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**UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

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EDWIN ADOLFO LEMUS CRISTALES,  
  
Petitioner,

v.

RYAN ARBON, Weber County Sheriff;  
RUBEN LEYVA, Acting Field Office  
Director, Salt Lake City Enforcement and  
Removal Operations, U.S. Immigration and  
Customs Enforcement (ICE/ERO); BRIAN  
HENKE Field Office Director for Las  
Vegas/Salt Lake City; KRISTI NOEM,  
Secretary United States Department of  
Homeland Security; PAMELA BONDI, U.S.  
Attorney General,

Defendants.

**PETITIONER'S REPLY IN SUPPORT OF  
WRIT FOR HABEAS CORPUS**

Case No. 2:26-cv-00217

Judge: Jill N. Parrish

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**INTRODUCTION**

Respondents' interpretation of the law is wrong, and this Court should grant relief.

Respondents urge this Court to follow the interpretation of 8 U.S.C. § 1225(b)(2) and §1226(a) articulated in *Buenrostro-Mendez v. Bondi*, 166 F. 4th 494, 498 and *Cisneros v. Noem*, No. 2:25-CV-1170-HCN, 2026 WL 396300 (D. Utah Feb. 12, 2026). Both cases are not binding upon the

court and are in the minority of opinions who have endorsed Respondent’s unlawful and unconstitutional interpretation of the Immigration and Naturalization Act (“INA”), 8 U.S.C. §§ 1101 *et seq.*, in order to indefinitely detain thousands of immigrants in the United States, including Petitioner.

While some have argued that “the persuasiveness of nonbinding precedent turns on quality, not quantity,” *Cisneros v. Noem*, 2026 WL 396300, at \*5 (D. Utah Feb. 12, 2026), “quantity mirrors quality.” *Torres Medina v. Tjaden*, 2:26-cv-00195-JNP-DBP, ECF No. 27 at 5 (D. Utah Mar. 23, 2026).<sup>1</sup> The court should follow the proper interpretation of §1225 and §1226 as articulated by the majority of courts around the country and a substantially similar Habeas case granted by this Court last week. Alternatively, the Court should consider Petitioner’s due process rights. Ultimately, the Court should order Respondents to give Petitioner a constitutionally and legally sufficient bond hearing under §1226 within seven days.

### **ARGUMENTS**

#### **I. *Buenrostro* and *Cisneros*’ interpretation of §1225 and §1226 is wrong.**

The central question in this case is whether 8 U.S.C. § 1225(b)(2) imposes mandatory detention on aliens who are present in the United States without admission irrespective of how long they have been in the United States or what, if any, immigration benefits they have requested. The federal government, in a change of policy that departs from decades of former

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<sup>1</sup> A courtesy of *Torres Medina v. Tjaden*, 2:26-cv-00195-JNP-DBP, ECF No. 27 at (D. Utah Mar. 23, 2026) is attached as Ex. 1.

practice, argues § 1225(b)(2) mandate indefinite detention. It is Petitioner’s position that the government’s new interpretation of § 1225 is unlawful.

The majority of lower courts to have addressed this issue agree that the government’s new policy is indeed unlawful. Despite this wealth of case law, no binding precedent currently dictates a result within this circuit. Only the Fifth Circuit has reached the issue on its merits in *Buenrostro*, 166 F.4th at 498. Similarly, only one case in this district court has sided with the government. *Cisneros*, 2026 WL 396300, at \*7 (D. Utah Feb. 12, 2026) (finding the new interpretation lawful). While “the persuasiveness of nonbinding precedent turns on quality, not quantity,” *Cisneros*, 2026 WL 396300, at \*5 (D. Utah Feb. 12, 2026), “quantity mirrors quality.” *Torres Medina*, 2:26-cv-00195-JNP-DBP, ECF No. 27 at 5. This court should therefore side with the majority view as expressed by other decisions in this district court.<sup>2</sup>

Based on *Buenrostro* and *Cisneros*, Respondents raise three primary arguments in support of their interpretation of § 1225: (1) that the statute is clear on its face; (2) that prior practice does not change the law; and (3) that the government’s interpretation of § 1225(b)(2) better aligns with the goals of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”). These three arguments have already been refuted.

