Leena Khandwala
Emily McConville
**RUTGERS LAW SCHOOL IMMIGRANT RIGHTS CLINIC**
123 Washington St
Newark, New Jersey 07102
lk518@law.rutgers.edu
973-353-3182
*Attorneys for Petitioner*

**UNITED STATES DISTRICT COURT**
**FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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| Marielis SANTANA-RIVAS,<br><br>Petitioner-Plaintiff,<br><br>v.<br><br>WARDEN, in their official capacity as Warden of the Clinton County Correctional Facility; Brian McSHANE, in his official capacity as Philadelphia Field Office Director for U.S. Immigration and Customs Enforcement; Todd LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; Pamela BONDI, in her official capacity as Attorney General of the United States,<br><br>Respondents. | Case No. 3:25-cv-01896<br><br>**(Wilson, J.)** |

**RESPONSE TO RESPONDENT'S OBJECTIONS TO THE NOVEMBER 13, 2025, REPORT AND RECOMMENDATION**

In her objections to the Magistrate Judge's Report and Recommendation ("R&R"), Respondent casts her flip-flopping on Petitioner's detention status as "factual developments" that not only justify detaining her after an Immigration Judge ordered her released on bond, but *deprive this Court of jurisdiction to review the government's illegal and arbitrary actions*. This Court should handily reject this attempt to run roughshod over the Constitutional guarantee of habeas corpus, overrule Respondent's objections, and adopt the R&R in full.

## I. Standard of Review

If a party raises specific objections to portions of an R&R, the District Court reviews those portions de novo, but may "rely on the recommendations of the magistrate judge to the extent it deems proper." *Weidman v. Colvin*, 164 F. Supp. 3d 650, 653 (M.D. Pa. 2015); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). If objections to portions of the R&R are general rather than specific, the Court reviews those portions for clear error and manifest injustice. *See Boomer v. Lewis,* No. 3:06-CV-0850, 2009 WL 2900778, *1 (M.D. Pa. Sept. 9, 2009). If portions of the R&R are uncontested, the Court affords those portions "reasoned consideration." *EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017).

## II. This Court Should Overrule Respondent's Objections Regarding Jurisdiction

Respondent repeatedly argues that several provisions of 8 U.S.C. § 1252 deprives this Court of jurisdiction to hear Petitioner's claims. These arguments rest

on the assertion that Petitioner is challenging her removal proceedings or the initial decision to detain her. Brief in Support of Objections ("Obj."), ECF No. 21, at 2-6. However, repeating an unsupported and incorrect assertion does not make it true. And accepting it as true not only runs afoul of the statute; it eviscerates the Constitutional guarantee against "indefinite executive detention." R&R at 14.

As an initial matter, Respondent raises no objection to the Magistrate Judge's thorough and cogent analysis of the Suspension Clause and conclusion that, if Respondent's reading of Section 1252 were correct, such a reading would render the entire statute unconstitutional. *See* R&R at 15-20. The court should adopt this analysis and find that it has jurisdiction for this reason alone.

But, as the R&R held, Respondent's reading of Section 1252 is incorrect. Section 1252(g) strips federal courts of jurisdiction to review three discrete decisions by the Attorney General: to (1) "commence proceedings," (2) "adjudicate cases," and (3) "execute removal orders." *See also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). In the cases Respondent cites, *Tazu v. Att'y Gen.*, 973 F.3d 292 (3d Cir. 2020), and *Alvarez v. ICE*, 818 F.3d 1194 (11th Cir. 2016), the courts found no jurisdiction because the appellants' challenges *did* fall into one of these enumerated buckets. In *Tazu*, the appellant challenged the government's decision to detain him in order to imminently execute a removal order, *see Tazu*, 973 F.3d at 294, while in *Alvarez*, the appellant

challenged the initiation of his removal proceedings and his initial detention, *see* 818 F.3d at 1203. Both *Tazu* and *Alvarez* acknowledged that "§ 1252(g) does not sweep broadly." *Tazu*, 973 F.3d at 296. The Eleventh Circuit in *Alvarez* even found that while it had no jurisdiction to review the aforementioned challenges, it *could* review a third challenge – the "various steps [taken] in order to prolong" the appellant's detention. 818 F.3d at 1204. Here, Petitioner is not challenging the commencement of her removal proceedings (which was in 2022), any decision to detain her initially (in 2023), the adjudication of her case (for which an administrative appeal is pending and which will continue independent of this litigation), or the execution of a removal order (which is not final while said appeal is pending). *See* Petition, ECF No. 1, ¶¶ 69-83 Rather, she challenges the "steps [taken] in order to prolong [her] detention." *Alvarez*, 818 F.3d at 1204. Petitioner's is exactly the type of challenge district courts have jurisdiction to review.

