IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RAFAEL BERNAL VENCES, Petitioner, v. JACOB WELSH, Sheriff, Chase County, CHRISTOPHER CHAMBERLAIN, Assistant Director, ICE Field Office, PAMELA BONDI, Attorney General, and KRISTI NOEM, Secretary of Homeland Security, Respondents.	)	Case No. 26-3029-JWL

RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his recent detention by Immigration and Customs Enforcement (ICE). Petitioner alleges that he is entitled to relief as a member of the nationwide Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). According to Petitioner, he cannot be subject to mandatory immigration detention but, rather, must be released on bond. As explained herein, Petitioner is not entitled to any relief on his Petition.

The district court decision in *Bautista* has no binding effect in the District of Kansas and cannot override the statutory custodial and territorial limits on habeas jurisdiction. Moreover, Petitioner is lawfully detained on a mandatory basis as an alien present in the United States without inspection or parole. 8 U.S.C. § 1225(b)(2). A plain reading of 8 U.S.C. § 1225(b)(2) supports a finding that Petitioner is subject to mandatory detention. As an alien who has not been admitted into the United States, Petitioner is considered an applicant for admission in the United States and therefore "shall be detained" during the pendency of his removal proceedings. 8 U.S.C. §

1225(b)(2)(A). For these reasons, and those herein, the Court should deny the Petition.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Before 1996, the 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. Congress passed the Illegal Immigration Reform and Immigration Responsibility Act ("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.

As relevant here, Congress enacted what is now 8 U.S.C. § 1225, which requires the detention of any alien "who is an applicant for admission" and defines that term to encompass any "alien present in the United States who has not been admitted" following inspection by immigration authorities. 8 U.S.C. § 1225(a), (b)(2)(A). Section 1225 makes no exception for how far into the country the alien traveled or how long the alien managed to evade detection. There is no dispute that Petitioner is an "applicant for admission" under the plain language of Section 1225(a). That provision specifically provides that any "alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission." § 1225(a)(1). Because Petitioner was never "admitted" to the United States (a fact that Petitioner does not contest) he remains unambiguously an "applicant for admission."

Despite the clear statutory text, Petitioner argues that the mandatory detention provision of § 1225(b)(2)(A) does not apply to him because he was already living in the United States when he was apprehended. (Doc. 1, ¶¶ 50-51). According to Petitioner, he should instead be entitled a bond hearing under 8 U.S.C. § 1226(a). This reading is atextual. On its face, that provision applies to numerous aliens not subject to Section 1225(b)(2)(A), including all admitted aliens who are now

removable—such as the millions of aliens in the United States that were lawfully admitted but then overstayed their visas. For those aliens, Section 1226 continues to govern detention. Moreover, the mere fact of partial overlap is insufficient to rewrite clear statutory text. Although prior administrations have previously operated under a different (and erroneous) interpretation of the law, this Court must apply the language of Section 1225(b)(2)(A) as written.

Ultimately, what Petitioner endorses is the type of backwards outcome—that IIRIRA was meant to eliminate—requiring the detention of aliens who present at a port of entry as the law requires but authorizing the release of those aliens who enter the United States in violation of law. Petitioner's Petition for Habeas Corpus should be denied.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Petitioner entered the United States illegally without inspection or admission at an unknown date. Petitioner alleges that he entered "in or about 2000." (Doc. 1, ¶ 22). On December 25, 2025, Petitioner was detained under 8 U.S.C. § 1225(b) for removal by the Department of Homeland Security. (*Id.*). On March 9, 2026, the Immigration Court held a hearing on the merits of Petitioner's application for relief. (Order of the Immigration Judge dated March 9, 2026, [attached as Exhibit A]). The Petitioner's application for cancellation of removal was denied, and he was granted voluntary departure under safeguards. (Exhibit A, pgs. 1-2). Petitioner was ordered to voluntarily depart on or before March 23, 2026. (Exhibit A, pg. 2). If Petitioner fails to depart, an alternate order of removal shall automatically take effect. (*Id.*). Petitioner reserved the right to appeal the order denying the cancellation of removal. (Exhibit A, pg. 4).

Petitioner now brings this habeas claim asserting that he is bond-eligible because he should instead fall under 8 U.S.C. § 1226(a), which gives the Attorney General the discretion to detain or release the alien on bond through the pendency of removal proceedings. Petitioner styles his habeas

petition as four distinct claims: "violation of the INA: request for relief under *Maldonado Bautista*" (Count I), violation of the Administrative Procedures Act (Count II), violation of substantive due process (Count III), and violation of procedural due process (Count IV). *See* (Doc. 1, pgs. 18-20). These Counts, however, essentially present the same central statutory challenge: that Petitioner's detention is unlawful because he is entitled to a bond hearing as an alien detained under section 1226, not section 1225. As discussed herein, Petitioner's habeas petition should be denied because he is subject to mandatory detention, not discretionary detention as he alleges.

ARGUMENT AND AUTHORITIES

I. Statutory Framework

A. The pre-IIRIRA framework gave preferential treatment to aliens unlawfully present in the United States.

The Immigration and Nationality Act ("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. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026); *see also 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.

