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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FREDDY EDILBERTO CABANILLA ARIAS, Petitioner, **vs.** **WARDEN, ADELANTO DETENTION FACILITY, ET AL,** Respondents.	**Case No.**: 5:25-CV-03228-AB-SK **PETITIONER'S REPLY BRIEF**

I. INTRODUCTION

Petitioner, who is detained in the custody of the Department of Homeland Security ("DHS"), has issued a Writ of Habeas Corpus. Counsel for Petitioner submits the instant Reply Brief in response to the Government's opposition.

II. ARGUMENT

A. The Government's Argument that the Petitioner's Request is barred by 8 U.S.C. § 1252 is invalid.

The Respondent contends that the court lacks jurisdiction. Specifically stating that 8 U.S.C. § 1252(g) diverts jurisdiction from courts, including for Habeas claims. However, this argument is not valid.

The courts have jurisdiction over constitutional and statutory claims brought by individuals like Petitioner in immigration custody when those claims are collateral to the Government's discretionary decision to commence, adjudicate, or execute removal orders. *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Section 1252(g) does not bar jurisdiction because he doesn't seek review of a removal order or challenge the Attorney General's decision to commence proceedings or adjudicate cases. Further, the Court has jurisdiction because his claims fall under the exception to § 1252(g)'s jurisdictional bar as he presents "a pure question of law." *See Silva v. United States*, 866 F.3d 938, 941 (8th Cir. 2017). *S.Q.D.C. v. Bondi*, No. 25-3348 (PAM/DLM), 2025 LX 394321, at *5 (D. Minn. Sep. 9, 2025). In fact, the Supreme Court held in *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018), that § 1252(b)(9) did not bar review of claims by detainees who were denied bond hearings and subjected to mandatory detention under 8 U.S.C. § 1226. *Id.* at 295.

Courts have consistently interpreted § 1252(g) narrowly, finding jurisdiction where a Petitioner challenges unconstitutional practices or detention conditions rather than the removal order itself. The Supreme Court held that the reach of § 1252(g) applies solely to "…commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders…" as these constitute "the initiation or prosecution of various stages in the deportation process." *Dep't of Homeland Sec. v. Regents of the Univ. of Calif., 591 U.S. 1, 19 (2020)*. In comparison with these three discrete categories, however, the Supreme Court noted that there are "many other decisions or actions that may be part of the deportation process," such as "the decisions to open an investigation, to surveil the suspected violator, to reschedule the deportation hearing, to include various provisions in the final order that is the product of the adjudication, and to refuse reconsideration of that order." *Reno v. AADC*, 525 U.S. 471 at 482 (1999).

The Supreme Court rejected the notion that § 1252(g) "covers the universe of deportation claims," finding it "implausible that the mention of three discrete events along the road to deportation was a shorthand way of referring to all claims arising from deportation proceedings." *Id. Reno v. American-Arab Anti-Discrimination Comm, 525 U.S. 471, 482–85 (1999)*. The Supreme Court has since reaffirmed its narrow construction of § 1252(g), observing in *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018), that *Reno* "did not interpret [the phrase 'arising from' in § 1252(g)] to sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General. Instead, [*Reno*] read the language to refer to just those three specific actions themselves." *Id.* at 841. Moreover, the majority in *Jennings* discounted the argument, proposed in Justice Thomas's concurrence, that: "The concurrence contends that 'detention is an 'action taken . . . to remove' an alien' and that therefore 'even the narrowest reading of "arising from" must cover' the claims raised by respondents. We do not follow this logic." *Id.* at 841 n.3 (quoting Thomas, J., concurring in part and concurring in judgment). The First Circuit's opinion in *Kong v. United States* is consistent with this authority, as the court stated, "Section 1252(g)'s bar on judicial review of claims arising from the government's decision to execute removal orders does not preclude jurisdiction over the challenges to the legality of the detention at issue here." *Kong v. United States*, 62 F.4th 608 (1st Cir. 2023).

Petitioner's claims do not challenge the actions of the Respondents in commencing proceedings, adjudicating cases, or executing removal orders. Instead, Petitioner contends that his re-detention without notice or an opportunity to be heard violates the Fifth Amendment. His claim is not tied to a decision to "commence" removal proceedings. Furthermore, custody proceedings are independent of "commencing" removal proceedings under § 1226, for which a separate jurisdictional provision applies, 1226(e). Respondents' position that detention is mandatory for

all who enter without inspection would effectively remove discretion and render § 1226(e) inapplicable and § 1252(g) irrelevant. Congress would not have enacted § 1226(e) if § 1252(g) already broadly barred review of custody determinations.

