

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KAMRONBEK NIGMATOV,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
KRISTI NOEM, Secretary, U.S.	)	Case No. CIV-25-1515-SLP
Department of Homeland	)	
Security, in her official	)	
capacity et al.,	)	
	)	
Respondents.	)	

REPORT AND RECOMMENDATION

Petitioner Kamronbek Nigmatov, a noncitizen¹, seeks a writ of habeas corpus under 28 U.S.C. § 2241. Doc. 1. United States District Judge Scott L. Palk referred the case to the undersigned Magistrate Judge for initial proceedings under 28 U.S.C. § 636(b)(1)(B), (C). Doc. 3.² The United States responded, Doc. 9, and Petitioner replied, Doc. 10. So the matter is at issue.

For the reasons below, the undersigned recommends the Court grant Petitioner's habeas petition and order Respondents to bring Petitioner before

¹ This Report and Recommendation "uses the term 'noncitizen' as equivalent to the statutory term 'alien.'" *Nasrallah v. Barr*, 590 U.S. 573, 578 n.2 (2020) (citing 8 U.S.C. 1101(a)(3)).

² Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

an immigration judge (IJ) for a bond hearing under 8 U.S.C. § 1226(a) within five business days or otherwise release Petitioner if he has not received a lawful bond hearing within that period.

I. Factual background and procedural history.

Petitioner is a citizen of Uzbekistan who entered the United States on December 13, 2022, at the age of nineteen. Doc. 1, at 7, 8. He is currently detained at the Cimarron Correctional Facility in Cushing, Oklahoma. *Id.* at 2. Prior to Petitioner's entry into the United States, "his uncle obtained a special findings order from a juvenile court allowing, in part, for [him] to file for Special Immigrant Juvenile [(SIJ)] Status." *Id.* at 9.³

"[O]n December 16, 2022, Petitioner was released on an Order of Release on Recognizance, which stated, 'You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act [(INA)] . . . , you are being released on your own recognizance . . .'" *Id.* at 8. "Petitioner has resided in the United States continuously since" his release in December of 2022. *Id.* He has no criminal convictions. *Id.* "On December 2, 2024, [United States Citizenship and Immigration Service

³ "SIJ status is a form of parole that confers eligibility for adjustment to [lawful permanent resident] status to noncitizen minors who have been abused, abandoned, or neglected." *Murillo-Chavez v. Bondi*, 128 F.4th 1076, 1085 (9th Cir. 2025).

(USCIS)] . . . grant[ed] [Petitioner] [SIJ] [s]tatus with deferred action with a priority date of August 29, 2024.” *Id.* at 9; *see also* Att. 1 (I-360 Approval and Grant of Deferred Action).

Immigration & Customs Enforcement (ICE) has detained Petitioner since October 27, 2025. Doc. 1, at 7. “ICE [has] charged Petitioner in Immigration Court as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.” *Id.* at 8; *see* § 1182(a)(6)(A)(i) (“An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.”). “Following [his] arrest and transfer to the Cimarron Correctional Facility, ICE issued a custody determination to continue [his] detention without an opportunity to post bond or be released on other conditions.” Doc. 1, at 9.

Petitioner has applied for bond twice, but ICE has denied each request based on the Board of Immigration Appeals’ (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). *Id.*

II. Petitioner's claims.

Petitioner raises three grounds for relief:

Ground One: Respondents' "application of § 1225(b)(2) . . . unlawfully mandates his continued detention and violates the INA" and "DHS [] lacks statutory authority to subject [him] to mandatory detention under § 1225(b)(2) in a manner that nullifies his SIJ classification and statutorily protected opportunity to adjust status."

Ground Two: His "detention . . . without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process."

Ground Three: Respondents' actions violate the Administrative Procedure Act (APA) as their "adoption and application of the July 8, 2025 'Interim Guidance Regarding Detention Authority for Applicants for Admission,' and their refusal to apply § 1226(a) to [him], constitute final agency action that is arbitrary, capricious, contrary to law, and in excess of statutory authority."

Id. at 27-28. Respondents are sued in their official capacities. *Id.* at 7-8.

