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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Alexis Jesus Rojas Medina Petitioner, v. John MATTOS, Warden, Nevada Southern Detention Center; Jason KNIGHT, Acting Las Vegas/Salt Lake City Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement (ICE)) Joseph B. EDLOW, Director, USCIS; Kristi NOEM, Secretary, United States Department of Homeland Security, Pamela BONDI, Attorney General of the United States; Daren K. Margolin Director, Executive Office for Immigration Review Respondents.	PETITIONER'S REPLY TO RESPONDENTS RESPONSE Case No. 2:25-cv-02020-CDS-BNW Agency Case Number: A[redacted]

I. INTRODUCTION

Petitioner, by and through the above-named counsel of record, submits this Reply to Respondents' Response to his Petition for Writ of Habeas Corpus. Respondents correctly assert that Petitioner *currently* lacks legal status. But Respondents utterly refuse to admit or recognize that Petitioner's Temporary Protected Status should have been completely valid up until October 3, 2025, when the U.S. Supreme Court lifted the stay that was otherwise keeping TPS in place. The sole reason that Petitioner's Temporary Protected Status was prematurely terminated prior to that date was that *Respondents and their agents affirmatively and deliberately misrepresented Petitioner's arrest to USCIS, leaving out the fact that his arrest was based on a mistaken identity.*

Inasmuch as Petitioner was in valid TPS status at the time of his detention, Petition for Writ of Habeas Corpus (PWHC) Exhibit A, and inasmuch as the Respondents were fully advised and aware that Petitioner's arrest was a case of mistaken identity, PWHC Exhibit D., Respondents' actions in detaining Petitioner *at all* on September 9, 2025, and continuing to detain him without bond to this day, over 60 days later, are utterly and completely unlawful: Petitioner's continued detention without right to bond violates the statute, the regulations, and the constitution. Again, until October 3, 2025, Petitioner's asserted lack of legal status was entirely and completely due to Respondents' illegal actions: (first) they arrested and detained him in violation of the TPS status which he held (second) they forwarded arrest information that ICE officials knew to be incorrect to USCIS, in order to trigger (third) an invalid termination of Petitioner's TPS based on that false information. Respondents' own evidence shows that USCIS continues to rely on and assert that arrest as a factual justification for the illegal termination of Petitioner's TPS. *See* Respondents' Exhibit 9.1 at 3. Petitioner is requesting that this court

recognize that his detention was 100% illegal, and a violation of the TPS status that he properly held at the time, and would have continued to hold until at least October 3, 2025, absent Respondents' meddling.

In view of the fact that the Supreme Court's decision has now functioned to void Petitioner's TPS, Petitioner is also seeking a Writ of Habeas Corpus from this court requiring Respondents to properly apply the Congressionally designed and enacted statutory detention scheme and implementing regulations, and to grant him a bond hearing. Respondents' actions in detaining Petitioner and asserting that Petitioner has no right to a bond hearing violate Petitioner's constitutional right to procedural and substantive due process. Respondents argue that because Petitioner is an "applicant for admission" (otherwise known as an "inadmissible alien") his detention is mandatory and no Immigration Judge has authority to grant him a bond. Respondents' assert as authority the agencies' recent reinterpretation of the nearly thirty-year-old statutory language. *See, e.g.,* PWHC Exhibit L; *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).

Respondents cite *Matter of Yajure Hurtado* as authority for detaining Petitioner without bond. But in that decision, the BIA discards as irrelevant parts of the statutory text, violates the government's own published regulations, violates the intent of Congress, as expressed in the Congressional record, and ignores Supreme Court and agency precedent. Finally, the agency's decision in *Yajure Hurtado* is an invalid attempt by the government to overrule via an agency decision the actual agency regulations promulgated during the public rulemaking process in 1997. Petitioner's request is simple: he is asking this court ***to require Respondents to apply the law as established by statute and regulation—and as interpreted since 1997—and grant him a bond hearing before an Immigration Judge.***

