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**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

REYES DE LA CRUZ GONZALEZ,

Petitioner,

v.

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; MARKWAYNE
MULLIN, 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-00240

Judge: Robert J. Shelby

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 (5th Cir 2026), *Avila v. Bondi*, --- F.4th ---, 2026 WL 819258 (8th Cir. March 25, 2026), and *Cisneros v. Noem*, No. 2:25-CV-

1170-HCN, 2026 WL 396300 (D. Utah Feb. 12, 2026). None of those cases are 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). The court should follow the proper interpretation of §1225 and §1226 as articulated by the majority of courts around the country and similar Habeas cases granted by this District Court in the last few weeks. 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, Avila, 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 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. First, the Fifth Circuit reached the issue on its merits in *Buenrostro*, 166 F.4th at 498 and then, the Eighth Circuit reached a similar conclusion last week in *Avila*, 2026 WL 819258 (8th Cir. March 25, 2026). Similarly, only one case in this district court has sided with Respondents' interpretation. *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.¹

Based on *Buenrostro*, *Avila* 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.

¹ *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. 9 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, in contrast to the petitioners in *Buenrostro* and *Avila*, Petitioner does not concede that he is an “applicant for admission”. *Buenrostro*, 166 F. 4th at 494 (“The petitioners concede that they are deemed to be ‘applicants for admission.’”); *Avila*, 2026 WL 819258 at *4 (“Avila does not contest that he has not been lawfully admitted into the country and thus remains an ‘applicant for admission.’”).

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 an alien 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 *Torres Medina*, 2:26-cv-00195-JNP-DBP, ECF No. 27, explained, 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 aliens 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 aliens 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 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 aliens like Petitioner who are already present in the United States.

Congress enacted § 1226(a) as a continuation of longstanding discretionary detention authority applicable to aliens 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 aliens 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 aliens 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 aliens 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 aliens 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). Aliens 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 aliens 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 aliens 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 *Chavez Rascon* and the Court should hold likewise

The circumstances of Mr. De La Cruz’s detention are substantially similar to those presented in *Chavez Rascon v. Noem*, 2026 WL 800684 (D. Utah Mar. 23, 2026) and the reasoning applied in that case compels the conclusion that Petitioner is being held in violation of law and is entitled to immediate relief. In *Chavez Rascon*, the court granted habeas relief where the petitioner had been granted deferred action pursuant to a bona fide U-Visa petition, was detained far from the border years after entry, and faced indefinite detention without review. The court recognized that discretionary detention under 8 U.S.C. § 1226(a) applied in the interior, and that indefinite detention without review raised serious Fifth Amendment concerns. Similarly, Mr. De La Cruz entered the United States without inspection in December 1997, has resided continuously in Utah for nearly three decades, and was recently arrested on a minor traffic-related allegation before being transferred to ICE custody. Like Chavez, he was detained in the interior of the country long after his initial entry and is now subject to novel and unsupported ICE policies that deny him any mechanism for a bond hearing.

Furthermore, the Chavez court emphasized that detention cannot continue indefinitely absent statutory authority or formal revocation of deferred action, noting that “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” Here,

although Petitioner does not possess deferred action status, the principle remains applicable: DHS's current interpretation that individuals who entered without inspection may be held without bond directly contradicts the plain language of 8 U.S.C. § 1226(a), which provides for discretionary release on bond or conditional parole. By preventing Petitioner from accessing a bond hearing, DHS effectively imposes indefinite detention in violation of statutory and constitutional safeguards—precisely the harm the court sought to prevent in *Chavez Rascon*.

Accordingly, the Court should adopt the reasoning in *Chavez Rascon*, recognize that Mr. De La Cruz's detention under the current ICE policy is unlawful, and order that he be afforded a bond hearing without further delay. Just as the court in *Chavez Rascon* concluded that discretionary detention applied in the interior and indefinite detention without review was unconstitutional, Petitioner is similarly entitled to relief to prevent ongoing, unnecessary deprivation of liberty and the severe personal, familial, and medical harm resulting from his continued detention.

CONCLUSION

For the reasons stated here and in Mr. De La Cruz's 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 30, 2026.

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