

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 26-20044-CIV-ALTONAGA

PROCORO MORA ARELLANO,

Petitioner,

v.

**WARDEN, MIAMI FEDERAL BUREAU OF
PRISONS DETENTION CENTER, et. al.**

Respondents.

Respondents¹, by and through the undersigned Assistant U.S. Attorney, consistent with this Court's Order requiring a response on or before January 9, 2026 [ECF No. 4], respectfully submit the following response in opposition to the Petition for Writ of Habeas Corpus [ECF No. 1] ("Petition"). For the reasons set forth below², this Court should deny the Petition.

In this Petition, Petitioner, Procoro Mora Arellano ("Petitioner") alleges that his "detention is improperly characterized as mandatory under 8 U.S.C. § 1225(b), rather than discretionary under § 1226(a)." [ECF No. 1, ¶ 12(c)]. Therefore, Petitioner argues that he is entitled to a bond hearing

¹ A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner is currently detained at the Miami Federal Detention Center. His immediate custodian is Garrett J. Ripa, Miami Field Office Director. Accordingly, the proper Respondent in the instant case is Mr. Ripa, in his official capacity, and all other Respondents should be dismissed.

² Respondents recognize that this court and other courts in this District have rejected similar arguments made herein by Respondents in granting habeas petitions. *See, e.g., Puga v. Assistant Field Off. Dir., Krome N. Serv. Processing Ctr.*, No. 25-24535-Civ, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025); *Gomez v. Parra*, Case No. 25cv24941 (S.D. Fla. Nov. 18, 2025); *see also Taffur v. Noem*, Case No. 25cv62308 (S.D. Fla. December 23, 2025). Nonetheless, Respondents maintain and preserve these arguments for the record in this case.

and denying him bond violates the INA and his rights to due process. *Id.* at p. 3. To the contrary, under a plain language reading of § 1225, Petitioner is an “applicant for admission,” who is lawfully detained under 8 U.S.C. § 1225(a)(1), and therefore, he is subject to mandatory detention under § 1225(b)(2)(A) and ineligible for release under 8 U.S.C. § 1226(a). Pursuant to § 1225(a), “[a]n alien present in the United States who has not been admitted ... shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a)(1). Petitioner entered the U.S. in 2001, without inspection or admission.

Accordingly, under a plain language reading of § 1225, Petitioner is an applicant for admission and is subject to mandatory detention pursuant to § 1225(b)(2)(A).³

PETITIONER’S IMMIGRATION HISTORY

Petitioner is a native and citizen of Mexico, who illegally entered the United States in February 1996.⁴ *See* Exh. A, *Form I-213, Record of Deportable/Inadmissible Alien*, dated September 3, 2025, *see also*, Exh. G, *Form I-205, Warrant of Removal/Deportation* dated December 30, 1997. On November 3, 1997, Petitioner was convicted of Marijuana Possession and sentenced to 3 years of probation. *See* Exh. F, *Order of Immigration Judge*, dated December 30, 1997. On January 6, 1998, Petitioner was removed from the United States. *See* Exh. G. On April 22, 2001, Border Patrol agents encountered Petitioner at the Santa Rosa Ranch in Texas, where it was determined that Petitioner illegally entered the United States on or around April 18,

³ Petitioner further argues that Respondents violated 8 C.F.R. § 241.4 by improperly revoking his Order of Supervision (OSUP) without affording him notice and an opportunity to be heard. [ECF No. 1, p. 9-11]. However, Respondents note that on November 19, 2020, Petitioner was released on his own recognizance and not pursuant to an OSUP as he alleges in his Petition. Therefore, *See* Exh. I, *Form I-220A, Order of Release on Recognizance*, dated November 19, 2020.

⁴ Petitioner is also known as Oscar Mora-Benitez, Procuero Morena-Mora, and Oscar Mora. *See* Exh. E, *Form I-200, Warrant for Arrest of Alien*, dated September 3, 2025.