II. ARGUMENT

A. RESPONDENTS BROKE THE LAW WHEN THEY DETAINED PETITIONER ON SEPTEMBER 9, 2025

8 U.S.C. § 1254a (d)(4) states: "an alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States." Petitioner Rojas Medina applied for Temporary Protected Status (TPS) on January 27, 2025. On April 23, 2025, USCIS issued an Approval Notice granting him TPS status under the 2023 TPS designation. The Approval Notice stated that his TPS status was valid from April 23, 2025, to October 2, 2026. USCIS issued this Approval Notice after Secretary Noem issued her decision on February 3, 2025, to terminate TPS protections for Venezuelan nationals under the 2023 designation to be effective on April 7, 2025, while the District Court's TRO was in effect. Attachment A. (2023 TPS Timeline).

When ICE officials formally detained Mr. Rojas Medina at the Salt Lake County jail on September 9, 2025, he and his criminal attorney had just documented in state court that his arrest on criminal charges was based on mistaken identity. At the time of his September 9, 2025, arrest by ICE officials, both Petitioner's individual TPS status and his TPS class status, as a member of the group of Venezuelans granted TPS under the 2023 designation, were valid. Despite the fact that ICE was advised that Mr. Rojas Medina had been arrested by mistake, and that he held TPS, ICE nevertheless detained him, in direct violation of the TPS statute.

Upon learning of Petitioner's detention by ICE, John West, an attorney with Stowell Crayk, and one of the attorneys representing Petitioner, contacted ICE officials in Salt Lake City and explained both the mistaken identity, the fact that all criminal charges against Petitioner had been dismissed with prejudice on September 7, and the fact of Petitioner's TPS status, which protected him from being detained based solely on his immigration status. Respondents had no

lawful basis for detaining Plaintiff on September 9, 2025.

Despite being informed by Mr. West (and having available to them the records of the Utah Third District Court) that the criminal charges had been dismissed with prejudice due to the mistaken identity, ICE officials nonetheless passed the information regarding Petitioner's arrest, and the purported allegations against him to USCIS, in blatant contradiction of the information ICE knew to be true on September 9, 2025. As a result of that deliberate misinformation, USCIS withdrawing Petitioner's TPS status was withdrawn as he "no longer merited a favorable exercise of discretion due, in part, to an arrest, and subsequent charges, on August 27, 2025." Petitioner did not receive a copy of that termination notice for nearly two weeks. Knowing that the USCIS termination was based on false information and mistaken identity, ICE nevertheless has relied on that TPS termination to continue to hold Petitioner.

USCIS denied Petitioner's appeal on November 4, 2026 on two rationales: (1) that because Mr. Rojas Medina had been placed into removal proceedings, USCIS lacked jurisdiction to reconsider its decision; and (2) that because Secretary Noem's decision to terminate 2023 TPS designation for Venezuelans became effective on October 3, 2025, the issue was moot because there was no longer TPS status available to the Plaintiff.

Both these rationales reveal violations of the Plaintiff's due process rights. First, in arguing that USCIS lacked jurisdiction to hear an appeal of its decision because the government had initiated removal proceedings against the Plaintiff, which the Respondents then moved to dismiss on the same day of USCIS's decision, the Plaintiff was left with no venue to seek review of USCIS's factually flawed withdrawal decision, leaving him in legal limbo, subjected to indefinite immigration detention without right to seek redress, other than in federal district court under a petition for habeas corpus. Second, USCIS's argument that the 2023 TPS designation

vacatur went into effect on October 3, 2025, admits that the designation was valid on September 9, 2025, the date of Petitioner's unlawful detention, in violation of the TPS statute. USCIS's decision to withdraw Petitioner's TPS status on September 11, 2025, was based on affirmative misinformation provided by ICE to USCIS. While ICE advised USCIS of Petitioner's arrest on criminal charges, ICE notably failed to notify USCIS that all charges had been dismissed on September 7, 2025, and that the arrest and charges were a case of mistaken identity. After September 7, 2025 there was no legal or factual basis for finding that Petitioner was no longer individually eligible for TPS. Additionally, the 2023 TPS designation for Venezuelans remained in effect through October 3, 2025. When Respondents detained the Petitioner on September 9, 2025, he was in valid TPS status. Respondents therefore broke the law when they detained Petitioner. 8 USC § 1254a(d)(4).

