IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JESUS MATIAS SANCHEZ, *Petitioner*, v. BRIAN MCSHANE*, et al.*, *Respondents*.	Civil Action No. 26-2499

RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

As the Court is undoubtedly aware, immigration detainees in this district have filed hundreds of petitions for writs of habeas corpus challenging the authority of the Secretary of the U.S. Department of Homeland Security ("DHS") to detain them without setting a bond hearing. These cases involve individuals who have been detained pending the completion of their removal proceedings, including consideration of their asylum claims as a defense to removal, and break down into four categories:

- ***Hurtado*[1] cases (like this one)**: individuals who entered the United States without inspection; after a passage of time, they were encountered by immigration authorities in the interior, placed in standard removal proceedings, and recently were detained under 8 U.S.C. § 1225(b)(2)(A); *see, e.g., Cantu-Cortes v. O'Neill*, No. 25-cv-6338, 2025 WL 3171639, at *1-2 (E.D. Pa. Nov. 13, 2025);
- ***Q. Li*[2] cases**: individuals who entered the United States without inspection, were encountered near the border and detained without a warrant, released into the country, and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(2)(A); *see, e.g., Cordero v. Rose*, No. 26-cv-534 (E.D. Pa. Jan. 29, 2026);
- **Arriving Alien cases**: individuals who presented at a port of entry without valid entry documents, were paroled into the country under 8 U.S.C. § 1182(d)(5)(A), and, after a passage of time, recently detained under 8 U.S.C.

[1] "*Hurtado*" refers to the Board of Immigration Appeals' decision in *Matter of Hurtado*, 29 I & N Dec. 216 (BIA 2025).

[2] "*Q. Li*" refers to the Board of Immigration Appeals' decision in *Matter of Q. Li,* 29 I&N Dec. 66 (BIA 2025).

§ 1225(b)(2)(A); *see, e.g., Vasquez-Rosario v. Noem*, No. 25-cv-7427, 2026 WL 196505, at *5 (E.D. Pa. Jan. 26, 2026); and,

- **Expedited Removal cases**: individuals who, based on certain conditions related to their time, manner, and place of entry, were placed into expedited removal proceedings, paroled into the country under 8 U.S.C. § 1182(d)(5)(A), and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(1)(B)(iv); *see, e.g., Seminario Marcos v. Jamison*, No. 26-cv-421 (E.D. Pa. Feb. 6, 2026).

The first three categories of cases (*Hurtado*, *Q. Li*, and Arriving Alien) all share the same authority for mandatory detention: 8 U.S.C. § 1225(b)(2)(A). While there are certain legal and factual distinctions among those cases, the fundamental point of departure between the government's position and the position advanced by petitioners and adopted in over 250 decisions in this district relates to the correct interpretation of § 1225(b)(2)(A):

> In the cases 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.

8 U.S.C. § 1225(b)(2)(A) (emphasis added).

Although petitioners in these cases are indisputably "applicants for admission," *see* 8 U.S.C. § 1225(a)(1), courts in this district (and many elsewhere) have concluded that § 1225(b)(2)(A) does not apply to applicants for admission who are present in the interior of the country because, these decisions conclude, the petitioners are no longer "seeking admission." Courts have reasoned that "seeking admission" should be given meaning beyond "applicant for admission" to avoid surplusage and have read the term to require active and ongoing efforts to be admitted at or near the border. *See, e.g., Kashranov v. Jamison*, 2025 WL 3188399,

*6–7 (E.D. Pa. Nov. 14, 2025); *Vasquez-Rosario*, 2026 WL 196505, at *9. By contrast, the government contends that "applicants for admission" are necessarily "seeking admission" until they have been admitted or until their removal proceedings are complete. And while the government's position has been rejected by the vast majority of district courts to have considered it, two courts of appeals to have squarely considered the argument, the Fifth and Eighth Circuit Courts of Appeals, have agreed with the government. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502 (5th Cir. 2026) ("The everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission.'"); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258, at *3 (8th Cir. Mar. 25, 2026) (concluding that "the structure of § 1225(b)(2)(A) does not indicate that 'seeking admission' is a separate requirement for detention under the statute"); *but see Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1062 (7th Cir. 2025) (concluding upon review of application for stay of a preliminary injunction that the government was not likely to succeed on the merits of its argument for mandatory detention of applicants for admission present in the United States under § 1225(b)(2)(A)).

This is a "*Hurtado*" case where the government has detained Petitioner under 8 U.S.C. § 1225(b)(2)(A). Petitioner, a noncitizen, was arrested and detained by ICE in Philadelphia, Pennsylvania pursuant to 8 U.S.C. § 1225(b)(2)(A) on or around April 15, 2026. (Petition at ¶ 3). Petitioner states that he has been present in the United States for approximately 18 years. (Petition at ¶ 45). Petitioner is currently detained within the Eastern District of Pennsylvania. **Counsel for the parties conferred and agree that this matter may be decided on the papers, without a hearing.**

Thus, the case turns principally on the threshold question of statutory interpretation discussed above—whether petitioner is an "applicant for admission"

that is "seeking admission" within the meaning of § 1225(b)(2)(A).[3] The government expands on that argument below in the context of Petitioner, who crossed the border without inspection and was first encountered and detained in the interior (thereby falling within the scope of the BIA's decision in *Hurtado*), and addresses petitioner's separate argument alleging a violation of due process.

