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UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEW JERSEY

Giovanny Fernando MUGLIZA CASTILLO,

Petitioner,

v.

Todd LYONS, Acting Director, Immigration and Customs Enforcement; John TSOUKARIS, Field Office Director of Enforcement and Removal Operations, Newark Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Luis SOTO, Director, Delaney Hall Detention Facility,

Respondents.

Case No. 2:25-cv-16219

PETITIONER'S RESPONSE TO RESPONDENTS' ANSWER TO PETITION FOR A WRIT OF HABEAS CORPUS UNDER 26 U.S.C. § 2241

PETITIONER'S DHS NUMBER:

A [redacted]

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INTRODUCTION

On October 7, 2025, Respondents filed an answer to Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In their answer, Respondents contend that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b) as an alien "who is an applicant for admission," pursuant to 8 U.S.C. § 1225(b)(2)(A). In support of their position, Respondents submitted several documents, including a Form I-200 (Warrant for Arrest of Alien), Form I-286 (Notice of Custody Determination), Form I-261 (Additional Charges of Inadmissibility/Deportability), the Notice to Appear, and Petitioner's parole document. However, the applicable law, legislative history, the longstanding agency policy, and the submitted documents demonstrate that Petitioner is improperly detained under 8 U.S.C. § 1225(b)(2).

ARGUMENT

I. PETITIONER IS IMPROPERLY DETAINED UNDER 8 U.S.C. § 1225(b)(2)

The text, context, legislative and statutory history of the Immigration and Nationality Act, the administrative record, and longstanding agency practice all establish that 8 U.S.C. § 1226(a) governs Petitioner's detention.

As previously discussed, the plain text of § 1226 demonstrates that subsection (a) applies to Petitioner. By its own terms, § 1226(a) applies to anyone who is detained "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). Section 1226 explicitly confirms that this authority includes not just noncitizens who are deportable pursuant to 8 U.S.C. § 1227(a), but also noncitizens, such as Petitioner, who is inadmissible pursuant to 8 U.S.C. § 1182(a). While § 1226(a) provides the right to seek release, 8 U.S.C. § 1226(c) carves out specific categories of noncitizens from being released— including certain

categories of inadmissible noncitizens—and subjects them instead to mandatory detention. See, e.g., § 1226(c)(1)(A), (C).

Next, the legislative history further supports the application of § 1226(a) to Petitioner's detention. The legislative history of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585, also supports a limited construction of § 1225 and the conclusion that § 1226(a) applies to Petitioner. In passing the Act, Congress was focused on the perceived problem of recent arrivals to the United States who did not have documents to remain. See H.R. Rep. No. 104-469, pt. 1, at 157–58, 228–29; H.R. Rep. No. 104-828, at 209. Notably, Congress did not say anything about subjecting all people present in the United States after an unlawful entry to mandatory detention if arrested. This is important, as prior to IIRIRA, people like Petitioner were not subject to mandatory detention. *See* 8 U.S.C. § 1252(a)(1) (1994). Had Congress intended to make such a monumental shift in immigration law (potentially subjecting millions of people to mandatory detention), it would have explained so or spoken more clearly. *See Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468–69 (2001).

Third, there is longstanding agency practice that § 1226 governs Petitioner's detention. DHS's long practice of considering people like the Petitioner as detained under §1226(a) further supports this reading of the statute. Typically, in cases like that of the Petitioner, DHS issues a Form I-286, Notice of Custody Determination, or Form I-200 stating that the person is detained under § 1226(a) or has been arrested under that statute. This decision to invoke § 1226(a) is consistent with longstanding practice. For decades, and across administrations, DHS has acknowledged that § 1226(a) applies to individuals who are present without admission after entering the United States unlawfully, but who were later apprehended within the United States

long after their entry. Such a longstanding and consistent interpretation "is powerful evidence that interpreting the Act in [this] way is natural and reasonable." *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); *see also Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying in part on "over 60 years" of government interpretation and practice to reject government's new proposed interpretation of the law at issue).

Indeed, agency regulations have long recognized that people like Petitioner are subject to detention under § 1226(a). Nothing in 8 C.F.R. § 1003.19(h)—the regulatory basis for the immigration court's jurisdiction—provides otherwise.

8 C.F.R. § 236.1, which implements 8 U.S.C. § 1226 further supports Petitioner's position that his detention is governed by 8 U.S.C. § 1226(a).

