IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DULCE ROMERO MIRANDA Petitioner v. **JACOB WELSH**, et al., Respondents	Case No. 26-3052-JWL

PETITIONER'S REPLY TO RESPONDENTS' ORDER TO SHOW CAUSE

RESPONSE

The Respondents filed their response to the Court's Order to Show Cause on March 23, 2026, however, instead of making arguments with respect to Ms. Romero Miranda, they instead merely included a brief from a different case. See, Response to § 2241 Habeas Petition and Order to Show Cause, Doc. 5. The key issue here is whether Ms. Romero Miranda is subject to mandatory detention, or whether she is eligible for release from custody and/or a bond hearing before the Immigration Court. This Court has already ruled on this legal issue in Petitioner's favor. See, *Galdamez Orellana v. Welsh*, No. 26-3019-JWL (D. Kan. Mar. 13, 2026). However, because the Respondents incorporate a

brief in a different case to make their arguments today, we will respond to the arguments outlined in that case in kind.

To begin with, the Respondents spend several pages dedicated to an attempt to rewrite the history of the legal scheme involved, where they fail to mention the key issue in describing how Congress changed the way those entering without authorization or seeking admission are defined and treated in IIRAIRA. See, Doc 5.1 at 2-12. The problem with their version of events, is that it ignores the clear textual language that so many courts have looked to in rejecting their "textualist" argument. Congress actually wrote that where one is "an alien seeking admission," they "shall be detained." See, 8 U.S.C. § 1225(b)(2)(A). Consistent with the vast majority of cases deciding this issue, the Western District of Missouri succinctly stated the point:

> The plain language of §1225(b)(2) provides that "an alien who is an applicant for admission," shall be detained for a proceeding under §1229(a) of this title, "if the examining immigration officer determines that [the alien] seeking admission is not clearly and beyond a doubt entitled to be admitted." (emphasis added). Respondents' interpretation does not follow that plain language. Petitioner is not "seeking admission," he is already present in the U.S.
> *Mairena-Munguia v. Arnott, et al.*, Case No: 6:25-cv-03318-MDH at 6.

The Respondents cite to a Northern District of Texas case reaching the opposite conclusion. Doc. 5.1 at 17. However, as listed in both our petition and the Respondent's response, the overwhelming majority of cases have gone in favor of the argument espoused by Petitioner. See, Doc. 1 at 9-10. This Court found the same in *Galdamez Orellana v. Welsh*, No. 26-3019-JWL (D. Kan. Mar. 13, 2026)("The overwhelming

majority of district courts have ruled in favor of the detainees, rejecting the Government's interpretation of the statutes and the reasoning of the BIA in *Yajure Hurtado*.")

In *Medina Vasquez v. Grant*, Case Number: CIV-25-1377-D (at 4-5), from the Western District of Oklahoma, agreeing with the position of Petitioner, they look to the Seventh Circuit in explaining the clear difference between the two readings of the same statutory structure: "In *Casañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048 (7th Cir. 2025), the Seventh Circuit denied the government's request to stay orders of the district court, finding that the government's argument that certain individuals were properly detained under § 1225(b)(2)(A) was likely to fail on the merits:

> [W]hile a noncitizen arrested in the Midwest might qualify as 'an alien present in the United States who had not been admitted,' § 1225(a)(1), the mandatory detention provision upon which Defendants rely, limits its scope to an 'applicant for admission' who is 'seeking admission', § 1225(b)(2)(A). Put another way, '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)."

In rejecting this argument by Respondents, one court in *Hernandez-Cuevas v. Olson,* Case Number: 6:26-cv-03049-RK, looked to two specific Supreme Court decisions on the issue: "[O]ne of the most basic interpretive canons [is] that a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303, 314 (2009) (cleaned up). Moreover, "[w]hen Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397

(1995). Given a choice between Respondent's interpretation (which would render the 2025 amendment superfluous) and Petitioner's interpretation (which would give the amendment purpose), Petitioner's interpretation is preferred." *Hernandez-Cuevas* at 6-7.