Respondent also maintains that 8 U.S.C. § 1252(b)(9) channels Petitioner's claims to the circuit courts via a petition for review, because her claims are "arising from any action taken or proceeding brought to remove a [noncitizen] from the United States." *See* Obj. at 3-4. Respondents do not explain how Petitioner's challenge to her prolonged, illegal detention arise from any action taken to remove her from the United States, and do not address clear, contrary Supreme Court precedent. *See Jennings v. Rodriguez*, 583 U.S. 281, 293 (2018) (exercising

jurisdiction over prolonged detention claim and holding that "[i]nterpreting 'arising from' in this extreme way would . . . make claims of prolonged detention effectively unreviewable."); *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) ("[B]ecause [Petitioners'] claims for relief necessarily imply the invalidity of their confinement . . their claims fall within the core of the writ of habeas corpus." (cleaned up)). And the cases Respondent cites in support of her position have nothing to do with Petitioner's circumstances. *See J.E.F.M. v. Lynch*, 837 F.3d 1026 (9th Cir. 2016) (challenge to denial of counsel during removal proceedings); *Rosario v. Holder*, 627 F.3d 58 (2d Cir. 2010) (considering Circuit Court's jurisdiction over relief decisions in removal proceedings under 8 U.S.C. § 1252(a)(2), not (b)(9)); *Papageorgiou v. Gonzales*, 413 F.3d 356 (3d Cir. 2005) (rejecting government's argument that Circuit Court did *not* have jurisdiction to decide a petition for review, in a case having nothing to do with detention).[1]

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[1] For the first time, Respondent argues that Petitioner's habeas challenge must be heard in the District Court for the District of Columbia, pursuant to 8 U.S.C. § 1252(e)(3)(A). Even if Respondent has not forfeited this argument by failing to raise it before the Magistrate Judge, the argument fails. Section 1252(e)(3) concerns "challenges on the validity of the system." Petitioner is not challenging the constitutionality or legality of 8 U.S.C. § 1225(b) itself; she is challenging its erroneous application to her and the resulting unconstitutionally prolonged detention. *See Oropeza v. Noem*, No. 1:25-CV-1343, 2025 WL 3251140, *2 (W.D. Mich. Nov. 21, 2025); *Hernandez Duran v. Bernacke*, No. 2:25-CV-02105-RFB-EJY, 2025 WL 3237451, *5 (D. Nev. Nov. 19, 2025).

Finally, Respondent argues that "the specific and dynamic basis for the commencement of removal proceedings and detention during the pendency of those proceedings demonstrate the inseparable nature of Petitioner's detention from the scope of Section 1252(g) and Section 1252(b)(9)." Obj. at 4. First, Respondent conflates (again) the initiation of Petitioner's removal proceedings in 2022 under 8 U.S.C. § 1229a, her initial detention in 2024, and her current, prolonged detention. More concerningly, Respondent appears to contend that DHS and EOIR's sudden reversal of their longstanding interpretation of the detention statutes, and retroactive application to Petitioner one day after she was granted bond, is somehow a "factual development[]," Obj. at 5, that bars a district court from deciding if the new interpretation is illegal or unconstitutional. This Court should soundly reject this argument, because it goes straight back to the Suspension Clause issue. *See* R&R at 14. Shifting the ground beneath Petitioner does not preclude immediate review; it is the very reason immediate review is needed.

## III. This Court Should Adopt the R&R With Respect to the Statutory Basis of Petitioner's Detention.

In objecting to the R&R's conclusion that Petitioner is not subject to mandatory detention, Respondent offers a smorgasbord of arguments, each of which soundly rejected by nearly every single District Court to have considered the

question, including many issued in this Circuit since the filing of this Petition.[2] The Court should find these decisions persuasive, overrule Respondent's objections, and find that Petitioner is detained under 8 U.S.C. § 1226(a).

