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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

WILLIAM ABNER MAZARIEGOS-LOPEZ)

Alien Number: )

Petitioner,)

v.)

PAMELA BONDI, *et al.*,)

Respondents.)

Case No.: 0:26-CV-60220-XXXX

**PETITIONER'S REPLY TO
RESPONDENT'S RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS**

**PETITIONER'S REPLY TO RESPONDENT'S RETURN IN OPPOSITION TO THE
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner, by and through undersigned counsel, submits the following reply to Respondent's response to Petitioner's Writ of Habeas Corpus. First, the government's expansive interpretation of § 1225 has been uniformly rejected by countless other courts. *See Pacheco-Guzman v. Bondi*, No. CV-26-20897 (S.D. Fla. Feb. 20, 2026); (listing the overwhelming majority of district court decisions across the United States rejecting Respondents' interpretation of § 1225).¹ In *Pacheco-Guzman v. Bondi*, the Honorable United States District Judge, Kathleen

¹ This Court is not bound by the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026), a decision which ignores the overwhelming majority of courts in its Circuit and elsewhere. *See Pacheco-Guzman v. Bondi*, 26-20897 (S.D. Fla. Feb. 20, 2026) at footnote 3 in attachment 3.

M. Williams, specifically sets forth and addressed the Fifth Circuit's recent decision and states that this decision is not binding. "Accordingly, without Eleventh Circuit guidance, this court will not adopt the Government's expansive reading of § 1225." See *Pacheco-Guzman v. Bondi*, 26-20897 (S.D. Fla Feb. 20, 2026) at footnote 3. To support her decision, Judge Williams cites the following cases: *Puga*, No. 25- 24535, 2025 WL 2938369, at *3–6; *Merino v. Ripa*, No. 25-23845, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2(M.D. Fla. Sep. 25, 2025); *Harsh Patel v. Crowley*, No. 25-11180, 2025 U.S. Dist. LEXIS 209958, at *9–12 (N.D. Ill. Oct. 24, 2024); *Esquivel-Ipina v. Larose*, No. 25-cv-2672, 2025 U.S. Dist. LEXIS 210275, at *9–12 (C.D. Cal. Oct. 24, 2025); *Carmona v. Noem*, No. 25-cv-1131, 2025 U.S. Dist. LEXIS 209629, at *14–17 (W.D. Mich. Oct. 24, 2025); *Lopez v. Hyde*, 25-12680, 2025 U.S. Dist. LEXIS 209916, at *4–5 (D. Mass. Oct. 24, 2025); *Guerra v. Joyce*, No. 25-cv-00534, 2025 WL 2986316, at *3 (D. Me. Oct. 23, 2025); *Lomeu v. Soto*, 25-cv-16589, 2025 WL 2981296, at *7–8 (D.N.J. Oct. 23, 2025); *Maldonado v. Cabezas*, No. 25-13004, 2025 WL 2985256, at *4 (D.N.J. Oct. 23, 2025); *Aparicio v. Noem*, 2025 U.S. Dist. LEXIS 208898, at *12–13 (D. Nev. Oct. 23, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120, 2025 WL 2977650, at *5–6 (D. Colo. Oct. 22, 2025); *Soto v. Soto*, No. 25-cv-16200, 2025 U.S. Dist. LEXIS 207818, at *16–19 (D.N.J. Oct. 22, 2025); *Garcia v. Noem*, 25-cv-02771, 2025 U.S. Dist. LEXIS 209286, at *10–15 (C.D. Cal. Oct. 22, 2025); *Aguiar v. Moniz*, No. 25-cv-12706, 2025 WL 2987656, at *3 (D. Mass Oct. 22, 2025); *Rivera v. Moniz*, 25-cv-12833, 2025 WL 2977900, at *1–2 (D. Mass. Oct. 22, 2025); *Avila v. Bondi*, No. 25-3741, 2025 WL 2976539, at *5–7 (D. Minn. Oct. 21, 2025); *Contreras-Lomeli v. Raycraft*, No. 25-cv-12826, 2025 U.S. Dist. LEXIS 207162, at *22 (E.D. Mich. Oct. 21, 2025); *Maldonado de Leon v. Baker*, No. 25-3084, 2025 WL 2968042, at *7 (D. Md. Oct. 21, 2025); *Casio-Mejia v. Raycraft*, No. 25-cv-13032,