Likewise, §1252(b)(9) does not take away the court's jurisdiction because it "applies only to those claims seeking judicial review of orders of removal," and does not preclude "claims that are independent or collateral to the removal process." *J.E.F.M. v. Whitaker*, 913 F.3d 777, 784 (9th Cir. 2019). The Ninth Circuit agrees that [Section] 1252(b)(9) has built-in limits, specifically, claims that are independent of or collateral to the removal process do not fall within the scope of § 1252(b)(9)." *Gonzalez v. U.S. Immigr. & Customs Enf't*, 975 F.3d 788, 810 (9th Cir. 2020). Specifically, "claims challenging the legality of detention pursuant to an immigration detainer are independent of the removal process." *Id.* Petitioner does not challenge ICE's authority to charge Petitioner, place him in custody initially, or commence removal proceedings. Instead, Petitioner challenges his continued unlawful detention and due-process violations, rather than the validity or execution of his removal order. Therefore, this court should find it has jurisdiction over Petitioner's claim.

B. The Government's Argument that an individual detained within the physical border of the U.S. is detained pursuant to 1225 is incorrect.

Specifically, § 1225(b)(1)(iii)(II) place a time limitation on aliens described under §1225(b)(1). Section 1225(b)(1)(iii)(II) indicates "aliens described in this clause" as individuals who cannot "affirmatively show to the satisfaction of an immigration officer that the alien has been physically present in the United States continuously for a 2-year period…" 8 U.S.C. § 1225(b)(1)(iii)(II). This suggests that §1225(b) does not apply to individuals who have been continuously physically present in the U.S. for over a 2-year period like the petitioner. If §1225's detention statute does not apply, then the only alternative and the default should be §1226(a). In

fact, Petitioner was detained and was issued an I-200 "warrant for arrest," charging him under §236, reaffirming that 1226(a) should apply.

i. Statutory Construction Favors Section 1226(a) Application as the default for detention.

Respondent's argument also fails to consider the general distinction between Section 1225(b) and Section 1226(a) as discussed in the Supreme Court in *Jennings. Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). In that case, the Supreme Court observed that "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. at 289. The Court thereby contrasted "aliens seeking admission into the country" (to whom Section 1225(b) applies) with "aliens already in the country" (to whom Section 1226 applies). *Id.* The Supreme Court described Section 1226(a) as the "default rule" for "the process of arresting and detaining" aliens who are already "inside the United States." *Id.* at 288. *See also Id.* at 303 ("§ 1226 applies to aliens already present in the United States. Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings."). *Mendoza v. Larose*, No. 25-cv-3199-RSH-DDL, 2025 LX 542662, at *7 (S.D. Cal. Dec. 2, 2025).

ii. The Canon Against Surplusage Supports Section 1226(a)

Interpreting § 1225(b)(2) to mandate detention for noncitizens arrested on warrants while residing in the United States would render § 1226(c)(1)(E)'s criminal conduct criterion superfluous. *Padilla v. Noem*, No. 25 CV 12462, 2025 U.S. Dist. LEXIS 207945 (N.D. Ill. Oct. 22, 2025). The canon against surplusage "is strongest when an interpretation would render superfluous another part of the same statutory scheme" *Padilla v. Noem*, No. 25 CV 12462, 2025 U.S. Dist. LEXIS

207945 (N.D. Ill. Oct. 22, 2025). Congress's recent enactment of specific mandatory detention provisions in § 1226(c) demonstrates its intent to create targeted exceptions to § 1226(a)'s discretionary framework.

iii. *Matter of Yajure Hurtado and Matter of Q. Li* are Not Entitled to Deference

The government's heavy reliance on the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado* and, as it applies, *Matter of Q. Li.* are misplaced following the Supreme Court's decision in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 144 S. Ct. 2244 (2024). Courts "must exercise independent judgment in determining the meaning of statutory provisions" and "may not defer to an agency interpretation of the law simply because a statute is ambiguous" *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 U.S. Dist. LEXIS 191630 (E.D.N.Y. Sep. 29, 2025), *Doe v. Salesforce, Inc.*, No. 3:23-CV-0915-B, 2025 U.S. Dist. LEXIS 52346 (N.D. Tex. Mar. 21, 2025). The BIA is "entitled to little deference" because "agencies have no special competence in resolving statutory ambiguities," while "[c]ourts do." *Id.* Further proving why the BIA should not be followed, multiple district courts have rejected the BIA's interpretation in *Yajure Hurtado*, finding that noncitizens like the petitioner are entitled to individualized bond hearings under § 1226(a). *Kadir v. Larose*, No. 25cv1045-LL-MMP, 2025 U.S. Dist. LEXIS 203614 (S.D. Cal. Oct. 15, 2025). These courts have concluded that noncitizens present in the United States are entitled to bond hearings under § 1226(a), rejecting the government's broad interpretation of § 1225(b). Petitioner additionally argues that, after his initial release from immigration, and having been present in the U.S. now for more than 2 years, he should not be detained pursuant to § 1225(b), and instead, § 1226(a) applies. The trend in recent litigation shows growing judicial skepticism of the BIA's expansive interpretation of its mandatory detention authority.