**a. A plain reading of the statute does not support Respondents’ interpretation.**

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<sup>2</sup> *Tanchez v. Noem*, No. 2:25-CV-1150, 2026 WL 125184, at \*1 (D. Utah Jan. 16, 2026) (finding the new interpretation unlawful), *Velasquez Montillo v. Brooksby, et al.*, No. 4:26-CV-00018-DN-PK, 2026 WL 592355, at \*7 (D. Utah Mar. 3, 2026) (finding the new interpretation unlawful), and *Torres Medina v. Tjaden*, 2:26-cv-00195-JNP-DBP, ECF No. 27 (D. Utah Mar. 23, 2026) (finding the new interpretation unlawful).

Of the three detention provisions of the INA, only §§ 1225 and 1226 are relevant here. As the Supreme Court in *Jennings v. Rodriguez* summarized: “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).” 583 U.S. 281, 289 (2018).

The applicability of the mandatory detention scheme of § 1225(b)(2) or the discretionary detention scheme of § 1226(a) is thus dispositive in the case at hand. Respondents contend that Petitioner is an “applicant for admission” who is “not clearly and beyond a doubt entitled to be admitted,” and thus subject to mandatory detention under § 1225(b)(2). ECF No. 8 at 2. The plain text of the INA, however, demonstrates that § 1226(a)—not § 1225(b)(2)—applies.

Section 1225(b)(2)(A) applies only if three criteria are met: the individual (1) is an “applicant for admission,” (2) is “seeking admission,” and (3) is “not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Petitioner does not satisfy these requirements.

First, as explained by the court in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873, (C.D. Cal. Dec 18, 2025) ECF No. 93 at 15-17, Petitioner is not an “applicant for admission” within the meaning of 8 U.S.C. § 1225 because the statutory definition, when read carefully and sequentially, requires a triggering event that did not occur in this case.

The analysis begins with the statutory text. Section 1225(a)(1) provides that an “applicant for admission” is either (1) “an alien present in the United States who has not been admitted” or (2) “an alien ... who arrives in the United States (whether or not at a designated port of arrival ...)” 8 U.S.C. § 1225(a)(1). The first clause cannot be understood in isolation. It incorporates the

INA’s definition of “admission,” which is a term of art. The INA defines “admission”(and by extension “admitted”) as “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).

This definition is critical because it identifies a specific triggering event: inspection and authorization by an immigration officer. The statute does not treat “admission” as a generalized concept tied merely to physical presence in the United States. Instead, it ties admission—and by extension the absence of admission—to a formal inspection process conducted by an immigration officer.

When the first clause of § 1225(a)(1) is read with this definition in mind, it becomes clear that it refers to a particular class of individuals: those who have been subject to, or are within, the inspection-and-admission framework but have not been granted lawful entry following that process. In other words, the phrase “has not been admitted” presupposes the possibility of admission through inspection and authorization. That possibility only arises when the triggering event—inspection by an immigration officer—has occurred or is in the process of occurring.

This reading is reinforced by the structure of § 1225 itself. Section 1225 governs “[i]nspection by immigration officers” and repeatedly refers to an “examining immigration officer” making admissibility determinations. See 8 U.S.C. § 1225(b)(2). The entire provision is built around the inspection process at or near the border. Thus, the concept of an “applicant for admission” is anchored to that inspection context.

Applying this framework step-by-step demonstrates why Petitioner does not fall within the statutory definition: First, Petitioner entered the United States without being inspected or

authorized by an immigration officer. ECF No. 8-2, I-862 Notice to appear (“[y]ou are an alien present in the United States who has not been admitted or paroled.”) Second, because no inspection occurred, the statutory triggering event for “admission”—inspection and authorization—never took place. Third, because that triggering event never occurred, Petitioner was never placed within the inspection-and-admission framework contemplated by § 1225. Fourth, without that framework, the phrase “has not been admitted” cannot be read to encompass Petitioner. The statutory language presumes a context in which admission could have occurred through inspection. Where no inspection ever took place, that premise is absent.

Accordingly, Petitioner does not meet the definition of an “applicant for admission.” The statute does not classify every individual who enters the United States without inspection as an “applicant for admission”; rather, it applies that label within the specific context of the inspection process governed by § 1225.

