UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JULIE CRUZ SANTANA IN REPRESENTATION OF DIOGENE FERMIN FERNANDEZ, Petitioner-Plaintiff, v. REBECCA GONZALEZ, ET AL., Respondents-Defendants.	Civil No. 26-cv-1036 (PAD)

RESPONDENTS' MEMORANDUM IN OPPOSITION TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241

Respondents by and through their attorney, submit this opposition to Diogene Fermin Fernandez's ("Petitioner") Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (the "Petition"). See ECF No 1.[1] The Court should deny the Petition for a Writ of Habeas Corpus. Petitioner requests immediate release from immigration detention. DE #1 at 14. In compliance with this Court's Order (DE #5, Petitioner was not transferred, a custody redetermination hearing was held on January 29, 2026 in immigration court, and the immigration court ordered Petitioner to be "released from custody under bond of $10,000." DE #13 at ¶¶ 5-7. Nevertheless, the U.S. Immigration and Customs Enforcement ("ICE") respectfully maintains that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). To that end, Respondents provide the following brief to preserve their arguments. In the interest of judicial economy, however, Respondents respectfully submit that this matter can be decided without the need for an evidentiary hearing or oral argument.

[1] Respondents respond to the Petition as contemplated by Rules 4 and 5 of the Federal Rules Governing Section 2254. See Rule 1(b) ("The district court may apply any or all of these rules to a habeas corpus petition…"); Vieira v. Moniz, No. CV 19-12577-PBS, 2020 WL 488552, at *1 n.1 (D. Mass. Jan. 30, 2020) (evaluating the Government's response and dismissing habeas petition under Section 2254 Rules).

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I. INTRODUCTION

Petitioner challenges the application of Section 235(b)(2) of the Immigration and Nationality Act ("INA") to support his mandatory detention pending his removal proceedings. 8 U.S.C. § 1225(b)(2). He admits that he entered the United States unlawfully, by evading inspection, has remained in the country despite lacking a legal status, and is now seeking admission through the commencement of adjustment of status proceedings in a claim commenced by his wife, who is a United States citizen, but claims those facts do not make him an "other alien" seeking admission for purposes of Section 235(b)(2). He is wrong.

Before 1996, the federal immigration laws generally required the detention of inadmissible aliens who presented at a port of entry but allowed inadmissible aliens who were found unlawfully in the United States—including those who had entered illegally and evaded immigration inspection—to obtain release pending deportation proceedings. That year, Congress overhauled that system with the passage of the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"), to put inadmissible aliens who entered unlawfully on the same legal footing as those who presented at ports of entry seeking legal admission.

The IIRIRA amendments to the Immigration and Nationality Act ("INA") provided that all aliens present in the United States without having been admitted would be treated as an "applicant for admission." 8 U.S.C. § 1225(a). The amendments also provided that such applicants for admission, unless entitled to be admitted, shall be detained pending removal proceedings. 8 U.S.C. § 1225(b)(2)(A). Therefore, detaining aliens like Petitioner who entered the United States unlawfully pending their removal proceedings is in line with the text and purpose of IIRIRA's amendments to the INA.

By contrast, accepting Petitioner's arguments that he and other aliens who have procured their presence in the United State by evading inspection by immigration authorities should be granted greater procedural protections before being subjected to detention pending removal than those aliens who legally presented themselves at ports of entry would thwart the statutory text and Congressional purpose of the INA. For these reasons, the Court should reject Petitioner's claim that he is entitled to a bond hearing and release under discretionary bond standards pursuant to 8 U.S.C. § 1226(a) and DENY the Petition.

Furthermore, as explained in more detail below, Petitioner's alleged causes of action also lack merit. Count One, for example, which claims that his detention violates constitutional law requirements under the Fifth Amendment is contrary to applicable law. As explained in Section V(B) below, Petitioner's mandatory detention does not violate due process. That detention has been imposed in compliance with the provisions of INA, the statute that provides for and dictates the due process that is to be afforded to aliens subject to removal proceedings. The Supreme Court has repeatedly recognized, as to due process concerns, that Congress may provide procedural rules in the INA as to aliens that would be unacceptable if applied to citizens. *See Demore v. Kim*, 538 U.S. 510, 522 (2003). Contrary to Petitioner's allegations, the INA provides due process to aliens and judicial review by immigration judges of the conduct of immigration officers. Nothing other than compliance with the strictures of the INA is required to comply with the due process dictates of the Fifth Amendment and, as more specifically explained in Section V(C) below, Petitioner was properly detained under Section 235(b)(2) of the INA. 8 U.S.C. § 1225(b)(2)(A).

Petitioner's claims under Count Two, where he alleges by information and belief, that it is rumored that access to counsel may have been curtailed as to other detainees at the facilities where

he is detained in Puerto Rico lack any specificity that would warrant relief. DE #1 at 10-11. He does not specify how and when he has been denied access to counsel. Furthermore, that counsel be required to travel or communicate with their clients through electronic means during the pendency of their removal proceedings is not a denial of Fifth Amendment due process. Those obstacles are commonplace incidental challenges to an attorney client relationship that counsel routinely overcome in their representation of individuals under custody throughout the nation.

His claims in Count Three also lack specificity that would warrant relief. He alleges that "upon information and belief" other individuals in unidentified locations may be subjected to alleged deplorable conditions. DE #1 at 11. As to both allegations in Counts Two and Three, Petitioner has access to administrative remedies directly with his custodians that he does not allege that he has used or, let alone, exhausted. DE # 1. As further explained in Section V(D) below, a habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The Great Writ is a remedy of last resort that should be made available to detainees only after they have exhausted all other available legal forms of redress. Petitioner has failed to do so, and the concerns raised in Counts Two and Three move far away from the purpose of this extraordinary remedy: designed to address the legality of a detention—not its conditions. The allegations in these two counts are not only factually insufficient but also not the kind of issue to be addressed through this extraordinary writ. These claims for relief should be denied.

Petitioner's claim in Count Four for relief under the Administrative Procedure Act ("APA"), codified at 5 U.S.C. §§ 551–559, is also without merit. As more fully explained in Section V(E) below, Petitioner lacks a cognizable claim under APA because he has his habeas corpus claim available as relief. As more fully explained in Section V(F) below, Petitioner is also not entitled to attorneys' fees as he claims in Count Five. The decision to detain Petitioner under

the strictures of 8 U.S.C § 1225(b)(2) is substantially justified: he is an alien who unlawfully entered the United States, has not been admitted, and is seeking admission into the United States. Section 1225(b)(2) provides that his detention is therefore mandated by Congress. The Court lacks authority to overturn that choice by the legislature and should therefore deny this claim for relief.

II. LEGAL BACKGROUND ON IMMIGRATION DETENTION

A. The Pre-IIRIRA Framework Gave Undue Preferential Treatment to Aliens Unlawfully Present in the United States.

The 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.

Before 1996, the INA treated aliens differently based on whether the alien (a) had presented at a port of entry, or (b) entered the United States by evading inspection. *See Matter of Yajure Hurtado ("Hurtado")*, 29 I&N Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *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 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 v. Holder*, 602 F.3d at 1099.[2]

[2] Aliens who entered at a port of entry have technically physically "entered" the United States but were deemed not to have effected an entry under the prior regime. *See Matter of Z-*, 20 I. & N. 707, 708 (BIA 1993) (explaining that entry required either (i) inspection and admission, or (ii) evasion of inspection and freedom from official restraint); *see also DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020) (explaining that aliens who arrive at a port of entry "are treated for due process purposes as if stopped at the border") (cleaned up).

