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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ALFONSO GUERRA SUTUJ,

Petitioner,

v.

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; TODD M. LYONS, Acting Director of Immigration and Customs Enforcement, Newark Field Office, Immigration and Customs Enforcement; LUIS SOTO, Director, Delaney Hall Detention Facility,

Respondents.

Case No. 25-17169

REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

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INTRODUCTION

The facts of the matter are not in dispute. Mr. Guerra Sutuj is a native of Guatemala who was arrested by ICE officers during a vehicle stop at [redacted] Cliffside Park, New Jersey. He is being held by ICE without bond due to ICE and the Board of Immigration Appeals' ("BIA") interpretation of "applicants for admission" that was rejected by this Court in *Ayala Amaya v. Bondi*, No. 25-16428 (D.N.J. 2025) and, most recently, *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025). The Court should continue to reject this line of reasoning and order the Petitioner released or that he is entitled to a bond hearing under 8 U.S.C. § 1226(a).

ARGUMENT

I. THE COURT HAS JURISDICTION TO HEAR PETITIONER'S CLAIM

Under 28 U.S.C. § 2241(c), habeas relief may be extended to a prisoner only when he "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). A federal court has jurisdiction over such a petition if the petitioner is "in custody" and the custody is allegedly "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *Maleng v. Cook*, 490 U.S. 488, 490 (1989).

Petitioner was detained within the District of New Jersey when he filed the Petition, and he asserts that his continued detention violates due process. Therefore, the Court has jurisdiction over his claims. *Trump v. J. G. G.*, 604 U.S. 670, 3 672 (2025) (per curiam) (noting jurisdiction for "core habeas petitions" lies in the district of confinement).

II. PLAINTIFF IS DETAINED UNDER § 1226(a) NOT UNDER § 1225(b)(2)

The deprivation of Mr. Guerra Sutuj's liberty springs from new and novel interpretations of the Immigration and Nationality Act ("INA") that have come to the fore over the past few months. Despite the language of the statute, Congressional intent in enacting Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), agency regulations, and longstanding agency

practice, on July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last accessed August 4, 2025). DHS has determined that section 1225 of the Immigration and Nationality Act (INA), rather than section 1226, is the applicable immigration detention authority for all applicants for admission.

As a result, DHS began to consider *all* noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents, subject to mandatory detention under § 1225(b) and ineligible for release on bond. Thus, according to DHS "[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under [§ 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under [8 U.S.C. § 1227], with the exception of those subject to mandatory detention under [§ 1226(c)]." *Id.*

Because DHS's position lacked a precedential basis at that time, some bond proceedings continued for those, like Mr. Guerra Sutuj, who entered the United States without inspection. However, on September 5, 2025, the BIA decided that their new "plain language" reading of the statute confirmed DHS's position in its July 8th memo that all of those who entered the United States without inspection were applicants for admission, and, so, their detention was mandatory under § 1225(b)(2). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

However, this Court need not and should not give deference to the BIA's novel and erroneous interpretation of the INA's detention statutes. *See Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) (observing that while "agencies have special competence in resolving

statutory ambiguities," "[c]ourts do"); *see also Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944) (explaining that the "weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control"). As explained by the District Court in *Salcedo Aceros v. Kaiser, et al.*, the BIA's "current position is inconsistent with its earlier pronouncements" which took the opposite position, and under *Loper*, "the Court has no obligation to defer to the BIA's view, particularly when that view has not 'remained consistent over time.'" 2025 WL 2637503, at *9 (N.D. Cal. Sept. 12, 2025) (quoting *Loper*, 603 U.S. at 386; citing *Skidmore*, 323 U.S. at 140).

Thus, this Court can and should reject the BIA's interpretation of the INA in *Matter of Yajure Hurtado* as the BIA's interpretation is inconsistent with the text of § 1226 and § 1225, Congress's intent in enacting the IIRIRA in 1996, agency regulations, and long-standing agency practice.

a. Legislative History, EOIR Regulations, and DHS Practice

The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(c) as most recently amended earlier this year by the Laken Riley Act ("LRA"), Pub. L. No.119-1, 139 Stat. 3 (2025). The legislative history of IIRIRA also supports a limited construction of § 1225 and the conclusion that § 1226(a) applies to Mr. Guerra Sutuj.

In passing IIRIRA, Congress was focused on the perceived problem of recent arrivals to the United States who do 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 Mr. Guerra Sutuj were not subject to mandatory detention. *See* 8 U.S.C. § 1252(a)(1) (1994) (authorizing Attorney General to arrest noncitizens for deportability proceedings, which applied to all persons within the United States). 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). But to the extent it addressed the matter, Congress explained precisely the opposite, noting that the new § 1226(a) merely "restates the current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] *who is not lawfully in the United States*." H.R. Rep. No. 104-469, pt. 1, at 229 (emphasis added); *see also* H.R. Rep. No. 104-828, at 210 (same).