This Court stated that it "follows the great majority of courts in concluding that aliens like petitioner who have been present in the United States and who are not actively seeking admission are not subject to mandatory detention under Section 1225(b)(2)(A) and are thus eligible for release on bond under Section 1226(a)." See, *Galdamez Orellana v. Welsh*, No. 26-3019-JWL (D. Kan. Mar. 13, 2026).

It is true that in 1996 Congress changed who is an "Applicant for Admission," creating a new legal definition for that term, which includes people like Petitioner who entered without authorization. See, Doc. 5.1 at 5-9. However, that does not change the actual facts of Petitioner's case. Ms. Romero Miranda was never "seeking" admission when she entered without authorization back in 1998, when she was roughly two-three years old. Congress clearly stated that mandatory detention applied to applicants for admission who were "an alien seeking admission," which means they recognized that some Applicants for Admission would NOT be seeking admission. 8 U.S.C. § 1229(b)(2)(A). Otherwise their drafting makes no sense.

This is supported by thirty years of actual cases, real live people who entered without authorization and were given bond hearings in immigration courts all across the country. The Respondents supported this legal position that whole time until recently. Congress knew about it, this Court can't believe that Congress would write a legal scheme, and

then have it wrongly implemented for thirty years and do nothing about it. In fact, when Congress did act, it did so presuming that people who entered without authorization were eligible for bond hearings. See, the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

The Respondents call for this Court to give legislative terms their "everyday meaning," when arguing that "seeking admission" and being an "applicant for admission" are the same thing. See, Doc. 5.1 at 18-19. They claim "one applying for something is necessarily seeking it." *Id.* As the Seventh Circuit explained:

> [I]t is Congress's prerogative to define a term however it wishes, and it has chosen to limit the definition of an 'applicant for admission' to 'an alien present in the United States who has not been admitted or who arrives in the United States.' 8 U.S.C. § 1225(a)(1). It could easily have included noncitizens who are 'seeking admission' within the definition but elected not to do so.
>
> What is more, Defendants' construction would render § 1225(b)(2)(A)'s use of the phrase 'seeking admission' superfluous, violating one of the cardinal rules of statutory construction.

Casañon-Nava v. U.S. Dep't of Homeland Sec., 161 F.4th 1048, 1061 (7th Cir. 2025) (citations omitted).

Respondents argue that the Laken Riley Act creates a mere redundancy when it legislated that some people who entered without authorization would be subjected to mandatory detention if they committed certain specified crimes. Doc. 5.1 at 20. However, they very much miss the point of the Laken Riley Act in this context. Congress passed IIRAIRA in 1996. Ever since then, all parties involved in this litigation nationwide

agreed that people like Petitioner were entitled to release on bond, or at least a hearing to determine bond eligibility. That Congress in 2025 wrote the Laken Riley Act in this way shows that not only did Congress NOT believe all person who entered without inspection were already subject to mandatory detention, but they also only wanted to ensure mandatory detention for a small subset of them. At any point since 1996, Congress could have modified 8 U.S.C. § 1225 to ensure compliance with the position espoused by Respondents. When they wrote the Laken Riley Act, Congress could have done the same, simply saying - all persons who enter without inspection are subject to mandatory detention - but they didn't do that. The courts agreeing with Respondents on this issue are in fact ignoring the clear will of Congress and attempting to legislate mandatory detention where none was mandated by Congress itself.

