

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

KAMRONBECK NIGMATOV,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	Case No. CIV-25-1515-SLP
KRISTI NOEM, et al.,	)	
	)	
Respondents.	)	
	)	

RESPONDENTS' OBJECTION TO REPORT AND RECOMMENDATION

Respondents respectfully object to the Report and Recommendation (“R&R”) entered on January 29, 2026 (Doc. 11). While this objection expressly reasserts and does not waive the arguments set forth in the Response (Doc. 9), it focuses on the R&R’s failure to apply the plain meaning of § 1225(b)(2)(A). In doing so, Respondents acknowledge this Court’s prior rulings and understand that the same holding will likely be applied in this case.¹ This objection is submitted to preserve appellate issues and because other courts “have gone the other way,” including two judges in this District. *Coronado v. DHS*, No. 1:25-CV-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *Sosa v. Holt*, No. CIV-25-

¹ See *Toledo Santos v. Grant*, No. CIV-25-1433-SLP, 2026 WL 184287 (W.D. Okla. Jan. 23, 2026); *Hernandez v. Grant*, No. CIV-25-1525-SLP, 2026 WL 184288 (W.D. Okla. Jan. 23, 2026); *Lopez v. Corecivic Cimmaron Corr. Fac.*, No. CIV-25-1175-SLP, 2026 WL 165490 (W.D. Okla. Jan. 21, 2026); *Cortes v. Holt*, No. CIV-25-1176-SLP, 2026 WL 147435 (W.D. Okla. Jan. 20, 2026). See also *Rojas v. Noem*, No. CIV-25-1236-HE, 2026 WL 94641 (W.D. Okla. Jan. 13, 2026); *Valdez v. Holt*, No. CIV-25-1250-R, 2025 WL 3709021 (W.D. Okla. Dec. 22, 2025); *Colin v. Holt*, No. CIV-25-1189-D, 2025 WL 3645176 (W.D. Okla. Dec. 16, 2025); *Escarcega v. Olson*, No. CIV-25-1129-J, 2025 WL 3243438 (W.D. Okla. Nov. 20, 2025).

1257-PRW, 2026 WL 36344 (W.D. Okla. Jan. 6, 2026); *Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025).

ARGUMENT

Although the R&R reviews the title and structure of the §§ 1225 and 1226, the crux of the recommendation turns on what it means to be “seeking admission.” The R&R concludes that it requires an application at the border. But that conclusion cannot be squared with the text, structure, title, and history of § 1225.

I. The Plain Language of § 1225(b)(2)(A) Applies to Petitioner

The deeming provision of § 1225(a)(1) expressly states that “[a]n alien present in the United States who has not been admitted ... shall be deemed ... an applicant for admission.” 8 U.S.C. § 1225(a)(1). The R&R accordingly acknowledges that Petitioner is an “applicant for admission” based on the plain language of the statute. R&R at 13.

The R&R’s conclusions turn on whether Petitioner is “seeking admission.” Specifically, the R&R contends that “seeking admission” must mean some additional steps beyond merely being an “applicant for admission,” and using context and history, construes “seeking admission” to limit the provision to noncitizens seeking admission at the border. R&R at 14-17. *See also Cortes*, 2026 WL 147435 at *4. But that conclusion effectively nullifies the “present in the United States” deeming provision of § 1225(a)(1), and courts should “avoid interpreting statutes in a manner that makes any part superfluous.” *Fuller v. Norton*, 86 F.3d 1016, 1024 (10th Cir. 1996). *See also Sosa*, 2026 WL 36344, at *3 (“Everything turns on the meaning of the phrase ‘applicant for admission.’”); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2026 WL 44683, at *5 (N.D. Tex. Jan. 7, 2026)