At that 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 would be placed in "exclusion proceedings and subject to mandatory detention, with potential release solely by means of a grant of parole." *Hurtado*, 29 I&N Dec. at 223; *see* 8 U.S.C. § 1225(a)-(b) (1995); *id*. § 1226(a) (1995). In contrast, an alien who unlawfully entered the United States by evading inspection would be placed in deportation proceedings. *Id*.; *Hing Sum*, 602 F.3d at 1100. Aliens in deportation proceedings, unlike those in exclusion proceedings, "were entitled to request release on bond." *Hurtado*, 29 I&N Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)).

Thus, the INA's prior framework distinguishing between aliens based on "entry" had:

> the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection … were subject to mandatory custody.

Hurtado, 29 I&N Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (2012)); *see also Hing Sum*, 602 F.3d at 1100 (similar); 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. IIRIRA Eliminated the Preferential Treatment of Aliens Unlawfully in the United States and Mandated Detention of all "Applicants for Admission," including aliens other than those arriving at a port of entry

In 1996, Congress discarded that unequitable 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 physical

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).

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 or provide greater due process guarantees to aliens who had illegally 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. at 226 (emphasis added); *Hing Sum*, 602 F.3d at 1100 (similar). IIRIRA also eliminated the exclusion-deportation dichotomy and consolidated both sets of proceedings into "removal proceedings." *Hurtado*, 29 I&N Dec. at 223. IIRIRA effected these changes through several provisions codified in 8 U.S.C. § 1225:

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

> 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) (emphasis added). "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 placed in removal proceedings.

Section 1225(b): IIRIRA also provided for both expedited removal and non-expedited "Section 240" proceedings depending on where the alien was encountered by immigration officials and mandated that all applicants for admission be detained pending those proceedings. 8 U.S.C. §§ 1225(b)(1)-(2).

Section 1225(b)(1) entitled *Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled* provides for so-called "expedited removal proceedings," *DHS v. Thuraissigiam*, 591 U.S. 103, 109-113 (2020), which may 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 arriving 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 arriving alien processed for expedited removal who does not indicate an intent to seek relief or protection 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). And an alien found to have a credible fear of persecution "shall be detained for further consideration of the application for asylum." 8 U.S.C. § 1225(b)(1)(b)(ii).

Section 1225(b)(2) entitled *Inspection of other aliens* 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). As the subtitle for this section indicates, it applies to "other aliens," 8 U.S.C. § 1225(b)(2), as opposed to "aliens arriving in the United States." 8 U.S.C. § 1225(b)(1). It requires that those "other 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); *see also Jennings*, 583 U.S. at 302 (holding that § 1225(b)(2) "mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin"). Contemporaneous regulations reiterated that this "catchall" mandatory detention provision applies to those applicants for admission who are present in the United States without inspection and admission or parole. 8 C.F.R. § 235.3(b)(1)(ii).

While § 1225(b)(2) does not allow for aliens to be released on bond, the INA grants the Department of Homeland Security ("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 "shall not be regarded as admission of the alien," *id.*; *Jennings*, 583 U.S. at 288 (discussing parole authority), and when the Secretary determines that "the purposes of such parole … have 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, were lawfully admitted to the country but overstay or otherwise violate the terms of their visas or engage in conduct that renders them deportable 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 discretionary: the Attorney General "may" either "continue to detain the arrested alien" or release the alien on bond or conditional parole. *Id*. § 1226(a)(1)-(2). In practice, DHS makes the initial custody determination based on a delegation of authority from the Attorney General. 8 C.F.R. § 236.1(d)(1).

If the Attorney General, through DHS, denies bond or issues bond conditions the alien cannot meet, the alien may seek custody redetermination (a bond hearing) before an immigration judge and can also appeal an immigration judge's negative determination to the Board of Immigration Appeals (the "BIA"). 8 C.F.R. §§ 236.1(c)(8), (d), 1236.1(d)(1), 1003.19.

That "default rule" providing for a grant of discretionary bond to inadmissible or deportable aliens, however, does not apply to certain criminal aliens. *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 they (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 after "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*. Such aliens may be released only if DHS determines "that release of the alien from custody is necessary" to protect a witness to a "major criminal activity or similar person—and then only if the alien "will not pose a danger" to public safety and is not a flight risk. *Id.* § 1226(c)(4).

Congress recently amended § 1226(c) through the Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3, (2025), which additionally requires detention of criminal aliens who (1) are inadmissible because they are present in the United States without admission or parole, and have committed a material misrepresentation or fraud, or lack required documentation, *see* 8 U.S.C. § 1182(a)(6)(A), (6)(C), (7); 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. Section 1225(b)(2) of the INA Requires Detention of All Applicants for Admission.

For many years after IIRIRA, DHS and immigration judges continued the practice of treating aliens who unlawfully entered the United States without admission and were later detained away from the border as being subject to discretionary detention under 8 U.S.C. § 1226(a) rather than mandatory detention under 8 U.S.C. § 1225(b)(2). *See Hurtado*, 29 I&N Dec. at 225 n.6. This was true despite clear regulations providing for mandatory detention under § 1225(b)(2)(A) in this circumstance. *See* 8 C.F.R. § 235.3(b)(1)(ii).

It was not until 2025 that the BIA issued any precedential opinion establishing that mandatory detention was the appropriate provision authority for such individuals under the INA. On September 5, 2025, the BIA issued a published decision in *Hurtado,* holding that

§ 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 State 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"). This decision brought the Executive's practices in line with the statute's plain text.

Under the INA regulatory scheme adopted by the IIRIRA all aliens who enter the country without being admitted or who otherwise arrive illegally in the United States are subject to 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. As provided by the statute, the only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under the INA § 236(a) are aliens admitted to the United States and chargeable with deportability under INA § 237, 8 U.S.C. § 1227.

III. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a native and citizen of the Dominican Republic. DE #1 at 3. He entered the United States on June 4, 2007, without inspection, admission, or parole by an immigration officer through Aguada, Puerto Rico. *Id.* at 4. Petitioner does not deny that he is an alien who entered the country illegally, nor does he allege that he has been admitted into the United States. *Id*. Through these allegations, he concedes he is an "applicant for admission" under 8 U.S.C. § 1225(a)(1).

On December 23, 2023, he married Mrs. Elizabeth Guzman de los Santos, a US citizen. *Id.* He admits that he is seeking admission to the United States through the filing of a Petition for

Alien Relative (Form I-130) presented by his wife, Mrs. Elizabeth Guzman, and his own filing in 2025 of a Form I-601A, Application for Provisional Unlawful Presence Waiver which is pending adjudication. *Id.* at 1 and 4. Petitioner's filing of a Form I-601A is an admission on this part that he is the subject of the unlawful presence grounds of inadmissibility under INA § 212 (a)(9)(B). *See* https://www.uscis.gov/family/family-of-us-citizens/provisional-unlawful-presence-waivers. In other words, in his removal proceedings, Petitioner will be seeking to become admitted into the United States.