B. CONGRESSES' DETENTION SCHEME

The crux of Respondents' second argument for Petitioner's detention without bond is the question of whether he was detained by the government pursuant to 8 U.S.C. § 1226(a), and is therefore statutorily and regulatorily eligible for a bond hearing before an IJ, or whether, as an "applicant for admission" or "inadmissible alien" his detention is pursuant to 8 U.S.C. § 1225 therefore mandatory, with no statutory or regulatory right to a bond hearing. Respondents' statutory and legal claims begin with their bald assertion that because Petitioner is "an applicant for admission" he is therefore, inevitably, inescapably, and permanently subject to mandatory detention pursuant to 8 U.S.C. § 1225. According to Respondents, Congress in 1996 clearly intended the detention provisions of 8 U.S.C. § 1225 to apply to all "applicants for admission." But Respondents' recent reinterpretation of that statutory language misunderstands and misinterprets the statutory term "applicants for admission," conflating two subgroups that

Congress purposefully and explicitly chose to treat differently for detention purposes. While Congress classed them together for purposes of formal removal proceedings, Congress explicitly recognized that—when it comes to detention, the two subgroups are not identical and therefore cannot, constitutionally, be subject to the same detention regime.

As numerous federal courts have found in the last few months, Respondents' reinterpretation contradicts and ignores the Congressional history, the regulatory history, the regulations themselves, and the intervening precedent. *See, e.g., Martinez v. Hyde,* 1:25-cv-11613, 2025 WL 2084238 (D. Mass. July 24, 2025); *Pablo-Sequen v. Kaiser*, 25-cv-06487-PCP, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025), subsequent decision 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025); *Lopez-Arevalo v. Ripa,* EP-25-cv-337, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Santiago-Helbrum v. Williams*, 4:25-cv-00349-SHL-SBJ, (S.D. Iowa Sept. 30, 2025); *Quispe-Ardiles v. Noem,* 1:25-cv-01382-MSN-WEF, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Cordero Pelico, et. al. v. Kaiser*, 25-cv-07286-EMC, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025); *Sanchez-Ballesteros v. Noem, et.al.,* 3:25-cv-594-RGJ, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); *Ochoa-Ochoa v. Noem*, 25-cv-10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025).[1]

1. 8 U.S.C. § 1225 or 8 U.S.C. § 1226?

The government asserts that because Petitioner, as an individual present in the U.S. without lawful admission, is deemed by 8 U.S.C. § 1225(a) to be an "applicant for admission," he is inescapably and permanently subject to mandatory detention pursuant to the terms of 8 U.S.C. § 1225, including 8 U.S.C. § 1225(b)(2)(A). The government's analysis fails to recognize the explicit distinctions between Immigration and Nationality Act's (INA) precise classifications

[1] Petitioner has attached as complete a list as possible of the favorable court decisions reviewing this issue as Attachment B. A list of the unfavorable court decisions is attached as Attachment C.

and sub classifications. More specifically, the government's analysis erases a deliberate, congressionally created, subdivision in the larger class of noncitizens classified by law as "applicants for admission." The government then asserts, having erased the subdivision, that the statutory provisions congress explicitly made applicable solely to a *subdivision* of the larger class are now applicable to the entire class.