At the time, the INA "provided for two types of removal proceedings: deportation hearings and exclusion hearings" *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc). An alien who

arrived at a port of entry "were subject to mandatory detention until the conclusion of the exclusion process and could not request release on bond." *Buenrostro-Mendez*, 166 F.4th at 498; *see also* 8 U.S.C. § 1225(a)-(b) (1995); *id.* § 1226(a) (1995). In contrast, an alien who physically entered the United States unlawfully "evaded inspection[,] and were apprehended months or years later could seek release on bond pending deportation proceedings." *Id.*; *Hing Sum*, 602 F.3d at 1100.

Thus, the INA's prior framework distinguishing between aliens based on physical "entry" had the "unintended and undesirable consequence" that allowed "'non-citizens who had entered without inspection [to] take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' while non-citizens who actually presented themselves to authorities for inspection were restrained by 'more summary exclusion proceedings.'" *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (2012) (quoting *Hing Sum*, 602 F.3d at 1100); *see also* 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").

B. The IIRIRA eliminated the preferential treatment of aliens unlawfully present in the United States and mandated detention of all "applicants for admission."

Congress discarded that regime through enactment of IIRIRA, Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996). 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); *see also Buenrostro-Mendez*, 166 F.4th at 508 ("By eliminating the exclusion/deportation dichotomy, IIRIRA put aliens seeking admission lawfully on equal footing with those who entered without inspection.").

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). Thus, IIRIRA also eliminated the exclusion-deportation dichotomy that put "aliens seeking admission lawfully on equal footing with those who entered without inspection." *Buenrostro-Mendez*, 166 F.4th at 508.

IIRIRA effected these changes through several provisions codified in Section 1225 of Title 8:

Section 1225(a): Section 1225(a) codifies Congress's decision to make lawful "admission," rather than physical entry, the touchstone. That provision states that an alien "present in the United States who has not been admitted or who arrives in the United States" "shall be deemed . . . an applicant for admission":

> 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) shall be deemed for purposes of this chapter an applicant for admission.

8 U.S.C. § 1225(a)(1). "All aliens . . . who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States" are required to "be inspected by [an] immigration officer[]." *Id.* § 1225(a)(3). The inspection by the immigration officer is designed to determine whether the alien may be lawfully "admitted" to the country or, instead, must be

referred to removal proceedings.

Section 1225(b): IIRIRA also divided removal proceedings into two tracks—expedited removal and non-expedited "Section 240" proceedings—and mandated that applicants for admission be detained pending those proceedings. 8 U.S.C. §§ 1225(b)(1)-(2).

Section 1225(b)(1) provides for so-called "expedited removal proceedings," *DHS v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020), which can potentially be applied to a subset of aliens—those who (1) are "arriving in the United States," or who (2) have "not been admitted or paroled into the United States" and have "not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." 8 U.S.C. § 1225(b)(1)(A)(i)-(iii). As to these aliens, the immigration officer shall "order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum … or a fear of persecution." *Id.* § 1225(b)(1)(A)(i). In that event, the alien "shall be detained pending a final determination of credible fear or persecution and, if found not to have such fear, until removed." *Id.* § 1225(b)(1)(B)(iii)(IV); *see also* 8 C.F.R. § 235.5(b)(4)(ii). An alien processed for expedited removal who does not indicate an intent to apply for a form of relief from removal is likewise detained until removed. 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV); *see* 8 C.F.R. § 235.3(b)(2)(iii).

Section 1225(b)(2) is a "catchall provision that applies to all applicants for admission not covered by [subsection (b)(1)]." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). It requires that those aliens be detained pending Section 240 removal proceedings:

> Subject to subparagraphs (B) and (C), in 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 1229a of this title [Section 240].

8 U.S.C. § 1225(b)(2)(A) (emphasis added).[1] *See* 8 C.F.R. § 253.3(b)(1)(ii) (mirroring Section 1225(b)(2) detention mandate); *Jennings*, 583 U.S. at 302 (holding that Section 1225(b)(2) "mandate detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin").

While Section 1225(b)(2) does not allow for aliens to be released on bond, the INA grants DHS discretion to exercise its parole authority to temporarily release an applicant for admission, but "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Parole, however, "shall not be regarded as admission of the alien." *Id.*; *Jennings*, 583 U.S. at 288 (discussing parole authority). Moreover, when the Secretary determines that "the purposes of such parole . . . been served," the "alien shall . . . be returned to the custody from which he was paroled" and be "dealt with in the same manner as that of any other applicant for admission to the United States." 8 U.S.C. § 1182(d)(5)(A).