**A. Statutory background**

The Eastern District of Pennsylvania in *Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025), recently provided a concise overview of the two statutes at issue here:

> Two provisions of the INA provide for detention of noncitizens during removal proceedings: 8 U.S.C. §§ 1225 and 1226. . . . Section 1225, titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing," applies to "applicants

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[2] *See, e.g.*, *Patel v. McShane*, No. CV 25-5975, 2025 WL 3241212 (E.D. Pa. Nov. 20, 2025); *Ndiaye v. Jamison*, No. CV 25-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025); *Perez v. Lyons*, No. 25-CV-17186-ESK, 2025 WL 3238540 (D.N.J. Nov. 19, 2025); *Demirel v. FCI Philadelphia*, No. 25-5488, 2025 WL 3218243 (E.D. Pa. Nov. 18, 2025); *Sandoval v. Rokosky*, No. CV 25-17229 (SDW), 2025 WL 3204746 (D.N.J. Nov. 17, 2025); *Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025); *Guaman Naula v. Noem*, No. CV 25-16792 (SDW), 2025 WL 3158490 (D.N.J. Nov. 12, 2025); *Vicens-Marquez v. Soto*, No. CV 25-16906 (KSH), 2025 WL 3097496 (D.N.J. Nov. 6, 2025); *Lopez v. Noem*, No. CV 25-16890 (SDW), 2025 WL 3101889 (D.N.J. Nov. 5, 2025); *Mboup v. Field Off. Dir. of New Jersey Immigr. & Customs Enf't*, No. 2:25-CV-16882 (MEF), 2025 WL 3062791 (D.N.J. Nov. 3, 2025); *Ayala Amaya v. Bondi*, No. 25-CV-16428-ESK, 2025 WL 3033880 (D.N.J. Oct. 30, 2025); *Patel v. Almodovar*, No. CV 25-15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025); *Del Cid v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025); *Lomeu v. Soto*, No. 25CV16589 (EP), 2025 WL 2981296 (D.N.J. Oct. 23, 2025); *Bethancourt Soto v. Soto*, No. 25-CV-16200, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *C.B. v. Oddo*, No. 3:25-CV-00263, 2025 WL 2977870 (W.D. Pa. Oct. 22, 2025); *Buestan v. Chu*, No. CV 25-16034 (MEF), 2025 WL 2972252 (D.N.J. Oct. 21, 2025); *Castillo v. Lyons*, No. 25-CV-16219 (MEF), 2025 WL 2940990 (D.N.J. Oct. 10, 2025).

> for admission." 8 U.S.C. § 1225(a)(1). Such applicants "fall into one of two categories: those covered by Section 1225(b)(1) and those covered by Section 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).
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> Section 1225(b)(2) . . . is titled "Inspection of other aliens" and provides that "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." 8 U.S.C. § 1225(b)(2)(A). Noncitizens subject to this provision are subject to mandatory detention while their full removal proceedings are pending and may be released only "for urgent humanitarian reasons or significant public benefit." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)). The Supreme Court has described Section 1225(b)(2) "as a catchall provision that applies to all applicants for admission not covered by [section] 1225(b)(1)." *Id.* at 287.
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> Section 1226, by contrast, is titled "Apprehension and detention of aliens" and provides the Attorney General with discretion to arrest and detain noncitizens, save for those individuals that fall under the statutory exceptions set forth in Section 1226(c). 8 U.S.C. § 1226(a). Under this provision, the Government may "continue to detain the arrested alien" or release the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2). Immigration authorities make an initial custody determination, after which the noncitizen may request a bond hearing before an immigration judge. 8 C.F.R. § 1236.1(c)(8), (d)(1). At that hearing, the noncitizen "may secure his release if he can convince the officer or immigration judge that he poses no flight risk and no danger to the community." *Nielsen v. Preap*, 586 U.S. 392, 397–98 (2019) (citations omitted). If released, the bond remains subject to revocation under Section 1226(b). 8 U.S.C. § 1226(b).