Following enactment of the IIRIRA, the Executive Office of Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* 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). Specifically, EOIR explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323.

In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also consistent with the practice prior to the enactment of IIRIRA, in which noncitizens who were

not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)). 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). Thus, the legislative history, agency regulations enacted at the time of IIRIRA's passage, and long-standing agency practice demonstrate that § 1226(a) detention was meant to apply and did in fact, apply to people who were present in the interior of the United States after entering the country without inspection both prior to IIRIRA and in the past thirty years after its enactment.

b. The Statute

The INA prescribes three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. §1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 U.S.C. §1226(a). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 11226.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. §1226(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. §1225(b)(1) and for other *recent arrivals* seeking admission referred to under 8 U.S.C. §1225(b)(2). Finally, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

The plain text of § 1226 demonstrates that it, not § 1225(b), applies to Mr. Guerra Sutuj's detention. Section 1226(a), "provides the general process for arresting and detaining [noncitizens] who are present in the United States and eligible for removal." *Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citation omitted). As the Supreme Court has remarked, § 1226(a), "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a[] [noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1226(a)). Section 1226(c) carves out a statutory category of noncitizens for whom detention is mandatory, consisting of individuals who have committed certain "enumerated . . . criminal offenses [or] terrorist activities." 8 U.S.C. § 1226(c). Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. *See* 8 U.S.C. § 1226(c)(1)(A), (D), (E). This is in stark contrast with mandatory detention provision under 8 U.S.C. § 1225(b)(2), which "supplement[s] § [1226's] detention scheme." *Diaz,* 53 F.4th at 1197. Section 1225(b) "applies primarily to [noncitizens] seeking entry into the United States ('applicants for admission' in the language of the statute)." *Jennings*, 583 U.S. at 297; *see* 8 U.S.C. § 1225(b) (entitled "Inspection of applicants for admission").

Thus, the plain text of § 1226(a) applies to noncitizens like Mr. Guerra Sutuj. The fact that § 1226(a) is the default rule for arrest and detention and that section (c) carves out exceptions for inadmissible noncitizens further demonstrates that the discretionary bond procedures apply to noncitizens like Mr. Guerra Sutuj who are present without being admitted or paroled and have not been implicated in any crimes set forth in subsection (c). The Supreme Court has held that when Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent

those exceptions, the statute generally applies. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010).

The recent enactment of Laken Riley Act ("LRA") further supports this finding. The Act added language to § 1226(c) that directly references people who have entered without inspection or who are present without authorization. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Pursuant to these amendments, noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A) (the inadmissibility ground for entry without inspection) or 8 U.S.C. § 1182(a)(7)(A) (the inadmissibility ground for lacking valid documentation to enter the United States) *and* who have been arrested, charged with, or convicted of new certain crimes (not previously covered by INA § 1226(c)) are now subject to § 1226(c)'s mandatory detention provisions. *See* 8 U.S.C. § 1226(c)(1)(E). By including such individuals under § 1226(c), Congress reaffirmed that § 1226(a) covers noncitizens who are not subject to section (c) but are charged as removable under § 1182(a)(6)(A) or 1182(a)(7). *Gieg v. Howarth*, 244 F.3d 775, 776 (9th Cir. 2001) ("[w]hen Congress acts to amend a statute, [courts] presume it intends its amendment to have real and substantial effect.").

If § 1226(a) did not apply to Mr. Guerra Sutuj—like the BIA contends—vast portions of the § 1226 would be rendered meaningless. This is because the BIA contends that noncitizens like Mr. Guerra Sutuj who entered without inspection are really "applicants for admission" and therefore subject to mandatory detention under § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). Courts have made it clear that statutes must be interpreted as a whole, "giving effect to each word and making every effort not to interpret a provision in a manner that renders other provisions of the same statute inconsistent, meaningless or superfluous." *Shulman v. Kaplan*,

58 F.4th 404, 410–11 (9th Cir. 2023) (quoting *Rodriguez v. Sony Computer Ent. Am., LLC*, 801 F.3d 1045, 1051 (9th Cir. 2015)).

It is noteworthy that "[w]hen Congress adopts a new law against the backdrop of a longstanding administrative construction," courts "generally presume[] the new provision should be understood to work in harmony with what has come before." *Monsalvo Velazquez v. Bondi*, 145 S. Ct. 1232, 1242 (2025) (internal quotation marks omitted). Here, the BIA's sudden reversal, particularly after Congress just recently amended § 1226 to include the LRA provisions—further undermines the argument that the detention authority for noncitizens like Mr. Guerra Sutuj lies under § 1225(b) instead of § 1226(a).