Section 1226: IIRIRA also created a separate authority addressing the arrest, detention, and release of aliens generally (versus applicants for admission specifically). *See* 8 U.S.C. § 1226. This is the only provision that governs the detention of aliens who, for example, lawfully enter the country but overstay or otherwise violate the terms of their visas, or are later determined to have been improperly admitted. The statute provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." *Id.* § 1226(a). Detention under this provision is generally discretionary: The Attorney General "may" either "continue to detain the arrested alien" or release

[1] Subsection (b)(2) does not apply to (1) aliens subject to expedited removal, (2) crewmen, (3) stowaways, or (4) aliens who "arriv[e] on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States." 8 U.S.C. § 1225(b)(2)(B)-(C).

the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2).[2]

That "default rule," however, does not apply to certain criminal aliens who are being released from detention by another law enforcement agency. *Jennings*, 583 U.S. at 288; *see* 8 U.S.C. § 1226(c). Section 1226(c) provides that "[t]he Attorney General shall take into custody" certain classes of criminal aliens—those who are inadmissible or deportable because the alien (1) "committed" certain offenses delineated in 8 U.S.C. §§ 1182 and 1227; or (2) engaged in terrorism-related activities. 8 U.S.C. § 1226(c)(1). The Executive must detain these aliens "when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense." *Id.*

Congress recently amended Section 1226(c) through the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3, (2025), which requires detention of (and prohibits parole for) aliens who (1) are inadmissible because they are physically present in the United States without admission or parole, have committed a material misrepresentation or fraud, or lack required documentation; and (2) are "charged with, arrested for, [] convicted of, admit[] having committed, or admit[] committing acts which constitute the essential elements of" certain listed offenses. 8 U.S.C. § 1226(c)(1)(E).

C. DHS and the Board of Immigration Appeals conclude that Section 1225(b)(2) requires detention of all applicants for admission.

For many years after IIRIRA, immigration judges treated aliens who entered the United States without admission and were later detained away from the border as being subject to

[2] Conditional parole under Section 1226(a) is broader than parole under Section 1182(d)(5)(A).

discretionary detention under 8 U.S.C. § 1226(a) rather than mandatory detention under 8 U.S.C. § 1225(b)(2). *Buenrostro-Mendez*, 166 F.4th at 500.

On July 8, 2025, DHS "revisited its legal position on detention and release authorities" and issued interim guidance that brought the Executive's practices in line with the statute's plain text. *See* (U.S. Customs and Border Protection Commissioner Rodney S. Scott memorandum dated July 10, 2025 [attached as Exhibit B). Specifically, DHS concluded that all aliens who enter the country without being admitted or who otherwise arrive in the United States without proper documentation are "subject to mandatory detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) parole." *Id.* As a result, the "only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under the INA § 236(a) [8 U.S.C. § 1226(a)] are aliens admitted to the United States and chargeable with deportability under INA § 237 [8 U.S.C. § 1127]." *Id.*

The Board of Immigration Appeals soon adopted this interpretation in *Hurtado*. The Board concluded that Section 1225(b)(2)'s mandatory detention regime applies to *all* aliens who entered the United States without inspection and admission:

> Aliens … who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer. Remaining in the United States for a lengthy period of time following entry without inspection, by itself, does not constitute an "admission."

29 I. & N. Dec. at 228; *see also id.* at 225 ("Immigration Judges lack authority to hear bond requests or to grant bond to aliens … who are present in the United States without admission"). In so concluding, the BIA rejected the alien's argument that "because he has been residing in the interior of the United States for almost 3 years . . . he cannot be considered as 'seeking admission.'" *Id.* at 221. The BIA determined that this argument "is not supported by the plain language of the INA" and creates a "legal conundrum." *Id.* If the alien "is not admitted to the United States (as he admits)

but he is not 'seeking admission' (as he contends), then what is his legal status?" *Id.* (parentheticals in original).

D. The *Maldonado Bautista* Decisions.

The *Maldonado Bautista* litigation began in the Central District of California when aliens in ICE custody challenged their detention under 8 U.S.C. § 1225(b)(2)(A) via a habeas corpus petition, arguing that they were being improperly treated as "applicants for admission" rather than evaluated under § 1226(a). Petitioners specifically challenged the DHS policy that required ICE to classify all noncitizens apprehended in the United States as § 1225 applicants.

The district court initially issued temporary restraining orders granting relief to individual petitioners, including bond hearings and restrictions on relocation. *See Bautista v. Santacruz* (*Bautista I*), 2025 WL 3289861, at *1–2 (C.D. Cal. Nov. 20, 2025). In November 2025, the court granted partial summary judgment, holding that the government's interpretation "is at odds with the plain language of the INA," *id.* at *8, and that it impermissibly "collapse[d] § 1226 into nonexistence under a wide-reaching interpretation of 'applicants for admission.'" *Id.* at *11. Later that month, the court certified a nationwide class of noncitizens, defined as follows:

> **Bond Eligible Class**: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

See Maldonado Bautista v. Santacruz (*Bautista II*), 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). The court extended the declaratory relief previously granted to the individual petitioners to the entire class.

