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BY ECF
Honorable Jamel K. Semper, U.S.D.J.
U.S. District Court for the District of New Jersey
2 Federal Square
Newark, NJ 07101

Re: *Medard v. Bondi*, No. 25-15279
Answer to § 2241 Petition

Dear Judge Semper:

This Office represents Respondents in this habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement ("ICE") pursuant to 8 U.S.C. § 1225(b)(2). We write in response to the petition, ECF No. 1, which the Court should dismiss or deny for the reasons below.

This matter raises the same issues the Court decided in *Contreras Maldonado v. Cabezas*, No. 25-13004 (JKS), 2025 WL 2985256 (D.N.J. Oct. 23, 2025). Petitioenr is a native and citizen of Haiti. Pet. ¶ 7. He entered the United States without inspection in 2024. *Id.* ¶ 11. ICE detained Petitioner at Delaney Hall Detention Center on June 24, 2025. Pet. ¶ 18. Petitioner is accordingly in ICE detention without bond as an "applicant for admission" under § 1225(b)(2) and the Board of Immigration Appeals' ("BIA") recent decision *Matter of Yajure Hurtado*, 29 I&N Dec. 215 (BIA 2025). Petitioner argues his detention under § 1225(b)(2) is unlawful and he seeks immediate release. *Id.*, Prayer for Relief ¶ (a).

Respondents contend, as they did in *Contreras Maldonado*, that Petitioner's detention is governed by 8 U.S.C. § 1225(b)(2) because he is a noncitizen who entered without inspection or parole and was initially detained by immigration authorities in the interior of the country without having been lawfully admitted. As such, he is an "applicant for admission" who is not entitled to a bond hearing. Respondents also contend that the only remedy, if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a) not immediate release.

In *Contreras Maldonado*, the Court ruled that detention was improper under § 1225(b)(2). The Court sided with the many courts that have concluded that §

1225(b)(2) applied exclusively to encounters at the border, while 1226(a) applies to noncitizens, like Petitioner, who were already present in the country, albeit unlawfully, at the time of their encounter with immigration authorities.[1]

Respondents, however, respectfully assert that its detention of Petitioner is lawful while acknowledging that federal district courts, including this one, have rejected Respondents' interpretation of § 1225(b). The BIA, the highest administrative body that interprets immigration law in the immigration courts, has held that § 1225(b)(2) does apply to noncitizens like the Petitioner. ICE and the immigration judges accordingly must follow that decision in litigation relating to a noncitizen's detention in immigration proceedings. ICE continues to respectfully assert that position before this Court in the absence of precedential authority to the contrary from the Third Circuit.

We thank the Court for its attention to this matter.

Respectfully submitted,

By: *s/ Alex Silagi*
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cc: Counsel of record (by ECF)

[1] Courts in this District have decided the § 1225(b)(2) issue in a prior habeas matter, the court granted the petition before Respondents submitted a written answer because Respondents confirmed the detention authority was § 1225(b)(2) and that they intended to assert the same arguments as in the prior habeas matter. *See Vicens-Marquez v. Soto*, No. 25-16906 (KSH), ECF No. 15, Memorandum & Order granting writ; *Chiquito Barzola v. Warden*, 25-17326 (MEF), ECF No. 10, Order granting writ.