This conclusion is further confirmed by § 1225(b)(2), which applies only where an “examining immigration officer” determines that an alien is not clearly entitled to admission. That provision necessarily presupposes an inspection encounter. Because Respondents concede that Petitioner was not apprehended at the border and was not inspected by an immigration officer, § 1225(b)(2) cannot apply.

If Petitioner is not an “applicant for admission,” then he falls within the INA’s broader category of an “alien,” defined as “any person not a citizen or national of the United States.” 8 U.S.C. § 1101(a)(3). The detention of such individuals is governed by § 1226(a), which applies to aliens present in the United States pending removal proceedings. Nothing in the statutory text

presents an “insuperable textual barrier” to this interpretation. *See Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 321 (2014).

For these reasons, because the statutory triggering event—inspection and authorization by an immigration officer—never occurred, Petitioner cannot be considered an “applicant for admission,” and his detention is governed by § 1226(a), not § 1225(b)(2).

Second, even assuming arguendo that Petitioner is an “applicant for admission,” he is not “seeking admission.” Section 1225(b)(2)’s use of the present participle—“seeking”—denotes ongoing, contemporaneous action. As courts have recognized, this language refers to a discrete moment when a noncitizen is crossing or has just crossed the border, not a continuing status that applies indefinitely. *See, e.g., Francisco T. v. Bondi*, No. 25-cv-3219, 2025 WL 3490809, at \*5 (D. Minn. Sept. 5, 2025); *Tanchez*, No. 2:25-CV-1150, 2026 WL 125184, at \*8.

Petitioner, who has been physically present in the United States for over two years, is not engaged in any ongoing effort to gain admission. As one court aptly illustrated, a person who enters a movie theater without a ticket is not thereafter “seeking admission,” but rather already present. *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2267803, at \*7 (S.D.N.Y. Aug. 8, 2025).

This understanding is further reinforced by the statutory context. Section 1225 is framed around “inspection,” a concept historically tied to border encounters. *See Lopez Benitez*, 2025 WL 2267803, at \*7 (citing *Make the Road N.Y. v. Noem*, No. 25-5320, 2025 WL 3563313, at \*2 (D.C. Cir. Nov. 22, 2025)). The dissent in *Buenrostro* also recognizes that § 1225 is “replete with

references to arrival and inspection,” in contrast to § 1226, which governs the “apprehension and detention of aliens.” 166 F.4th 494, 513 (5th Cir. 2026) (Douglas, J., dissenting).

Accordingly, because Petitioner is neither an “applicant for admission” nor “seeking admission” within the meaning of § 1225(b)(2), his detention is governed by § 1226(a), not the mandatory detention scheme of § 1225(b)(2).

Respondents argue that the statutory text collapses the requirements of being an “applicant for admission” and “seeking admission” into a single inquiry—such that anyone who is an applicant for admission is necessarily seeking admission and therefore subject to § 1225(b)(2). ECF No. 8 at 2, 14. In support, Respondents rely almost exclusively on *Buenrostro* and *Cisneros*. But as this Court recently explained in *Torres Medina*, neither decision is persuasive.

The Fifth Circuit’s primary textual argument is that, as a matter of ordinary meaning, “[w]hen a person applies for something, they are necessarily seeking it.” *Buenrostro*, 166 F.4th at 502. From this premise, the court concluded that “applicant for admission” and “seeking admission” are not independent requirements. *Id.* But that reasoning does not withstand scrutiny.

Even under ordinary usage, the two concepts are not coextensive. The Fifth Circuit’s own analogy—a college applicant—illustrates the flaw. An individual may remain an “applicant” while no longer “seeking” admission, such as when she accepts a preferred offer elsewhere. More fundamentally, the analogy breaks down because it assumes an affirmative act of applying. As the court explained in *Sanchez v. Noem*, an “applicant for admission” under the INA need not take any such step; that status may arise simply by entering the United States. 2026 WL 473094,

at \*6 n.4. In that respect, Petitioner is “much more closely” analogous to an unadmitted individual sitting in a lecture hall unbeknownst to the administration—hardly someone actively seeking admission. *Id.*

Respondents’ reading also improperly renders § 1225(b)(2)’s second requirement superfluous. While *Buenrostro* cautioned against rewriting statutory text to avoid redundancy, no such rewriting is required here. The better reading gives independent meaning to both terms, consistent with the “cardinal principle” that courts must give effect to every clause and word of a statute. *Buenrostro*, 166 F.4th at 511 (Douglas, J., dissenting) (quoting *Williams v. Taylor*, 529 U.S. 362, 404, (2000)); see *Corley v. United States*, 556 U.S. 303, 314 (2009) (stating that “one 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’” (citation modified)).

