 2025); *Soto-Garcia v. Olson*, No. 25-cv-13736, 2025 U.S. Dist. LEXIS 225439, 2025 WL 3204594 (N.D. Ill. Nov. 17, 2025); *Ayala v. Olson*, No. 25 C 13317, 2025 U.S. Dist. LEXIS 225440, 2025 WL 3210398 (N.D. Ill. Nov. 17, 2025); *Lara v. Olson*, No. 25 C 13110, 2025 U.S. Dist. LEXIS 225964, 2025 WL 3210403 (N.D. Ill. Nov. 17, 2025); *Balderas v. Olson*, No. 25 C 12749, 2025 U.S. Dist. LEXIS 225447, 2025 WL 3210422 (N.D. Ill. Nov. 17, 2025); *Garcia v. Olson*, No. 25 C 13621, 2025 U.S. Dist. LEXIS 225438, 2025 WL 3210425 (N.D. Ill. Nov. 17, 2025); *Alvarez v. Olson*, No. 25 C 13410, 2025 U.S. Dist. LEXIS 225963, 2025 WL 3210461 (N.D. Ill. Nov. 17, 2025); *Alarcon v. Moniz*, No. 25-cv-13294, 2025 U.S. Dist. LEXIS 227818, 2025 WL 3204553 (D. Mass. Nov. 17, 2025); *Gonzalez v. Raycraft*, No. 25-13502, 2025 U.S. Dist. LEXIS 226859, 2025 WL 3218242 (E.D. Mich. Nov. 17, 2025); *Orellana v. Noem*, No. 25-cv-1333, 2025 U.S. Dist. LEXIS 225785, 2025 WL 3198685 (W.D. Mich. Nov. 17, 2025); *Cardona v. Unknown Party*, No. 25-cv-1287, 2025 U.S. Dist. LEXIS 225783, 2025 WL 3200682 (W.D. Mich. Nov. 17, 2025); *Sevilla v. Noem*, No. 25-cv-1325, 2025 U.S. Dist. LEXIS 225791, 2025 WL 3200698 (W.D. Mich. Nov. 17, 2025); *Guerra v. Noem*, No. 25-cv-1341, 2025 U.S. Dist. LEXIS 225782, 2025 WL 3204289 (W.D. Mich. Nov. 17, 2025); *Escobar Salgado v. Mattos*, No. 25-cv-01872, 2025 U.S. Dist. LEXIS 225122, 2025 WL 3205356 (D. Nev. Nov. 17, 2025); *Sandoval v. Rokosky*, No. 25-17229, 2025 U.S. Dist. LEXIS 227215, 2025 WL 3204746

(D.N.J. Nov. 17, 2025); *Yupangui v. Hale*, No. 25-cv-884, 2025 U.S. Dist. LEXIS 225459, 2025 WL 3207070 (D. Vt. Nov. 17, 2025); *Castillo v. Wamsley*, No. 25-cv-02172, 2025 U.S. Dist. LEXIS 225929, 2025 WL 3204370 (W.D. Wash. Nov. 17, 2025); *Diaz v. Albarran*, No. 25-cv-09837, 2025 U.S. Dist. LEXIS 227156, 2025 WL 3214972 (N.D. Cal. Nov. 18, 2025); *Torres v. Bondi*, No. 25-cv-02457, 2025 U.S. Dist. LEXIS 226975, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Ruiz v. Larose*, No. 25-cv-02714, 2025 U.S. Dist. LEXIS 227064, 2025 WL 3214975 (S.D. Cal. Nov. 18, 2025); *Sanchez v. Noem*, No. 25-CV-3068, 2025 U.S. Dist. LEXIS 226977, 2025 WL 3214987 (S.D. Cal. Nov. 18, 2025); *Perez v. Olson*, No. 25 C 13731, 2025 U.S. Dist. LEXIS 226580, 2025 WL 3213967 (N.D. Ill. Nov. 18, 2025); *Lopez v. Olson*, No. 25-cv-654, 2025 U.S. Dist. LEXIS 226574, 2025 WL 3217036 (W.D. Ky. Nov. 18, 2025); *Mendez v. Raycraft*, No. 25-cv-1323, 2025 U.S. Dist. LEXIS 226891, 2025 WL 3214100 (W.D. Mich. Nov. 18, 2025); *Eshdavlatov v. Arnott*, No. 25-cv-00844, 2025 U.S. Dist. LEXIS 226463, 2025 WL 3217838 (W.D. Mo. Nov. 18, 2025); *Rodriguez v. Arnott*, No. 25-cv-00836, 2025 U.S. Dist. LEXIS 226462, 2025 WL 3218553 (W.D. Mo. Nov. 18, 2025); *Cornejo-Mejia v. Bernacke*, No. 25-cv-02139, 2025 U.S. Dist. LEXIS 226849, 2025 WL 3222482 (D. Nev. Nov. 18, 2025); *Sarmiento Guerrero v. Noem*, No. 25-CV-5881, 2025 U.S. Dist. LEXIS 226952, 2025 WL 3214787 (E.D.N.Y. Nov. 18, 2025); *Guzman Cardenas v. Almodovar*, No. 25-CV-9169, 2025 U.S. Dist. LEXIS 228008, 2025 WL 3215573 (S.D.N.Y. Nov. 18, 2025); *Villegas ex. rel. Guzman Andujar v. Francis*, No. 25-cv-09199, 2025 U.S. Dist. LEXIS 228053, 2025 WL 3215597 (S.D.N.Y. Nov. 18, 2025); *Demirel v. Fed. Det. Ctr. Philadelphia*, No. 25-5488, 2025 U.S. Dist. LEXIS 226877, 2025 WL 3218243 (E.D. Pa. Nov. 18, 2025); *Cortina v. Anda-Ybarra*, No. 25-CV-00523, 2025 U.S. Dist. LEXIS 226367, 2025 WL 3218682 (W.D. Tex. Nov. 18, 2025); *Singh v. Andrews*, No. 25-cv-01543, 2025 U.S. Dist.