As relief, Petitioner requests that the Court issue an Order to Show Cause requiring Respondents to demonstrate why the petition should not be granted within three days; issue a writ of habeas corpus requiring Respondents to release Petitioner; or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within five days. *Id.* at 29. He asks the Court to "[e]njoin Respondents from removing [him] until adjudication of his SIJ-based adjustment." *Id.* And he seeks an award of attorney's fees under the

Equal Access to Justice Act (EAJA), “and on any other basis justified under law.” *Id.* at 30.

III. Standard of review.

An application for a writ of habeas corpus “is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Habeas corpus relief is warranted only if the petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). “Challenges to immigration detention are properly brought directly through habeas.” *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)).

“When called on to resolve a dispute over a statute’s meaning,” the Court should “seek[] to afford the [statute’s] terms their ordinary meaning at the time Congress adopted them” and to “exhaust all the textual and structural clues bearing on the meaning.” *Niz-Chavez v. Garland*, 593 U.S. 155, 162 (2021) (internal quotation marks omitted). This Court’s “‘sole function’ is to apply the law as [the Court] finds it, . . . not defer to some conflicting reading the government might advance.” *Id.* (internal citation omitted); see also *Oklahoma v. U.S. Dep’t of Health & Hum. Servs.*, 107 F.4th 1209, 1222 n.11 (10th Cir.

2024) (stating that the court “must independently interpret the statutory phrase irrespective of the parties’ positions”), *judgment vacated on other grounds*, 145 S. Ct. 2837 (2025).

IV. Discussion.

A. The Court has jurisdiction to consider the petition.

Respondents contend that the “Court cannot consider Petitioner’s challenge to DHS’s commencement of proceedings pursuant to [8 U.S.C.] § 1225(b)(2)(A) rather than § 1226(a)” because §§ 1252(a)(5), (b)(9) and 1252(g) deprive the Court of jurisdiction. Doc. 9, at 17-20. The undersigned disagrees.

Section 1252(a)(5) provides that “a petition for review filed with an appropriate court of appeals . . . shall be the sole and exclusive means for judicial review of an order of removal.” 8 U.S.C. § 1252(a)(5). Section 1252(b)(9) provides another bar to judicial review, specifically for “questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States” “[e]xcept as otherwise provided in this section.” *Id.* § 1252(b)(9).

Section 1252(g) provides that “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or

execute removal orders.” 8 U.S.C. § 1252(g). The Court reads § 1252(g) narrowly as it does not cover “all claims arising from deportation proceedings” or impose “a general jurisdictional limitation.” *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999). Instead, it “applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or *execute* removal orders.” *Id.*

This Court, consistent with other district courts throughout the country, has previously dispensed with arguments by the Government that the Court lacks jurisdiction pursuant to 8 U.S.C. §§ 1252(a)(5), (b)(9) and (g) when a noncitizen challenges their detention under 1225(b)(2)(a). *See Gonzalez Cortes v. Holt*, No. CIV-25-1176-SLP, 2026 WL 147435, at *2-3 (W.D. Okla. Jan. 20, 2026); *see also Hasan v. Crawford*, 2025 WL 2682255, at *3 n.7 (E.D. Va. Sept. 19, 2025) (“Federal courts throughout the country have similarly found that these jurisdiction-stripping provisions do not deprive the federal courts of jurisdiction to review a noncitizen’s challenge to the legality of his detention.”) (collecting cases).

Respondents contend that Petitioner’s request for relief runs afoul of § 1252(g) as “[h]e asks the Court to *reconstrue Executive actions* into something they are not (§ 1226 instead of § 1225), undermining prosecutorial discretion.”

Doc. 9, at 19. Respondents' characterization of Petitioner's claim does not alter the Court's analysis as "he does not challenge Respondents' decision to commence or adjudicate proceedings or execute removal orders." *See Cruz-Hernandez v. Noem*, No. CIV-25-1378-D, 2026 WL 18932, at *1 (W.D. Okla. Jan. 2, 2026).