(“[petitioner’s] hair-splitting emphasis on the phrase ‘seeking admission’ elevates form over substance. As the Court previously explained, there is no material disjunction—by the terms of the statute or the English language—between the concept of ‘applying’ for something and ‘seeking’ something.” (cleaned up)). Indeed, the Supreme Court has treated § 1225(b)(2)(A) as applying to “*all applicants for admission* not covered by § 1225(b)(1).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (emphasis added); *see also Sandoval v. Acuna*, Case No. 6:25-cv-01467, 2025 WL 3048926, *5 n.5 (W.D. La. Oct. 31, 2025) (“The fact that Petitioner may have lacked the subjective intent to ever apply for admission does not prevent her from being categorized as an “applicant for admission” under § 1225. For this Court to hold otherwise would clearly contravene the plain statutory language and Congress’s intent.”); *Montoya*, 2025 WL 3733302, at *9 (“[T]he law ‘deem[s]’ an ‘alien present in the United States who has not been admitted’ an ‘applicant for admission.’ 8 U.S.C. § 1225(a)(1). That means § 1225(a)(3)’s inspection requirement for ‘[a]ll aliens ... who are applicants for admission or otherwise seeking admission’ does not contemplate a voluntary action.”).

The statutory text and context also show that being an “applicant for admission” is a means of “seeking admission.” Section 1225(b)(2)(A) requires the detention of an “applicant for admission, if the examining immigration officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted.” (emphasis added). In other words, every “applicant for admission” is inherently and necessarily “seeking admission,” at least absent a choice to withdraw their applications for admission or seek voluntary departure. No additional affirmative step is necessary. *Sosa*, 2026 WL

36344, at *4 (“And once deemed an ‘applicant for admission,’ an alien is necessarily ‘seeking admission.’ Thus, Congress’s use of ‘seeking admission’ is perfectly consistent with its unambiguous definition of ‘applicant for admission,’ which sweeps in *all* aliens present in the United States but not yet admitted.”).

Section 1225(a)(3) confirms this by providing that all noncitizens “who are applicants for admission or *otherwise seeking admission* ... shall be inspected by immigration officers.” *Montoya*, 2025 WL 3733302, at *7 (emphasis added). The word “[o]therwise” means “in a different way or manner.” *Tex. Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 535 (2015) (quoting Webster’s Third New International Dictionary 1598 (1971)). See also *Att’y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024); *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019); Black’s Law Dictionary (6th ed. 1990). Being an “applicant for admission” is thus a particular “way or manner” of seeking admission, such that any alien who is an “applicant for admission” *is* “seeking admission” for purposes of Section 1225(b)(2)(A). *Montoya*, 2025 WL 3733302, at *8 (“The better reading starts with the period-correct definitions of ‘otherwise,’ which are ‘[i]n a different manner; in another way, or in other ways.’” (citing *Otherwise*, Black’s Law Dictionary (6th ed. 1990))). Thus, Respondents’ position does not render “applicant for admission” and “seeking admission” superfluous because being an applicant for admission is only one way to “seek” admission.² See

² Stowaways are not “applicants for admission” but are still subject to inspection for admissibility. See 8 U.S.C. §§ 1182(a)(6)(D); 1225(a)(2). Similarly, lawful permanent

Montoya, 2025 WL 3733302, at *9 (“So, all ‘applicants for admission’ are ‘seeking admission.’ The former is sufficient (but not necessary) for the latter, and the latter is necessary (but not sufficient) for the former.”).

The everyday meaning of the statutory terms also supports this reading. One *applying* for something necessarily is *seeking* it. *Accord Mejia Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025) (“To ‘seek’ is a synonym of to ‘apply’ for.”). For example, a person who is “applying” for a job or admission to college is “seeking” the job or admission to the college. *See* The American Heritage Dictionary of the English Language 63 (1980) (“apply” means “[t]o request or *seek* employment, acceptance, or *admission*” (emphasis added)). Likewise, an alien who is “applying” for admission to the United States (*i.e.*, an “applicant for admission”) necessarily is “seeking admission” to the United States.³ *See Calderon Lopez*, 2026 WL 44683, at *5 (“Insofar as the term ‘applicant for admission’ is more passive than ‘seeking admission,’ this is inherent in the nature of agent nouns and their corresponding gerunds. As such, Section 1225 cannot be read to limit its application to aliens ‘arriving’ at the border.” (cleaned up)).

residents returning to the United States are not “applicants for admission,” but they still may be deemed to be “seeking admission” in some circumstances. *See* 8 U.S.C. § 1101(a)(13)(C).