On January 20, 2026, Petitioner was detained while "driving to work in Villa Palmeras, a highly dense Dominican sector in San Juan." DE #1 at 1-2. U.S. Petitioner was mandatorily detained under § 1225(b)(2)(A). He was subsequently transported to the Ramey Border Patrol Station in Aguadilla, Puerto Rico. DE #1 at 1. Petitioner filed a Petition for Writ of Habeas Corpus and complaint under the Administrative Procedure Act (APA) on January 22, 2026. DE #1. He also filed a Motion for Temporary Restraining Order. DE #2. On that same date, the Court granted Petitioner's motion for an ex parte temporary restraining order and held that Respondents shall not transfer Petitioner outside this District; that no later than January 30, 2026, Respondents shall provide petitioner a bond hearing before an immigration judge; and that by February 6, 2026, Respondents shall file an informative motion confirming whether Petitioner has either been granted a bond hearing or released from custody, as well as show cause as to why the remaining requests made in Petitioner's habeas petition should not be granted.. DE #5. In compliance with the court's Order, Petitioner was not transferred, and a custody redetermination hearing was held on January 29, 2026 in immigration court. The Immigration Judge held that pursuant to *Hurtado*, it lacked jurisdiction to adjudicate Petitioner's request because Petitioner is an applicant for admission under § 1225(b)(2). DE #12-1 at 3-4. Nevertheless, in compliance with this court's

order, the Immigration Judge ordered Petitioner to be "released from custody under bond of $10,000." *Id.* at 3, 5.

IV. STANDARD OF REVIEW

It is axiomatic that "[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute." *Exxon Mobil Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). Title 28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions unless Congress had separately stripped the court of jurisdiction to hear the claim.

To warrant a grant of writ of habeas corpus, the burden is on the petitioner to prove that his custody is in violation of the Constitution, laws, or treatises of the United States. *See* 28 U.S.C. § 2241(c)(3); *Espinoza v. Sabol*, 558 F.3d 83, 89 (1st Cir. 2009) ("The burden of proof of showing deprivation of rights leading to an unlawful detention is on the petitioner.").

V. ARGUMENT

A. The Court Lacks Subject Matter Jurisdiction

1. 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims.

As an initial matter, Respondents respectfully maintain that the Court lacks jurisdiction to review Petitioner's detention pending removal. Under § 1252(b)(9)'s zipper clause, "judicial review of all questions of law … including interpretation and application of statutory provisions … arising from any action taken … to remove an alien from the United States" is only proper before the appropriate court of appeals in the form of a petition for review of a final removal order. *See* 8 U.S.C. § 1252(b)(9); *Reno v. Am.-Arab Anti-Discrimination Comm. ("AADC"),* 525 U.S. 471, 483 (1999). Taken together with § 1252(a)(5), which provides that a petition for review is the exclusive means for judicial review of removal proceedings, this means "that *any* issue—whether

legal or factual—arising from *any* removal-related activity can be reviewed *only* through the [petition-for-review] process." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in original); *see also id*. at 1035; *accord Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009) (only when the action is "unrelated to any removal action or proceeding" is it within the district court's jurisdiction). Petitioner's challenge is not "collateral" to or "independent of" his removal proceedings because it attacks the government's authority to detain him during removal proceedings and is inextricably bound up with those proceedings.

2. 8 U.S.C. § 1252(g) bars review of Petitioner's claims.

Section 1252(g) likewise bars "any cause or claim" arising from the government's decision to "commence proceedings," or "adjudicate cases." 8 U.S.C. § 1252(g). The Secretary of Homeland Security's decision to *commence removal proceedings*, including the decision to detain an alien pending such removal proceedings, squarely falls within this jurisdictional bar. In other words, detention clearly "aris[es] from" the decision to commence removal proceedings against an alien. *See Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's discretionary decisions to commence removal" and also to review "ICE's decision to take [plaintiff] into custody and to detain him during removal proceedings"); *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 298 (3d Cir. 2020) ("The text of § 1252(g)... strips us of jurisdiction to review... [T]o perform or complete a removal, the [Secretary of Homeland Security] must exercise [her] discretionary power to detain an alien for a few days. That detention does not fall within some other part of the deportation process.") (cleaned up) (internal quotations and citations omitted); *Valencia-Mejia v. United States*, No. CV 08–2943 CAS (PJWx), 2008 WL 4286979, at *4 (C.D. Cal. Sept. 15, 2008) ("The decision to detain plaintiff until his hearing before the Immigration Judge arose

from this decision to commence proceedings[.]") (emphasis added); *Wang v. United States*, No. CV 10-0389 SVW (RCx), 2010 WL 11463156, at *6 (C.D. Cal. Aug. 18, 2010) (citing *Khorrami v. Rolince*, 493 F. Supp. 2d 1061 (N.D. Ill. 2007) ("[Plaintiff's] detention necessarily arises from the decision to initiate removal proceedings against him.") (emphasis added); *Herrera-Correra v. United States*, No. CV 08-2941 DSF (JCx), 2008 WL 11336833, at *3 (C.D. Cal. Sept. 11, 2008) (citing *Sissoko v. Rocha*, 509 F.3d 947, 949 (9th Cir. 2007) ("The [Secretary] may arrest the alien against whom proceedings are commenced and detain that individual until the conclusion of those proceedings. ... Thus, an alien's detention throughout this process arises from the [Secretary]'s decision to commence proceedings" and review of claims arising from such detention is barred under § 1252(g)). Put in the Supreme Court's words, detention pending removal is a "specification" of the decision to commence proceedings. *See AADC*, 525 U.S. at 485 n.9 ("§ 1252(g) covers" a "specification of the decision to 'commence proceedings'").

Per the foregoing, Petitioner cannot "challeng[e] the decision to detain them in the first place." *Jennings*, 583 U.S. at 294 (plurality opinion). Here, any decision to detain Petitioner, which arise from DHS's decision to commence removal proceedings, is barred from review by § 1252(g).

3. 8 U.S.C. § 1252(e)(3) bars review of Petitioner's claims.

Likewise, Section 1252(e)(3) deprives this court of jurisdiction, including habeas corpus jurisdiction, over Petitioner's challenge to his detention under § 1225(b)(2)(A). Section 1252(e)(3) limits judicial review of "determinations under section 1225(b) of this title and its implementation" to the District Court for the District of Columbia. 8 U.S.C. § 1252(e)(3). Paragraph (e)(3) further confines this limited review to (1) whether § 1225(b) or

an implementing regulation is constitutional or (2) whether a regulation or other written policy directive, guideline, or procedure implementing the section violates the law. *See* 8 U.S.C. § 1252(e)(3)(A)(i)-(ii); *see also M.M.V. v. Garland*, 1 F.4th 1100, 1109 (D.C. Cir. 2021). Unlike other provisions within 1252(e), section 1252(e)(3) applies broadly to judicial review of section 1225(b), not just determinations under section 1225(b)(1). *Compare* 8 U.S.C. § 1252(e)(1)(A), (e)(2), *with* 8 U.S.C. § 1252(e)(3)(A). *See Russello v. United States*, 464 U.S. 16, 23 (1983) (*quoting United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972)) ("'[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.' ... We refrain from concluding here that the differing language in the two subsections has the same meaning in each. We would not presume to ascribe this difference to a simple mistake in draftsmanship.").

Here, Petitioner challenges the determination, set forth in writing by both the Department of Justice and DHS, that aliens who entered the United States without inspection are subject to mandatory detention under § 1225(b)(2). Petitioner thus seeks judicial review of a written policy or guideline implementing § 1225(b), which is covered by § 1252(e)(3)(A)(ii).