The Fifth Circuit’s analysis is further flawed because it collapses a defined statutory term into ordinary language. “Applicant for admission” is a term of art expressly defined in the INA, whereas “seeking admission” is not. See 8 U.S.C. § 1225(a)(1). As *Sanchez* observed, substituting the ordinary word “apply” for these defined terms “damages the very foundation of the court’s textual analysis.” 2026 WL 473094, at \*5 n.3. Congress chose to define “applicant for admission” broadly but did not equate that term with “seeking admission.” See *Castanon-Nava v. U.S. Department of Homeland Security*, 161 F.4th 1048, 1061 (7th Cir. 2025). That choice must be respected.

Finally, as argued *supra.*, the statutory definition of “admission” reinforces Petitioner’s reading. “Admission” means “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). As courts have recognized, this definition—combined with the statute’s active phrasing—confirms that “seeking admission” refers to individuals presently attempting lawful entry after inspection, not those already residing in the United States. *Sanchez*, 2026 WL 473094, at \*5–6. Thus, the most natural reading of § 1225(b)(2) limits its reach to noncitizens engaged in the act of seeking entry, not individuals like Petitioner.

The Fifth Circuit further contends that other provisions in § 1225 demonstrate that “applicant for admission” and “seeking admission” are interchangeable. *Buenrostro*, 166 F.4th at 503. But the cited provisions do not support that conclusion.

For example, § 1225(a)(5) provides that “[a]n applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission.” 8 U.S.C. § 1225(a)(5). This language does not collapse the two terms; it reinforces that § 1225 governs interactions with individuals actively engaged in the admission process. At most, it reflects that those “seeking admission” may fall within the broader category of “applicants for admission,” not that the two are synonymous.

The Fifth Circuit also relies on § 1225(a)(3), which states that “[a]ll aliens . . . who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected.” 8 U.S.C. § 1225(a)(3). It reasons that “or otherwise” indicates that applicants for admission are a subset of those seeking admission. *Buenrostro*, 166 F.4th at

503. That reading is unpersuasive. The phrase “or otherwise” is commonly used to introduce distinct categories, not synonymous ones. As used here, it separates “applicants for admission” from additional groups—those seeking admission, readmission, or transit—confirming that the statute contemplates multiple, non-identical categories of noncitizens subject to inspection.

Nor does the statute’s occasional use of the term “arriving alien” resolve the issue. While some provisions expressly refer to “arriving aliens,” *see, e.g.*, 8 U.S.C. § 1225(a)(2), the absence of that term in § 1225(b)(2) does not mean the provision applies without limitation. As courts have recognized, Congress may have used the broader term “applicant for admission” to provide flexibility in border enforcement. *See T Sanchez*, No. 2:25-CV-1150, 2026 WL 125184, at \*7. But that breadth is meaningfully constrained by the additional requirement that the individual be “seeking admission.” As the dissent in *Buenrostro* explains, this phrase is not surplusage but “the modern statute’s equivalent of the key term limiting its reach to aliens ‘arriving’ at the border.” 166 F.4th at 514 (Douglas, J., dissenting).