LEXIS 227960, 2025 WL 3248059 (E.D. Cal. Nov. 19, 2025); *W.V.S.M. v. Wofford*, No. 25-cv-01489, 2025 U.S. Dist. LEXIS 228189, 2025 WL 3236521 (E.D. Cal. Nov. 19, 2025); *Elias v. Knight*, No. 25-cv-00594, 2025 U.S. Dist. LEXIS 228940, 2025 WL 3228262 (D. Idaho Nov. 19, 2025); *Esparza v. Knight*, No. 25-cv-00601, 2025 U.S. Dist. LEXIS 228963, 2025 WL 3228282 (D. Idaho Nov. 19, 2025); *Rodriguez v. Knight*, No. 25-cv-00600, 2025 U.S. Dist. LEXIS 228931, 2025 WL 3228285 (D. Idaho Nov. 19, 2025); *Cordoba v. Knight*, No. 25-cv-00605, 2025 U.S. Dist. LEXIS 228973, 2025 WL 3228945 (D. Idaho Nov. 19, 2025); *Ibarra v. Knight*, No. 25-cv-00597, 2025 U.S. Dist. LEXIS 228965 , 2025 WL 3228968 (D. Idaho Nov. 19, 2025); *Arredondo v. Hollinshead*, No. 25-cv-00609, 2025 U.S. Dist. LEXIS 228925, 2025 WL 3228972 (D. Idaho Nov. 19, 2025); *Esparza v. Hollinshead*, No. 25-cv-00599, 2025 U.S. Dist. LEXIS 228930, 2025 WL 3228974 (D. Idaho Nov. 19, 2025); *Gonzalez v. Knight*, No. 25-cv-00602, 2025 U.S. Dist. LEXIS 228948, 2025 WL 3228975 (D. Idaho Nov. 19, 2025); *Hernandez v. Bondi*, No. 25-cv-00615, 2025 U.S. Dist. LEXIS 228926, 2025 WL 3228976 (D. Idaho Nov. 19, 2025); *Martinez v. Knight*, No. 25-cv-00610, 2025 U.S. Dist. LEXIS 228927, 2025 WL 3228987 (D. Idaho Nov. 19, 2025); *Casarez v. Thompson*, No. 25-cv-00596, 2025 U.S. Dist. LEXIS 228938, 2025 WL 3228988 (D. Idaho Nov. 19, 2025); *Lopez v. Anderson*, No. 25-cv-00621, 2025 U.S. Dist. LEXIS 228937, 2025 WL 3228997 (D. Idaho Nov. 19, 2025); *Camacho v. Hollinshead*, No. 25-cv-00593, 2025 U.S. Dist. LEXIS 228928, 2025 WL 3228998 (D. Idaho Nov. 19, 2025); *Rangel v. Knight*, No. 25-cv-00607, 2025 U.S. Dist. LEXIS 228946, 2025 WL 3229000 (D. Idaho Nov. 19, 2025); *Serrato v. Anderson*, No. 25-cv-00603, 2025 U.S. Dist. LEXIS 228936, 2025 WL 3229001 (D. Idaho Nov. 19, 2025); *Elias v. Knight*, No. 25-cv-00604, 2025 U.S. Dist. LEXIS 228940, 2025 WL 3229013 (D. Idaho Nov. 19, 2025); *Ramirez v. Noem*, No. 25 C 13651, 2025 U.S. Dist. LEXIS 227585,