2025 U.S. Dist. LEXIS 207165, at *12, 16–17 (E.D. Mich. Oct. 21, 2025); *Miguel v. Noem*, 25-11137, 2025 WL 2976480, at *6 (N.D. Ill. Oct. 21, 2025); *Pineda v. Simon*, No. 25-cv-01616, 2025 WL 2980729, at *2 (E.D. Va. Oct. 21, 2025); *Matheus Araujo DA Silva v. Bondi*, No. 25-cv-12672, 2025 WL 2969163, at *2 (D. Mass. Oct. 21, 2025); *Barahona v. Hyde*, No. 25-cv-12551, 2025 U.S. Dist. LEXIS 205964, at *4–5 (D. Mass. Oct. 20, 2025); *H.G.V.U. v. Smith*, No. 25-cv-10931, 2025 WL 2962610, at *4–6 (N.D. Ill. Oct. 20, 2025); *Gonzalez v. Hyde*, No. 25-8250, 2025 U.S. Dist. LEXIS 208578, at *10–11 (S.D.N.Y. Oct. 19, 2025); *Polo v. Chestnut*, No. 25-cv-01342, 2025 WL 2959346, at *11 (E.D. Cal. Oct. 17, 2025); *Sanchez v. Minga Wofford, Warden, Mesa Verde Immigr. Processing Ctr.*, No. 25-cv-01187, 2025 WL 2959274, at *3 (E.D. Cal. Oct. 17, 2025); *Gutierrez v. Juan Baltasar, Warden, Denver Cont. Det. Facility*, No. 25-cv-2720, 2025 U.S. Dist. LEXIS 208448, at *12–27 (D. Colo. Oct. 17, 2025); *Alvarez v. Noem*, No. 25-cv-1090, 2025 WL 2942648, at *4–6 (W.D. Mich. Oct. 17, 2025); *Zamora v. Noem*, No. 25-12750, 2025 WL 2958879, at *1 (D. Mass. Oct. 17, 2025); *Pacheco Mayen v. Raycraft*, 25-cv-13056, 2025 WL 2978529, at *6–9 (E.D. Mich. Oct. 17, 2025); *Diaz Sandoval v. Raycraft*, No. 25-cv-12987, 2025 WL 2977517, at *6–9 (E.D. Mich. Oct. 17, 2025); *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796, at *6–8 (E.D. Mich. Oct. 17, 2025); *Ochoa v. Noem*, No. 25-10865, 2025 WL 2938779, at *4–6 (N.D. Ill. Oct. 16, 2025); *Hernandez v. Crawford*, No. 25-cv-01565, 2025 WL 2940702, at *2 (E.D. Va. Oct. 16, 2025); *Piña v. Stamper*, No. 25-cv-00509, 2025 WL 2939298, at *3 (D. Me. Oct. 16, 2025); *Tut v. Noem*, No. 25-cv-02701, 2025 U.S. Dist. LEXIS 204616, at *9 (C.D. Cal. Oct. 16, 2025); *Sequen v. Albarran*, No. 25-cv-06487, 2025 WL 2935630, at *8 (N.D. Cal. Oct. 15, 2025); *Teyim v. Perry*, No. 25-cv-01615, 2025 WL 2950184, at *2–3 (E.D. Va. Oct. 15, 2025); *Singh v.*