Ultimately, the Fifth Circuit’s concern—that Congress would define “applicant for admission” broadly yet apply § 1225(b)(2) only to a subset of that group—is misplaced. That structure is both logical and commonplace: Congress often defines a broad category and then prescribes specific rules for a narrower subset. Indeed, that understanding reflects the longstanding operation of the statute. *Id.*

**b. The Statutory Structure of the INA also supports Petitioner’s interpretation**

The structure of the INA also support Petitioner’s position. Most relevant here is § 1226, which in part sets out the discretionary detention system. Section 1226(c), amended just last year

through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), states that certain aliens subject to § 1226 are nevertheless subject to mandatory detention. For example, § 1226(c)(1)(E) states that for those aliens inadmissible under §§ 1182(a)(6)(A), 1182(a)(6)(C), or 1182(a)(7), detention is mandatory *if they are also* charged with, arrested for, or convicted of certain crimes. 8 U.S.C. § 1226(c)(1)(E). If aliens present without admission were already subject to mandatory detention through § 1225(b)(2), the newly added crime requirement of § 1226(c)(1)(E) would be redundant. *See Santos M.C. v. Olson*, No. 25-CV-4264, 2025 WL 3281787, at \*3 (D. Minn. Nov. 25, 2025) (“If the government is correct, there was no reason for Congress to amend § 1226 in 2025.”). Moreover, § 1226(c) in general would appear largely redundant, if mandatory detention applies to as broad a scope through § 1225(b)(2) as Respondents assert.

This alleged redundancy is not without consequence. *See Barton v. Barr*, 590 U.S. 222, 239 (2020) (noting redundancies “are common in statutory drafting—sometimes in a congressional effort to be doubly sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply because of the shortcomings of human communication”). The application of § 1225 instead of § 1226 has tangible consequences for aliens. The parole provisions of § 1882(d)(5), for example, only apply to those detained pursuant to § 1225. This reality appears to reflect that §§ 1225 and 1226 are indeed different detention schemes that apply to different groups of aliens. *Carbajal v. Wimmer*, No. 2:26-CV-00093, 2026 WL 353510, at 4 (D. Utah Feb. 9, 2026) (noting “the detention schemes under § 1225 and § 1226 are distinct, with different advantages and disadvantages”).

The Fifth Circuit in *Buenrostro* replies that § 1226(a) does independent work. 166 F.4th at 504 (5th Cir. 2026). As the Fifth Circuit states, only “§ 1226(a) applies to admitted aliens who overstay their visas, become deportable on many different grounds, or were admitted erroneously due to fraud or some other error.” *Id.* at 504–05. It also notes that those mandatorily detained under § 1226(c) do not have the option of parole available to those detained under § 1225(b)(2). *Id.* at 505. But while the Fifth Circuit’s reasoning explains why § 1226 and the Laken Riley Act are not *completely* redundant, that reasoning is nevertheless less convincing compared to the alternative readily available: § 1225(b)(2) and § 1226 are not redundant at all because they apply to different groups of aliens. *See id.* at 512 (Douglas, J., dissenting) (“This is not a mere matter of some overlap at the edges; rather, the government’s reading takes a sledgehammer to the statutes Congress wrote, including laws it passed just over a year ago.”). If Respondents’ position is correct, Congress could have in a more straightforward fashion eliminated the parole option for those aliens directly in § 1225 or in § 1882. *Id.*

**c. Prior Practice Agrees with Petitioner’s interpretation**

Further, the government’s prior practice is also informative. From 1997 to 2025, including during the current administration’s first term in office, the Department of Homeland Security (“DHS”) adhered to the conventional understanding of the applicability of §§ 1225(b)(2) and 1226(a). Conventional in this sense is that aliens arrested when already present in the United States were eligible for bond and were able to challenge their custody determination in front of an immigration judge. *See Sanchez v. Noem*, No. 2:25-CV-1150, 2026 WL 125184, at \*3 (D. Utah Jan. 16, 2026).

As explained in the Petition, ECF No. 1 at ¶¶ 34-37, in July 2025, DHS released new guidance to its employees, stating that it had “revisited its legal position on detention and release authorities” and determined that “section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission.” *Id.* (quoting Interim Guidance, AILA Doc. No. 25071607 (July 8, 2025), available at: <https://perma.cc/5GKM-JYGX>). Later, in September 2025, the Board of Immigration Appeals adopted the position as laid out in the new guidance. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

While this Court “need not . . . defer to an agency interpretation of the law simply because a statute is ambiguous.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024). The Supreme Court has made clear, however, “‘the longstanding practice of the government’—like any other interpretive aid—‘can inform [a court’s] determination of what the law is.’” *Loper Bright*, 603 U.S. at 386 (quoting *NLRB v. Noel Canning*, 573 U.S. 513, 525 (2014)) (citation modified).