2001, near Brownsville, Texas. *See* Exh. C, *Declaration of Deportation Officer DAngelo Eiland, Jr.* Petitioner was processed as a voluntary return to Mexico. *See* Exh. C.

Petitioner subsequently reentered the United States on an unknown date and at an unknown location. *See* Exh. A. On April 8, 2020, Petitioner was arrested in Polk County, Florida for driving under the influence (DUI) and driving without a valid driver's license. *See* Exh. A. Petitioner was subsequently served with a Notice to Appear (NTA), pursuant to section 240 of the Immigration and Nationality Act (INA). *See* Exh. B, *NTA dated June 25, 2020*. The NTA charged Petitioner with inadmissibility under section 212(a)(6)(A)(i) of the INA, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *See* Exh. B. On June 29, 2020, ERO initiated removal proceedings by filing the NTA with the Executive Office for Immigration Review (EOIR). *See* Exh. B. On November 19, 2020, Petitioner was released on his own recognizance (OREC). *See* Exh. I, *Form I-220A, Order of Release on Recognizance, dated November 19, 2020*. Petitioner was subsequently scheduled for numerous master calendar hearings; all of which were continued for various reasons. *See* Exh. C.

On September 3, 2025, ERO encountered Petitioner at the Tampa Immigration and Customs Enforcement (ICE)/ERO sub-office during a routine check-in and detained him, revoking the OREC. *See Declaration*. ERO transferred Petitioner to the Miami Federal Detention Center (FDC Miami). *See* Exh. D, *Detention History*.

I. Section 1225(b)(2) Mandates Detention of Aliens, Like Petitioner, Who Are Present in the United States Without Having Been Lawfully Admitted.

Under the plain language of § 1225(b)(2), the Government is required to detain all aliens, like Petitioner, who are present in the United States without admission and are subject to removal proceedings—regardless of how long the alien has been in the United States or how far from the

border they ventured. That unambiguous language resolves this case. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 676 (2020) (“Our analysis begins and ends with the text.”).

A. The Plain Language of § 1225(b)(2) Mandates Detention of Applicants for Admission.

“As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute. It is well established that, when the statutory language is plain, [courts] must enforce it according to its terms.” *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). Section 1225(a) deems all aliens who either “arrive[] in the United States” or who are “present in the United States [and] who ha[ve] not been admitted” to be “applicant[s] for admission.” 8 U.S.C. § 1225(a)(1). “Admission” under the Immigration and Nationality Act (“INA”) means lawful entry after inspection by immigration authorities, and not mere physical entry. 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without permission is and remains an applicant for admission, regardless of the duration of the alien’s presence in the United States or the alien’s distance from the border.

In turn, § 1225(b)(2) provides that “an alien who is an applicant for admission” “shall be detained” pending removal proceedings if the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). The statute’s use of the term “shall” makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998), and the statute makes no exception based upon the duration of the alien’s presence in the country or where in the country the alien is located. Therefore, the statute’s plain text mandates that the Government detain all “applicants for admission” who are not clearly and beyond a doubt entitled to be admitted.

Petitioner falls squarely within the statutory definition. He was “present in the United States,” and there is no dispute that he has “not been admitted.” 8 U.S.C. § 1225(a); see [ECF No. 1, ¶ 5. Moreover, Petitioner cannot establish—and has not even alleged that he can establish—that he is “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). Therefore, § 1225(b)(2) mandates Petitioner “be detained for a proceeding under [8 U.S.C. § 1229a].” 8 U.S.C. § 1225(b)(2)(A).

B. Applicants for Admission under § 1225(b)(2) are seeking to be legally admitted into the United States.

As explained above, Petitioner is an “applicant for admission” under § 1225(b)(2) and is, therefore, seeking to be legally admitted into the United States. The statute itself makes clear that an alien who is an “applicant for admission” *is* necessarily “seeking admission.” Moreover, an alien like Petitioner, who is identified by immigration authorities as unlawfully present, and who does not choose to depart from the United States voluntarily, is “seeking admission,” i.e., seeking legal authority to remain in the United States.