B. Section 1226 governs Petitioner's detention.

Petitioner contends that Respondents violated the INA by detaining him under the mandatory detention provisions under § 1225(b)(2). Doc. 1, at 26-27. He argues this provision does not apply to him as "[h]e was not detained at the border, during inspection, or while seeking admission." *Id.* at 27. And he maintains that "Respondents' interpretation of [§1225(b)(2)] also cannot supersede the SIJ provisions of § 1101(a)(27)(J) and § 1255(h), which require presence in the United States for adjustment." *Id.*

The Court's inquiry "begins with the statutory text" and ends there if it "is unambiguous." *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004). "If the statutory language is plain, [the Court] must enforce it according to its terms." *King v. Burwell*, 576 U.S. 473, 486 (2015). "[O]ftentimes the 'meaning—or ambiguity—of certain words or phrases may only become evident when placed in context.'" *Id.* (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132 (2000)). "So when deciding whether the language is

plain, [the Court] must read the words ‘in their context and with a view to their place in the overall statutory scheme.’” *Id.* (quoting *Brown & Williamson*, 529 U.S. at 133).

Section 1225(b)(2)(a) provides that:

[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229(a) of [Title 8].

8 U.S.C. § 1225(b)(2)(a). This section “authorizes the Government to detain certain aliens seeking admission into the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018); *see also Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025) (“[Section] 1225 governs removal proceedings for ‘arriving aliens.’”).

Section 1226(a), on the other hand, “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289 (emphasis added). “Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien ‘pending a decision on whether the alien is to be removed from the United States.’” *Id.* (quoting § 1226(a)).⁴ “Except as

⁴ The *Jennings* Court acknowledged § 1226 as the default rule for detaining and removing noncitizens “already present” in the country.

provided in [Section 1226(c)],’ the Attorney General ‘may release’ an alien detained under § 1226(a) ‘on . . . bond’ or ‘conditional parole.’” *Id.* (quoting § 1226(a)(1)-(2)). Courts have described § 1226(a) as a “catchall” provision which “capture[s] noncitizens who fall outside of the specified categories” of § 1225. *Pizarro Reyes*, 2025 WL 2609425, at *5.

The resolution of Petitioner’s claim turns on whether he is a noncitizen “seeking admission” as that phrase is used in § 1225, or an arrested and detained noncitizen who—having never sought to obtain lawful status—falls under § 1226 and may be released on conditional parole or bond pending the outcome of his removal proceeding. The undersigned finds Petitioner fits within the latter category.⁵

Jennings, 583 U.S. at 303. The Court did not, however, specify whether the “already present” rule applied only to persons who had once entered the country lawfully—as Respondents argue—or to all noncitizens present in the country whether lawfully admitted or not—as Petitioner argues. Because *Jennings* is not definitive, the Court continues its analysis.

⁵ “Although parole does not constitute a noncitizen’s ‘legal admission to the United States as defined by the INA,’ ‘[p]arole generally comprises ‘an administrative practice whereby the government allows an arriving [noncitizen] who has come to a port-of-entry without a valid entry document to be temporarily released from detention and to remain in the United States pending review of his immigration status[.]’” *Herrera v. Baltazar*, 2026 WL 91470, at *2 n.1 (D. Colo. Jan. 13, 2026) (internal citation omitted) (quoting *Bustos v. Mayorkas*, 2021 WL 3931173, at *2 (D.N.M. Sept. 2, 2021), and then *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 660 (E.D. Va. 2020)).

The Court begins with § 1225's title. "[T]he title of a statute and the heading of a section are tools available for the resolution of a doubt about the meaning of a statute." *Dubin v. United States*, 599 U.S. 110, 121 (2023) (internal quotation marks omitted). And "a title is especially valuable where it reinforces what the text's nouns and verbs independently suggest." *Id.* (internal quotation marks and alteration omitted).

Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing." (emphasis added). Use of the term "arriving" to describe noncitizens clarifies that the section governs the entrance of noncitizens to the United States. Section 1225 is also located between two other sections dealing with the arrival of noncitizens: § 1224, "Designation of ports of entry for aliens arriving by aircraft," and § 1225a, "Preinspection at foreign airports."