Thus, prior practice provides strong, though not exclusive, support for Petitioner’s position. The Fifth Circuit in *Buenrostro* highlights an early regulation that signaled § 1225(b)(2) applied to unadmitted aliens present in the country. *See Buenrostro*, 166 F.4th 494, 507 (5th Cir. 2026). Specifically, 8 C.F.R. § 235.3(b)(1)(ii) provided that:

An alien who was not inspected and admitted or paroled into the United States but who establishes that he or she has been continuously physically present in the United States for the 2-year period immediately prior to the date of determination of inadmissibility shall be detained in accordance with section 235(b)(2) of the Act for a proceeding under section 240 of the Act.

8 C.F.R. § 235.3(b)(1)(ii). But this regulation is within a broader set of “expedited removal” provisions and is limited to aliens “who are inadmissible specifically because they misrepresented material facts or lack valid documentation, 8 U.S.C. § 1182(a)(6)(C), (a)(7), not to aliens who merely were present in the country without being admitted or paroled, *id.* § 1182(a)(6)(A).” *Kevin Vasquez Pacheco, Petitioner, v. Brandon Crowley, Jail Commander of the Clay Cnty. Det. Ctr., Respondent.*, No. 1:26-CV-02052, 2026 WL 658890, at \*4 n.7 (N.D. Ill. Mar. 9, 2026). In any case, in response to comments relating to the publication of the interim rules that included § 235.3(b)(1)(ii), the former Immigration and Naturalization Service and the Executive Office for Immigration Review stated that “[d]espite 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.” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997); 62 Fed. Reg. 10312, 10355.

**d. The Legislative History of IIRIRA Also Agrees with Petitioner’s Interpretation**

Legislative history is an “additional tool of analysis,” but it cannot override plain statutory meaning absent an “extraordinary showing of contrary intentions.” *Garcia v. United States*, 469 U.S. 70, 75 (1984). Here, the legislative record not only fails to support Respondents’ interpretation—it reinforces the conclusion that § 1226(a), not § 1225(b)(2), governs detention of noncitizens like Petitioner who are already present in the United States.

Congress enacted § 1226(a) as a continuation of longstanding discretionary detention authority applicable to noncitizens present in the country pending removal proceedings. H.R. Rep. No. 104-469, pt. 1, at 229 (explaining that § 1226(a) “restates” prior law). Nothing in the

IIRIRA amendments suggests Congress intended to displace that framework with a sweeping regime of mandatory detention for all noncitizens who had not been lawfully admitted, regardless of physical presence.

To the contrary, as the Ninth Circuit explained in *Torres v. Barr*, Congress’s primary objective in IIRIRA was to reform removal proceedings—not detention authority—by replacing the prior “entry doctrine” and consolidating exclusion and deportation proceedings into a unified removal process. 976 F.3d 918, 928 (9th Cir. 2020). While that reform altered procedural distinctions—such as burdens of proof depending on lawful admission—it did not expand mandatory detention. The legislative history addressing the “entry doctrine” focuses on inequities in removal proceedings, not on transforming the detention scheme.

Consistent with that understanding, Congress preserved discretionary release under § 1226(a) for noncitizens present in the United States. H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210. Courts reviewing this history have rejected the government’s attempt to elevate one congressional concern into a wholesale restructuring of detention authority. As one court observed, Congress’s effort to reduce inequities in removal proceedings does not suggest an intent to “up-end the existing detention regime” by subjecting all inadmissible noncitizens to mandatory detention. *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at \*11–12 (N.D. Cal.).

The legislative record instead confirms that § 1225(b)(2) was directed at “arriving aliens,” not individuals already residing in the country. Congress described that provision as governing the “[i]nspection of other arriving aliens,” and contemporaneous statements

distinguished “aliens at the border” from those who had made a substantial entry into the United States. That distinction aligns with the statute’s structure and text, which tie § 1225 to inspection at the border.

It also reflects longstanding constitutional principles. The Supreme Court has consistently recognized a critical distinction between noncitizens at the threshold of entry and those who have established presence within the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001). Noncitizens who have effected entry possess greater due process protections than those seeking initial admission. *See also Landon v. Plasencia*, 459 U.S. 21, 25–26 (1982).