1. The “seeking admission” clause does not negate or otherwise limit the statutorily defined term “applicant for admission”.

Section 1225(b)(2) requires the detention of an “applicant for admission, if the examining officer determines that [the] alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The statutory text and context show that being an “applicant for admission” is a means of “seeking admission”—no additional affirmative step is necessary. In other words, every “applicant for admission” is inherently and necessarily “seeking admission,” at least absent a choice to pursue voluntary withdrawal of their application for admission and immediately depart from the United States.

For example, § 1225(a) provides that “[a]ll aliens ... who are applicants for admission *or otherwise* seeking admission or readmission ... shall be inspected.” 8 U.S.C. § 1225(a)(3)

(emphasis added). The word “[o]therwise” means ‘in a different way or manner[.]’” *Texas 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 Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) (“or otherwise” means “the first action is a subset of the second action”). Being an “applicant for admission” is thus a particular “way or manner” of seeking admission, such that an alien who is an “applicant for admission” *is* “seeking admission” for purposes of § 1225(b)(2)(A).⁵ No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I & N. Dec. 734, 743 (BIA 2012) (“[M]any people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be ‘seeking admission’ under the immigration laws”). Accordingly, § 1225(b) unambiguously provides that an alien who is an “applicant for admission” is “seeking admission,” even if the alien is not engaged in some separate, affirmative act to obtain lawful admission.

2. Any perceived redundancy in the statute cannot serve as a basis to avoid the clear language of the statute.

As explained above, an “applicant for admission” is “seeking admission” under § 1225. To the extent this reading results in some redundancy in § 1225(b)(2)(A), that “is not a license to rewrite” § 1225 “contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 239 (2020); *see Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) (“sometimes drafters *do* repeat themselves and *do* include words that add nothing of substance” especially when “the arguably redundant

⁵ As § 1225 shows, being an “applicant for admission” is only *one* “way or manner” of “seeking admission,” not the exclusive way. 8 U.S.C. § 1225(a)(3). For example, lawful permanent residents returning to the United States are not “applicants for admission” because they are already admitted, but they still may be deemed to be “seeking admission” in some circumstances. *See* 8 U.S.C. § 1103(A)(13)(C).

words that the drafters employed ... are functional synonyms” (alterations accepted and emphasis in original)).

“The canon against surplusage is not an absolute rule.” *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 385 (2013). “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.” *Barton*, 590 U.S. at 239. “[R]edundancy in one portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text.” *Id.* Thus, as the Supreme Court explained in *Barton*, “[s]ometimes the better overall reading of a statute contains some redundancy.” *Id.*

Moreover, “the surplusage canon ... must be applied with statutory context in mind” and should not be employed to undermine congressional intent. *United States v. Bronstein*, 849 F.3d 1101, 1110 (D.C. Cir. 2017). As explained in greater detail below, in 1996, Congress passed the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996), with the goal of ensuring that aliens who enter the United States unlawfully do not receive greater privileges and benefits than aliens who lawfully present themselves for inspection at a port of entry. The canon against surplusage should not be employed to re-write the statute in contravention of this statutory context.

C. The Government’s Reading Comports with Congressional Intent.

Before 1996, federal immigration laws required the detention of aliens who presented at a port of entry but allowed aliens who were already unlawfully present in the United States to obtain release pending removal proceedings. In 1996, Congress passed the IIRIRA specifically to stop conferring greater privileges and benefits on aliens who enter the United States unlawfully as compared to those who lawfully present themselves for inspection at a port of entry. Accordingly,

the Government's reading of the statute is not only supported by the express language of § 1225, but it also comports with congressional intent. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to a result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes.").

The INA, as amended, contains a comprehensive framework governing the regulation of aliens, including the creation of proceedings for the removal of aliens unlawfully in the United States and requirements for when the Executive is obligated to detain aliens pending removal.

Prior to 1996, the INA treated aliens differently based on whether the alien had physically "entered" the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) "dictated what type of [removal] proceeding applied" and whether the alien would be detained pending those proceedings, *Hing Sum*, 602 F.3d at 1099. Accordingly, the INA's prior framework, which distinguished between aliens based on physical "entry," had

the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection ... were subject to mandatory custody.