II. ARGUMENT

The Court should deny the petition because: (1) Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)(a); and (2) Petitioner's detention does not violate constitutional due process.

A. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2).

i. Petitioner is an "applicant for admission" "seeking admission."

An individual who "arrives in the United States," or is "present" in this country but "has not been admitted," is an "applicant for admission" under 8 U.S.C. § 1225(a)(1). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Buenrostro-Mendez*, 166 F.4th at 499. Applicants for admission are covered by either § 1225(b)(1) or § 1225(b)(2). *See Jennings*, 583 U.S. at 287 (section 1225(b)(2) "serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1)") (emphasis added).

An alien remains an applicant for admission, and subject to § 1225(b)(2), so long as he is "not clearly and beyond doubt entitled to be admitted" to the United States. *See* 8 U.S.C. § 1225(b)(2)(A). *See also* 8 U.S.C. § 1225(a) (defining applicant for admission as *either* "[a]n alien present in the United States who has not been

[3] In many of its prior responses filed in this district, the government has advanced various jurisdictional arguments that it is not advancing here. Of course, the Court may appropriately satisfy itself of its jurisdiction upon consideration of 8 U.S.C. §§ 1225(b)(9), 1252(a)(2)(B)(ii), 1252(g), and the Third Circuit's decision in *Khalil v. President, United States of America*, 164 F.4th 259 (3d Cir. 2026).

admitted *or* who arrives in the United States.") (emphasis added). Congress defined *all* aliens who are present in the United States without being admitted as "applicant[s] for admission," regardless of when they entered. *See* 8 U.S.C. § 1225(a)(1).

When an immigration officer encounters and examines an applicant for admission who seeks to remain in the United States, and that alien (like Petitioner) desires to remain in the United States, the applicant is necessarily "seeking admission" within the meaning of 8 U.S.C. § 1225(b)(2)(A). *See Buenrostro-Mendez*, 166 F.4th at 503 ("[A]n 'applicant for admission' is necessarily someone who is 'seeking admission.'"); *id.* at 502 ("When a person applies for something, they are necessarily seeking it."). Otherwise, the alien must "withdraw the application for admission and depart immediately from the United States." 8 U.S.C. § 1225(a)(4). An alien continues to be "seeking admission" while in immigration removal proceedings to determine whether he can "be admitted to the United States." *See* 8 U.S.C. § 1229a(3).

The government acknowledges that all courts in this district (and many more elsewhere) have reasoned that § 1225(b)(2)(A) requires that an "applicant for admission" be actively "seeking admission" at or near the border to fall within its scope. *See, e.g., Kashranov*, 2025 WL 3188399, at *6–7; *Demirel v. Fed. Detention Ctr.*, No. 25-cv-5488 (E.D. Pa. Nov. 18., 2025).[4] But, as noted, both the Fifth Circuit and Eighth Circuit Courts of Appeals have agreed with the government. *See*

[4] The government is pursuing appeals in the Third Circuit related to both statutory and constitutional due-process claims. The matters on appeal are *Lopes De Andrade v. Director Philadelphia Field Office Immigration and Customs Enforcement, et al.*, No. 26-1454 (3d Cir.), and *Buele Morocho v. Warden Philadelphia FDC, et al.*, No. 26-1150 (3d Cir.), which are now consolidated for all purposes. The government's consolidated opening brief was filed on March 20, 2026. The Third Circuit granted the government's motion to expedite the consolidated appeals and scheduled them for disposition by the Court during the week of May 11, 2026.

Buenrostro-Mendez, 166 F.4th at 502 ("The everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission.'"); *Avila*, 2026 WL 819258, at *3 (concluding that "the structure of § 1225(b)(2)(A) does not indicate that 'seeking admission' is a separate requirement for detention under the statute"). These courts concluded, correctly, that an "applicant for admission" is "necessarily someone who is 'seeking admission.'" *Id*. at 503; *Avila*, 2026 WL 819258, at *3 ("'seeking admission' . . . means virtually the same thing as 'applicant for admission'").

Thus, Petitioner, who is indisputably an "applicant for admission," is also "seeking admission" and covered by § 1225(b)(2)(A).

ii. Applicants for admission must be detained under 8 U.S.C. § 1225(b)(2)(A), absent discretionary parole.

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) (emphasis added). The Supreme Court has held that § 1225(b)(2)(A) is a mandatory detention statute and that individuals 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.").

In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA concluded that the Immigration Court lacked jurisdiction to conduct a bond hearing because § 1225 requires that an alien present in the United States, but never admitted, must be detained for the duration of his removal proceedings. *Id.* The BIA found § 1225 clear and unambiguous: "Based on the plain language of section 235(b)(2)(A) of the [INA], 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States

without admission." *Id.* at 226. Indeed, § 1225 applies to aliens who are present in the country—even for years—who have not been admitted. *See id.* ("[T]he statutory text of the INA . . . is instead clear and explicit in requiring mandatory detention of all aliens who are applicants for admission, without regard to how many years the alien has been residing in the United States without lawful status." (citing 8 U.S.C. § 1225)). To hold otherwise, would lead to an "incongruous result" that rewards aliens who unlawfully enter the United States without inspection and possibly evade apprehension for a number of years. *Id*. at 228.