2025 WL 3227341 (N.D. Ill. Nov. 19, 2025); *Lobera v. Noem*, No. 25 CV 13593, 2025 U.S. Dist. LEXIS 227578, 2025 WL 3228984 (N.D. Ill. Nov. 19, 2025); *Gonzalez v. Olson*, No. 25 C 13439, 2025 U.S. Dist. LEXIS 227990, 2025 WL 3237190 (N.D. Ill. Nov. 19, 2025); *Del Villar v. Noem*, No. 25-CV-00137, 2025 U.S. Dist. LEXIS 227575, 2025 WL 3231630 (W.D. Ky. Nov. 19, 2025); *Ibarra v. Noem*, No. 25-cv-1335, 2025 U.S. Dist. LEXIS 227896, 2025 WL 3223765 (W.D. Mich. Nov. 19, 2025); *Ortiz v. Raycraft*, No. 25-cv-1328, 2025 U.S. Dist. LEXIS 227952, 2025 WL 3223771 (W.D. Mich. Nov. 19, 2025); *Martinez v. Unknown Party*, No. 25-cv-1298, 2025 U.S. Dist. LEXIS 227894, 2025 WL 3223774 (W.D. Mich. Nov. 19, 2025); *Pastor v. Raycraft*, No. 25-cv-1301, 2025 U.S. Dist. LEXIS 227892, 2025 WL 3223777 (W.D. Mich. Nov. 19, 2025); *Hernandez Franco v. Raycraft*, No. 25-cv-1274, 2025 U.S. Dist. LEXIS 227895, 2025 WL 3223780 (W.D. Mich. Nov. 19, 2025); *Orozco-Martinez v. Lynch*, No. 25-cv-1353, 2025 U.S. Dist. LEXIS 227890, 2025 WL 3223786 (W.D. Mich. Nov. 19, 2025); *Francisco T. V. Bondi*, No. 25-CV-03219, 2025 U.S. Dist. LEXIS 227338, 2025 WL 3236513 (D. Minn. Nov. 19, 2025); *Mairena-Munguia v. Arnott*, No. 25-cv-3318, 2025 U.S. Dist. LEXIS 227477, 2025 WL 3229132 (W.D. Mo. Nov. 19, 2025); *Ortiz v. Bernacke*, No. 25-cv-01833, 2025 U.S. Dist. LEXIS 227525, 2025 WL 3237291 (D. Nev. Nov. 19, 2025); *Sales v. Mattos*, No. 25-cv-01819, 2025 U.S. Dist. LEXIS 227864, 2025 WL 3237366 (D. Nev. Nov. 19, 2025); *Duran v. Bernacke*, No. 25-cv-02105, 2025 U.S. Dist. LEXIS 227789, 2025 WL 3237451 (D. Nev. Nov. 19, 2025); *Perez v. Lyons*, No. 25-cv-17186, 2025 U.S. Dist. LEXIS 228514, 2025 WL 3238540 (D.N.J. Nov. 19, 2025); *Ndiaye v. Jamison*, No. 25-6007, 2025 U.S. Dist. LEXIS 227253, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025); *Figueroa v. Hermosillo*, No. 25-cv-02228, 2025 U.S. Dist. LEXIS 227966, 2025 WL 3230466 (W.D. Wash. Nov. 19, 2025); *Manzanarez v. Bondi*, No. 25-cv-01536, 2025 U.S.