Relying on the "referral for hearing" language, Respondents contend that "the title is consistent with [its] reading—and *inconsistent* with Petitioner's interpretation," Doc. 9, at 22, but the undersigned disagrees. Respondents do "not explain why or how [§] 1225(b)(2) is strictly limited to the third subject, referral for hearing and not expedited removal of inadmissible arriving aliens." *Edahi v. Lewis*, 2025 WL 3466682, at *12 (W.D. Ky. Nov. 27, 2025).

Respondents' reading of the statute is further undermined by § 1225's overall inspection scheme for allowing noncitizens into the country and the section's subheadings all related to "arriving" noncitizens. *See, e.g.*, § 1225(b)(1) (labeled "Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled" and describing their immediate removal "without further hearing or review" unless there is a claim for asylum or a fear of persecution); § 1225(b)(2) (labeled "Inspection of other aliens" and describing detention of noncitizens "seeking admission"); § 1225(d) (labeled "Authority Relating to Inspections" and describing the powers of immigration officers to search and detain vessels and "arriving aliens").

Next, the Court looks to the INA's statutory definitions. *See BP Am. Prod. Co. v. Haaland*, 87 F.4th 1226, 1235 (10th Cir. 2023) (analyzing statute by leaning "on related statutory definitions in the Royalty Management Act."). Section 1225(a)(1) defines an "applicant for admissions" as:

An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters)[.]

8 U.S.C. § 1225(a)(1).

Section 1101(13)(A) of United States Code Chapter 8 provides that "[t]he 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.”

Respondents contend that “[b]eing an ‘applicant for admission’ is [] a particular ‘way or manner’ of seeking admission, such that any alien who is an ‘applicant for admission’ is ‘seeking admission’ for purposes of [§] 1225(b)(2)(A).” Doc. 9, at 25. Petitioner may qualify as an “applicant for admission,” but that alone does not make Petitioner “an alien seeking admission.” See *Escarcega v. Olson*, No. CIV-25-1129-J, 2025 WL 3243438, at *2 (W.D. Okla. Nov. 20, 2025) (“[I]f all ‘applicants for admission’ are also ‘seeking admission,’ then § 1225(b)(2)(A)’s inclusion of the phrase ‘seeking admission’ would be redundant and courts should avoid statutory interpretations that ‘make[] any part [of the statute] superfluous.’” (quoting *Fuller v. Norton*, 86 F.3d 1016, 1024 (10th Cir. 1996))).⁶

Section 1225(b)(2)(A) provides that:

Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer

⁶ This Court has rejected the argument that an “applicant for admission” is synonymous with one “seeking admission” relying, in part, on the Seventh Circuit’s decision in *Casañon-Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 2025 WL 3552514 (7th Cir. Dec. 11, 2025). See *Gonzalez Cortes*, 2026 WL 147435, at *5-6 (“The mere presence of Petitioner in the country does not mean he is “seeking admission. . . . Accordingly, the Court does not find that Petitioner’s circumstances fall under the plain language of § 1225(b)(2).”).

determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

8 U.S.C. § 1225(b)(2)(A). Courts interpreting this narrowing language have found that “a noncitizen who has been present in the country for multiple years without obtaining any form of citizenship is not ‘seeking admission’ under § 1225(b)(2)(a).” *Gonzalez Cortes*, 2026 WL 147435, at *5; *see also Jennings*, 583 U.S. at 297 (“[Section] 1225(b) applies primarily to aliens *seeking entry into the United States* (‘applicants for admission’ in the language of the statute).” (emphasis added)).

As noted, the INA defines “admission” 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). “Seeking,” however, is undefined. “When a term is undefined in a statute, [the Court] must look to its ordinary meaning.” *Rocky Mountain Wild v. Dallas*, 98 F.4th 1263, 1291 (10th Cir. 2024). “‘Dictionary definitions are useful touchstones to determine the ‘ordinary meaning’ of an undefined statutory term.” *Id.* (quoting *In re Mallo*, 774 F.3d 1313, 1321 (10th Cir. 2014)).