B. Petitioner's Detention does not Violate the Constitution.

Petitioner claims that his detention is unconstitutional, but this claim fails as the constitutionality of detention while in removal proceedings has been consistently upheld by the Supreme Court. *See Demore v. Kim*, 538 U.S. 510, 523 (2003) (The Court has consistently "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process."); *Wong Wing v. U.S.*, 163 U.S. 288, 235 (1896) (deportation proceedings "would be vain if those accused could not be held in custody pending the inquiry into their true

character."). In *Demore*, the Court 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.* Instead, the Court recognized as to due process concerns 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 (citations omitted). Accordingly, the mandatory detention provisions dictated by Congress in § 1225(b)(2) fully comports with the Constitution.

And as the First Circuit has recognized, the "prompt execution of removal orders is a legitimate governmental interest which detention may facilitate." *Hernandez-Lara v. Lyons*, 10 F.4th 19, 32 (1st Cir. 2021); *see also Aguilar v. U.S. Immigr. & Customs Enf't*, 510 F.3d 1, 22 (1st Cir. 2007) (recognizing "the government's legitimate interest in effectuating detentions pending the removal of persons illegally in the country"). Here, Petitioner's detention by ICE serves a legitimate purpose – to ensure his presence for removal proceedings.

Furthermore, as another district of this Circuit recently recognized, a brief period of detention for the purpose of removal proceedings or to effectuate removal does not violate the constitution. *See Dambrosio v. McDonald*, Jr., No. 25-CV-10782-FDS, 2025 WL 1070058, at *2 (D. Mass. Apr. 9, 2025) (Recognizing that detention "for a period of less than three months' time … does not amount to an unconstitutional duration."). As such, Petitioner's detention comports with the Constitution.

C. Petitioner is Properly Detained Under § 1225(b)(2).

The Court should deny habeas relief because Petitioner was properly mandatorily detained under § 1225(b)(2)(A) and should not have been entitled to a bond hearing under the separate detention provision at § 1226(a).

In the Petition, Petitioner fails to acknowledge that Section 1225(b)(2) dictates that "other aliens" seeking admission to the United States are subject to mandatory detention. Petitioner specifically alleges that "[p]ursuant to the Immigration and Nationality Act (INA), a noncitizen should be subject to mandatory detention *under three different circumstances*: (a) people with certain criminal convictions (8 USC § 1226(c); (b) people who are subjected to expedited removal (8 USC § 1225(b)(1)) and (c) people who have been previously ordered removed from the United States (8 USC § 1231)." DE #1 at 5 (emphasis provided). This allegation completely ignores the existence and impact of the provisions of § 1225(b)(2) requiring mandatory detention for aliens found within the United States who have not been lawfully admitted or paroled into the country without explaining such misrepresentation of the applicable law.

As previously explained, the plain text of § 1225(b)(2)(A) requires DHS to detain all aliens who are present in the United States without admission pending removal proceedings—regardless of how long they have been in the country or how far from the border they ventured. As a growing number of district courts have recognized, an interpretation of § 1225(b)(2)(A) that seeks to condition its application to how long the alien has been illegally in the United States or how far they are from a port of entry or border disregards the statutory text and subverts Congress's manifest purposes in adopting § 1225(b)(2)(A). *See, e.g.*, *Chavez v. Noem*, No. 25-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *1 (E.D. Wis. Oct. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, 1:25-cv-00177 (N.D. Tex. 2025); *Montoya Cabanas v. Bondi*, 4:25-cv-04830,

2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Altamiro Ramos v. Lyons*, 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025); *Alberto Rodriguez v. Jeffreys*, No. 8:25CV714, 2025 WL 3754411 (D. Neb. Dec. 29, 2025); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2026 WL 44683 (N.D. Tex. Jan. 7, 2026); *Garibay-Robledo v. Noem*, No. 1:25-CV-177-H, 2026 WL 81679 (N.D. Tex. Jan. 9, 2026).

1. Petitioner is an Applicant for Admission Subject to Mandatory Detention Pending Removal Proceedings.

Despite what Petitioner may claim, he is an applicant seeking admission into the United States, and the statute's 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."). Section 1225(a) defines an "applicant for admission" as 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 just physical entry, but *lawful entry after inspection* by immigration authorities. 8 U.S.C. § 1101(a)(13)(A).

An alien like Petitioner who enters unlawfully is deemed an applicant for admission under the statute, regardless of how long the alien has been here, or how far the alien is from the border. *See* 8 U.S.C. § 1225(a)(1). The statute is not limited "to aliens who have been present in the United States for only some limited period of time, or aliens who were apprehended in the United States within a certain distance from the border." *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-AJR, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025).

In this case, Petitioner does not deny that he is an alien who entered the country illegally, nor does he allege that he has been lawfully admitted into the United States. DE #1. As such, he is as a matter of fact an applicant for admission.

Section 1225(b)(2) further provides that "an alien who is an applicant for admission" "shall be detained" pending removal proceedings if the "alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1125(b)(2)(A) (emphasis added). The statute's use of the term "shall" makes clear that detention is mandatory, *see Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998). The statute makes no exception resulting from the duration of the alien's unlawful presence in the country or where in the country he is located. *See Altamirano Ramos*, 2025 WL 3199872, at *4. Because Petitioner is an "applicant for admission" as defined in the statue, he "shall be detained" pending his removal proceedings pursuant to the strictures of the statute. *See* 8 U.S.C. § 1225(b)(2)(A).

2. Section 1225(b)(2)(A)'s reference to "seeking admission" does not narrow its scope.

Contrary to the interpretations given by the district courts cited by Petitioner that refuse to find that aliens found in the United States who have not been admitted are applicant for admissions who are seeking admission for purposes of § 1225(b)(2)(A), the phrase "seeking admission" in § 1225(b)(2)(A) must be read in the context of the definition of "applicant for admission" in § 1225(a)(1). "Applicants for admission" for purposes of the INA are both those aliens who arrive in the United States (§ 1225(b)(1)) and those individuals who are present without admission and intend to remain. *See* 8 U.S.C. § 1225(b)(2). Both are understood to be "seeking admission" under §1225(a)(1) because they intend to remain despite not having lawful status. *See Lemus*, 25 I. & N. at 743. Congress made that clear in § 1225(a)(3), which requires all aliens "who are applicants for

admission or *otherwise* seeking admission" to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The words "or otherwise" here "introduce an appositive–a word or phrase that is synonymous with what precedes it ('Vienna or Wien,' 'Batman or the Caped Crusader')." *United States v. Woods*, 571 U.S. 31, 45 (2013).[3] Accordingly, the determination that Section 1225(b)(2) applies to aliens who are present in the United States without lawful admission fully comports with the plain language of the statute.

Every "applicant for admission" is inherently and necessarily "seeking admission." 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"). A person who is "applying" for admission to a college is "seeking" admission to the college. *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

[3] 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 in the United States with an intent to remain is exercising one of the ways to "seek admission" for purposes of § 1252(b)(2)(A)—even more in those instances where the alien has filed documents to adjust their legal status like Petitioner admits he did in this case. DE #1 at 1 and 6; DE #1-3 at 2, ¶ 3; DE #7 at 2. No separate affirmative act is necessary. *See Matter of Lemus-Losa*, 25 I&N Dec. 734, 743 (BIA 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").

"applying" for admission to the United States (*i.e.*, an "applicant for admission") is "seeking admission" to the United States.