On December 18, 2025, the court granted in part and denied in part a petition for reconsideration or clarification, confirming that its prior summary judgment had declared the DHS

policy unlawful and vacated it under the Administrative Procedure Act, while denying vacatur of the BIA's decision in *Hurtado*, 29 I. & N. Dec. 216. *See Maldonado Bautista v. Santacruz* (*Bautista III*), 2025 WL 3713982, at *7 (C.D. Cal. Dec. 18, 2025). The United States filed a notice of appeal, and the case is pending before the Ninth Circuit. *See Maldonado Bautista v. DHS*, No. 25-7958 (9th Cir. filed Dec. 18, 2025).

More recently, the court in *Maldonado Bautista v. Santacruz* (*Bautista IV*), No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal. Feb. 18, 2026), issued a decision purporting to vacate *Matter of Yajure Hurtado*. The government noticed an appeal on February 25, 2026. On March 6, 2026, the Ninth Circuit administratively stayed the district court's ruling pending a decision on the government's emergency motion for a stay pending appeal. (Order entering administrative stay, dated March 6, 2026, [attached as Exhibit C])

II. Petitioner is not entitled to any relief, because he is an applicant for admission who may properly be subjected to mandatory detention under 8 U.S.C. § 1225 without any requirement for a bond hearing.

Pursuant to 8 U.S.C. § 1225(b)(2)(A), "in 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 1229a [removal proceedings]." 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has held that section 1225(b)(2)(A) is a mandatory detention statute and that aliens detained pursuant to that provision are not entitled to bond. *Jennings*, 583 U.S. at 287 ("Both § 1225(b)(1) and § 1225(b)(2) authorize the detention of certain aliens.").

As discussed above, Section 1225(a) defines "applicant for admission" to encompass an alien who either "arrives in the United States" or who is "present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). And "admission" under the INA means not physical entry,

but lawful entry after inspection by immigration authorities. 8 U.S.C. § 1101(a)(13)(A); *Mejia Olalde v. Noem*, 2025 WL 3131942, at *3 (E.D. Mo. Nov. 10, 2025). 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.

Petitioner falls squarely within section 1225(b)(2)(A)'s mandatory detention requirement as Petitioner is an "applicant for admission" to the United States. Petitioner is "present in the United States," and there is no dispute that he has "not been admitted." 8 U.S.C. § 1225(a).[3] Congress's broad language here is unequivocally intentional—an undocumented alien is to be "deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Thus, regardless of Petitioner's characterization, he is "deemed" an applicant for admission based on Petitioner's failure to seek lawful admission to the United States before an immigration officer, which is undisputed. And because Petitioner cannot—and did not—establish that he is "clearly and beyond a doubt entitled to be admitted," he "shall be detained for a proceeding under [8 U.S.C. § 1229a]." 8 U.S.C. § 1225(b)(2)(A).

Thus, under the plain language of Section 1225(b)(2), DHS 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.").

[3] Moreover, Petitioner cannot—and did not—establish that he is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A).

III. Petitioner is not entitled to relief under *Bautista*.

Petitioner asserts that he brings this Petition seeking to enforce his rights as a member of the nationwide "Bond Denial Class" certified in *Bautista II*. (Doc. 1, pg. 1). Petitioner's reliance on *Bautista II* is misplaced for two reasons.

First, the judgment on which Petitioner relies is currently on appeal to the Ninth Circuit. That posture alone counsels strongly against giving it preclusive effect. Courts have long recognized the unfairness of imposing preclusion based on a judgment that may yet be reversed or vacated. *See* 18A Charles Alan Wright *et al.*, Federal Practice and Procedure § 4433, n.21 (citing cases). Applying preclusive effect before appellate review would compel compliance with a judgment that may be overturned, creating conflicting obligations and irreparable consequences for the government and the courts. Indeed, this concern has been recognized by at least one court in this specific context. *See Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918, at *13 (N.D. Tex. Dec. 19, 2025) ("[T]he government could ultimately prevail on appeal in *Maldonado Bautista* . . . [if the Government] must fend off thousands of additional cases addressing the same issue that claim the Central District's orders are binding, and it would face the real risk that other district courts will take the same improper approach").

Second, the Central District of California lacked jurisdiction to impose nationwide relief in a habeas proceeding. District courts are limited to granting habeas relief "within their respective jurisdictions." 28 U.S.C. § 2241(a). And core habeas claims may be adjudicated in only one district: the district of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *Ozturk v. Hyde*, 136 F.4th 382, 390 (2d Cir. 2025). Similarly, Section 2241(a) requires "that the court issuing the writ have jurisdiction over the custodian." *Braden v. 30th Jud. Cir. Ct. of Kentucky*, 410 U.S. 484, 495 (1973). Here, Petitioner is detained in the District of Kansas, and his immediate custodian—Chase County Warden Jacob Welsh—is not a party to *Bautista*. For those reasons alone, the

Central District of California lacked jurisdiction to bind either Petitioner or the Chase County Warden to its decision. Moreover, as the Supreme Court recently reaffirmed, and as other courts have explained in declining to afford preclusive effect to *Bautista*, relief that seeks to control the conduct of officials beyond the parties before the court raises serious questions about the proper equitable authority of federal courts and their respect for the authority of other courts. See CASA, 606 U.S. at 837, 841–42; *Rodriguez v. Jeffreys*, 2025 WL 3754411, at *9 (D. Neb. Dec. 29, 2025) (declining to follow *Maldonado Bautista* and explaining that a class-action workaround to CASA's bar on "universal injunctions" is untenable in a habeas action); *Calderon Lopez*, 2025 WL 3683918, at *13–14 (same); *Ore Falcon v. Wofford*, 2026 WL 171927, at *3 (E.D. Cal. Jan. 22, 2026). (same).