i. The Statutory Text and the Record of Congressional Intent

In 8 U.S.C. § 1225(a), revised and enacted as section 302 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 (1996) (IIRIRA), Congress defines a large class, that of "applicants for admission" in contrast and opposition to aliens who have been lawfully admitted. Congress created this class in IIRIRA specifically in order to collapse the prior legal distinctions between exclusion and deportation proceedings. Report of the Committee on the Judiciary on H.R. 2202, Report No. 104-469, 225, Part I (March 1996). ("This subsection is intended to replace certain aspects of the current 'entry doctrine,' under which 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 at a port of entry. Hence, the pivotal factor in determining an alien's status will be whether or not the alien has been lawfully admitted.") *Id.* In other words, in IIRIRA, Congress deliberately created and defined the class of "applicants for admission" and explicitly added provisions to 8 U.S.C. § 1182 so as to collapse what it saw as procedural advantages gained by aliens subject to deportation as opposed to exclusion, and to explicitly combine into one single "removal" proceeding all efforts to remove noncitizens unlawfully present in the U.S., regardless of how and when they arrived. With the enactment of IIRIRA Congress intentionally divided all non-citizens into two large classes: admitted aliens and inadmissible aliens. The class of admitted aliens can be further subdivided into admitted aliens

who remain in lawful status, and those admitted aliens who are subject to the grounds of removal found at 8 U.S.C. § 1227, while the class of inadmissible aliens is also known as "applicants for admission" and was also deliberately subdivided by Congress in IIRIRA.

As the statutory language makes clear, while Congress intended to collapse the prior legal distinctions between those who have made an entry, and those who have not, and to combine both exclusion and deportation into one single removal procedure, Congress in 1996 also recognized the constitutional constraints of due process. Consistent with that awareness, IIRIRA draws very careful lines. The class of inadmissible aliens, also known as "applicants for admission" is defined in opposition to the class of "admitted but removable" aliens. IIRIRA added 8 U.S.C. § 1182(a)(6)(A)(i) explicitly to ensure that all noncitizens who had not been lawfully admitted or paroled would be charged with a ground of inadmissibility:

> This subsection will conform the grounds of inadmissibility under section 212(a) with the new doctrine of ''admission'' established in section 301(a) of the bill. Currently, aliens who have entered without inspection are deportable under section 241(a)(1)(B). Under the new ''admission'' doctrine, such aliens will not be considered to have been admitted, and thus, must be subject to a ground of inadmissibility, rather than a ground of deportation, based on their presence without admission. (Deportation grounds will be reserved for aliens who have been admitted to the United States.)

Report of the Committee on the Judiciary on H.R. 2202, Report No. 104-469, 226, Part I (March 1996). But because Congress also explicitly understood the constitutional constraints of due process, the definition of "applicants for admission" includes two separate and clearly identifiable subclasses: A) aliens "present without admission" and B) aliens "who arrive in the United States." 8 U.S.C. § 1225(a). Note that these two groups are parallel, although not identical, to the two groups that under prior law fell within each of the two separate procedures—deportation and exclusion. As part of the enabling regulations, the government precisely defined the second subclass, also known as "arriving aliens." 8 C.F.R. § 1.2.

Congress had solid constitutional reasons for distinguishing between the subclass of "arriving alien" applicants for admission at the nation's borders, and those merely deemed 'applicants for admission' as a legal fiction for purposes of removal proceedings. Principal among those reasons is the recognition that foreign nationals are persons included within the protections of the U.S. Constitution, and that the constitutional requirements of due process are at their strongest when the government is depriving a human person of her liberty:

> But this Court has never held, nor must we now be understood as holding, that administrative officers, when executing the provisions of a statute involving the liberty of persons, may disregard the fundamental principles that inhere in "due process of law" as understood at the time of the adoption of the Constitution.
>
> One of these principles is that no person shall be deprived of his liberty without opportunity at some time to be heard before such officers in respect of the matters upon which that liberty depends -- not necessarily an opportunity upon a regular, set occasion, and according to the forms of judicial procedure, but one that will secure the prompt, vigorous action contemplated by Congress, and at the same time be appropriate to the nature of the case upon which such officers are required to act. Therefore it is not competent for the Secretary of the Treasury or any executive officer, at any time within the year limited by the statute, arbitrarily to cause an alien who has entered the country, and has become subject in all respects to its jurisdiction, and a part of its population, although alleged to be illegally here, to be taken into custody and deported without giving him all opportunity to be heard upon the questions involving his right to be and remain in the United States. No such arbitrary power can exist where the principles involved in due process of law are recognized.