As the BIA explained in *Hurtado* in rejecting an argument that an individual found in the country without having been lawfully admitted was not "seeking admission" so as to subject himself to Section 1225(b)(2) mandatory detention, "[i]f he 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?" 29 I&N Dec. at 221. The same reasoning applies here. Petitioner is in the United States and in removal proceedings where it is to be determined if he is to be "admitted to the United States." 8 U.S.C. § 1229a (3). Therefore, Petitioner is seeking admission to the United States. Furthermore, through his filing of the Form I-601A, Application for Provisional Unlawful Presence Waiver, which is pending adjudication, he has expressed an unequivocal intent to seek admission into the United States. If Petitioner were not seeking admission to the United States, then assuredly he would agree to voluntarily depart the United States and return to his country of origin. The decision in *Hurtado*, even if not binding to this court, is persuasive in its analysis and faithful application of Supreme Court precedent.

Petitioner's position suggests that only aliens who present at a port of entry ("arriving aliens" as defined in 8 C.F.R. § 1.2) or who are otherwise arriving in the United States near the physical border can be "seeking admission" is contrary to the statutory scheme created by Congress. There is no textual support for either proposition: Congress did not refer to arriving aliens in § 1225(b)(2) or even use the term "arriving," while several other sections of the INA use the term "arriving alien." *E.g.*, 8 U.S.C. §§ 1182(a)(9), 1229c, 1231. By contrast, the text of § 1225(b)(1) specifically prescribes methods for expedited removal and detention of aliens "arriving" in the United States, among others. *See* 8 U.S.C. § 1225(b)(1)(A)(i). "[W]e generally

presume that Congress acts intentionally and purposely when it includes particular language in one section of a statute but omits it in another." *Intel Corp. Inv. Pol'y Comm. v. Sulyma*, 589 U.S. 178 (2020) (quoting *BFP v. Resol. Tr. Corp.*, 511 U.S. 531, 537 (1994)). Congress's inclusion of the specific term "arriving" in § 1225(b)(1), as well as other sections of the INA, but not in § 1225(b)(2)(A), is strong evidence that Congress did not intend to limit the term "seeking admission" to those who are "arriving" in the United States. *See Hurtado*, 21 I&N Dec. at 228 (explaining that alien is an applicant for admission regardless of time in the United States).

And even if "seeking admission" required some separate affirmative conduct, an applicant for admission who attempts to avoid removal from the United States is by any definition "seeking admission." Even if an alien may not have been affirmatively seeking admission during his years of illegal presence, § 1225(b)(2) is not concerned with the alien's pre-inspection conduct. Rather, its use of present tense language ("seeking" and "determines") shows that its focus is a specific point in time—when "the examining immigration officer" is making a "determin[ation]" regarding the alien's admissibility. 8 U.S.C. § 1225(b)(2)(A). At *that* point, the alien is "seeking"—*i.e.*, presently "endeavor[ing] to obtain," American Heritage Dictionary at 1174—admission into the United States. If it were otherwise, the applicant would seek to withdraw his application for admission under § 1225(a)(4), which authorizes an alien to voluntarily "depart immediately from the United States" in lieu of expedited removal or Section 240 proceedings. *See also* 8 C.F.R. §§ 235.1, 1235.1. An applicant (like Petitioner) who forgoes that statutory option and instead endeavors to remain in the United States by participating in Section 240 removal proceedings—proceedings in which the alien has the "burden of establishing that [he] is clearly and beyond a doubt entitled to be admitted" or satisfying the requirements for "relief from removal" (like asylum) that would permit lawful presence and a pathway to admitted status, *id*. § 1229a(c)(2)(A),

(c)(4)—is plainly "endeavor[ing] to obtain" admission to the United States. American Heritage Dictionary at 1174. Petitioner, who asserts that he may be eligible for discretionary *relief* from removal that would allow him, if granted, to "adjust to the status of an alien lawfully admitted for permanent residence," 8 U.S.C. § 1229b(b)(1), falls into this category. *See supra* § III.

3. Detention under § 1225 does not render § 1226(c) superfluous.

The government's interpretation does not render portions of § 1226, which contains a separate mandatory detention provision for certain inadmissible and criminal aliens, superfluous. Although there is some overlap between aliens to whom Sections 1226(c) and 1225(b)(2) apply, each provision has independent effect. Section 1226(c) has substantial independent effect beyond aliens like Petitioner who entered without admission, and mere overlap is no basis for re-writing or ignoring clear statutory text.

To begin, there is no colorable argument that the Government's interpretation of § 1225(b)(2)(A) renders § 1226(a)'s discretionary detention authority superfluous. Section 1226(a) authorizes the Executive to "arrest[] and detain[]" *any* "alien" pending removal proceedings but provides that the Executive also "may release the alien" on bond or conditional parole. 8 U.S.C. § 1226(a). Section 1226(a) provides the detention authority for the significant group of aliens who are *not* deemed "applicants for admission" subject to § 1225(b)(2)(A)—specifically, aliens who have been admitted to the United States but are now deportable through removal proceedings. *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012) ("the specific governs the general"). For example, the detention of any of the millions of aliens who have overstayed their visas will be governed by § 1226(a), because those aliens (unlike Petitioner) *were* lawfully admitted to the United States and are now deportable.

Likewise, the Government's reading of § 1225(b)(2)(A) does not render § 1226(c) superfluous. As described above, § 1226(c) is the exception to § 1226(a)'s discretionary detention regime. It requires the Executive to detain "any alien" who is deportable or inadmissible for having committed specified offenses or engaged in terrorism-related actions. *See* 8 U.S.C. § 1226(c)(1)(A)-(E). Like § 1226(a), subsection (c) applies to significant groups of aliens *not* encompassed by § 1225(b)(2), such as visa overstayers, those who entered with visas but are later determined to be inadmissible, and even lawful permanent residents.

Most obvious, § 1226(c)(1) requires the Executive to detain aliens who *have been admitted* to the United States and are now "deportable." *See* 8 U.S.C. § 1226(c)(1)(B)-(C). By contrast, § 1225(b)(2) has no application to admitted aliens. Next, although § 1226(c)(1) requires detention of aliens who are "inadmissible" on certain grounds, *see* 8 U.S.C. § 1226(c)(1)(A), (D), (E), those provisions, too, sweep more broadly than § 1225(b)(2), because they cover aliens who are inadmissible but were previously admitted. *See* 8 U.S.C. § 1227(a), (a)(1)(A) (providing for the removal of "[a]ny alien … in *and admitted to* the United States," including "[a]ny alien who at the time of entry or adjustment of status was within one or more of the classes of aliens *inadmissible* by the law existing at the time…." (emphasis added)). In this respect, § 1226(c)(1) applies to admitted aliens, who are not covered by § 1225(b)(2). Finally, as noted above, § 1225(b)(2)(A) does "not apply to an alien … who is a crewman" or "a stowaway." 8 U.S.C. 1225(b)(2)(B)-(C). Section 1226(c) would apply to those aliens, too, if they were inadmissible or deportable on one of the specified grounds.

Notably, nothing in the Laken Riley Act changes the analysis. That law requires mandatory detention of certain criminal aliens who are "inadmissible" under 8 U.S.C. § 1182(a)(6)(A), (a)(6)(C), or (a)(7). *See* 8 U.S.C. § 1226(c)(E)(i)-(ii). It is true that 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 § 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 v. Barr*, 590 U.S. 222, 239 (2020); *supra* at 17. That is particularly true here, where this portion of the Laken Riley Act overlaps with § 1225(b)(2)(A), which recognizes that applicants for admission who are "seeking admission" must be detained under § 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").