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C. Petitioner Is Entitled to Relief Under the Administrative Procedure Act as Detention Constitutes Final Agency Action

Contrary to the government's assertion, petitioner's detention constitutes final agency action reviewable under the Administrative Procedure Act (APA). The detention decision marks the consummation of the agency's decision-making process and is one by which rights or obligations have been determined. *State of Texas v. Biden*, No. 21-10806 (5th Cir. 2022). The government's decision to detain the petitioner under § 1225(b) rather than provide a bond hearing under § 1226(a) represents a definitive agency position with immediate legal consequences.

i. The Detention Decision Is Arbitrary and Capricious

The agency's failure to provide adequate analysis supporting its interpretation of the detention statutes renders the detention decision arbitrary and capricious. Under *Loper Bright*, agency interpretations "must always 'depend upon their thoroughness, the validity of their reasoning, the consistency with earlier and later pronouncements, and all those factors which give them power to persuade'" *Padilla v. Noem*, No. 25 CV 12462, 2025 U.S. Dist. LEXIS 207945 (N.D. Ill. Oct. 22, 2025). The government has provided no such analysis to support its position.

The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003). Petitioner has no criminal convictions or arrests and cannot be found to be a danger. Additionally, immigration released him on parole, allowed him to live here for several years, developing community and family ties, and he was taken in attempting to properly check in with ICE, showing he is not a flight risk. Given that the facts tend to show he is not a danger, nor a flight risk, the government's actions are arbitrary.

D. The Balance of Hardships and Public Interest Favors Petitioner

Petitioner's re-detention and subsequent prolonged detention without an individualized bond hearing violate substantive and procedural due process. The government's interpretation would allow indefinite detention of individuals with established community ties and no criminal history, raising serious constitutional concerns. This court, in determining whether a due process violation has occurred, would apply the *Mathews v. Eldridge* test. *Mathews v. Eldridge*, 424 U.S. 319 (1976). This is a three-factor balancing test used in U.S. law to determine what level of procedural due process the government must provide before depriving someone of a protected interest (life, liberty, or property). *Id.*

The balance of hardships should tip sharply in Petitioner's favor. "Individuals released from immigration custody on bond have a protectable liberty interest in remaining out of custody." *Pinchi v. Noem*, No. 25-cv-05632, 2025 LX 277090, at *1 (N.D. Cal. July 4, 2025) citing to *Morrissey v. Brewer*, 408 U.S. 471 (1972). Due process requires that Petitioner-Plaintiff be immediately released from custody and given notice and a pre-detention hearing before a neutral decisionmaker prior to being taken back into custody. *Id.* Immigration courts regularly hold bond hearings, and it would not be unduly burdensome for the government to consider an individual's flight risk and dangerousness before detaining someone. Meanwhile, the petitioner faces irreparable harm by being deprived of liberty in detention without an individualized bond hearing. This re-detention without due process protections constitutes irreparable constitutional injury. Additionally, public interest supports constitutional compliance. The public interest is served by ensuring compliance with constitutional protections and due process in immigration detention cases. While the government has an interest in immigration enforcement, this interest does not

override fundamental constitutional protections or justify detention without individualized hearings where required by law.

III. CONCLUSION

Hence, Petitioner respectfully request that this court: (1) maintain jurisdiction over Petitioner's Habeas Petitioner and deny Respondent's claim that the court does not have jurisdiction over his Habeas; (2) adjudicate the merits of Petitioner's habeas claims; and (3) grant such order and further relief as this Court deems just and proper in order to validate Petitioner's constitutional rights and prevent future unlawful detainment of Petitioner.

Date: 12/16/25

Respectfully Submitted

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CERTIFICATION OF SERVICE

I, Mitchell H. Shen, hereby certify that on December 16, 2025, a true and correct copy of the foregoing Supplemental Brief was served electronically on all counsel of record: Karen E. Smith at karen.smith@usdoj.gov, in accordance with the Federal Rules of Civil Procedure.

Respectfully submitted,

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