Yamataya v. Fisher (Japanese Immigrant Case), 189 U.S. 86, 100-101 (1903). [As referenced in *Reno v. Flores*, 507 U.S. 292, 306 (1993)]. When Congress drafted and passed IRRIRA, it deliberately chose to define the class of all aliens who have not been lawfully admitted to the U.S. as "applicants for admission." But Congress just as deliberately recognized and enshrined in the statute the two subclasses composing "applicants for admission:" arriving aliens--actual aliens seeking admission—and individuals present in the United States who have not been admitted, who have never sought admission, but who Congress nevertheless deems "applicants

for admission" as a legal fiction. The distinction between these two subclasses is squarely based in the long history of Supreme Court precedent recognizing that A) the requirements of constitutional due process are lowest for those arriving at the nations' borders, and B) aliens arrested and detained within the United States, regardless of how they entered, and especially when they have been present for extended periods, cannot be taken into custody and held arbitrarily. e.g., *Yamataya; Reno v. Flores*. *See also,* the extended discussion of these intertwined issues in *Make the Road New York, el. al. v. Noem* 1:25-cv-190 (D.D.C.) Memorandum Opinion August 29, 2025, pp. 23-25; and *Coalition for Humane Immigrant Rights v. Noem*, 1:25-cv-872 (D.D.C.) Memorandum Opinion August 1, 2025.

It is precisely because of these constitutional due process requirements that, following the combination of "arriving aliens" and "aliens present without admission" into one single class of "applicants for admission" in 8 U.S.C. § 1225(a), Congress carefully distinguishes and focusses on actual "arriving alien" applicants for admission throughout 8 U.S.C. § 1225(b)(1). The provisions of (b)(1)(A) are explicitly applied to any "alien who is arriving" in the U.S.[2] For the same constitutional reasons, Congress deliberately drafted the syntactically convoluted text of 8 U.S.C. § 1225(b)(2)(A) to maintain this distinction between the two sub-classes of "applicants for admission." There is no other explanation for the addition of the "seeking admission" qualifier. The BIA's reading of the text in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), supported and argued to be controlling by the Respondents, renders that 'seeking admission' superfluous. The BIA and Respondents seek to interpret the text to expand the most restricted form of constitutional due process—that provided to non-citizen aliens seeking

[2] Petitioner recognizes that the statute also authorizes the potential inclusion of the special class described in clause (iii). Petitioner would point the Court to the thorough analysis of clause (iii) in *Coalition for Humane Immigrant Rights v. Noem*, 1:25-cv-872 (D.D.C.) Memorandum Opinion August 1, 2025.

admission at the U.S. borders—throughout the entire territory of the United States. In *Landon v. Plascencia*, 459 U.S. 21, 33 (1982) the Supreme Court wrote that "an alien seeking initial admission to the United States requests a privilege, and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Plascencia* at 33. In order to reduce the constitutional rights of noncitizens within the U.S., the BIA and the Defendants would read the "seeking admission" qualifier completely out of the text of § 1225(b)(2)(A). Instead, they prefer to read 8 U.S.C. § 1225(b)(2)(A) to say: "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." In essence, this reading would convert every immigration agent throughout the United States into an examining officer.

But Congress deliberately included that syntactically awkward "seeking admission" phrase to reemphasize that the examination procedures laid out in 8 U.S.C. § 1225 are applicable *at the nation's borders*. Threaded through the Report of the House Judiciary Committee's explication of the text of INA § 235/8 U.S.C. § 1225, are the qualifiers: "arriving alien" "aliens seeking admission" "an alien applying for admission" "aliens arriving". Regarding the (b)(2) provisions at issue here, Congress explicitly applies them to "inspection of other *arriving aliens*". *House Judiciary Report*, *supra*. at 229.

ii. The Implementing Regulations

The regulations published in 1997 by the Respondent departments, agencies and their predecessors, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997), also directly contradict Respondents' current interpretation, and instead squarely support the intended distinction between the two sub-classes of "applicants for admission." To begin, the

caption of 8 C.F.R. § 236 explicitly includes within the scope of its detention provisions *both* inadmissible and deportable aliens. If, as Respondents argue, all "applicants for admission" are always and only covered by the detention provisions of 8 C.F.R. § 235, then which inadmissible aliens is 8 C.F.R. § 236 referencing? As noted above, the primary Congressional purpose for creating the "applicant for admission" class was to separate the "inadmissible" noncitizens, who had never been lawfully paroled or admitted from the "deportable" aliens who had been admitted, but were now removable. Inadmissible aliens and "applicants for admission" are two different terms for the same group of people.