Thus, the relief Petitioner seeks under *Bautista II*—transferring this Court's exclusive, statutory habeas authority over the District of Kansas to a distant court—should be denied. Such relief is incompatible with the clear territorial limits Congress imposed on habeas jurisdiction and would invite precisely those concerns expressed by the Supreme Court in *CASA* by allowing a single district court to dictate detention decisions nationwide, notwithstanding contrary rulings by other courts and the absence of appellate review.

IV. The decisions of other district courts, including *Bautista*, are mistaken and should not override the clear congressional mandate of detention under the provisions of 8 U.S.C. §1225(b).

Congress provided that mandatory detention pending removal proceedings is the norm—not the exception—for those who enter the country without inspection and who lack documents sufficient for admission or entry. *See* 8 U.S.C. § 1225(b)(2). And for good reason: detention pending removal proceedings is the historical norm and, in this context, reflects the reality that aliens have avoided inspection by sneaking into the United States. *See Demore v. Kim*, 538 U.S.

510, 523 (2003) (citing *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)). When Congress enacted 8 U.S.C. § 1225(b) as part of the immigration reforms of 1996, it determined that treating all unadmitted aliens similarly in terms of detention and removal eliminated unintended consequences and perverse incentives that pervaded the prior system. This included the practice under which undocumented aliens who entered without inspection received more procedural protections—including the ability to seek release on bond—than those who presented themselves for inspection at ports of entry. In essence, the pre-1996 law favored those that entered the U.S. illegally and clandestinely, which Congress sought to end. Through mandatory detention of applicants for admission, Congress further ensured that the Executive Branch could give effect to the provisions for removal of aliens. *See Demore*, 538 U.S. at 531.

The only circuit court to have addressed this issue and many other district courts have adopted the Respondents' understanding of Section 1225(b)'s reach. *See Buenrostro-Mendez,* 166 F.4th 494 at 501-08; *Cisneros v. Noem*, 2026 WL 396300, *1-5 (D. Utah Feb. 12, 2026); *Romero Guillen v. Johnson*, 2026 WL 601881, *1-2 (E.D. Mo. Mar. 4, 2026); *Camerino v. Noem*, 2026 WL 593934, *1-2 (D. Minn. Mar. 3, 2026); *Vargas-Sanchez v. Noem*, 2026 WL 593050, *1 (D. Ariz. Mar. 3, 2026); *Xavier Dorante v. Dickey*, 2026 WL 593536, *1 (S.D. Tex. Mar. 3, 2026); *Rayo v. Olson*, 2026 WL 594079, *1-5 (E.D. Wisc. Mar. 3, 2026); *Rodriguez Rodriguez v. Miami Field Office Director, Immigration and Customs Enforcement and Removal Operations*, 2026 WL 586268, *1-2 (M.D. Fla. Mar. 3, 2026); *Hernandez v. Miami Field Office Director*, 2026 WL 554694, *1-2 (S.D. Fla. Feb. 27, 2026); *M.A.P.G. v. Warden, Stewart Detention Center*, 2026 WL 493469, *1-2 (M.D. Ga. Feb. 23, 2026); *Fleurimond v. Noem*, 2026 WL 507542, *1 (D. Ariz. Feb. 24, 2026); *Chen v. Almodovar*, 2026 WL 507707, *1-4 (S.D.N.Y. Feb. 24, 2026); *Saucedo Carera v. Bondi*, 2026 WL 508084, *1-5 (D. N.D. Feb. 24, 2026); *Guadarrama de Andrade v. Noem*, 2026

WL 483279, *1 (D. Minn. Feb. 20, 2026); *Guzman v. Noem*, 2026 WL 472459, *1 (N.D. Tex. Feb. 19, 2026); *Belal v. LaRose*, 2026 WL 479976, *1-2 (S.D. Cal. Feb. 19, 2026); *Quizhpi-Guaman v. Searls*, 2026 WL 482588, *1-5 (W.D.N.Y. Feb. 19, 2026); *Alcan v. Secretary of the U.S. Department of Homeland Security*, 2026 WL 472333, *1-3 (S.D. Ohio Feb. 19, 2026); *Alvarez-Felix v. Ramos*, 2026 WL 438160, *1, 7-8 (D. P.R. Feb. 17, 2026); *Bracamonte-Moran v. Noem*, 2026 WL 412588, *1 (W.D. La. Feb. 13, 2026); *Gonzalez v. Ladwig*, 2026 WL 413602, *1, 3-8 (W.D. Tenn. Feb. 13, 2026); *Flores Pacheco v. Almodovar*, 2026 WL 366994, *1, 3-5 (S.D.N.Y. Feb. 10, 2026); *Perez Chavez v. Noem*, --- F. Supp. 3d ----, 2026 WL 381618, *1-2 (D. Ariz. 2026); *Montenegro Gudino v. Almodovar*, 2026 WL 251887, *2-4 (S.D.N.Y. Jan. 30, 2026);

Petitioner cites a number of district court opinions that have disagreed with the Respondents' understanding Section 1225(b)'s plain text. For the reasons discussed below, the analysis employed by these district courts and relied upon by Petitioner is misguided and inconsistent with the plain statutory text.