“Seeking” is the present participle of “seek,” which Merriam-Webster defines as “to resort to,” “go to,” “to go in search of,” “look for,” “to try and discover,” “to ask for,” “request,” “to try to acquire or gain,” “aim at,” “to make

an attempt,” or “try.” *Seek*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/seeking#dictionary-entry-1> (last visited Jan. 29, 2026). So the use of “seeking” “denotes an active and present effort.” *Valverde v. Olson*, 2025 WL 3022700, at *3 (E.D. Wis. Oct. 29, 2025); *see also Caballero v. Baltazar*, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025) (“The plain meaning of the phrase ‘seeking admission’ requires that the applicant must be presently and actively seeking lawful entry into the United States. The use [of] the present participle in § 1225(b)(2)(A) ‘implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection.’” (quoting *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025))). As a result, a noncitizen seeking admission is a person who, at the time of his or her detention, is actively and presently pursuing lawful admission into the United States. *See Hernandez v. Baltazar*, 2025 WL 2996643, at *5 (D. Colo. Oct. 24, 2025) (“Courts have found that ‘[n]oncitizens who are just ‘present’ in the country . . . , who have been here for years upon years and never proceeded to obtain any form of citizenship[,] . . . are not ‘seeking’ admission’ under § 1225(b)(2)(A).” (quoting *Lopez-Campos*, 2025 WL 2496379, at *6)).

This conclusion is supported by § 1225’s placement in the overall statutory scheme. *See, e.g., King v. Burwell*, 576 U.S. 473, 486 (2015) (holding

that courts are meant “to construe statutes, not isolated provisions” (internal quotation marks omitted)). Congress separated the removal of arriving aliens from its more general section for “Apprehension and detention of aliens” in § 1226. This implies Congress’s enactment of § 1225 was for a specific, limited purpose, which the Supreme Court underscored in *Jennings*. *See id.* 583 U.S. at 289 (noting that §§ 1225(b)(1) and (b)(2) “authorize[] the Government to detain certain aliens seeking admission into the country” and that §§ 1226(a) and (c) “authorize[] the Government to detain certain aliens already in the country pending the outcome of removal proceedings”); *see also Zadvydas*, 533 U.S. at 693 (“The distinction between an alien who has effected entry into the United States and one who has never entered runs throughout immigration law. . . . But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.”).

Respondents also rely on § 1225(a)(3) to suggest that “applicants for admission” are those “seeking admission.” Doc. 9, at 24-25. Section 1225(a)(3) provides that:

All aliens (including alien crewmen) who are applicants for admission **or otherwise seeking admission** or readmission to or

transit through the United States shall be inspected by immigration officers.

Id. (emphasis added).

Respondents ultimately ignore that “[i]f Congress wanted [alien seeking admission] to be synonymous [with] an ‘applicant for admission,’ it could have said so by simply repeating the defined term of art, ‘applicant for admission.’” *Singh v. Olson*, 2025 WL 3713715, at *2 (N.D. Ind. Dec. 23, 2025); *see e.g.*, *Castanon-Nava*, 2025 WL 3552514, at *9 (“[I]t is Congress’s prerogative to define a term however it wishes, and it has chosen to limit the definition of an ‘applicant for admission’ to an ‘an alien present in the United States who has not been admitted or who arrives in the United States. It could easily have included noncitizens who are ‘seeking admission’ within the definition but elected not to do so.”) (internal citation omitted). And while, “or” “can sometimes introduce an appositive . . . its ordinary use is almost always disjunctive, that is, the words it connects are to ‘be given separate meanings.’” *United States v. Woods*, 571 U.S. 31, 45 (2013).⁷

⁷ This Court may not be in unison as to its application of § 1226(a), but “the weight of authority in this district and other district courts coincides with the Seventh Circuit’s analysis.” *Morocho v. Kelly*, No. CIV-25-1247-R, 2026 WL 36452, at *2 (W.D. Okla. Jan. 6, 2026) (collecting cases); *Gonzalez Cortes*, 2026 WL 147435, at *5 (holding that § 1225(b)(2) does not apply to noncitizens passively residing in the country “is consistent with the majority of courts who have examined this issue, similarly finding that a noncitizen who has been