³ Resort to the same dictionary relied upon by the R&R underscores this point. R&R at 14-15 (citing dictionary for “seeking”). Specifically, Merriam-Webster defines “applicant” as “one who applies.” Applicant, Merriam-Webster, <https://www.merriam-webster.com/dictionary/applicant> (last visited February 5, 2026). Thus, an “applicant for admission” is one who *applies for* admission. Again, that accords with common understandings of plain language.

All of this confirms that neither the duration of a noncitizen's unlawful presence in the United States nor his distance from the border when apprehended alters the legal reality that an "applicant for admission" is "seeking admission." "Congress knows how to limit the scope" of the INA "geographically and temporally when it wants to." *Mejia Olalde*, 2025 WL 3131942, at *4. For example, Section 1225(b)(1) may apply to aliens "arriving in the United States" or who "ha[ve] been physically present in the United States continuously for [a] 2-year period." 8 U.S.C. § 1225(b)(1). So, "[i]f Congress meant to say that an alien no longer is 'seeking admission' after some amount of time in the United States, Congress knew how to do so." *Mejia Olalde*, 2025 WL 3131942, at *4; see also *Sosa*, 2026 WL 36344, at *3. But it did not do so. *Montoya*, 2025 WL 3733302, at *2 ("The statute gives no temporal or geographic limitations on the status of being an applicant for admission.").

The construction adopted in the R&R implicitly suggests a new class of noncitizens; namely, those that are in the country illegally, wanting to stay, and not departing, but that are somehow still not construed as "seeking" admission. That construction finds no basis in the INA and should be rejected. See *Montoya*, 2025 WL 3733302, at *2 ("The statute does not create a third 'non-seeking applicant' category, and the 'applicant for admission' category explicitly includes both arriving and present unadmitted aliens."); *Coronado* 2025 WL 3628229, at *9 ("one would also assume that Congress would have provided some directives as to the contours of that subset, e.g., factors to consider in deciding whether a given 'applicant for admission' (an expressly defined term) is also 'seeking admission.' But Congress did not do so.").

II. The Title, Structure, and History of § 1225 Are Inconsistent with the R&R's Construction

As discussed above, the plain language of the statute is clear and unambiguous, making reliance on a statutory title unnecessary. *Fla. Dep't of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 47 (2008) (“To be sure, a subchapter heading cannot substitute for the operative text of the statute.”); *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 212 (1998) (“The title of a statute cannot limit the plain meaning of the text.” (cleaned up)). But a fulsome analysis of the statutory title and structure also supports Respondents' position.

The reasoning in the R&R focuses on the reference to “arriving” aliens in the statutory title, but ignores the rest of the title. R&R at 11. The title of § 1225 reads:

Inspection by immigration officers, *expedited removal of inadmissible arriving aliens*, **referral for hearing**.

The underlined portion is a reference to subpart (a)'s inspection obligations. The italicized portion refers to the expedited proceedings of (b)(1) for “arriving aliens.” Importantly, however, the bolded portion is a reference to the full removal proceedings under (b)(2)(A) for noncitizens present in the country. That is because “arriving aliens” under (b)(1) are subject to *expedited* removals and do not get full removal hearings pursuant to § 1229a. In contrast, noncitizens present in the country with arguably more established interests are provided *full* removal hearings. *See* § 1225(b)(2)(A); *Sandoval*, 2025 WL 3048926, at *4. Respondents' reading accords with that difference, whereas the R&R's exclusive focus on the “arriving” limitation cannot. *Montoya*, 2025 WL 3733302, at *6 (“The Government also correctly points out that the R. & R.'s focus on § 1225's title is misplaced.”).

That same conclusion is also apparent from the subtitles within § 1225. The title of (b)(1) is “Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled.” In contrast, (b)(2) has *no* reference to arriving aliens. It reads “Inspection of other aliens.” Critically, the use of “arriving” in (b)(1) but not (b)(2) must be given effect. The R&R’s interpretation renders the “arriving” in (b)(1) superfluous if all of § 1225 only applies to “arriving aliens.”