Besides, § 1226(c) does independent work, despite the overlap, by narrowing the circumstances under which aliens may be *released* from mandatory detention. Recall that, for aliens subject to mandatory detention under § 1225(b)(2), DHS may "temporarily" parole them "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Section 1226(c)(1) takes that option off the table for aliens who have also committed the offenses or engaged in the conduct specified in § 1226(c)(1)(A)-(E). As to those aliens, § 1226(c) *prohibits* their parole and authorizes their release only if "necessary to provide protection to" a witness or similar person "and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding." 8 U.S.C. § 1226(c)(4).

In fact, Congress's desire to further limit the parole power with respect to criminal aliens was one of the principal reasons for the enactment of the Laken Riley Act. The Act was adopted in the wake of a heinous murder committed by an inadmissible alien who was "paroled into this

country through a shocking abuse of that power," 171 Cong. Rec. at H278 (daily ed. Jan. 22, 2025) (Rep. McClintock), and an abdication of the Executive's "fundamental duty under the Constitution to defend its citizens," 171 Cong. Rec. at H269 (Rep. Roy). The Act thus reflects a "congressional effort to be double sure," *Barton*, 590 U.S. at 239, that unadmitted criminal aliens are not paroled into the country.

4. Congress did not intend to give preferential treatment to those who enter unlawfully.

Petitioner's reading of the statute not only lacks textual support, but it also subverts IIRIRA's express goal of eliminating preferential treatment for aliens who enter the country unlawfully, *supra* § II.B. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to a result "that Congress designed the Act to avoid"); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) ("We cannot interpret federal statutes to negate their own stated purposes.").

One of IIRIRA's express objectives was to dispense with the perverse pre-1996 regime under which aliens who entered the United States unlawfully were given "equities and privileges in immigration proceedings that [were] not available to aliens who present[ed] themselves for inspection" at the border, including the right to secure release on bond. House Rep. at 225; *supra* § II.B. Petitioner's interpretation would restore the regime Congress sought to discard: It would require detention for those who present themselves for inspection at the border in compliance with law, yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain here unlawfully for years or even decades until an involuntary encounter with immigration authorities. That is *exactly* the preferential treatment for illegal entrants that

IIRIRA sought to eradicate. This Court should reject any interpretation that is so transparently subversive of Congress's stated objective. *King*, 576 U.S. at 492.

5. The Supreme Court's decision in *Jennings* supports the Government's interpretation.

The Government's interpretation is consistent with the Supreme Court's decision in *Jennings*, 583 U.S. 281 (2018). Contrary to Petitioner's insinuation that the Supreme Court held that Section 1225's mandatory detention is limited to aliens "at the border" or seeking admission (DE #1 at 8), in that case the Court specifically recognized that § 1225(b)(2) "serves as a catchall provision that applies to all applicants for admission not covered by §1225(b)(1)"—the section that is limited to arriving aliens "at the border." *Jennings*, 583 U.S. at 287. Although elsewhere the Court notes § 1226 "authorizes the Government to detain *certain* aliens already in the country," that language does not suggest § 1226 is the sole detention authority of "aliens already in the country." Indeed, the passage's use of the word "certain" conveys the opposite—it recognizes that other aliens already in the country may be detained under other provisions. 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 articulated in Section 1225(b)(2), especially as no part of the holding in *Jennings* required it to decide the precise scope of Sections 1225(b) and 1226.

But furthermore, the Court's language in *Jennings* does not negate that § 1225(b)(2) provides for mandatory detention of other aliens who have not been lawfully admitted. Accordingly, the Government's interpretation is perfectly consistent with that language: it allows that § 1226 is the exclusive source of detention authority for aliens who are lawfully admitted into the United States (and so are "in the country") but became deportable after legal entry while

applying § 1225(b)(2) to aliens who have not been lawfully admitted into the United States despite also being present in the country.

In sum, the cases that Petitioner relies on in support of his request for habeas relief and "Urgent Motion" misquote the Supreme Court's holding in *Jennings* when they state that *Jennings* concluded that Section 1226 "governs the detention of non-citizens 'already present in the United States.'" *De Andrade v. Moniz*, 802 F. Supp. 3d 325, 330 (D. Mass. 2025) (citing *Jennings*, 583 U.S. at 303). To understand the true meaning of *Jennings*, this court must refer to the original text of the Supreme Court's Opinion and its surrounding context. We explain by backtracking the origin of the sentence that has been taken out of context by the flurry of district court cases publishing opinions on the subject.

In Section III(2)(B) of the Opinion in *Jennings*, the Court stated that "**[a]s noted**, § 1226 applies to aliens **already present** in the United States. Section 1226(a) creates a default rule for **those aliens** by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings" *Jennings*, 583 U.S. at 303 (emphasis ours). The phrase "as noted" refers to a previous section of the Opinion, namely, Section I(A)(2), where the Court was discussing § 1226's application to "deportable aliens" as defined by § 1227(a). The Court was not referring to just *any* alien *already present* in the country. "Those aliens" referred to were those that fall under the definition of "deportable alien," who were, by definition, aliens "**in and admitted** to the United States." 8 U.S.C. § 1227 (emphasis ours). In this previous section, Section I(A)(2), the Court specifically stated as follows:

> Even **once inside the United States**, aliens do not have an absolute right to remain here. For example, **an alien present in the country** may still be removed if he or she falls "within one or more ... classes of **deportable aliens**." § 1227(a). That includes aliens who were

> inadmissible at the time of entry or who have been convicted of certain criminal offenses since admission. See §§ 1227(a)(1), (2).

Jennings, 583 U.S. at 288 (emphasis ours). The Supreme Court went on to state that "Section 1226 generally governs the process of arresting and detaining **that group of aliens** pending their removal." *Id.* (emphasis ours). So, when the Court concluded that "U.S. immigration law… authorizes the Government to detain **certain** aliens **already in the country** pending the outcome of removal proceedings under §§ 1226(a) and (c)," *id.* at p. 289, the Court was clearly referring to "that group of aliens" legally admitted into the United States or, more specifically, to deportable aliens as defined by Section 1227.

So, if Section 1226 allows the detention of "deportable aliens" pending the outcome of removal proceedings, and Petitioner is not a "deportable alien" as defined by law because he has never been legally admitted into the United States, then he necessarily falls under the purview of Section 1225(b)(2), which the Supreme Court described as "broader." *Id.* at p. 287. In fact, the Supreme Court coined Section 1225(b)(2) as "a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)."

This distinction between Section 1225(b)(1) and Section 1225(b)(2) is important because it takes into consideration the statutes' headers as devised by Congress. Whereas the header of Section 1225(b)(1) states that it applies to "aliens **arriving** in the United States" (aliens at the border), the header of Section 1225(b)(2) states that it applies to "**other** aliens." The term "other" must then refer to aliens that are not "arriving," but potentially, already *in the interior* of the United States despite not having been legally admitted, like Petitioner. Section 1225(b)(2)(A) clearly establishes that these "other aliens" already found in the United States shall be detained pending removal proceedings.

6. Petitioner is not a member of the *Bautista Maldonado* class.

Petitioner suggests that he is a member of the certified class action in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). *See* DE #1 at 8 and 12. However, the decisions of a district court in another district are not binding on this court for purposes of habeas relief.

In *Maldonado Bautista v. Santacruz*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), the court granted the petitioners' Motion for Class Certification. The court concluded that the petitioners had satisfied the prerequisites for class certification under Federal Rule of Civil Procedure 23(a) and the requirements for a nationwide class under Federal Rule of Civil Procedure 23(b)(2). *Maldonado Bautista*, 2025 WL 3288403, at *3–9. The U.S. District Court for the Central District of California then entered a Final Judgment granting a declaratory judgment that such class members "are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge" and "vacat[ing] the Department of Homeland Security policy described in the July 8, 2025, 'Interim Guidance Regarding Detention Authority for Applicants for Admission' under the Administrative Procedure Act as not in accordance with law." *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).