A. An alien who is an "applicant for admission" *is* "seeking admission" to the United States.

As the District Court for the Northern District of Texas observed, Petitioner's analysis relies on a "hair-splitting emphasis on the phrase 'seeking admission' [that] elevates form over substance." *Goyo Martinez v. Villegas, et al.*, No. 1:25-CV-256-H, 2026 WL 114418, at *1 (N.D. Tex. Jan. 15, 2026); *see also Alvacora v. Olson, et al.*, No. 0:26-CV-00675-DMT-SGE, 2026 WL 220417, at *2 (D. Minn. Jan. 28, 2026) ("Unlike other courts, this Court is not convinced there is a meaningful distinction between being an 'applicant for admission' and 'seeking admission' under § 1225(b)").

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. *Buenrostro-Mendez v. Bondi*, ,166 F.4th 494, 502 (5th Cir. Feb. 6, 2026). In other words, every "applicant for admission" is inherently and necessarily "seeking admission," at least absent a choice to pursue voluntary withdrawal or voluntary departure. Thus, there is no "meaningful distinction between being an "applicant for admission" and "seeking admission" under § 1225(b)." *Alvacora*, 2026 WL 220417, at *2.

Indeed, Section 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 Att'y Gen. of United States v. Wynn*, 104 F.4th 348, 354 (D.C. Cir. 2024) (same); *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"); *Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019). 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 Section 1252(b)(2)(A). No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (B.I.A. 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").

This reading is consistent with the everyday meaning of the statutory terms. One may "seek" something without "applying" for it—for example, one who is "seeking" happiness is not

"applying" for it. But one *applying* for something is necessarily *seeking* it. *Compare* Webster's New World College Dictionary 69 (4th ed.) ("apply" means "To make a formal request (*to* someone *for* something)"), *with id.* at 1299 ("seek" means "to request, ask for"). For example, a person who is "applying" for admission to a college or club is "seeking" admission to the college or club. *See* The American Heritage Dictionary of the English Language 63 (1980) ("American Heritage Dictionary") ("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") is "seeking admission" to the United States. And that's true even when the alien has been physically present in the country for many years, as that alien can "still be an applicant for *lawful* entry, seeking legal 'admission.'" *Mejia Olalde*, 2025 WL 3131942, at *3. As the geographic and temporal limits in the neighboring provision, Section 1225(b)(1), demonstrate, "[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." *Id.* at *4.

None of this is to say, however, that "seeking admission" has no meaning beyond "applicant for admission." As Section 1225(a)(3) shows, being an "applicant for admission" is only *one* "way or manner" of "seeking admission," *supra*, p. 15—not the exclusive way. 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 "seeking admission." *See* 8 U.S.C. § 1103(A)(13)(C). But for purposes of Section 1225(b)(2) and its regulation of "applicants for admission," the statute 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.

Petitioner argues that Congress's passage of the Laken Riley Act demonstrates that "Congress did not intend for § 1225 to apply to noncitizens in the country who have not been inspected or admitted." (Doc. 1, ¶ 30). Certainly, the Laken Riley Act's application to aliens who are inadmissible under §1182(a)(6)(A)—for being "present ... without being admitted or paroled"—overlaps with Section 1225(b)(2)(A). Both statutes mandate detention of "applicants for admission" who fall within the specified grounds of inadmissibility. But again, "[r]edundancies are common in statutory drafting," and are "not a license to rewrite or eviscerate another portion of the statute contrary to its text." *Barton*, 590 U.S. at 223. And "even assuming there were surplusage, that cannot trump the plain meaning of [Section] 1225(b)(2)." *Mejia Olalde*, 2025 WL 3131942, at *4. That is particularly true here, where this portion of the Laken Riley Act overlaps with Section 1225(b)(2)(A) even under *Petitioner's* reading, which recognizes that applicants for admission who are "seeking admission" must be detained under Section 1225(b)(2)(A). *See Microsoft Corp. v. I4I Ltd. P'ship*, 564 U.S. 91, 106 (2011) ("[T]he canon against superfluity assists only where a competing interpretation gives effect to every clause and word of a statute").

Thus, under a straightforward reading of the statute, being an "applicant for admission" is "seeking admission." Although that reading may lead to some redundancy in Section 1225(b)(2)(A), that is "not a license to rewrite" Section 1225 "contrary to its text." *Barton*, 590 U.S. at 223; *see Heyman v. Cooper*, 31 F.4th 1315, 1322 (11th Cir. 2022) (The "principle [that drafters do repeat themselves] carries extra weight where . . . the arguably redundant words that the drafters employed . . . are functional synonyms"). And that is especially true, where that re-writing would be so clearly contrary to Congress's objective in passing the law.