More generally, Congress used the phrase “arriving alien” throughout Section 1225. *See, e.g.* 8 U.S.C. §§ 1225(a)(2), (b)(1), (c)(1), (d)(2). The phrase distinguishes a noncitizen presently or recently “arriving” in the United States from other “applicants for admission” who, like Petitioner, have been in the United States without being admitted. But Congress *did not* use the word “arriving” to limit the scope of § 1225(b)(2)(A)’s mandatory-detention provision. *Montoya*, 2025 WL 3733302, at *2 (“The statute gives no temporal or geographic limitations on the status of being an applicant for admission.”). Had Congress intended to limit § 1225(b)(2)(A)’s scope to “arriving” noncitizens, it would have used that phrase like it did in § 1225(b)(1), a mere one subsection prior. Or it could have included a general provision that the section only applies to arriving noncitizens. But Congress did not and that election to selectively use “arriving” must be given effect. *Russello v. United States*, 464 U.S. 16, 23 (1983) (“Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.” (cleaned up)); *Sosa v. Alvarez-Machain*, 542 U.S. 692, 711 n.9 (2004) (“The Government’s request that we read [a specific] phrase into [a statutory] exception, when it is clear that

Congress knew how to specify [those words] when it wanted to, runs afoul of the usual rule that when the legislature uses certain language in one part of the statute and different language in another, the court assumes different meanings were intended.”) (citation omitted).

Finally, the analysis in the R&R contradicts the purpose of IIRIRA and effectively repeals a Congressionally enacted statutory fix. As the Court is aware, prior to the 1996 passage of IIRIRA, an “anomaly” existed whereby “immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully.” *Cortes*, 2026 WL 147435 at *6. While the IIRIRA did not entirely replace the prior immigration scheme, focusing on “arriving” to contradict the plain language of the statute negates one purpose of the IIRIRA. Indeed, the R&R’s construction incentivizes noncompliance with immigration laws by providing more protection to those that bypass border inspections and evade detection to reside within the United States. *See Chavez v. Noem*, 801 F. Supp. 3d 1133, 1140 (S.D. Cal. 2025); *Sandoval*, 2025 WL 3048926, at *6 n.7; *Oliveira v. Patterson*, No. 6: 25-CV-01463, 2025 WL 3095972, at *6 (W.D. La. Nov. 4, 2025).

III. The Laken Riley Act Does Not Render § 1225(b)(2)(A) Superfluous

The R&R asserts that the Laken Riley Act (“LRA”) would be superfluous if Respondents’ reading of § 1225(b)(2)(A) is accepted. R&R at 18. But some overlap between provisions does not make them superfluous. *Melgar v. Bondi*, 8:25CV555, 2025 WL 3496721, at *12 (D. Neb. Dec. 5, 2025) (“Thus, the Court concludes that the two statutes ‘overlap’ as to aliens they cover, like a Venn Diagram.”). Instead, in both 1996 and

2025, Congress wanted *more* enforcement of immigration restrictions and enacted complementary provisions with different means to effectuate that purpose.⁴ *Sosa*, 2026 WL 36344, at *5 (“Any overlap between the two provisions is thus better understand as a belt-and-suspenders approach to an immigration crisis.”).

Section 1226(a)’s general detention authority, which permits the issuance of warrants to detain all noncitizens for their removal proceedings, must be read alongside § 1225, which specifically addresses the detention of applicants for admission which is a subset of noncitizens subject to § 1226. And § 1226 does not displace the more specific provisions in § 1225 governing the detention of applicants for admission. It is well established that where “there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one.” *Guidry v. Sheet Metal Workers Nat. Pension Fund*, 493 U.S. 365, 375 (1990) (citation omitted). Here, § 1225 is narrower in scope than § 1226. It applies only to “applicants for admission,” which includes noncitizens present in the United States who have not been admitted. *See* 8 U.S.C. § 1225(a)(1).