But the decisions issued by the U.S. District Court for the Central District of California in a habeas proceeding are not extensive to the District of Puerto Rico. As the Supreme Court has explained:

> District courts are limited to granting habeas relief "within their respective jurisdictions." 28 U.S.C. § 2241(a). We have interpreted this language to require "nothing more than that the court issuing the writ have jurisdiction over the

> custodian." *Braden [v. 30th Judicial Circuit Court of Ky.]*, 410 U.S. [484,] 495, 93 S.Ct. 1123 [(1973)].

Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004). Thus, the Supreme Court concluded, "[t]he plain language of the habeas statute ... confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement." *Id.* at 443. More recently, the Supreme Court explained that "[r]egardless of whether the detainees formally request release from confinement, because their claims for relief necessarily imply the invalidity of their confinement and removal ..., their claims fall within the core of the writ of habeas corpus and thus must be brought in habeas." *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (cleaned up). The Supreme Court then reiterated, "[f]or 'core habeas petitions,' 'jurisdiction lies in only one district: the district of confinement.' " *Id.* (quoting *Padilla*, 542 U.S. at 443).

There is no question in this case that Petitioner seeks relief that necessarily implies the invalidity of his confinement during the pendency of removal proceedings, so his claims fall within the core of the writ of habeas corpus. It thus follows that jurisdiction lies only in the district of confinement. "Here, [Petitioner] has never been detained in the Central District of California, so that jurisdiction over his Petition is not proper in that District; rather, jurisdiction remains proper in this District—and only this District." *Alberto Rodriguez*, 2025 WL 3754411, at *8 (D. Neb. Dec. 29, 2025) (citing *J.G.G.*, 604 U.S. at 672; *Padilla*, 542 U.S. at 442–43).

"The purported 'universal injunction' in the class action in the Central District of California in *Maldonado Bautista* runs afoul of the fundamental subject-matter jurisdiction principle in 'core' habeas cases that the only proper district—especially for petitioners like [Petitioner] who are **not** now confined in the Central District of California—is the district were the petitioners are confined." *Id.* at *9 (emphasis ours) (citing *Padilla*, 542 U.S. at 442–43). A district court in

California cannot "somehow usurp or overrule all other judges in the United States Federal Courts, like this one, who [may] see the issue differently. That decision is no more binding on this Court than any other district court decision that disagrees with this Court's interpretation of the applicable statutes." *Ramirez Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721, at *14 (D. Neb. Dec. 5, 2025).

In sum, the *Maldonado Bautista* court lacks jurisdiction to enter an injunction or habeas relief that applies to Petitioner.

7. Alternatively, Petitioner is only entitled to a custody redetermination hearing.

ICE's detention of Petitioner is mandated by 8 U.S.C. § 1225(b)(2) and does not violate the Constitution—as such, this Court should deny Petitioner's request. If, however, this Court disagrees that Section 1225(b)(2) authorizes ICE's detention of Petitioner, the only relief permissible to Petitioner is an order that he receive a bond hearing before an IJ, which has already been held. In this case, Petitioner received that hearing on January 29, 2026. He has been afforded the due process he seeks and the immigration judge has correctly determined that, albeit this Court's order, Petitioner should be the subject of mandatory detention under Section 1225(b)(2). DE #12-1 at 3-4.

D. Petitioner failed to exhaust administrative remedies.

The Court should dismiss the petition for writ of habeas corpus for lack of jurisdiction as Petitioner has failed to exhaust administrative remedies. A habeas petitioner must normally exhaust administrative remedies before seeking federal court intervention. The exhaustion requirement "aims to provide the agency with a chance to correct its own errors, 'protect[] the authority of administrative agencies,' and otherwise conserve judicial resources by 'limiting

interference in agency affairs, developing the factual record to make judicial review more efficient, and resolving issues to render judicial review unnecessary." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.).

Here, Petitioner has not availed himself of the administrative remedies available to him. DE # 1. He has not presented any complaint about access to counsel or conditions of confinement to his custodian through available administrative means. Petitioner's allegations as to deficiencies in access to counsel or conditions of confinement rumored to have been suffered by other unidentified individuals are not only factually insufficient but also not the kind of issue to be addressed through this extraordinary writ. Habeas relief should be made available to detainees only after they have exhausted all other available legal forms of redress. Petitioner has admittedly failed to do so.

E. Petitioner lacks a cognizable claim under APA.

Judicial review under the APA is only available for actions made reviewable by statute or final agency action "for which there is no other adequate remedy in a court." 5 U.S.C. § 704. Here, judicial review of Petitioner's claim of unlawful detention is available through the adequate remedy of the writ of habeas corpus, and APA review is thus unavailable. *See New Hampshire Lottery Comm'n v. Rosen*, 986 F.3d 38, 62 (1st Cir. 2021) (vacating judgment on APA claim under § 706(2) where declaratory remedy was adequate). As the Supreme Court recently held, where the claims for relief, as here, "necessarily imply the invalidity of [the plaintiffs'] confinement" those claims may be "brought in habeas." *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (cleaned up) (internal quotation marks and citation omitted). Here, Petitioner can challenge his detention without a bond hearing and obtain the remedy he seeks through habeas. Accordingly, "habeas corpus, not the APA, is the proper vehicle." *J.G.G.*, 604 U.S. at 1007 (Kavanaugh, J., concurring);

see also Morales v. Bondi, No. 1:25-CV-1472, 2025 WL 3525488, at *8 (W.D. Mich. Dec. 9, 2025) (declining to consider an APA challenge to *Matter of Yajure Hurtado* on this ground).

To the extent Petitioner argues that he seeks additional relief beyond habeas relief through his APA claim—in the form of vacatur of the BIA's precedential opinion in *Matter of Yajure Hurtado*—Petitioner is incorrect. Vacatur of that decision could not provide the Petitioner with any additional relief beyond the habeas relief he may obtain on his statutory claim.

Petitioner's APA challenge is in any event not ripe for decision. "To be considered 'final,' agency action must satisfy two conditions": it "must mark the 'consummation' of the agency's decisionmaking process" and (2) "the action must be one by which 'rights or obligations have been determined,' or from which 'legal consequences will flow.'" *Harper v. Werfel*, 118 F.4th 100, 116 (1st Cir. 2024) (quoting *Bennett v. Spear*, 520 U.S. 154, 178 (1997)). Petitioner challenges the BIA's decision in *Matter of Yajure Hurtado*, but that decision has not had legal consequences as to him, because it was not directly applied to him. Petitioner has not exhausted review of the bond determination hearing from the BIA; instead, he procured preliminary habeas relief before exhausting those remedies. As such, Petitioner's APA claim is not ripe, there is no final agency action, and he has not exhausted his administrative remedies. *Cf. Nat'l Park Hosp. Ass'n v. Dep't of Interior*, 538 U.S. 803, 808 (2003) (a regulation is not ordinarily considered the type of agency action ripe for judicial review under the APA until applied to the claimant's situation "in a fashion that harms or threatens to harm him"). The same applies to his complaints regarding alleged deficiencies in access to counsel or conditions of confinement, which have never been presented to an appropriate forum.