The BIA rejected the alien's argument that the mandatory detention scheme under § 1225 rendered the recent amendment to § 1226 under the Laken Riley Act superfluous. *Id*. The BIA explained, "nothing in the statutory text of section 236(c), including the text of the amendments made by the Laken Riley Act, purports to alter or undermine the provisions of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), requiring that aliens who fall within the definition of the statute 'shall be detained for [removal proceedings].'" *Id.* at 222. According to the BIA, any redundancy between the two statutes does not give license to "rewrite or eviscerate" one of the statutes. *See id.* (quoting *Barton v. Barr*, 590 U.S. 222, 239 (2020)).

In *Buenrostro-Mendez*, the Fifth Circuit expressly addressed the interplay of § 1225(b)(2) and § 1226(a). The court explained that § 1226(a) "undeniably does work independent from § 1225(b)(2)(A) because "only § 1226(a) applies to admitted aliens who overstay their visas, become deportable on many different grounds, or were admitted erroneously due to fraud or some other error." *Buenrostro-Mendez*, 166 F.4th at 504. As for § 1226(c), the Fifth Circuit explained: "Not only does § 1226(c) sweep in deportable aliens in addition to the inadmissible aliens covered by § 1225(b)(2)(A), *see* 8 U.S.C. § 1226(c)(1)(B)–(C), it also eliminates the option of parole for those to whom it applies." *Id.* at 505. The Fifth Circuit noted that "the Laken Riley Act . . . did have a substantial effect when passed insofar as it required

the detention without bond or parole of certain aliens the administration was then treating as bond-eligible." *Id.*

Moreover, as the Eighth Circuit noted in *Avila*, to the extent there is overlap between these statutory sections, "[r]edundancy in once portion of a statute is not a license to rewrite or eviscerate another portion of the statute contrary to its text." 2026 WL 819258 at *5.

An alien remains an applicant for admission, and subject to § 1225(b)(2), so long as he is "not clearly and beyond doubt entitled to be admitted" to the United States. *See* 8 U.S.C. § 1225(b)(2)(A). Nothing in either § 1225(b)(2) or § 1226(a) provides that the government must default to detaining an alien pursuant to § 1226(a) if he is subject to detention under § 1225(b)(2) as well.

Petitioner is an applicant for admission seeking admission, and he has not clearly and beyond doubt established that he is entitled to be admitted to the United States. Consequently, he is subject to mandatory detention under § 1225(b)(2), and ineligible for a bond hearing before an immigration judge.

B. Petitioner's detention does not violate constitutional due process.

Congress broadly crafted "applicants for admission" to include undocumented persons, like Petitioner, who are present within the United States. *See* 8 U.S.C. § 1225(a)(1). In so doing, Congress made a legislative judgment to detain undocumented persons during removal proceedings. 8 U.S.C. § 1225(b)(2)(A); *Jennings*, 583 U.S. at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded.").

The Supreme Court has repeatedly recognized this profound interest. Petitioner's mandatory detention pursuant to §1225(b) will only last the duration of his removal proceedings. *Demore v. Kim,* 538 U.S. 510, 512 (2003) ("[B]ecause the

statutory provision at issue in this case governs detention of deportable criminal aliens *pending their removal proceedings,* the detention necessarily serves the purpose of preventing the aliens from fleeing prior to or during such proceedings"); *see also Jennings,* 583 U.S. at 304. In light of Congress's interest in regulating immigration, including by keeping specified persons in detention pending the removal period, the Supreme Court dispensed of any due process concerns without engaging in the test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See generally Demore*, 538 U.S. at 531.

Petitioner's recent detention pending his removal proceedings does not violate the Due Process Clause. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (detention less than six months presumed constitutional). Congress made the decision to detain him pending removal, which is a "constitutionally permissible part of that process." *Demore*, 538 U.S. at 531.

The Third Circuit has recognized that there may come a time when mandatory civil detention without a bond hearing becomes unreasonable. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (analyzing detention under § 1226(c)). However, at this time, Petitioner does not challenge the reasonableness of his detention under *German Santos*.

III. CONCLUSION

For the foregoing reasons, respondents respectfully request that the petition for writ of habeas corpus be denied.

Respectfully submitted,

DAVID METCALF
United States Attorney

/s/ Anthony St. Joseph for GBD
GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

/s/ Alanna N. Pawlowski
ALANNA N. PAWLOWSKI
Assistant United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
(215) 861-8651
Alanna.Pawlowski@usdoj.gov

Counsel for Respondents

Dated: April 20, 2026

CERTIFICATE OF SERVICE

I certify that, on this date, I filed the foregoing Response in Opposition to Petition for Writ of Habeas Corpus via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: April 20, 2026

/s/ Alanna N. Pawlowski
ALANNA N. PAWLOWSKI
Assistant United States Attorney