But the caption of 8 C.F.R. § 236 is not the only challenge to Respondents' new interpretation of the statutory language. That is the case because Respondents' predecessor agencies initially proposed regulations which *would have done precisely what Respondents now assert Congress intended.* That is, the proposed regulations published in January 1997 included explicit language stating, with regard to the 8 U.S.C. 1226, "An immigration judge may not exercise authority provided in this section and the review process described in paragraph (d) of this section shall not apply with respect to: (i) inadmissible aliens in removal proceedings." 62 F.R. 444, 483 (January 3, 1997) [236.1(c)(5)(i)]. Had that regulation remained as proposed, the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) would not be novel: instead, it would have been the law for the past nearly thirty years. But in 1997 when the government published the final regulations that proposed language was explicitly and deliberately removed, with the following explanation:

> The supplementary information stated the Department's intended approach, and clause (i) of the proposed regulation was in error. Accordingly, the interim rule removes paragraph (c)(5)(i) of § 236.1 and renumbers the remaining paragraphs (c)(5)(ii), (iii), and (iv). The effect of this change is that inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not.

62 F.R. 10312, 10323 (March 6, 1997). *Compare* 62 F.R. 10312, 10361 [236.1(c)(5)(i)] with 62 F.R. 444, 483 [236.1(c)(5)(i)]. In other words, the BIA's assertion in *Yajure Hurtado* that the Immigration Judges do not have authority to adjudicate bonds *for any inadmissible* alien, (otherwise defined in 8 U.S.C. § 1225(a) as an "applicant for admission") was considered and explicitly rejected when the implementing regulations were published in 1997.

The Ninth Circuit has held that an executive branch agency such as the BIA cannot 'overrule' by adjudication regulations that were promulgated after notice and comment. *Patel v. INS,* 638 F.2d 1199, 1202 (9th Cir. 1980). ["Thus, by adjudication, the Board attempted to add a requirement to the 1973 regulation which had been expressly discarded during its rule-making proceedings."] And yet that is precisely the action that Respondents are here asking this Court to support, as they ask this Court to sustain the BIA's decision in *Yajure Hurtado* that Immigration Judges do not have authority to grant bond to any member of the entire class of "inadmissible aliens" otherwise known as "applicants for admission."[3]

iii. Governing DHS Policy Prior to 2025

The government's argument boils down to the claim that—read and interpreted as they chose to read and interpret the statutory language in 2025—*because Petitioner has not been lawfully admitted, he could only ever, as a matter of law, be detained pursuant to 8 U.S.C. 1225.* But as the above statutory and regulatory history documents, the Respondents' interpretation of the statutory text finds no support in the legislative history, and is directly opposed to the clear choice of the March 1997 implementing regulations. For the last nearly thirty years, the government policy has been that DHS has the right to choose how it wishes to detain and process

[3] The Motion to Reconsider filed by Respondent Yajure Hurtado with the BIA cites these and other reasons, such as mootness, in arguing that the BIA should reconsider this decision as improvidently issued and contrary to the law. A redacted copy of this Motion to Reconsider is filed at Attachment C, for this court's consideration.

individuals who are encountered in the U.S. near the U.S. border, *and that the* provisions of 8 U.S.C. §1226(a) applied to all individuals present without admission who are encountered for the first time within the interior of the United States. This is supported by the judge's finding in *Cordero Pelico v. Kaiser,* 3:25-cv-07286-EMC (N.D. Cal. Oct. 3, 2025):

> [T]he government has conceded in other contexts that "DHS's long-standing interpretation has been that 1226(a) [discretionary detention] applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended." Dkt. No. 17 (citing Solicitor General, Transcript of Oral Argument at 44:24–45:2, Biden v. Texas, 597 U.S. 785 (2022) (No. 21-954)). And in its briefing before this Court, the Government acknowledges that "until recently," it considered § 1226(a) to be an available detention authority for noncitizens who might also be subject to § 1225.