Congress's recent amendment of § 1226 through the Laken Riley Act (LRA) also supports the Court's interpretation. This amendment mandates that ICE "shall take into custody" any noncitizen who is both inadmissible under § 1182(a)(6)(A)(i) ("present in the United States without being admitted or paroled") and is "charged with, [] arrested for, [] convicted of, [or] admits having committed" certain crimes. *See* 8 U.S.C. § 1226(c)(1)(E)(i)-(ii). "Considering that § 1182(a)(6)(A)(i) specifically refers to aliens 'present in the United States without being admitted or paroled,' and that § 1226(c)(1)(E) requires detention without bond of these individuals if they have also committed a felony, the recently created statutory exception would be redundant if § 1225(b)(2) authorized their detention as well. . . . That is,

present in the country for multiple years without obtaining any form of citizenship is not 'seeking admission' under § 1225(b)(2)(a)."); *but see Gutierrez Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344, at *4 (W.D. Okla. Jan. 6, 2026) ("And once deemed an 'applicant for admission,' an alien is necessarily 'seeking admission.'"); *Alvarado Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302, at *9 (W.D. Okla. Dec. 26, 2025) ("[A]ll 'applicants for admission' are 'seeking admission.'"). To conclude the terms "applicants for admission" and individuals "seeking admission" as necessarily overlapping undoes Congress's work and the principles of ejusdem generis. *See Singh v. English*, 2025 WL 3713715, at *4 (N.D. Ind. Dec. 23, 2025) ("Th]e court can envision a number of 'applicants for admission'—those who would seem to meet this term of art, as Congress expressly defined it, by being present in the United States as an unadmitted alien or by being an alien arriving in the United States—without ever being able to say these individuals, in any real sense of the words, are 'seeking admission.'") (offering concrete examples).

because an alien present in the United States without admittance would be unlikely to prove that they are ‘clearly and beyond a doubt entitled to be admitted,’ [so] ICE would never need to rely on § 1226(c)(1)(E) to detain them.” *Pizarro Reyes*, 2025 WL 2609425, at *5 (quoting *Gomes v. Hyde*, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025)). As this interpretation “would largely nullify a statute Congress [recently] enacted,” the Court should reject it. *Id.* (internal quotation marks omitted); *see also Marx v. Gen. Rev. Corp.*, 568 U.S. 371, 386 (2013) (“[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.”).

Finally, Respondents assert that Petitioner’s arguments regarding his SIJ status has no bearing on “Petitioner’s three counts of relief,” but also that Petitioner’s SIJ status converts him into an “alien seeking admission.” Doc. 9, at 11, 16 (“SIJS status ‘provides [Petitioner] a pathway to lawful permanent residency and citizenship.’ Thus, Petitioner *is* seeking admission.” (internal citation omitted) (quoting *Amaya-Quinteros v. Corecivic, Inc.*, 2025 WL 3687642, at *11 (E.D. Cal. Dec. 19, 2025))). To the contrary, Courts have consistently found that “SIJ status [] ‘weighs in favor’ of a finding that a petitioner is not ‘seeking admission’ under § 1225(b)(2).” *Del Valle Castillo v. Wamsley*, 2025 WL 3524932, at *6 (W.D. Wash. Nov. 26, 2025); *accord*

Rodriguez v. Perry, 747 F. Supp. 3d 911, 916 (E.D. Va. 2024) (“[Petitioner’s] SIJ status weighs in favor of finding that, when ICE arrested and detained him in June 2023, he was an ‘alien present’ in the United States and was entitled to a bond hearing under § 1226(a).”); *Martinez v. Hyde*, 2025 WL 3152847, at *8 (D. Mass. Nov. 12, 2025) (“Respondents work hard to argue that . . . [Petitioner’s] SIJ status is irrelevant[.]” “The simple fact is that Petitioner was already present in the United States at the time of his detention—not ‘arriving.’ Thus, [§] 1225 cannot apply.”).