Lyons, 25-cv-01606, 2025 WL 2932635, at *2–3 (E.D. Va. Oct. 14, 2025); *Alejandro v. Olson*, 25-cv-02027, 2025 WL 2896348, at *7–9 (S.D. Ind. Oct. 11, 2025); *Rico-Tapia v. Smith*, No. 25-00379, 2025 U.S. Dist. LEXIS 206547, at *21 (D. Haw. Oct. 10, 2025); *Chavez v. Kaiser*, No. 25-cv-06984, 2025 WL 2909526, at *5 (N.D. Cal. Oct. 9, 2025); *Donis v. Chestnut*, No. 25-01228, 2025 WL 287514, at *11 (E.D. Cal. Oct. 9, 2025); *Eliseo A.A. v. Olson*, No. 25-3381, 2025 WL 2886729, at *2–4 (D. Minn. Oct. 8, 2025); *Covarrubias v. Vergara*, No. 25-cv-112, 2025 WL 2950097, at *3 (S.D. Tex. Oct. 8, 2025); *Buenrostro-Mendez v. Bondi*, No. 25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025); *S.D.B.B. v. Johnson*, No. 25-cv-882, 2025 WL 2845170, at *5 (M.D.N.C. Oct. 7, 2025); *Gonzalez v. Bostock*, 25-cv-01404, 2025 WL 2841574, at *3–4 (W.D. Wash. Oct. 7, 2025); *Hyppolite*, 2025 WL 2829511, at *12; *Artiga v. Genalo*, No. 25-5208, 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025); *Cordero Pelico v. Kaiser*, No. 25-cv-07826, 2025 WL 2822876, at *15 (N.D. Cal. Oct. 3, 2025); *Orellana v. Moniz*, 25-cv-12664, 2025 WL 2809996, at *5 (D. Mass. Oct. 3, 2025); *Elias Escobar v. Hyde*, No. 25-cv-12620, 2025 WL 2823324, at *3 (D. Mass. Oct. 3, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *5–6 (D. Minn. Oct. 1, 2025); *Silva v. United States Immigr. & Customs Enft.*, No. 25-cv-284, 2025 U.S. Dist. LEXIS 191101, at *6–7 (D.N.H. Sep. 29, 2025); *Barrios v. Shepley*, No. 25-cv-00406, 2025 WL 2772579, at *10 (D. Me. Sep. 29, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 WL 2716910, at *4 (E.D. Cal. Sep. 23, 2025); *Choglllo Chafra v. Scott*, Nos. 25-cv-00437, 25-cv-00438, 25-cv-00439, 2025 WL 2688541, at *6–9 (D. Me. Sep. 22, 2025); *Barrera v. Tindall*, No. 25-cv-541, 2025 WL 2690565, at *5 (W.D. Ky. Sep. 19, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *6–8 (N.D. Cal. Sep. 16, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-

06924, 2025 WL 2637503, at *8–12 (N.D. Cal. Sep. 12, 2025); *Lopez Santos v. Noem*, No. 3:25-cv-01193, 2025 WL 2642278, at *3–5 (W.D. La. Sep. 11, 2025); *Jimenez v. FCI Berlin*, No. 25-cv-326, 2025 WL 2639390, at *5–10 (D.N.H. Sep. 8, 2025); *Doe v. Moniz*, 25-cv-12094, 2025 WL 2576819, at *5 (D. Mass. Sep. 5, 2025); *Garcia v. Noem*, No. 25-cv-01180, 2025 WL 2549431, at *5–7 (S.D. Cal. Sep. 3, 2025); *Francisco v. Bondi*, No. 25-cv-03219, 2025 WL 2629839, at *2–4 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, No. 25-cv-12486, 2025 WL 2496379, at *5–8 (E.D. Mich. Aug. 29, 2025); *Diaz v. Mattivelo*, No. 25-cv-12226, 2025 WL 2457610, at *3 (D. Mass. Aug. 27, 2025); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136, at *2–3 (W.D. La. Aug. 27, 2025); *Benitez v. Noem*, No. 25-cv-02190, 2025 U.S. Dist. LEXIS 171945, at *8–12 (C.D. Cal. Aug. 25, 2025); *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827, at *11–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411, at *11–12 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, 25-cv-12052, 2025 WL 2370988, at *6–8 (D. Mass. Aug. 14, 2025); *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *4–9 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-12157, 2025 WL 2337099, at *6–11 (D. Ariz. Aug. 11, 2025) *report and recommendation adopted by*, 2025 WL 2349133 (Aug. 13, 2025); *Bautista v. Santacruz*, No. 25-cv-01873, 2025 U.S. Dist. LEXIS 171364, at *13–16 (C.D. Cal. July 28, 2025); *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *5–9 (D. Mass. July 24, 2025); *Gomes*, 2025 WL 1869299, at *5–8; *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256–61 (W.D. Wash. 2025).

1. Petitioner is Not Subject to Mandatory Detention under 8 U.S.C. § 1225.

Under the post-IIRIRA INA, it is admission, not entry, that matters. The term “admission” and “admitted,” previously absent from the INA were added and defined at 8 U.S.C. § 1101(a)(13)(A), which provides:

The terms ‘admission’ and ‘admitted’ mean, with respect to an alien, the lawful entry of the alien *into the United States* after inspection and authorization by an immigration officer.