To be sure, the Government previously operated under a narrower understanding of Section 1225(b)(2)(A), such that aliens present in the United States who had entered without admission were instead detained under Section 1226(a). But past practice does not justify disregard of clear statutory language. *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 329 (2015); *see also Goyo Martinez*, 2026 WL 114418, at *7 ("Because the statute prevents ICE from giving Goyo Martinez the relief he seeks, he cannot 'turn[] back the clock' to a time when such relief was available as a matter of practice."). Indeed, in the context of this very statute the Supreme Court has previously rejected longstanding government interpretations that it deemed incompatible with statutory text. *See Pereira v. Sessions*, 585 U.S. 198, 204-05, 208-09 (2018). A court therefore must always interpret the statute "as written," *Henry Schein, Inc. v. Archer & White Sales, Inc.*, 586 U.S. 63, 68 (2019), and here the statute as written requires detention of *any* applicant for admission, regardless of whether the applicant is taking affirmative steps toward admission. A "nontextual" practice cannot upend that plain statutory meaning. *Mejia Olalde*, 2025 WL 3131942, at *5 (rejecting the Government's prior understanding as "nontextual" and unsupported by any "thorough, reasoned analysis").

B. The Supreme Court's decision in *Jennings* does not undermine the government's interpretation.

The Government's interpretation is consistent with the Supreme Court's decision in *Jennings*, 583 U.S. 281 (2018). *See Buenrostro-Mendez*, 166 F.4th at 506. *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 Sections 1225(b) and 1226. 583 U.S. 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 Section 1225(b) or Section 1226. Nonetheless, consistent with the Government's reading, the Court recognized in its

description of Section 1225(b) that "Section 1225(b)(2) . . . . serves as a catchall provision that applies to all applicants for admission not covered by §1225(b)(1)." *Id.* at 287.

Some lower courts have rejected the Government's interpretation based on language in *Jennings* where the Court described the detention authorities in Section 1225(b) and Section 1226, and in that context summarized Section 1226 as applying to aliens "already in the country":

> In sum, 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; *see also id.* at 288 (characterizing Section 1226 as applying to aliens "once inside the United States"). The Government's interpretation is perfectly consistent with that language: it allows that Section 1226 is the exclusive source of detention authority for the substantial category of aliens who were admitted into the United States (and so are "in the country") but are now removable. Indeed, in context, the best reading of that language in *Jennings* is that the discussion refers to aliens who are "in and admitted to the United States." 8 U.S.C. § 1227(a). The opinion's reference to aliens "present in the country" specifically cites Section 1227(a), which covers only admitted aliens. *See* 583 U.S. at 288. Moreover, nothing in the quoted language from *Jennings* suggests that Section 1226 is the *sole* detention authority that applies to "aliens already in the country." *See Buenrostro-Mendez*, 166 F.4th at 506.

Indeed, the passage's use of the word "certain" conveys the opposite. At a minimum, the quoted language is ambiguous and such uncertain language is insufficient to displace the statute's plain text and the manifest congressional purpose. *See Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 373-74 (2023) (explaining that "the language of an opinion is not always to be parsed as though we were dealing with language of a statute," and instead "must be read with a careful eye

to context" (citation omitted)). That is especially so as no part of the holding in *Jennings* required it to decide the precise scope of Sections 1225(b) and 1226.

V. The Due Process Clause does not entitle Petitioner to any relief.

The Due Process Clause provides no relief to Petitioner. Mandatory detention under § 1225(b)(2) is constitutionally permissible. And resolution one way or another is undoubtedly forthcoming. Petitioner's ample available process in his current removal proceedings demonstrate no lack of Procedural Due Process—nor any deprivation of liberty "sufficiently outrageous" as required to establish a Substantive Due Process claim. *See generally Reed v. Goertz*, 598 U.S. 230, 236 (2023). Congress simply made the decision to detain him pending removal which is a "constitutionally permissible part of that process." *See Demore*, 538 U.S. at 531.

The Supreme Court has held that detention during removal proceedings, even without access to a bond hearing, is constitutional. In *Demore*, the Supreme Court upheld the constitutionality of § 1226(c), which mandates the detention of certain aliens during removal proceedings without access to bond hearings. 538 U.S. at 522. The Court "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process," and reaffirmed its "longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 523, 526. The Court further explained that "when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal." *Id.* at 528. With respect to due process concerns, the Court recognized that it "has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Id.* at 522.

Here, Petitioner is being detained for the limited purpose of removal proceedings and determining his removability. Such detention is not punitive or done for reasons other than to address removability, which will occur in the removal proceedings. Whether framed as a substantive or procedural due process claim, the principles set forth in *Demore* govern this case. Substantive due process protects "only 'those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition.'" *Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997)). Any substantive due process claim therefore fails here because "the through line of history" is that the federal government has "sovereign authority to set the terms governing the admission and exclusion of noncitizens." *Id.* at 911, 912. Indeed, Congress in exercising this "broad power over naturalization and immigration . . . regularly makes rules that would be unacceptable if applied to citizens." *Demore*, 538 U.S. at 522 (internal quotation marks and citation omitted). Consistent with these principles, the Supreme Court has long recognized that "the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 526.