Dist. LEXIS 228976, 2025 WL 3247258 (E.D. Cal. Nov. 20, 2025); *Flores v. Noem*, No. 25-cv-03011, 2025 U.S. Dist. LEXIS 228752, 2025 WL 3240807 (S.D. Cal. Nov. 20, 2025); *Boffill v. Field Off. Dir.*, No. 25-cv-25179, 2025 U.S. Dist. LEXIS 228852, 2025 WL 3246868 (S.D. Fla. Nov. 20, 2025); *Rusu v. Noem*, No. 25 C 13819, 2025 U.S. Dist. LEXIS 228541, 2025 WL 3240911 (N.D. Ill. Nov. 20, 2025); *Salinas v. Woosley*, No. 25-cv-121, 2025 U.S. Dist. LEXIS 228539, 2025 WL 3243837 (W.D. Ky. Nov. 20, 2025); *Curillo v. Noem*, No. 25-cv-1340, 2025 U.S. Dist. LEXIS 228739, 2025 WL 3235737 (W.D. Mich. Nov. 20, 2025); *Beltran v. Raycraft*, No. 25-cv-1352, 2025 U.S. Dist. LEXIS 228744, 2025 WL 3237429 (W.D. Mich. Nov. 20, 2025); *Sanchez v. Noem*, No. 25-cv-1361, 2025 U.S. Dist. LEXIS 228745, 2025 WL 3237435 (W.D. Mich. Nov. 20, 2025); *Melgar v. Noem*, No. 25-cv-1377, 2025 U.S. Dist. LEXIS 228798, 2025 WL 3240058 (W.D. Mich. Nov. 20, 2025); *Cabrera-Cortes v. Knight*, No. 25-cv-01976, 2025 U.S. Dist. LEXIS 228260, 2025 WL 3240971 (D. Nev. Nov. 20, 2025); *Sandhu v. Tsoukaris*, No. 25-14607, 2025 U.S. Dist. LEXIS 228416, 2025 WL 3240810 (D.N.J. Nov. 20, 2025); *Lucero v. Soto*, No. 25-16737, 2025 U.S. Dist. LEXIS 228400, 2025 WL 3240895 (D.N.J. Nov. 20, 2025); *Sun v. Almodovar*, No. 25-cv-9262, 2025 U.S. Dist. LEXIS 230613, 2025 WL 3241268 (S.D.N.Y. Nov. 20, 2025); *Escarcega v. Olson*, No. CIV-25-1129, 2025 U.S. Dist. LEXIS 228528, 2025 WL 3243438 (W.D. Okla. Nov. 20, 2025); *Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, 2025 WL 3241212 (E.D. Pa. Nov. 20, 2025); *Plascencia v. Bondi*, No. CV-25-04140, 2025 U.S. Dist. LEXIS 229244, 2025 WL 3250914 (D. Ariz. Nov. 21, 2025); *Padilla v. Bowen*, No. 25-cv-10780, 2025 U.S. Dist. LEXIS 229955, 2025 WL 3251368 (C.D. Cal. Nov. 21, 2025); *Singh v. Bowen*, No. 25-cv-03034, 2025 U.S. Dist. LEXIS 230920, 2025 WL 3251437 (C.D. Cal. Nov. 21, 2025); *Juarez v. Noem*, No. 25-cv-02972, 2025 U.S. Dist. LEXIS 230912,