F. Petitioner is not entitled to attorney fees and costs under EAJA.

Finally, Petitioner requests attorneys' fees and costs under the Equal Access to Justice Act ("EAJA"),[4] which allows a court to "award reasonable fees and expenses of attorneys" to a "prevailing party in any civil action brought by or against...any agency or any official of the United States acting in his or her official capacity...." 28 U.S.C. § 2412(b). However, "the EAJA is not simply a fee shifting statute. The EAJA is ... a waiver by the government of its sovereign immunity and so must be construed strictly in favor of the government." *Aronov v. Napolitano*, 562 F.3d 84, 88 (1st Cir. 2009). For the reasons set forth below, Plaintiff is not entitled to EAJA fees under 28 U.S.C. §2412(d) because the government's actions were substantially justified under the facts and the law.

In order to receive an award of attorney fees and expenses under 28 U.S.C. § 2412(d), the Court must conclude: (1) that [Petitioner] is the prevailing party in the civil action; (2) that his petition was timely filed; (3) that government's position was not substantially justified; and (4) that no special circumstances make an award against the government unjust. *See Castaneda-Castillo v. Holder*, 723 F.3d 48, 57 (1st Cir. 2013).

For starters, a petitioner is not entitled to EAJA fees in habeas corpus proceedings. In *Obando-Segura v. Garland*, 999 F.3d 190 (4th Cir. 2021), a case in which a petitioner had filed a successful habeas petition seeking release from immigration detention, the Fourth Circuit held that attorneys' fees relating to a habeas petition are not available under the EAJA because such a petition is not a "civil action" for purposes of the EAJA. *Id.* at 191, 197. "The Court, therefore,

[4] DE #1 at p. 12 (Count Five).

must deny [Petitioner's] request for attorneys' fees and costs under the EAJA." *Montoya Palacios v. Baker*, No. CV GLR-25-4045, 2026 WL 171690, at *4 (D. Md. Jan. 22, 2026).

Additionally, Petitioner is not entitled to an award of attorney's fees and costs because the government's actions in taking Petitioner into custody were substantially justified. The Supreme Court has held that the government's position is substantially justified if it is "'justified in substance or in the main'—that is, justified to a degree that could satisfy a reasonable person." *Aronov*, 562 F.3d at 94 (quoting *Pierce v. Underwood*, 487 U.S. 552, 565 (1988) or put another way, if "a reasonable person could think [the government's position] correct," *Dantran, Inc. v. U.S. Dep't of Lab.*, 246 F.3d 36, 41 (1st Cir. 2001) (quoting *Pierce v. Underwood*, 487 U.S. 552, 566 n.2 (1988). "To be 'substantially justified,' it is not necessary for the [g]overnment's position to be 'justified to a high degree'; rather, the [g]overnment meets this standard if its position is 'justified in substance or in the main.' " *Saysana v. Gillen*, 614 F.3d 1, 5 (1st Cir. 2010) (quoting *Pierce*, 487 U.S. at 565). Further, even if the government fails on the merits, its position could still have been substantially justified. *See id.* The government is "substantially justified" if "it has a reasonable basis in law and fact" for its position. *See Pierce*, 487 U.S. at 565 (citations omitted).

As discussed *supra*, the government's position is supported by the Board of Immigration Appeals' decision in *Hurtado*, 29 I&N Dec. 216 (BIA 2025) and dozens of other district court cases. *See, e.g.*, *Chavez v. Noem*, No. 25-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *1 (E.D. Wis. Oct. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, 1:25-cv-00177 (N.D.

Tex. 2025); *Montoya Cabanas v. Bondi*, 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Altamiro Ramos v. Lyons*, 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025); *Alberto Rodriguez v. Jeffreys*, No. 8:25CV714, 2025 WL 3754411 (D. Neb. Dec. 29, 2025); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2026 WL 44683 (N.D. Tex. Jan. 7, 2026); *Garibay-Robledo v. Noem*, No. 1:25-CV-177-H, 2026 WL 81679 (N.D. Tex. Jan. 9, 2026). **In fact, just last week, the United States District Court for the Southern District of Florida issued an Opinion and Order in *Morales v. Noem*, No. 25-62598-CIV, 2026 WL 236307 (S.D. Fla. Jan. 29, 2026), agreeing with the government's interpretation of Section 1225(b)(2), rejecting the notion that it was bound by the declaratory judgment in *Maldonado Bautista*, and finding that petitioner's detention did not violate due process.** Because the underlying legal controversy remains pending on appeal in the First Circuit and has not yet been definitively adjudicated, no clearly established law governs the conduct at issue, and the government therefore cannot be found to have violated any clearly established right. Therefore, the government's actions were therefore substantially justified under the facts and the law.

Per the foregoing, Petitioner is not entitled to attorney fees and costs under EAJA.

G. All claims against non-custodian respondents must be dismissed.

The claims against the non-immediate custodians in this case must be dismissed for lack of subject matter jurisdiction.

One jurisdictional limitation on a district court's authority to grant writs of habeas corpus is the "immediate-custodian rule." *Rumsfeld v. Padilla*, 542 U.S. 426, 442-43 (2004). The immediate-custodian rule provides that the proper respondent in a habeas challenge to physical confinement is "the warden of the facility where the prisoner is being held, not the Attorney

General or some other remote supervisory official." *Id.* at 435. **"For a person being detained in connection with an immigration matter, the immediate custodian is the warden of the detention center."** *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *5 (W.D. Tex. Sept. 2, 2025) (citing *Aguilar v. Johnson*, No. 25-cv-1904, 2025 WL 2099201, at *2 (N.D. Tex. July 25, 2025)). **"And 'the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.'"** *Id.*

Petitioner included several supervisory officers of different federal agencies in his Petition. But the proper respondent to the Petition is NOT the Special Agent in Charge of Homeland Security Investigations (HSI) in Puerto Rico, nor the Acting Director for U.S. Immigration and Customs Enforcement (ICE), or the Secretary of the U.S. Department of Homeland Security (DHS), or the United States Attorney for the District of Puerto Rico, and neither the Attorney General. *See* DE #1 at 3-4. "The statutes and rules governing habeas actions reflect 'that there is generally only one proper respondent to a given prisoner's habeas petition.' Padilla, 542 U.S. 426, 435 (2004). The petitioner muddied the waters here by naming [seven] officials as respondents." Perera v. Bondi, No. 2:25-CV-01054-SPC-NPM, 2025 WL 3282521, at *1 (M.D. Fla. Nov. 24, 2025). Upon detention, custody of the aliens is transferred to ICE Enforcement and Removal Operations ("ERO"), which "manages the enforcement initiatives and components through which ERO identifies and arrests aliens subject to removal from the U.S." https://www.ice.gov/about-ice/ero. Hence, the only proper respondent in this case is the ICE-ERO Field Office Director (FOD) for the Miami Field Office, which oversees operations in Puerto Rico as one of its areas of responsibility.

Per the foregoing, the claims against all respondents not identified as the Miami ICE-ERO FOD, in his official capacity, should be dismissed.

VI. CONCLUSION

Pursuant to all the foregoing, the Court should deny Petitioner's Petition and dismiss this case with prejudice.

WHERFORE, the undersigned respectfully requests that this Response be noted, that the Petition be denied, and that the case be closed for statistical and administrative purposes.

I HEREBY CERTIFY that on this date, I electronically filed the forgoing with the Clerk of the Court using CM/ECF System, which will send notification of such filing to all parties.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on February 6, 2026.

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