Similarly, Petitioner cannot succeed on a procedural due process claim. Such a claim fails because where Congress has substantively mandated detention pending removal proceedings, an alien cannot displace that substantive choice with a procedural due process claim. As discussed, aliens are not entitled to bond hearings as a matter of substantive due process. *See Demore*, 538 U.S. at 523–29. Under *Demore*, Congress may reasonably determine—as it did here—to subject aliens who were never inspected or admitted to this country to detention without bond while the government determines their removability. And "an alien in [that] position has only those rights regarding admission that Congress has provided by statute." *Thuraissigiam*, 591 U.S. at 140.

Congress has not created any procedural rights to a bond hearing for applicants for admission. *See Jennings*, 583 U.S. at 297. "Read most naturally," section 1225 "mandate[s] detention of applicants for admission until certain proceedings have concluded." *Id.* And the statute says nothing "whatsoever about bond hearings." *Id.* No procedural due process claim is stated.

VI. Petitioner's detention is lawful, but should the Court find otherwise, it should not assess, in the first instance, whether Petitioner should be released or grant him direct release.

Petitioner requests that if the Court finds that his detention is unlawful, the Court should order his release. (Doc. 1, ¶ 71(b)). Respondent contends that if this Court finds that Petitioner's detention is unlawful, the Court should reject his contention that he should be released within one day. The proper remedy in this matter, if any, is for Petitioner to be afforded a bond hearing before an IJ, with the burden of proof on the Petitioner, not the Government, to justify whether further detention is warranted. *See Martinez v. Clark*, 36 F.4th 1219, 1223 (9th Cir. 2022), *cert. granted, judgment vacated on other grounds*, 144 S. Ct. 1339, 218 L. Ed. 2d 418 (2024) ("[D]istrict courts throughout this circuit have ordered immigration courts to conduct bond hearings for noncitizens held for prolonged periods"); *Lopez v. Garland*, 631 F. Supp. 3d 870, 882–83 (E.D. Cal. 2022) ("The Court finds, consistent with other post-Jennings cases, that the appropriate remedy is a bond hearing before an immigration judge") (citations omitted); *Doe v. Becerra*, 697 F. Supp. 3d 937, 948 (N.D. Cal. 2023) ("[C]ourts in this Circuit have regularly found that the IJ is the proper authority to conduct bond hearings and determine a detainee's risk of flight or dangerousness to the community"); *I.E.S. v. Becerra*, No. 23-CV-03783-BLF, 2023 WL 6317617, at *9 (N.D. Cal. Sept. 27, 2023) ("Even if I.E.S. is correct that the Court has the authority to hold a bond hearing, the more prudent course is to allow an IJ to make determinations about I.E.S.'s risk of flight or danger to the community and eligibility for ISAP."). Moreover, this Court should also decline to order

Petitioner's immediate release even if it finds his ongoing detention unlawful. *See Fraihat v. U.S. Immigr. & Customs Enf't*, 16 F.4th 613, 642 (9th Cir. 2021) ("[C]ompelled release of detainees is surely a remedy of last resort.").

CONCLUSION

Petitioner concedes that he unlawfully entered the United States insofar as he entered the United States without inspection. Because Petitioner has not been admitted or paroled into the United States after inspection, the INA categorizes Petitioner as an applicant for admission to the United States as if he never physically entered the United States. 8 U.S.C. § 1225(a)(1). The statutory analysis does not change because Petitioner was physically but unlawfully present when apprehended or based on how long Petitioner's unlawful presence lasted before apprehension. Therefore, Petitioner is an "applicant for admission" and thus subject to the mandatory detention provisions of "applicants for admission" under section 1225(b)(2). Petitioner is lawfully detained pending removal proceedings, and he does not claim any immigration status that would entitle him to immediate release from custody. Petitioner's Petition for habeas should be denied.

Respectfully submitted,
RYAN A. KRIEGSHAUSER
United States Attorney
District of Kansas

s/ Brian E. Vanorsby
Brian E. Vanorsby, KS #27606
Assistant United States Attorney
301 N. Main, Suite 1200
Wichita, Kansas 67202
Telephone: (316) 269-6103
Facsimile: (316) 269-6484
E-mail: brian.vanorsby@usdoj.gov
Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2026, the foregoing document was electronically filed by using the CM/ECF System, which will send notification of such filing to the following ECF registrants:

Jonathan Willmoth, MO #52193
Willmoth Immigration Law, LLC
215 W. 18th St. Suite 101
Kansas City, MO 64108
Jonathan@willmothlaw.com
Counsel for the Petitioner

s/ Brian E. Vanorsby
Brian E. Vanorsby
Assistant United States Attorney