Furthermore, § 1225(b)(A) concerns a completely different category of noncitizens. In *Jennings*, the Supreme Court discussed § 1225 as part of a process that "generally begins at the Nation's borders and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible." 583 U.S. at 287. As for § 1226, *Jennings* described it as governing "the process of arresting and detaining" noncitizens who are living "inside the United States" but "may still be removed," including noncitizens "who were inadmissible at the time of entry." *Id.* at 288. The Court then summarized the distinction as follows: "In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ [1225](b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] *already in the country pending the outcome of removal proceedings* under §§ [1226](a) and (c)." *Id.* at 289 (emphasis added); *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (a noncitizen "who *tries to enter* the country illegally is treated as an applicant for admission . . . and a [noncitizen] who is detained *shortly after unlawful entry* cannot be said to have effected an entry") (emphasis added) (cleaned up).

The BIA's newfound position misconstrues the phrase "applicant for admission" to suggest that every person, other than those who have been admitted, are subject to mandatory detention. Section 1225(a)(1) defines an "applicant for admission" as a person who is "present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). According to the BIA, § 1225(b)(1) generally applies to arriving aliens and § 1225(b)(2) serves as a broader catchall provision for all applicants for admission not covered by § 1225(b)(1). *See Matter of Yajure Hurtado* at 218. In other words, that every noncitizen who entered without parole or inspection is an "applicant for admission" per § 1225(a)(1) and is therefore subject to mandatory detention. However, § 1225(b)(2)(A) states in full that:

> 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. Id.* (emphasis added).

Thus, for § 1225(b)(2)(A) to apply, several conditions must be met—in particular, an "examining immigration officer" must determine that the individual is: (1) an "applicant for admission"; (2) "seeking admission"; and (3) "not clearly and beyond a doubt entitled to be admitted." The BIA's position conveniently overlooks these conditions and treats "applicants for admission" the same as those "seeking admission." The phrase "seeking admission" is undefined in the statute but necessarily implies some sort of present-tense action. *See Matter of M-D-C-V-*, 28 I. & N. Dec. 18, 23 (BIA 2020) ("The 'use of the present progressive, like use of the present participle, denotes an ongoing process.'" (quoting *Al Otro Lado v. Wolf*, 952 F.3d 999, 1011-12 (9th Cir. 2020))). Indeed, only those who take affirmative acts, like submitting an "application for admission," or presenting themselves at a port of entry asking to enter the country, are those that can be said to be "seeking admission" within § 1225(b)(2)(A).

By limiting (b)(2) to those "seeking admission," Congress confirmed that it did not intend to sweep into this section individuals like Mr. Guerra Sutuj who have already entered and are now residing in the United States. *See Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc) (holding that an individual submits an "application for admission" only at "the moment in time when the immigrant actually applies for admission into the United States.")[1] Accordingly, § 1225(b)(2)'s reference to "applicants for admission" must be read in their context and a view to their place in the overall statutory scheme." *San Carlos Apache Tribe v. Becerra*, 53 F.4th 11226, 1240 (9th Cir. 2022) (citation omitted); *see also King v. Burwell*, 576 U.S. 473, 492 (2015) (looking to an act's "broader structure . . . to determine [the statute's] meaning").

The Board's recent decision in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025) reinforces this position. The Board held that a noncitizen who was apprehended "approximately 5.4 miles away from a designated port of entry and 100 yards north of the border" was detained under § 1225(b) and not § 1226(a). *Id.* at 67. In other words, the noncitizen was apprehended upon arrival. The Board then explained that such persons are properly treated as "arriv[ing] in the United States," given that they are "detained shortly after unlawful entry," and "'[are] apprehended' just inside' the southern border, and not at a point of entry, on the same day [they] crossed into the United States.'" *Id.* at 68 (quoting *Matter of M-D-C-V-*, 28 I. &. N. Dec. 18, 23 (BIA 2020)). Notably, the Board's decision supports the argument that § 1226(a) "applies to [noncitizens] already present in the United States," while § 1225(b) "applies primarily to [noncitizens] seeking entry into the

[1] In *Torres*, the en banc Court of Appeals rejected the idea that § 1225(a)(1) means that anyone who is presently in the United States without admission or parole is someone "deemed to have made an actual application for admission." *Id.* (emphasis omitted).

United States and authorizes DHS to detain a[] [noncitizen] without a warrant at the border." *Id.* at 70 (internal quotation marks omitted).