To be sure, as amended by the LRA, § 1226(c)(1)(E) mandates detention for a group of noncitizens that includes a narrow subset of applicants for admission that may also be subject to § 1225(b)(2)(A) detention. *See, e.g., Am. Car Rental Ass’n v. Humphreys*, 789

⁴ *See Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL 3171331 *6 (S.D. Tex. Nov. 13, 2025) (“[T]he Laken Riley Act did have such effect, given that it required mandatory detention for criminal, inadmissible aliens who had not been subject to it—under either § 1225 or § 1226—by longstanding practice of prior Administrations. But this means only that Congress determined to narrow aspects of the discretion available to any Administration prioritizing removal proceedings toward § 1226. It doesn’t follow that the Laken Riley Act undercuts the more fulsome, executive authority that Congress provided to exist independently under the text of § 1225(b)(2)(A).”).

F. Supp. 3d 1043, 1049 (D. Colo. 2025). But the Supreme Court has acknowledged that some overlap and redundancies “are common in statutory drafting.” *Barton v. Barr*, 590 U.S. 222, 239 (2020). “Redundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text.” *Id.* Overlap, alone, is not a basis to disregard the plain meaning of statutory text. *Am. Car Rental Ass’n* 789 F. Supp. 3d at 1049; *Cabanas*, 2025 WL 3171331 *6. The absence of a cross-reference to § 1225(a)(1) in § 1226(c)(1)(E)(i), or simply a reference to all “applicants for admission,” further demonstrates that the LRA amendment is not limited to “applicants for admission.” *Montoya*, 2025 WL 3733302, at *12 (The LRA does not “allow the Court to impute the term ‘arriving’ to each subsection of § 1225.”). Indeed, the plain language of § 1226 applies to *all* noncitizens and is not limited to applicants for admission. *Sandoval*, 2025 WL 3048926, at *5 (“Petitioner’s argument that § 1226 would be rendered superfluous under Respondents’ interpretation of § 1225(b)(2) is unpersuasive. The statutory scheme of the INA does not render these two provisions mutually exclusive, and there are many other categories of aliens to whom § 1226(a) is applicable, but not § 1225(b)(2)”; *Hernandez Cruz v. Noem*, No. 8:25-CV-02566-SB-MAA, 2025 WL 3482630, at *4 (C.D. Cal. Dec. 2, 2025) (“But the fact that Congress added this provision as part of the Laken Riley Act in 2025 cannot be read to displace or supersede § 1225’s requirement that all applicants for admission, including those who unlawfully came to the United States without inspection, be detained.”); *Cabanas*, 2025 WL 3171331 *6 (“Simply put, amendment by the recent Laken Riley Act to § 1226 isn’t superfluous. Beyond that, and regardless, the Supreme Court holds, redundancy in one portion of a statute is not a license to rewrite or eviscerate

another portion of the statute contrary to its text.” (cleaned up)).

Finally, the R&R relies on the presumption that when Congress legislates the new provision should be understood to work in harmony with what has come *before*. But this case concerns what happened *thereafter*. The Laken Riley Act passed on January 22, 2025, and was signed by the President on January 29, 2025. The more expanded use of § 1225 was not announced by ICE and DOJ until July of 2025 and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 216 (BIA 2025) was decided later, in September of 2025. As such, Congress did not have the benefit of knowing the Executive’s expanded use of § 1225 when it passed the Laken Riley Act. It was legislating against the backdrop of a more restrained enforcement strategy of the prior administration. For this reason, the presumption relied upon by the R&R does not apply. *Cabanas*, 2025 WL 3171331, at *6; *see also Valencia v. Chestnut*, No. 1:25-CV-01550 WBS JDP, 2025 WL 3205133, at *4 (E.D. Cal. Nov. 17, 2025) (“This argument reverses the order of events. The Laken Riley Act was passed before the new interpretation of Section 1225 was issued. The Laken Riley Act could not therefore ‘perform the work’ of the expansive reading of Section 1225, because that work had not yet been done.”).

CONCLUSION

Respondents again acknowledge this Court’s prior rulings and understand that the same holding will likely be applied in this case. Respondents nonetheless object to the R&R for the reasons stated above and to preserve appellate issues. Respondents respectfully submit that the Petition should be denied and the case dismissed.

Respectfully Submitted,

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