Meanwhile, the related term “application for admission” (also added by IIRIRA) defined at 8 U.S.C. § 1101(a)(4), provides: “The term ‘application for admission’ has reference to the application for admission *into the United States* and not to the application for the issuance of an immigrant or nonimmigrant visa.”²

The terms “application for admission,” “admission,” and “admitted” all make Congress’ intent clear: Admission cannot happen anywhere other than when at the proverbial door asking to come in. Circuit courts interpreting INA provisions referencing the definition of “admission” at 8 U.S.C. § 1101(a)(13), have explained:

This definition “is limited and does not encompass a post-entry adjustment of status,” because it “refers expressly to *entry into* the United States, denoting by its plain terms passage into the country from abroad at a port of entry.”³

By explicitly defining these terms, the “work” of determining their meaning and the meaning of statutes using them has been done by Congress.⁴ And in so doing, courts analyzing

² 8 U.S.C. § 1101(a)(4) (emphasis added).

³ *Medina-Rosales v. Holder*, 778 F.3d 1140, 1145 (10th Cir. 2015) (quoting *Negrete-Ramirez*, 741 F.3d at 1051); see also *Papazoglou*, 725 F.3d at 793 (“That provision therefore encompasses the action of an entry into the United States, accompanied by an inspection or authorization.”); *Bracamontes*, 675 F.3d at 385 (“Clearly, neither term includes an adjustment of status; instead, both contemplate a physical crossing of the border following the sanction and approval of United States authorities.”); *Martinez*, 519 F.3d at 544 (recognizing that “‘admission’ is the lawful *entry* of an alien after inspection, something quite different ... from post-entry adjustment of status”).

⁴ *Martinez v. Mukasey*, 519 F.3d 532, 543-44 (5th Cir. 2008).

such provisions have rejected the government's claims that an admission can happen from within the U.S.⁵ This has been repeatedly affirmed by courts interpreting INA provisions containing these terms.⁶

To address Respondent's contention that IIRIRA was specifically enacted to put a halt to the paradox of conferring greater privileges to those who presented at ports of entries than those who unlawfully entered: IIRIRA put provisions in place to deter illegally entering as well as extended stays of unlawful presence in the U.S. by penalizing such actions through bars to becoming a LPR. Beyond expanding expedited removal, IIRIRA employed other significant statutory tools to deter illegal entry. Chief among these was the creation of the 3- and 10-year unlawful presence (ULP) bars found at INA § 1182(a)(9)(B). Because EWI aliens are generally ineligible to adjust status within the United States under § 1255(a), they must depart and seek admission via consular processing.⁷ IIRIRA's new bars ensured that such a departure, after accruing sufficient unlawful presence, would trigger a multi-year, or even decade-long, bar to their lawful return.⁸ IIRIRA did provide a waiver for these bars in the case of aliens who have either a spouse or parent that is a U.S. citizen or LPR who will suffer hardship if the alien's application for admission as a LPR is denied. This, not mandatory detention, was yet another deterrent aimed at the EWI population.

⁵ See *e.g. id.* (rejecting the government's argument that an alien's adjustment of status within the United States was the equivalent of "being admitted to the United States as an alien lawfully admitted for permanent residence" as that phrase is used in 8 U.S.C. § 1182(h)).

⁶ See generally *Vartelas v. Holder*, 566 U.S. 257 (2012) (discussing IIRIRA's elimination of the entry doctrine through defining admission in 8 U.S.C. § 1101(a)(13) and the application of subparagraphs (C)(i)-(vi) to LPRs who, after a departure, are returning to the U.S. and seeking admission into it which it ultimately held violated the constitution's prohibition against retroactivity).

⁷ § 1182(a)(9)(B)(i)(I)-(I).

⁸ § 1182(a)(9)(B)(i)(I)-(I).

The government's new position hinges on a simplistic and overbroad reading of § 1225(b)(2)(A) and the definition of "applicant for admission" found in § 1225(a)(1).⁹ More specifically, the government takes the definition of applicant for admission in (a)(1), and leaps to the conclusion that all such applicants for admission must be "seeking admission," and therefore, subject to detention under § 1225(b)(2)(A) regardless of when or where they are encountered.¹⁰ This interpretation ignores the careful distinctions drawn throughout the INA and its implementing regulations.