Yajure Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (3d. Cir. 2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) ("House Rep.") ("illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection").

Congress discarded that regime through enactment of IIRIRA. Among other things, that law had the goal of “ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their legal presence in the country, are placed on equal footing in removal proceedings under the INA.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc). To that end, IIRIRA replaced the prior focus on physical “entry” and instead made lawful “admission” the governing touchstone. IIRIRA defined “admission” to mean “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). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been *lawfully* admitted.” House Rep., *supra*, at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar).

Petitioner’s interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years, or even decades, until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate. Accordingly, this Court should reject Petitioner’s interpretation. *King*, 576 U.S. at 492 (rejecting “petitioners’ interpretation because it would ... create the very [thing] that Congress designed the Act to avoid”).

The Government’s reading, on the other hand, is true to Congress’s intent and should be adopted.

D. The Government’s Reading Accords with *Jennings*.

The Government’s interpretation is consistent with the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* reviewed a Ninth Circuit decision that applied constitutional avoidance to “impos[e] an implicit 6-month time limit on an alien’s detention” under § 1225(b) and § 1226. *Id.* at 292. The Court held that neither provision is so limited. *Id.* at 292, 296-306. In reaching that holding, the Court did not—and did not need to—resolve the precise groups of aliens subject to § 1225(b) or § 1226. Nonetheless, consistent with the Government’s reading, the Court recognized in its description of § 1225(b) that § “1225(b)(2) serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* at 287.

II. Petitioner Does Not Have Standing to Bring His Claim Under the Administrative Procedure Act (“APA”)

Petitioner also does not have standing to bring his APA claim. By the APA’s terms, it is available only for final agency action “for which there is no other adequate remedy in court.” 5 U.S.C. § 704. Thus, Petitioner’s APA claim is independently barred by this limitation in 5 U.S.C. § 704.

In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, “necessarily imply the invalidity of their confinement” those claims “must be brought in habeas.” 145 S. Ct. 1003, 1005 (2025) (cleaned up) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence in *J.G.G.*, “given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.” *Id.* at 1007 (Kavanaugh, J. concurring). Here, as in *J.G.G.*, habeas is an “adequate remedy” through which Petitioner can challenge his detention. Even if Petitioner’s APA claim had merit, which it does

not, the result would be the same as that in habeas – release from detention. The Supreme Court’s holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234-35 (1953)).

WHEREFORE, for the foregoing reasons, the Petition should be denied.

Respectfully submitted,

JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY

/s/Chantel Doakes Shelton
CHANTEL DOAKES SHELTON
Assistant United States Attorney
Florida Bar No. 0118626
United States Attorney’s Office
500 E. Broward Blvd., Suite 700
Ft. Lauderdale, FL 33394
Phone: (954) 660-5770
Email: chantel.doakesshelton@usdoj.gov
Counsel for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 9, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

/s/ Chantel Doakes Shelton
Chantel Doakes Shelton
Assistant United States Attorney

EXHIBIT LIST
Case No. 26-cv-20044-ALTONAGA

- Exhibit A: Form I-213, Record of Deportable/Inadmissible Alien, dated September 3, 2025.
- Exhibit B: Notice To Appear, dated June 25, 2020
- Exhibit C: Declaration of Deportation Officer D'Angelo Eiland, Jr. (DO Eiland)
- Exhibit D: Detention History
- Exhibit E: Form I-200, Warrant for Arrest of Alien, dated September 3, 2025.
- Exhibit F: Order of Immigration Judge dated December 30, 1997.
- Exhibit G: Form I-205, Warrant of Removal/Deportation, dated December 30, 1997.
- Exhibit H: Form I-294, Warning to Alien Ordered Removed or Deported, dated December 30, 1997.
- Exhibit I: Form I-220A, Order of Release on Recognizance, dated November 19, 2020.