Congress legislated against that backdrop. Section 1226(a) reflects those constitutional concerns by providing robust procedural protections, including bond hearings and individualized custody determinations. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022). Section 1225(b)(2), by contrast, provides no such safeguards—further confirming its limited application to arriving individuals in the inspection context.

Respondents’ contrary interpretation would mark a dramatic expansion of mandatory detention, extending it to large numbers of noncitizens living in the United States. If Congress had intended such a sweeping change, it would have spoken clearly. As the Supreme Court has cautioned, Congress does not “hide elephants in mouseholes.” *Whitman v. American Trucking Associations*, 531 U.S. 457, 468 (2001). The legislative record contains no such clear statement.

Respondents’ interpretation thus raise serious constitutional concerns and should be rejected on that basis alone. By subjecting individuals like Petitioner—who have lived in the

United States for years and developed substantial ties—to mandatory detention without any individualized review, the government’s reading pushes the statute to the constitutional brink.

Respondents’ reading imposes mandatory detention without any opportunity for a bond hearing or individualized assessment of flight risk or danger—protections that are the hallmark of § 1226(a). Such a regime raises the very due process concerns the Supreme Court has repeatedly warned against. *See Zadvydas v. Davis*, 533 U.S. at 690 (warning that a statute permitting prolonged detention without adequate safeguards would present “serious constitutional problem[s]”).

There is no need to adopt such a constitutionally fraught interpretation. The statute readily admits a narrower, textually sound reading—one that limits § 1225(b)(2) to individuals actively seeking admission and preserves § 1226(a)’s procedural protections for those already present in the country. Where, as here, one interpretation “would raise serious constitutional problems” and another “fairly possible” interpretation avoids them, the Court must adopt the latter. *Gomez v. United States*, 490 U.S. 858, 864 (1989).

Respondents’ position ignores this foundational principle. It asks the Court to embrace a sweeping expansion of mandatory detention that strips long-resident noncitizens of basic procedural safeguards—without any clear statement from Congress and in tension with settled constitutional doctrine. The Court should decline that invitation.

**II. Petitioner’s case is substantially similar to the case in *Torres Medina* and the Court should hold likewise**

The circumstances presented here closely mirror those in *Torres Medina*, 2:26-cv-00195-JNP-DBP, ECF No. 27, where this Court granted habeas relief and required that the petitioner be afforded a meaningful opportunity to challenge his detention. In *Torres Medina*, the petitioner was a noncitizen who had lived and worked in the United States for three years, had applied for humanitarian relief (asylum), and was taken into ICE custody following a local arrest. *Id.* at 1-2. Like the petitioner here, he was not apprehended at the border, had established ties within the community, and faced continued detention without access to a bond hearing based on the government's invocation of § 1225(b)(2). *Id.*

Further, both petitioners entered the United States, lived in the interior for a substantial period, and affirmatively engaged with the immigration system by seeking lawful relief—there, through asylum and TPS, and here through a pending U-visa application based on Petitioner's cooperation as a crime victim. *Id.* at 2.<sup>3</sup> Both were arrested on relatively recent alleged criminal conduct and subsequently transferred to ICE custody, where they were classified as “applicants for admission” and denied any opportunity for a bond hearing. *Id.* at 4. And in both cases, the government has relied on the same statutory framework to justify prolonged detention without individualized review. *Id.* at 6. (Summarizing the respondents' arguments against habeas petition.)

If anything, the equities in this case are even more compelling. Unlike the petitioner in *Torres Medina*, Petitioner here is the primary caregiver and sole financial provider for a

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<sup>3</sup> Ex. 2, Copy of Petitioner's U-visa application.

medically fragile U.S. citizen household. His wife suffers from a disabling neurological condition that limits her ability to function independently, and his young stepson faces a serious congenital heart condition requiring ongoing care. Petitioner himself is also recovering from a severe spinal injury and has been deprived of critical, scheduled medical treatment due to his detention. These facts underscore that the harms flowing from detention here are not merely theoretical, but immediate, severe, and compounding.