2025 WL 3251658 (C.D. Cal. Nov. 21, 2025); *Velasquez v. LaRose*, No. 25-CV-3137, 2025 U.S. Dist. LEXIS 229643, 2025 WL 3251373 (S.D. Cal. Nov. 21, 2025); *Diaz-Villatoro v. LaRose*, No. 25-CV-3087, 2025 U.S. Dist. LEXIS 229662, 2025 WL 3251377 (S.D. Cal. Nov. 21, 2025); *Santos v. Larose*, No. 25-cv-3009, 2025 U.S. Dist. LEXIS 229695, 2025 WL 3251575 (S.D. Cal. Nov. 21, 2025); *Marroquin v. LaRose*, No. 25-cv-3013, 2025 U.S. Dist. LEXIS 229678, 2025 WL 3251579 (S.D. Cal. Nov. 21, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022, 2025 U.S. Dist. LEXIS 229681, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Garcia v. Raycraft*, No. 25-cv-13407, 2025 U.S. Dist. LEXIS 229787, 2025 WL 3252286 (E.D. Mich. Nov. 21, 2025); *Delcid v. Noem*, No. 25-cv-1366, 2025 U.S. Dist. LEXIS 229820, 2025 WL 3251139 (W.D. Mich. Nov. 21, 2025); *Oropeza v. Noem*, No. 25-cv-1343, 2025 U.S. Dist. LEXIS 229834, 2025 WL 3251140 (W.D. Mich. Nov. 21, 2025); *Delgado v. Noem*, No. 25-cv-1249, 2025 U.S. Dist. LEXIS 229821, 2025 WL 3251144 (W.D. Mich. Nov. 21, 2025); *Velasquez-Gomez v. Soto*, No. 25-17327, 2025 U.S. Dist. LEXIS 229383, 2025 WL 3251443 (D.N.J. Nov. 21, 2025); *Valerio v. Joyce*, No. 25-17225, 2025 U.S. Dist. LEXIS 229275, 2025 WL 3251445 (D.N.J. Nov. 21, 2025); *Gomez v. Bondi*, No. C25-2248, 2025 U.S. Dist. LEXIS 229577, 2025 WL 3251157 (W.D. Wash. Nov. 21, 2025); *Ramos v. Hermosillo*, No. 25-cv-02273, 2025 U.S. Dist. LEXIS 229649, 2025 WL 3251159 (W.D. Wash. Nov. 21, 2025); *Padilla v. Galovich*, No. 25-cv-863, 2025 U.S. Dist. LEXIS 229751, 2025 WL 3251446 (W.D. Wis. Nov. 21, 2025).

D. Petitioner's continued mandatory detention under Respondent's erroneous interpretation of § 1225 violates his substantive, due process, and statutory rights.

Petitioner has been in the United States since 2009. His first interaction with immigration authorities was when he was detained in October of 2025. Petitioner's mere

presence does not amount to "seeking admission" within the meaning of 8 U.S.C. § 1225. Petitioner is therefore properly detained under § 1226(a) and his mandatory detention is unlawful. His continued deprivation of liberty violates his substantive constitutional rights against unlawful restraint. His continued detention without a bond hearing violates his due process rights. His continued detention under § 1225 where that statute does not apply to him, violates § 1226 and § 1225.

E. Petitioner is a member of the *Maldonado-Bautista* national class action, but Respondents refuse to follow that ruling.

The U.S. District Court for the Central District of California certified a nationwide class action for noncitizens who were refused a bond hearing whose detention should be governed by § 1226. The certified bond eligible class includes all noncitizens in the United States without lawful status who:

1) Have entered or will enter the United States without inspection;
2) Were not or will not be apprehended upon arrival; and,
3) Are not or will not be subject to detention under 8 U.S. C. § 1226(c), §1255(b)(1), or §1231 at the time the Department of homeland Security makes an initial custody determination.

Id. The District Court in *Maldonado Bautista* found that *Yajure Hurtado* is no longer controlling as the legal conclusion underlying the decision is no longer tenable[3]. It further ordered that all noncitizens that are class members be issued a bond hearing. Petitioner is straightforwardly a covered class member. Respondent's nonetheless assert the right to ignore the order in *Maldonado-Bautista.*

[3] Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

F. CONCLUSION AND REMEDY

The appropriate remedy in this case is immediate release. Typically, the appropriate remedy would be provision of a bond hearing before a neutral decisionmaker. *Loa Caballero v. Baltazar,* at 19 – 20. Three recent trends, however, indicate that the Executive Office for Immigration Review is either unwilling or unable to provide the requisite neutrality. First, despite losing hundreds of cases on the same issue – raising the same arguments – and being subject to a national class action that forecloses its interpretation, Respondent insists on unlawfully detaining hundreds of noncitizens under 8 U.S.C. § 1225's. *Cortes v. Guadian*, 2026 U.S. Dist. LEXIS 21264, *5 ("Respondents' undaunted efforts to improperly detain other habeas petitioners under 8 U.S.C. § 1225's mandatory detention provisions.") Second, Immigration Judges at the Aurora Immigration Court are now finding that they lack jurisdiction to consider bonds on the theory that the Department has not filed a form I-286. *See e.g. Exhibit D.* Though there is no statutory requirement for such a form to be filed, the court is finding that the lack of such a form deprives if of jurisdiction because there is no initial custody determination to redetermine. *Id.* Never mind that Petitioner and others similarly situated are literally in the custody of the Department and in proceedings before the Aurora Immigration Court at the Aurora ICE Detention Facility. Since the Department is refusing to issue a form I-286 as a matter of policy, this novel requirement represents an effective Departmental veto on bond hearings. *Exhibit C:Memorandum from Rodney S. Scott, U.S. Customs and Border Protection Commisioner* (July 10, 2026)("Effective immediately, it is the position of DHS that applicants for admission are…treated in the same manner that 'arriving aliens' have historically been treated…Use of the…Notice of Custody Determination (I-286)…will no longer be an option."); *Exhibit E.* This moving of the goal posts is not unlike the Executive Office for