The Respondents argue that the Supreme Court decision in *Jennings v. Rodriguez,* 583 U.S. 281 (2018) undermines the position espoused by Petitioner, because § 1226 applies to other people besides those who entered without authorization, such as people who were admitted on a visa and then overstayed or violated the terms of their admission, etc. See, Doc. 5.1 at 21-23. However, as described above, the overwhelming majority of courts to look at this issue have disagreed with Respondents. The district court in *Maldonado Bautista* clearly disagreed:

> Indeed, the Supreme Court has already differentiated these two sections, distinguishing their application by the category of noncitizens to which their provisions apply. See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). *Jennings* held the Government may "detain certain [noncitizens] seeking admission into the country" under § 1225(b) while § 1226

> "authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings." Id. (emphasis added).[1]

The Respondents argue that the Petitioner is not entitled to relief under the Due Process clause, because her detention is permissible under their view of the statute, and therefore no violation of her Due Process rights has occurred. See, Doc. 5.1 at 23-25. This is essentially the same argument they make as to why this Court should not order her release or any of the other remedies we have sought. See, Doc. 5.1 at 25-26. This essentially boils down to the same argument - because their textual view is wrong, their view of whether this is a Due Process violation is similarly incorrect.

The Respondents rely heavily on the Supreme Court's decision in *Demore*, but that reliance is misplaced. As another district court in the Tenth Circuit has held with respect to *Demore*:

> [t]his holding was based on the government establishing a particular interest in detaining that limited class of noncitizens. In *Demore*, the Court found "[s]uch detention necessarily serves the purpose of preventing deportable criminal aliens from fleeing prior to or during their removal proceedings" based on evidence before Congress when IIRIRA was enacted, demonstrating that noncitizens convicted of certain crimes were statistically more likely to abscond from removal proceedings.[2]

---

[1] *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners).

[2] *Escobar Salgado v. Mattos*, No. 2:25-cv-1872-RFB-EJY, 2025 WL 3205356, at *23 (Nov. 17, 2025).

As such, we continue to urge the Court to order Ms. Romero Miranda's immediate release as laid out in our petition. See, Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief for an Order to Show Cause [Doc. 1] at 10-13. As we noted: Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243 (the habeas shall "dispose of the matter as law and justice require."); *Preiser v. Rodriguez,* 411 U.S. 475, 484 (1973) (finding "that the traditional function of the writ is to secure release from illegal custody").

This is particularly true because Ms. Romero Miranda is neither dangerous, nor a flight risk. She entered the United States as a toddler in 1998, has three United States citizen children who she was living with and providing for, and was peacefully and successfully residing outside of confinement inside the United States for more than twenty-seven years without any criminal charges or other indicia of her dangerousness to anyone. These facts are not in dispute.

If this Court does not order his immediate release, we ask that the Court hold its own hearing, at which the burden would be on the government to establish by clear and convincing evidence that Petitioner must remain in custody, or whether he may be released on recognizance, an appropriate bond in light of his ability to pay, or supervised release. This is entirely consistent with other decisions in the Tenth Circuit. See, *Diaz Lopez, V. Noem, et al.*, No. 25-CV-04089-NYW at 9:

> [T]he Court observes that the weight of authority in this District favors requiring the Government to bear the burden of proof at a bond hearing under § 1226(a). See, e.g., Garcia Abanil, 2026 WL 100587, at *8

> (collecting cases); cf. Loa Caballero, 2025 WL 2977650, at *9 (ordering the Government to "bear the burden of justifying detention" at a § 1226(a) bond hearing (collecting cases)). Finding those analyses persuasive, the Court will require the Government to bear the burden of establishing at Mr. Diaz's bond hearing that he presents a flight risk or danger to the community, such that his continued detention is justified."

For these reasons we believe the Court should find that Ms. Romero Miranda is unlawfully detained by Respondents, and order her immediate release from their custody.

Respectfully submitted this 24th day of March, 2026:

By: */s/* Jonathan Willmoth
Jonathan Willmoth, MO #52193
Willmoth Immigration Law, LLC
215 W. 18th St. Suite 101
Kansas City, MO 64108
Ph 816.753.7382 / Fx 816.561.3886
Jonathan@willmothlaw.com
Counsel for the Petitioner