UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ROBIN LEIVA LEMUS,	)	CASE NO. 4:26-CV-203
	)	
Petitioner,	)	JUDGE SARA LIOI
	)	
v.	)	
	)	**REPLY IN SUPPORT OF**
ROBERT LYNCH, et al.,	)	**RETURN OF WRIT AND**
	)	**MOTION TO DISMISS**
Respondents.	)	

In his Reply in Support of Petition for Writ of Habeas Corpus, Petitioner Robin Leiva Lemus ("Petitioner") asserts that he is entitled to a writ of habeas corpus pursuant to 28 U.S.C. § 2241. However, Petitioner's arguments fail because ICE is properly detaining Petitioner pursuant to 8 U.S.C. § 1225.

PETITIONER IS PROPERLY DETAINED UNDER 8 U.S.C. § 1225

A. Applicants for admission are subject to detention under 8 U.S.C. § 1225

In his reply, Petitioner contends that he is not subject to detention pursuant to § 1225(a)(1) because he is not "seeking admission" to the United States. (ECF No. 8 PageID #148-151.) Petitioner argues that because he entered the country illegally nearly eight years ago, he is no longer "seeking admission" to the United States. (*Id.*, PageID # 8.) Petitioner does not contest that he is an "applicant for admission" to the United States but contends that an "applicant for admission" is somehow different that a person seeking admission. *Id.*

Petitioner's reading of the statute is inconsistent with the common usage of the terms "applicant" for admission and "seeking" admission. Petitioner is an "applicant" for admission, and Petitioner does not contend otherwise. However, in another case in which the petitioners had entered illegally and been in the United States for many years, the Fifth Circuit found that "[t]he petitioners are deemed, by statute, to be applicants for admission pending the resolution of removal proceedings. While they remain applicants, they are presently seeking admission." *Buenrostro-Mendez v. Bondi*, ___ F.4th ___, 2026 WL 323330, at *4 (5th Cir. 2026). This interpretation is not new, as the Board of Immigration Appeals ("BIA") held the same more than ten years ago.

> Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission. . . . In other words, many 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.

Matter of Lemus-Losa, 25 I&N Dec. 734, at 743 (2012) (emphasis in original).

Petitioner argues that this reading of the statute "would violate the canon of statutory interpretation against rendering any parts of a statute superfluous." (ECF No. 8, PageID #149.) First, as the Supreme Court has stated, "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 v. Barr*, 590 U.S. 222, 239 (2020). To the extent there is any redundancy in the terms "applicant for admission" and "seeking admission, a redundancy does

not permit a court "to rewrite. . . another portion of the statute contrary to its text." *Id.* This is especially true, as here, "where the ordinary meanings of the terms overlap." *Buenrostro-Mendez*, 2026 WL 323330, at *7. *See also Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (no canon of statutory interpretation forbids using different words in different parts of a statute to mean roughly the same thing) (internal quotation omitted).

B. Petitioner's detention without a bond hearing does not violate due process.

Petitioner also incorrectly asserts that his detention without a bond hearing violates procedural due process. (ECF No. 8, PageID #151-52.) As the Supreme Court has recognized, "detention during deportation proceedings is a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 518 U.S. 510, 523 (2003). *See also Department of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 118-119 (mandatory statutory detention in expedited removal proceedings is constitutional). Therefore, Petitioner's detention without a bond hearing does not violate due process.

Respectfully submitted,

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