*Id.* at *1.

Here, Respondent does not object to the conclusion that Section 1226 applies to Petitioner. Obj. at 6-31. Rather, Respondent argues that Section 1225 applies instead of, or in addition to, Section 1226. It does not.

**B. Petitioner Is Not "Seeking Admission."**

Start with the plain language. "Section 1225(b)(2)(A) applies only to an alien who is **both** an applicant for admission and 'seeking admission.'" *Kashranov*, 2025 WL 3188399 at *6 (emphasis original). Respondents are correct that the INA defines "applicant for admission" to include noncitizens "present in the United States who ha[ve] not been admitted." 8 U.S.C. 1225(a)(1). But Section 1225(b)(2)(A) sets out an additional requirement of "seeking admission." "Seeking" "conveys ongoing and continuous action rather than a completed or static state." *Kashranov*, 2025 WL 3188399 at *6. And the INA defines "admission" as a "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). "Viewed in this light, 'seeking admission' describes active and ongoing conduct—physically attempting to come into the United States, typically at a border or port of entry and presenting oneself for inspection and authorization." *Kashranov*, 2025 WL 3188399 at *6.

Respondent's arguments to the contrary miss the mark. Respondent contends that the R&R (and by extension nearly every other District Court to have decided the issue) erroneously deploys the "ordinary meaning" of the term "applicant for admission," rather than the INA's definition of the term. Obj. at 8-11.[3] But the

[3] The Circuit cases Respondent cites do not help her position because they all concern whether the noncitizen was an applicant for admission for purposes of removability, and discuss neither "seeking admission" nor detention. In *Torres v.*

Magistrate Judge did not do this. Consistent with Petitioner's own position, *see* Traverse, ECF No. 14, he assumed or decided that Petitioner is an "applicant for admission" under the INA's definition, and extensively discussed the reasons why she is not *additionally* "seeking admission." R&R at 27-31. For the reasons set out in the R&R and in *Kashranov*, the Court should agree.

Respondent then argues that "applicant for admission" and "seeking admission" actually mean the same thing and are permissible redundancies within Section 1225(b)(2). *See* Obj. at 11-14. "This is plainly incorrect." *Romero v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2403827, *9 (D. Mass. Aug. 19, 2025). Pointing to 8 U.S.C. § 1225(a)(3), Respondents contend that the word "or" separating the phrases "applicant for admission" and "seeking admission" "introduces an appositive." Obj. at 12 (quoting *United States v. Woods*, 571 U.S. 31 (2013)). But *Woods* "actually says the opposite is true." *Romero*, 2025 WL 240387, at *10 n. 31. Moreover, as the court in *Escobar Salgado v. Mattos* explained:

> the very BIA precedent Respondents . . . cite as supporting the interpretation of "applicants for admission" and "seeking admission" as

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*Barr*, 976 F.3d 918 (9th Cir. 2020), the Ninth Circuit held that the petitioner was *not* an applicant for admission, and in fact distinguish between the terms "applicant for admission" and "application for admission," as it appears in another part of the INA not at issue here. *See id.* at 927. In *Alvarenga de Rodriguez v. Att'y Gen.*, 784 F. App'x 852, 853 (3d Cir. 2019), the Third Circuit held, in contrast to *Torres*, that the petitioner was inadmissible as an applicant for admission who had not presented valid entry documents. *Pena v. Hyde*, No. 25-cv-11983-NMG, 2025 WL 2108913 (D. Mass. July 28, 2025), is more on point, but goes against the great weight of District Court authority. *See* Note 2, *supra*.

> synonymous, distinguishes between the two as delineating distinct categories of noncitizens, such that a noncitizen could be "seeking admission" without falling under the § 1225(a)(1) definition of "applicant for admission." because they are neither "present in the United States" nor arriving in the United States. *See Matter of Lemus-Losa*, 25 I&N Dec. 734, 741 (BIA 2012) (describing the circumstances in which a noncitizen could "seek admission" without arriving or being present in the United States: "for example, by applying for a visa at a consulate abroad"). Likewise, the BIA in *Lemus-Losa* explicitly distinguished acts defining "an applicant for admission" from those "seeking admission." *See id.* at 735 (where a noncitizen who initially entered the U.S. without inspection, departed, then reentered, and applied for adjustment of status, finding that "in some cases such an alien will have reentered the United States unlawfully, thereby making himself an 'applicant for admission' by operation of law, while seeking 'admission' through adjustment of status.").
>
> These distinctions recognize that the use of the two different phrases by Congress is not a redundancy, but rather, conveys a meaningful difference. Interpreting the two phrases accordingly comports with canons of statutory interpretation.