As an initial matter, *Hurtado* and the Respondents in their response claim to read the plain language of § 1225(b)(2)(A), but as many courts have pointed out the BIA only reaches its conclusion by omitting "plain language" contradicting its interpretation. Specifically, to be subject to § 1225(b)(2)(A), the plain text requires an individual to be 1) an "applicant for admission"; 2) "seeking admission"; and 3) determined by an examining immigration officer to be "not clearly and beyond a doubt entitled to be admitted."¹¹ The second element of Sec. 1225(b)(2)(A)—which requires that a noncitizen be *seeking admission*—is not met in the case of EWI aliens who are found miles away from the land border and years after their entry.

As reasoned above, Congress left no room to dispute that an admission may only take place at a designated POE when asking to enter after inspection by an immigration officer. Accordingly, EWI aliens, like Petitioner, cannot be said to be *seeking admission* when arrested and detained in the interior well after entering. Rather, consistent with pre-IIRIRA detention provisions and

⁹ See *Hurtado*, 29 I&N Dec. at 216-220.

¹⁰ *Id.*

¹¹ 8 U.S.C. § 1225(b)(2)(A); see also *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *2 (D. Mass. July 24, 2025) (affirming these "several conditions must be met" for a noncitizen to be subject to mandatory detention under § 1225(b)(2)(A)).

decades of agency action, § 1225(b)(2) only implicates noncitizens who are “*seeking admission*” into the United States.¹²

The statutory use of the present and present progressive tenses—“is an applicant for admission” “seeking admission”—excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States.¹³ Throughout the country district courts have agreed with this plain reading, which gives effect to the meaning of each word, holding that § 1225(b)(2)(A) must be read to apply only to noncitizens who are apprehended while seeking to enter the country, and that noncitizens already residing in the United States, including those who are charged with inadmissibility, continue to fall under the discretionary detention scheme in § 1226.¹⁴

- i. **There is no question that *Jennings* reached the conclusion it did with the understanding that § 1225(b) applies at or near the border and § 1226(a) to those encountered in the interior and not subject to expedited removal—these are key distinctions that would have otherwise changed the analysis.**

¹² *Id.*

¹³ See *Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); accord *Lopez Benitez v. Francis*, 2025 WL 2371588, at *6–7 (S.D.N.Y. Aug. 13, 2025). See also *United States v. Wilson*, 503 U.S. 329, 333 (1992) (“Congress’ use of a verb tense is significant in construing statutes.”); *Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing “is arriving” in 8 U.S.C. Sec. 1225 (1)(A)(i) and observing that “[t]he use of the present progressive, like use of the present participle, denotes an ongoing process”).

¹⁴ See *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Samplao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 779 F. Supp. 3d 1239, 1256–59 (W.D. Wash. 2025) (granting preliminary injunction prohibiting I.J.s from denying bond to individuals apprehended in the interior based on INA § 1225(b)(2)); see also *Gomes v. Hyde*, 2025 WL 1869299 at *6–7 (D. Mass. July 7, 2025) (relying on statutory structure and Laken Riley Act amendments to § 1226 to find that recent entrant re-detained on a warrant was not subject to § 1225(b)(2)); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *6–8 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *7 (S.D.N.Y. Aug. 13, 2025); *Rocha Rosado v. Figueroa*, 2025 WL 2337099, at *8–10 (D. Ariz. Aug. 11, 2025); *Agullar Maldonado v. Olson*, 2025 WL 2374411, at *11–13 (D. Minn. Aug. 15, 2025); accord *Castillo Lachapel v. Joyce*, 2025 WL 1685576, at *2 (S.D.N.Y. June 16, 2025) (parties agreed that a person who had entered without inspection and was arrested in the interior was detained under § 1226(a)).

While 8 U.S.C. § 1225 does not explicitly state that its application is limited to ports of entry (POEs) or their immediate vicinity, this was without question the Supreme Court's understanding in *Jennings*. The Court's conclusions regarding the statute's interpretation and constitutionality relied heavily on the historically limited rights afforded to aliens at the country's borders. This was not an incidental assumption; the Supreme Court is fully cognizant of the limited constitutional rights at the border, and the government itself argued this precise distinction in support of its interpretation of § 1225 and § 1226.