In *Torres Medina*, this Court rejected the government's position that detention under § 1225 could be imposed without affording the petitioner any meaningful opportunity to seek release, emphasizing the importance of individualized review where a noncitizen is detained within the interior of the United States. *Id.* at 27. The same reasoning applies with equal—if not greater—force here. Petitioner, like the *Torres Medina* petitioner, was not apprehended at the border and has long since developed substantial ties to the community. Treating him as if he were an arriving alien for purposes of mandatory detention, while simultaneously denying him any forum to contest that detention, raises the same statutory and due process concerns this Court has already recognized.

Given these materially indistinguishable facts, and the even more compelling humanitarian and medical considerations present here, there is no principled basis to reach a different result. Consistent with its reasoning in *Torres Medina*, this Court should grant the petition for habeas corpus and order that Petitioner be provided a prompt, individualized custody determination before an immigration judge.

**III. Petitioner’s detention without possibility for bond redetermination violates his due process rights**

Respondents rely on *Cisneros* to argue that “a bond hearing could not remedy [Petitioner’s] deprivation of liberty and would thus serve no purpose,” because the process already afforded through removal proceedings is sufficient. ECF No. 8 at 19 (quoting *Cisneros*, 2026 WL 396300, at \*6). Petitioner does not contend that he has been afforded no process at all—rather, that the process provided is constitutionally insufficient under the circumstances.

Although removal proceedings are civil in nature and provide certain procedural safeguards, they do not meaningfully mitigate the concrete harms caused by prolonged detention. As Congress has made clear, noncitizens have the right to counsel only “at no expense to the Government.” 8 U.S.C. §§ 1362, 1229a(b)(4)(A). Petitioner must therefore bear the financial burden of securing counsel not only for these proceedings, but also for his removal proceedings, and potentially also for bond proceedings, all while he remains detained and unable to earn income. At the same time, delays inherent in the immigration system—exacerbated by overcrowded detention facilities—mean that Petitioner may remain in custody for weeks or months before meaningful review.<sup>4</sup> During this period, his detention imposes severe and compounding harms: he is unable to provide financial support to his household, leaving his disabled wife and stepson without essential resources, and he is effectively prevented from

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<sup>4</sup> See Eric Westervelt, *ICE’s Growing Detention Footprint, and the Communities Fighting Back*, NPR (Mar. 23, 2026), <https://www.npr.org/2026/03/23/g-s1-114107/ices-growing-detention-footprint-and-the-communities-fighting-back> (Reporting that “[o]n average, detention facilities daily now hold nearly 70,000 immigrants, a scale of mass detention not seen since the mass incarceration of Japanese Americans and nationals during World War II.”)

managing his family's affairs or preparing for the possibility of removal. Even basic communication with loved ones is restricted and costly as he must use a paid phone where he is charged for phone calls per minute, further isolating him from those who depend on him.

These harms underscore that Petitioner's interest in freedom from physical restraint is not abstract, but immediate and profound. As the Supreme Court recognized in *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, the right to be free from unjustified detention is "the most elemental of liberty interests." Here, that liberty interest is intertwined with Petitioner's ability to care for and support his vulnerable U.S.-citizen family members—interests that cannot be vindicated through removal proceedings alone.

By contrast, the Government's legitimate interests in enforcing immigration laws—such as ensuring appearance at proceedings and protecting the public—can be achieved through substantially less restrictive means. Courts have recognized these as important interests, *see Rodriguez Diaz v. Garland*, , 53 F.4th 1189 (9<sup>th</sup> Cir. 2002), but detention is not the only mechanism available to serve them. Alternatives such as electronic monitoring, periodic reporting requirements, or other conditions of supervision would allow the Government to secure Petitioner's compliance while avoiding the severe and unnecessary burdens imposed by continued detention. In this context, the categorical denial of a bond hearing—and the resulting prolonged detention—fails to account for the availability of these less restrictive means and the profound liberty and family interests at stake.

**CONCLUSION**

For the reasons stated here and in Mr. Lemus' petition (ECF No. 1), the Court should grant his petition and order Respondents to give him a legal and constitutionally sufficient opportunity to seek bond before an Immigration Judge.

RESPECTFULLY SUBMITTED this March 25, 2026.

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