Under 8 C.F.R. § 236.1(b)(1), in pertinent part, states:

> (b) Warrant of arrest —
> (1) In general. At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

8 C.F.R. § 236.1(b)(1).

Additionally, 8 C.F.R. § 236.1(c)(8) provides:

> Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding. Such an officer may also, in the exercise of discretion, release an alien in deportation proceedings pursuant to the authority in section 242 of the Act (as designated prior to April 1, 1997), except as otherwise provided by law.

8 C.F.R. § 236.1(c)(8).

Here, the evidence in the administrative record clearly demonstrates that Petitioner's detention is governed by 8 U.S.C. § 1226(a). A Form I-200, Warrant for Arrest of Alien, issued pursuant to 8 C.F.R. § 236.1(b)(1), authorized Petitioner's arrest. In addition, DHS issued a Form I-286, Notice of Custody Determination, which expressly states that Petitioner is detained under § 1226(a). Accompanying the I-286 is an Addendum to the Notice of Custody Determination, which further confirms that Petitioner is subject to discretionary detention under § 1226(a), and indicates by the checked box that Petitioner requested a bond hearing to seek review of his custody determination.

Given this clear evidence, it is puzzling that Respondents now assert that Petitioner's detention is governed by § 1225(b)(2), when a DHS deportation officer had already determined that Petitioner's custody falls under § 1226(a). The issuance of the I-286 constitutes the government's acknowledgment that Petitioner is detained under § 1226(a) and is therefore eligible for a bond hearing.

Moreover, Forms I-200 and I-286 are standard documents issued to individuals detained pursuant to § 1226(a), as set forth in 8 C.F.R. § 236.1. Accordingly, the record directly contradicts Respondents' claim that Petitioner is subject to mandatory detention under § 1225(b)(2).

For these reasons, Respondents' assertion that Petitioner is subject to mandatory detention under § 1225(b)(2) is without merit.

II. PETITIONER'S DETENTION VIOLATES DUE PROCESS DESPITE RESPONDENTS' ASSERTIONS TO THE CONTRARY

Respondents argue that Petitioner's detention without a bond hearing does not violate the Due Process Clause, relying on *DHS v. Thuraissigiam*, 591 U.S. 103 (2020). In *Thuraissigiam*, the Supreme Court held that the habeas petitioner lacked a constitutional right to judicial review of a negative credible fear determination. The Court concluded that, in the context of a recently arrived noncitizen detained immediately after crossing the border, 8 U.S.C. § 1252(e)(2)'s preclusion of judicial review of expedited removal orders under 8 U.S.C. § 1225(b)(1) did not violate the Suspension Clause or the Due Process Clause. *Id.*

Despite Respondents' reliance on the case, *Thuraissigiam* does not control, or even relate to, habeas claims challenging detention under § 235(b). First, neither the claims, holding, nor reasoning in *Thuraissigiam* addressed a custody challenge. In fact, the majority repeatedly emphasized this point. 591 U.S. at 107, 117-19 ("Not only did respondent fail to seek release, he does not dispute that [his] confinement... is lawful."). The case instead concerned the permissible procedures for granting or denying noncitizens with no ties to the country admission into the United States. The petitioner argued that the Constitution required judicial review of his claim that his expedited removal order was flawed and that he should be provided "a new opportunity to apply for asylum." *Id.* at 117 n.13. *Thuraissigiam* merely held that the government's plenary power over admission dictates that those at the threshold of initial entry, like the petitioner in that case, lack due process rights in admission decisions beyond the rights prescribed by Congress. 591 U.S. at 107, 138-40.

As other district courts have found, this narrow holding does not apply to detention challenges. *See, A.L. v. Oddo*, 761 F. Supp. 3d 822, 825-26 (S.D.N.Y. 2022) and *Padilla v. U.S. Immigration & Customs Enforcement*, 704 F. Supp. 3d 1163, 1171-72 (W.D. Wash. Dec. 4,

2023). Congress' power to set procedures to admit or exclude noncitizens does not mean that Congress has the authority to arbitrarily or unreasonably deprive noncitizens of liberty by detaining them in violation of the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 695 (2001) ("[T]hat [plenary] power is subject to important constitutional limitations.").

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the motion for a temporary restraining order.

DATED this 8th of October, 2025.

/s/ Mei F. Chen
Attorney for Petitioner

WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioner certifies that this response contains 1,778 words.

s/ Mei F. Chen
Mei F. Chen
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that on October 8, 2025, I electronically filed the foregoing with the Clerk of the United States District Court, District of New Jersey by using the appellate CM/ECF system.

I certify that all participants in the case are registered ACMS users and that service will be accomplished by the appellate CM/ECF system.

/s/ Mei F. Chen
Mei F. Chen
Counsel for Petitioner