No. 2:25-CV-01872-RFB-EJY, 2025 WL 3205356, *15-16 (D. Nev. Nov. 17, 2025). Thus, Petitioner is not subject to Section 1225(b)(2) because she is not "seeking admission."

### C. Applying Section 1225(b)(2) to Petitioner is Contrary to the Structure of Section 1225.

Respondent argues that Section 1225(b)(2) must be read to include all "applicants for admission," no matter how long they have been residing in the United States, because otherwise nobody would be covered by Section 1225(b)(2). *See* Obj. at 14-17. But the relevant distinction between Section 1225(b)(1) and (b)(2) is not between arriving aliens and those already in the country; it is between

those who are subject to expedited removal and those who are not. Section 1225(b)(1) provides for expedited removal and detention of noncitizens subject to two specific inadmissibility grounds. Section 1225(b)(2) applies to other "applicants for admission" who are "seeking admission," and who are instead subject to full removal proceedings. Recognizing that Section 1225(b)(2) is a border inspection scheme does not nullify Section 1225(b)(2):

> § 1225(b)(2) applies to arriving noncitizens who are inadmissible on grounds other than … the grounds that put an arriving noncitizen on the track for expedited removal[]. The statute governing inadmissibility lists ten grounds for inadmissibility…. There are thus arriving noncitizens inadmissible on these other bases who would fall under Section 1225(b)(2), as opposed to Section 1225(b)(1).

*Cordero Pelico v. Kaiser*, No. 25-CV-07286-EMC, 2025 WL 2822876, *13 (N.D. Cal. Oct. 3, 2025). The argument that Section 1225(b)(2) is meaningless unless applied to Petitioner is wrong.

**D. Respondent Misunderstands the Legislative History**

Respondents argue that in enacting IIRIRA, Congress wanted to ensure that people seeking to enter lawfully are not treated worse than those who entered without inspection. Obj. at 9-10. But the government "err[s] in its analysis by identifying one of Congress' concerns in enacting IIRIRA and then treating it as Congress's sole concern driving the statute." *Cordero Pelico*, 2025 WL 2822876, at *13. While Congress was concerned about "placing noncitizens on equal footing in removal proceedings,"

(and IIRIRA thus imposes a greater burden of proof on noncitizens in the U.S. in defending against removal), that "says nothing about detention." *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, *24 (W.D. Wash. Sept. 30, 2025) (cleaned up). "If Congress had wished to . . . require[e] the detention of millions of people currently living and working in the United States—then it would have said so more clearly." *Id.*

### E. Applying Section 1225(b)(2) to Petitioner Renders Swaths of Section 1226(a) Meaningless.

Respondent invites this Court to read Section 1225 in isolation, ignoring Section 1226 and the INA's overall structure. *See* Obj. at 17-21. As their titles state, Section 1226 relates to "[a]pprehension and detention" of noncitizens in the U.S., while Section 1225 covers procedures at the border. Adopting Respondent's expansive reading of Section 1225 would render fully redundant Section 1226's exceptions, which mandate detention for "inadmissible" noncitizens charged or convicted of certain crimes. *See* 8 U.S.C. 1226(c)(1)(A), (D), and (E). Under Respondent's interpretation, the recently enacted Laken Riley Act would be a "meaningless amendment, since it would have prescribed mandatory detention for noncitizens already subject to it." *Cordero Pelico*, 2025 WL 2822876, at *12.

