IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

GAGANDEEP SINGH, Case No. 26-3097-JWL

Petitioner,

v.

JACOB WELSH, Warden, et al.,

Respondents.

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

Petitioner Gagandeep Singh respectfully submits this Reply to the Government's abbreviated Response. The Government concedes the controlling point: this Court has twice rejected the very argument the Government now repeats. In *Galdamez Orellana v. Welsh*, No. 26-3019-JWL, 2026 WL 710121 (D. Kan. Mar. 13, 2026), the Court held that 8 U.S.C. § 1225(b)(2)(A) does not authorize the detention of an already-present noncitizen because the statute's text requires that the noncitizen be "seeking admission." Three days later, in *Solaya Clavero v. Welsh*, No. 25-3278-JWL, 2026 WL 717958 (D. Kan. Mar. 16, 2026), the Court applied *Galdamez Orellana* and ordered a bond hearing under § 1226(a). The Government acknowledges that *Galdamez Orellana* "would control the result here if the Court adheres to that decision, as the facts are not materially distinguishable." Resp. at 2. The Court should adhere to its decisions, deny the Government's invitation to depart from them, grant the petition, and order a bond hearing under § 1226(a).

I. This Court's Decisions in Galdamez Orellana and Solaya Clavero Control.

The legal question presented is narrow and has already been answered by this Court. Section 1225(b)(2)(A) provides for the detention of "an applicant for admission" who "is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). As the Court explained in *Galdamez Orellana*, the statute "imposes a separate requirement that the alien be 'seeking admission' that is not satisfied in the case of an already-present alien." 2026 WL 710121, at *3*. Solaya Clavero *followed* Galdamez Orellana *and ordered a bond hearing under § 1226(a). 2026 WL 717958. The Government identifies no factual distinction between Petitioner's case and those decisions, nor does it advance any new legal argument that the Court has not already considered and rejected. The principle of intra-district consistency, and the Government's own concession that* Galdamez Orellana* "would control," Resp. at 2, leave no room for a different result.

II. The Fifth and Eighth Circuit Decisions Do Not Displace This Court's Reasoning.

The Government relies on *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), and *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). Neither decision is binding in this District, and neither supplies a sufficient reason to abandon the textual analysis this Court adopted in *Galdamez Orellana*. Both out-of-circuit decisions rest on a reading of § 1225(b)(2)(A) that this Court has already considered and rejected as inconsistent with the statutory text. The Court was familiar with the same line of agency authority on which those decisions rely—*Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)—when it decided *Galdamez Orellana*, and the Court nevertheless concluded that the agency's reading cannot be reconciled with the "seeking admission" requirement Congress wrote into the statute. The persuasive force of *Buenrostro-Mendez* and *Avila* is no greater today than it was in March 2026, when *Galdamez Orellana* and *Solaya Clavero* were decided.

The Government's pending appeal in *Mendoza Gutierrez v. Baltasar*, No. 25-1460 (10th Cir.), does not alter the analysis. Until the Tenth Circuit speaks, this Court's published reasoning in *Galdamez Orellana* and *Solaya Clavero* governs cases in this District. The Government does not request a stay pending the Tenth Circuit's decision, and no stay would be warranted: the deprivation of physical liberty cannot be deferred while a doctrinal question is resolved on the timetable of the appellate court.

III. Recent Appellate Authority from the Second, Seventh, and Eleventh Circuits Reinforces This Court's Reading.

The Second Circuit recently endorsed the same textual approach this Court adopted in *Galdamez Orellana*. In *Cunha v. Freden*, No. 25-3141, --- F.4th ---, 2026 WL 1146044 (2d Cir. Apr. 28, 2026), the court of appeals confronted the same statutory question and reached the same conclusion: § 1225(b)(2)(A) does not authorize the detention of a noncitizen who is not seeking admission, and § 1226(a) governs detention of noncitizens already present in the United States. *Cunha* was the first appellate decision to confront the question after the Fifth and Eighth Circuit decisions on which the Government relies, and it confirmed that the textual reading adopted by this Court is supported by careful appellate analysis.