So, when ICE arrested and detained Petitioner, he was not subject to mandatory detention under § 1225(b)(2)(A). Instead, Petitioner is subject to § 1226, and “is entitled to a prompt bond hearing before an immigration judge pursuant to § 1226(a).” *Gonzalez Cortes*, 2026 WL 147435, at *7; *see also Caballero*, 2025 WL 2977650, at *8 (“The Court joins the numerous courts across the country that have held that [noncitizens not apprehended at the border, who have been present in the United States for many years without lawful status] are subject to the discretionary detention framework of § 1226(a).”).

The undersigned recommends the Court grant Petitioner’s habeas petition in part and order Respondents to provide Petitioner with a bond

hearing under § 1226(a) within five days of the Court's adoption of this Report and Recommendation or in the alternative, immediately release Petitioner.

C. The Court should decline to address the merits of Petitioner's remaining claims.

Given the undersigned's recommendation as to the disposition of Petitioner's claim for relief under the INA, the undersigned recommends the Court refrain from addressing the merits of Petitioner's due process claim, Doc. 1, at 28, as the Court can grant him the relief he seeks under § 1226(a). *See Gonzalez Cortes*, 2026 WL 147435, at *7 ("The Court declines to decide the merits of such claim and Petitioner may renew such a claim if he is not provided with a bond hearing or released within seven days of this Order."); *see also Pizarro Reyes*, 2025 WL 2609425, at *8 ("The Court will decline to decide the merits of [petitioner's] due process claim given that the Court will grant the relief he seeks based on its interpretation of the applicability of § 1226(a).").

Likewise, the Court should decline to address Petitioner's APA claim. Petitioner's claims for relief "necessarily imply the invalidity' of [his] confinement," so his claims "fall within the 'core' of the writ of habeas corpus and thus must be brought in habeas." *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025); *see also id.* at 674 ("[G]iven 5 U.S.C. § 704, which states that claims

under the APA are not available when there is another ‘adequate remedy in a court,’ I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.”) (Kavanaugh, J. concurring); *Soberanes*, 388 F.3d at 1310 (“Challenges to immigration detention are properly brought directly through habeas.” (citing *Zadvydas*, 533 U.S. at 687)).

V. Recommendation and notice of right to object.

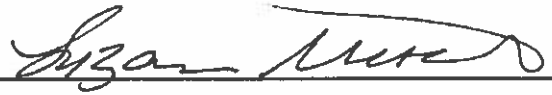
For the reasons set forth above, the undersigned recommends the Court **grant** Petitioner’s habeas application, in part, and order Respondents to provide Petitioner with a bond hearing **under 8 U.S.C. § 1226(a) within five business days or otherwise release Petitioner if he has not received a lawful bond hearing within that period.** The undersigned further recommends that the Court order Respondents to certify compliance by filing a status report within seven business days of the Court’s order.

The undersigned advises the parties of their right to file an objection to this Report and Recommendation with the Clerk of this Court by February 5, 2026, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72.⁸ The undersigned further advises the parties that failure to make timely

⁸ Given the expedited nature of these proceedings, the undersigned has reduced the typical objection time to this Report and Recommendation to seven

objections to this Report and Recommendation waives the right to appellate review of both factual and legal questions contained herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). This Report and Recommendation disposes of the issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 29th day of January, 2026.


SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE

days. See Fed. R. Civ. P. 72(b)(2) advisory committee's note to 1983 addition (noting that rule establishing 14-day response time "does not extend to habeas corpus petitions, which are covered by the specific rules relating to proceedings under Sections 2254 and 2255 of Title 28."); see also *Whitmore v. Parker*, 484 F. App'x 227, 231, 231 n.2 (10th Cir. 2012) ("The Rules Governing § 2254 Cases may be applied discretionarily to habeas petitions under § 2241" and that "while the Federal Rules of Civil Procedure may be applied in habeas proceedings, they need not be in every instance – particularly where strict application would undermine the habeas review process").