Respondent argues that the Laken Riley Act's "overlap[]" with Section 1225(b)(2) is, again, a permissible redundancy, and alternatively that the sections are not redundant because Section 1226(c) imposes different obligations on the

Attorney General from those imposed by Section 1225(b)(2). Obj. at 17-20. Respondents ignore, however, that the Laken Riley Act specifically singled out for mandatory detention those noncitizens who are deemed inadmissible, including for being "present in the United States without being admitted or paroled," and who have been arrested for, charge with, or convicted of certain crimes." 8 U.S.C. § 1226(c)(1)(E); see Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1182(a)(6)(A)(i). These exceptions for inadmissible noncitizens who are arrested, charged, or convicted of certain enumerated crimes logically leaves those noncitizens who have not been implicated in those offenses bond eligible under § 1226(a)'s discretionary detention authority. The government's interpretation of the detention framework would make these amendments to § 1226(c) superfluous. "When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995).

## IV. The Court Should Adopt the R&R's Recommendation of Immediate Release Due to Prolonged Detention.

This Court need not even reach the above discussion of which statute applies to Petitioner's detention, because whatever the detention authority, Petitioner's detention has become unconstitutionally prolonged. At the outset, Respondent does not object to most of the Magistrate Judge's thorough analysis of each of the factors set out in *German Santos v. Warden Pike Cnty. Corr. Fac.*, 965 F.3d 203,

211 (3d Cir. 2020). *See* Obj. at 21-23. This Court can therefore adopt that analysis and recommendation of immediate release upon reasoned consideration.

Respondent raises two objections, both of which the Court should overrule. Respondent appears to argue that 15 months' detention is not unreasonable, by citing some cases in which other Courts in this District denied prolonged-detention claims when the petitioner's detention had lasted longer. However, Respondent does not explain why the Magistrate Judge erred in determining that, under the circumstances of this case, the length-of-detention factor weighs in favor of Petitioner. *See* Obj. at 22-23; R&R at 35-36.

Respondent also argues that "due to factual developments during removal proceedings, Petitioner's detention has shifted between Sections 1226(a), 1226(c), and 1225(b)(2)(A)," and therefore the Court cannot "gauge the constitutional bona fides of 15 months' detention without accounting for how Petitioner's status shifted over the course of that time." Obj. at 21-22. First, the Magistrate Judge *did* account for "how Petitioner's status shifted," in other words how Respondent suddenly decided (whether or not in good faith) that 8 U.S.C. § 1225(b)(2) applies to Petitioner, and decided that Petitioner's detention was unconstitutionally prolonged. *See* R&R at 37-39. Second, "the constitutional bona fides of 15 months' detention" surely do not include an automatic stay of an Immigration Judge's reasoned bond decision and a sudden about-face in treating Petitioner as detained

under Section 1225(b)(2) after three years of treating her as detained under Section 1226. Third, to the extent Respondent argues that the Court should discount some of Petitioner's 15 months of detention due to "factual developments" (which the Court should not do), Petitioner's detention is *still* unconstitutionally prolonged. She has been detained for nearly five months since ICE decided that Section 1225(b)(2) governs her detention, and nearly six months since her motion to withdraw her guilty plea was granted, bringing her out of the ambit of Section 1226(c). Her detention becomes "more and more suspect," *Diop v. ICE*, 656 F.3d 221, 232 (3d Cir. 2011), each day she is in ICE custody, hundreds of miles from home, convicted of a misdemeanor and subject only to probation, and unable to talk to her children for months at a time.

## CONCLUSION

For the foregoing reasons, this Court should overrule Respondent's objections, adopt the R&R in full, and order Petitioner's immediate release.

Respectfully submitted,

/s/ Emily McConville
RUTGERS LAW SCHOOL
IMMIGRANT RIGHTS CLINIC
123 Washington St, Floor 4
Newark, NJ 07102
(973) 699-0715
Em1347@law.rutgers.edu
*Counsel for Petitioner, Pro Hac Vice*

November 24, 2025

**CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that on this date, I filed this Reply using the PACER system. Local Rule 5.7.

Dated: November 24, 2025
Newark, New Jersey

Respectfully Submitted,

/s/ Emily McConville

Emily McConville, Esq. (NY 6136055)
Rutgers Law School – Imm. Rights Clinic
123 Washington Street, 4th Floor.
Newark, NJ 07102
(973) 699-0715
Em1347@law.rutgers.edu
*Counsel for Petitioner, Pro Hac Vice*