The Seventh Circuit reached the same conclusion approximately one week later. In *Castañon-Nava v. U.S. Department of Homeland Security*, No. 25-3050, 2026 WL 1223250 (7th Cir. May 5, 2026), the court held that § 1226(a)—not § 1225(b)(2)(A)—governs the detention of unadmitted noncitizens apprehended in the interior. The Seventh Circuit grounded that conclusion in the same pillars on which this Court relied in *Galdamez Orellana*: the statutory text, the structure of the INA, the historical reach of the "clearly and beyond a doubt entitled to

be admitted" language, and three decades of consistent executive practice under multiple administrations.

The Eleventh Circuit issued an even more comprehensive decision the very next day. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, Nos. 25-14065 & 25-14075 (11th Cir. May 6, 2026) (consolidated, published), the court affirmed grants of habeas relief to two Mexican nationals who, like Petitioner, entered the United States without inspection, resided in the interior for years, and were arrested by ICE following routine traffic stops. The Eleventh Circuit held that § 1225(b)(2)(A) "limits no-bond detention to applicants for admission who are 'seeking admission,'" and that mere presence in the country—without "any cognizable step to obtain the rights and privileges of lawful entry"—does not satisfy that requirement. Slip op. at 4, 20. The court reasoned that § 1225(b)(2)(A) imposes two distinct conditions—an alien must be both an "applicant for admission" and "seeking admission"—and that the Government had "conflated the passive condition of 'presence' with actively 'seeking' something specific, in contravention of the actual words and definitions Congress chose." *Id.* at 21. The Eleventh Circuit expressly considered and rejected the contrary reasoning of *Buenrostro-Mendez* and *Avila*. *Id.* at 3, 15–16, 35. With the Second, Seventh, and Eleventh Circuits now aligned with this Court's decisions in *Galdamez Orellana* and *Solaya Clavero*, the controlling weight of recent appellate authority strongly favors Petitioner.

IV. Petitioner Is Entitled to a Bond Hearing Under § 1226(a).

Because § 1226(a) governs Petitioner's detention, *Solaya Clavero* prescribes the appropriate remedy: an individualized bond hearing before an immigration judge. 2026 WL 717958. Petitioner respectfully submits that the bond hearing must be one at which the

Government bears the burden of demonstrating, by clear and convincing evidence, that continued detention is necessary to protect the community or to ensure appearance at future proceedings. That allocation of the burden is required by due process given the duration of Petitioner's confinement and the fundamental liberty interest at stake. Petitioner asks the Court to order the bond hearing within fourteen days of its order, consistent with the schedule typically imposed in this District.

CONCLUSION

For the foregoing reasons, the petition should be granted. The Court should hold that 8 U.S.C. § 1225(b)(2)(A) does not authorize Petitioner's detention, that § 1226(a) governs, and that Petitioner is entitled to an individualized bond hearing within fourteen days at which the Government bears the burden of justifying continued detention by clear and convincing evidence.

Respectfully submitted on May 7, 2026.

COUNSEL FOR PETITIONER,

/s/ *Maya King*
Maya King
Kansas State Bar #27499
King Law Group LLC
1401 Iron Street, Suite 200
North Kansas City, MO 64116
Phone: 913-717-7112
maya@kinglawgroup.com

/s/ *Harun Taskin*
Harun Taskin
Illinois State Bar #6342748
Kent Law Partners LLC
1701 E. Woodfield Rd., Ste. 820
Schaumburg, IL 60173
Phone: (312) 724-5555
htaskin@kentlawpartners.com

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth above, I electronically filed the foregoing Reply with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record, including Sarah Burch Macke, Assistant United States Attorney, District of Kansas.

Respectfully submitted on May 7, 2026.

/s/ Maya King

Maya King