Cordero Pelico, at 6. *See also, Martinez v. Hyde,* 1:25-cv-11613-BEM, at 9, ftnt 9.

Petitioner Rojas Medina entered the U.S. without inspection. He was encountered by Customs and Border Patrol, and released from detention. Petitioner has been residing in the United States without incident since 2022. The government has issued no arrest warrant, and when Petitioner was detained, he was in valid TPS status. There was no legal basis for Petitioner's arrest and detention. Respondents do not assert that Petitioner has at any point in time applied for admission into the United States. Respondents merely assert that Congress in 1996 intended the entire class of "applicants for admission" without regard to subclass, to be subject to mandatory detention.

The U.S. Supreme Court's analysis of 8 U.S.C. 1225 and 1226 in *Jennings v. Rodriguez,* 583 U.S. 281, (2018) recognizes the distinctions at issue, stating:

> In sum, U. S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§1226(a) and (c).

Jennings at 289. Note the clear recognition that while "aliens seeking admission" (or arriving aliens, as defined in the regulations) are subject to detention under §§1225(b)(1) and (b)(2), "aliens already in the country may be detained . . . under §§1226(a) and (c)." The Supreme Court further wrote "As 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." *Id.* at 303. In other words, the Supreme Court in *Jennings* recognized that 8 U.S.C. §1225(b) applied only to the subclass of "applicants for admission" who were actually "seeking admission" at the border. The other subclass of "applicants for admission," "an alien present . . . who has not been admitted" or "certain aliens already in the country" or "aliens already in the country" may be detained under §1226(a). *Jennings* does not support a legal conclusion that individuals who are not seeking admission, who are already present in the country, who have never sought admission, are subject to detention pursuant to 8 U.S.C. § 1225.

The governments' argument amounts to an implicit assertion that for nearly thirty years, the regulations stating that inadmissible aliens detained within the United States were subject to detention pursuant to 8 U.S.C. § 1226(a) were unlawful, ultra vires. But merely because Congress has suddenly granted the U.S. government enormous sums of money to fund detention does not magically erase all the government's prior regulatory choices. The governments' implicit argument that its policies and procedures over the past 29 years have been invalid and illegal, and the Respondents' argument that the statutory language can only be read as they now propose to read it, are unsupported by the Congressional record or the statutory text, and at its core the agency's new interpretation is nothing more than an invalid and unconstitutional attempt by an executive branch agency to impose via adjudication a statutory interpretation rejected in

the Congressional Record and thereafter proposed and then explicitly rejected as part of the implementing regulations.

B. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully asks that this Court grant his Petition for a Writ of Habeas Corpus, and order Respondents to release him immediately. In the alternative, Petitioner asks this Court to order Respondents to provide him with a bond hearing and allow him to post the bond as ordered by the Immigration Judge within no more than ten days.

Petitioner further respectfully requests that this court declare that his re-detention by ICE without any showing of changed circumstances or individualized determination of danger or flight risk will violate the Due Process Clause of the Fifth Amendment.

Petitioner also respectfully requests that this Court issue an Order prohibiting the Respondents from transferring Petitioner from the district prior to his release, and, finally,

Petitioner requests that this Court award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under the law; and

Grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED this 12th day of November, 2025.

STOWELL CRAYK PLLC

/s/ Marti L. Jones

/s/ Adam L. Crayk
Attorneys for Petitioner

/s/ Kaleb D. Anderson
Garin Law Group, Local Counsel

ATTACHMENTS

A. Timeline of 2023 TPS actions and decisions

B. List of District Court Cases holding detention is pursuant to 8 U.S.C. 1226(a) and not 8 U.S.C. 1225(b)(2)

C. List of District Court Cases holding otherwise.