Immigration Review's decision to ignore the nationwide class action in *Maldonado-Bautista.* If the court can concoct an artifice to prolong this unlawful detention, experience shows that it will do so. Third, the Assistant Chief Immigration Judge for the Aurora Immigration Court is *sua sponte* referring cases to herself in which bond was granted and reversing those decisions despite jurisdiction for those matters being with the Board of Immigration Appeals. Such self-referral for the purpose of denial lays bare that the Executive Office for Immigration Review has abandoned any pretense of neutrality and is instead participating in this "determined campaign to arrest and remove as many noncitizens as possible." *Barco Mercado v. Francis*, at 24. Petitioner is thus concerned that any decision at a bond hearing will be informed by the political goal of removing noncitizens rather than a legal analysis of Petitioners danger to the community and flight risk. A bond hearing, though a putative remedy to detention without due process is not likely to resolve Petitioner's unlawful detention under these circumstances. "Respondents' interpretation of § 1225 is "contrary to the agency's own implementing regulations; its published guidance; the decisions of its immigration judges (until very recently); decades of practice; the Supreme Court's gloss on the statutory scheme; and the overall logic of our immigration system." *Loa Caballero v. Baltazar,* at 18 (citations omitted). This Court should order Petitioner released.

CLAIM FOR RELIEF
COUNT I

Respondents Jail Petitioner in Violation of U.S.C. §1226(a)

1. Petitioner incorporates by reference the allegations in the preceding paragraphs as if fully set forth herein.
2. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner because he was present and residing in the U.S., has been placed in §

1229a removal proceedings, and charged with inadmissibility pursuant to 8 U.S.C. § 1182. Simply, § 1225 does not apply to people like Petitioner who previously entered the country and reside in the U.S. prior to being detained and placed in removal proceedings. Such noncitizens may only be detained pursuant to § 1226(a), unless they are subject to mandatory detention provisions irrelevant here. Detention under § 1226(a) requires access to bond.

3. Applying § 1225 to Petitioner unlawfully mandates his continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).

COUNT II

Respondents are Detaining Petitioner in Violation of the Administrative Procedures Act (5 U.S.C. § 706(2))

4. Petitioner incorporates by reference the allegations in the preceding paragraphs as if fully set forth herein.

5. Under the APA, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

6. Respondents' detention of Petitioner pursuant to § 1225 is arbitrary and capricious, and in violation of the Fifth Amendment of the U.S. Constitution. Respondents do not have statutory authority under § 1225 to detain Petitioner.

7. Respondents' detention of Petitioner without access to bond is arbitrary, capricious, an abuse of discretion, violative of the U.S. Constitution, and without statutory authority, all in violation of 5 U.S.C. § 706(2).

COUNT III

Respondents Detain Petitioner in Violation of his Fifth Amendment Due Process Rights

1. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
2. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that the [Fifth Amendment's due process] Clause protects." *Zadvydas*, 533 U.S. at 690.
3. Petitioner has a fundamental interest in liberty and being free from official restraint, such as imprisonment in the Aurora Facility.
4. Respondents' detention of Petitioner without providing him a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to Due Process.

COUNT IV

Respondents Detain Petitioner Despite the Fact that he is a Member of the *Maldonado Bautista* Class Action

1. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
2. The order in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.
3. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the

same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

4. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

5. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Ensure that Petitioner remain in the state of Colorado

c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

d. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

e. Place the burden of proof at any bond hearing ordered by this Court on the Government to justify Petitioner's continued detention.

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

DATED this 11th of February, 2026.

/s/Tiago Guevara
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CERTIFICATE OF SERVICE

I, Tiago Guevara, hereby certify that on February 11, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby further certify that I mailed the document or paper to the following persons via first class mail on February 11, 2026:

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