Indeed, the Court presented the precise question this Court is being asked to answer now to the Solicitor General more than once. For example, Justice Sotomayor asked, "Clarifying question. For an alien who is found in the United States illegally, has not been admitted, are they held under 1225(b) or are they held under 1226(a)?"¹⁵

The Solicitor General responded, "So they are held under — if they are not — if they are not detained within 100 miles of the border or within 14 days... then they are under 1226(a) and not (c)."¹⁶

Seeking further clarity, Justice Sotomayor posed a hypothetical of an EWI alien stating, "I'm talking about an alien who has come into the United States illegally without being admitted who takes up residence 50 miles from the border."¹⁷

Without hesitation, the Solicitor General confirmed: "The answer is they are held under 1226(a) and that they get a bond hearing under it - - and this is at page 156a of the appendix."¹⁸

¹⁵ (*Id.* at p. 7.)

¹⁶ (*Id.* at pp. 7-8.)

¹⁷ (*Id.* at p. 8.)

¹⁸ (*Id.* at p. 8-9.)

As discussed below, the simple reality is that the Supreme Court and all the litigants in *Jennings* recognized that § 1225 is a statute applicable at or near the border, and therefore, the warrant requirement of the Fourth Amendment and the due process clause of the Fifth Amendment have little or no application.

Those advocating for the government's new position have often asserted that nothing in § 1225 says it applies only at POEs and near the border so it must apply everywhere and anywhere. But this ignores context and the assumption that Congress seeks to legislate constitutionally. Moreover, just as the § 1225 does not explicitly state its application is at or near the border, § 1226 does not say its application is in the interior of the United States. The absence of such language does not change the fact that its application is in the interior of the United States. This distinction between the geographical location of their application was explicitly acknowledged in *Jennings*.

The application of § 1225 at POEs and near the border is clear, unless one's entire test for interpretation is whether the statute explicitly states: "this statute applies only at X." The placement of § 1225 strongly supports its border-centric application. It is preceded by statutes plainly applying at POEs: § 1221 (arrival/departure manifests), § 1222 (detention and health examinations of arriving aliens), § 1223 (contracts with transportation companies regarding arriving aliens), and § 1224 (designation of POEs for aircraft). It is immediately followed by § 1225A, governing pre-inspection at airports. Simply put, § 1225 is surrounded by statutes that obviously apply at the borders and POEs.

Furthermore, the statute's implementing regulations affirm this understanding. The very first section, 8 C.F.R. § 235.1(a), states: "Generally. Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. port-of-entry when the port is open for inspection, or as otherwise designated in this section." The subsequent regulatory sections under 8

C.F.R. § 235 et. seq. consistently address procedures at the point of entry. In addition, most the implementing regulations have to do with airports, vessels, and other things that are clearly taking place at the border.

2. Reliance on Jennings is Misplaced at Best and Misleading at Worst.

In *Matter of Hurtado*, and the Respondent in their response, claims that the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018) dictates their preferred result. This claim, as one court put it, however, "is, to say the least, not without some doubt."¹⁹ Contrary to the BIA's claims about *Jennings*, Article III courts have seemingly uniformly pointed out that *Jennings* actually said: "'U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2) ... [and] to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).'"²⁰ Furthermore, as discussed above and illustrated by the oral argument transcript provided in the attached Exhibit, the *Jennings* court was operating under the belief that the application of § 1225 was at or near the border. A change in this fact completely changes the constitutional analysis. This is particularly true given the fact that when the Solicitor General was directly asked—more than once and in more than one way—what statute an alien who entered illegally who was not subject to expedited removal was detained under, he unequivocally responded § 1226(a) every time.

CONCLUSION

For the reasons set forth above, the Petition for Writ of Habeas Corpus should be granted, and an order should be issued immediately releasing Petitioner from his three-month unlawful

¹⁹ *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934, at *4–6 (D. Neb. Sept. 18, 2025).

²⁰ *Jennings*, 583 U.S. at 289 (emphasis added).

detention or an immediate deadline should be imposed before which Respondents must provide Petitioner with a discretionary custody redetermination (bond) hearing.

/s/ Jan Peter Weiss

Dated: February 19, 2026

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