The broader statutory structure of immigration detention authority also demonstrates the inapplicability of § 1225(b) to Mr. Guerra Sutuj's case. *See King*, 576 U.S. at 492 (explaining that an act's "broader structure" can be a useful tool "to determine [a statute's] meaning."); *see also Biden v. Texas*, 597 U.S. 785, 799–800 (2022) (looking to statutory structure to inform interpretation of INA provision). This is particularly true where "a provision . . . may seem ambiguous in isolation." *United Sav. Ass'n of Tex. v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 371 (1988). In such situations, the statute's meaning "is often clarified by the remainder of the statutory scheme . . . because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law." *Id.*

The broader text of § 1225 reinforces this understanding of the two sections' structure and application. § 1225 concerns "expedited removal of inadmissible *arriving* [noncitizens]." 8 U.S.C. § 1225 (emphasis added). Paragraph (b)(1) encompasses only the "inspection" of certain "arriving" noncitizens and other recent entrants the Attorney General designates, and only those who are "inadmissible" for having misrepresented information to an inspecting officer or for lacking documents to enter the United States. Paragraph (b)(2) is similarly limited to people applying for admission when they arrive in the United States. The title explains that this paragraph addresses the "[i]nspection of other [noncitizens]," i.e., those noncitizens who are "seeking admission," but whom (b)(1) does not address. *Id.* § 1225(b)(2), (b)(2)(A).

By limiting (b)(2) to those "seeking admission," Congress confirmed that it did not intend to sweep into this section individuals like Mr. Guerra Sutuj who have already entered and are now residing in the United States. Otherwise, the language "seeking admission" in § 1225(b)(2) would

serve no purpose, as the statute specifies that it is addressing a person who is both an "applicant for admission" and who is determined to be "seeking admission." *Id.*

Furthermore, subparagraph (b)(2)(C) addresses the "[t]reatment of [noncitizens] arriving from contiguous territory," i.e., "the case of [a noncitizen] . . . who is arriving on land." 8 U.S.C. § 1225(b)(2)(C). This language further underscores Congress's temporal requirements in § 1225 and focus on those who are arriving into the United States. Similarly, the title of § 1225 refers to the "inspection" of "inadmissible arriving" noncitizens. *See, e.g., Dubin v. United States*, 599 U.S. 110, 120–21 (2023) (relying on section title to help construe statute).

Finally, the entire statute is premised on the idea that an inspection occurs near the border and shortly after arrival, as the statute repeatedly refers to "examining immigration officer[s]," 8 U.S.C. § 1225(b)(2)(A), (b)(4), and sets out procedures for "inspection[s]" of people "arriving in the United States," *Id.* § 1225(a)(3), (b)(1), (b)(2), (d). Thus, the text of the § 1226 and § 1225 when construed in isolation and together within the broader statutory scheme demonstrate definitively that Mr. Guerra Sutuj can only be detained under § 1226(a).

In sum, the Immigration Court's refusal to hear Mr. Guerra Sutuj's bond motion pursuant to the BIA's novel and erroneous interpretation of the INA's detention statutes cannot be squared with the legislative history of IIRIRA, the LRA amendments, EOIR regulations enacted soon after IIRIRA's passage, DHS and the BIA's own positions on the INA's detention authorities for the past thirty years, and the language of § 1226 and § 1225 of the INA.

The vast majority of courts who have confronted this issue, including this one, have found the BIA's interpretation to contradict the plain text of § 1225. *See, e.g., Ayala Amaya v. Bondi et. al.*, No. 25-16428 (D.N.J. 2025) and, most recently, *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*,

No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025); *Soto v. Soto, et al.*, No. 25–cv–16200, 2025 WL 2976572, at *5 (D.N.J. Oct. 22, 2025); *Belsai D.S. v. Bondi*, No. 25–cv–03682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Quispe v. Crawford*, No. 25–cv–01471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Savane v. Francis*, No. 25–cv–06666, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *Zumba v. Bondi*, No. 25–cv–14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Salazar v. Dedos*, No. 25–cv–00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Lepe v. Andrews*, No. 25–cv–01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Roman v. Noem*, No. 25–cv–01684, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. 25–cv–04048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Singh v. Lewis*, No. 25–cv–00096, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Barrera v. Tindall*, No. 25–cv–00541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Hasan v. Crawford*, No. 25–cv–01408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Vazquez v. Feeley*, No. 2:25–cv–01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Garcia Cortes v. Noem*, No. 25–cv–02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Lopez Santos v. Noem*, No. 25–cv–01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Perez v. Kramer*, No. 25–cv–03179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Pizarro Reyes v. Raycraft*, No. 25–cv–12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Hinestroza v. Kaiser*, No. 25–cv–07559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25–cv–00326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *J.O.E. v. Bondi*, No. 25–cv–03051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 25–cv–02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos v. Raycroft*, No. 25– cv–12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Lopez Benitez*, 2025 WL 2371588.

Because of the BIA's mistaken interpretation, Mr. Guerra Sutuj has been deprived of his statutory rights resulting in a deprivation of his physical liberty. This Court should either order his release or that the Immigration Court must hold a bond hearing.

CONCLUSION

Mr. Guerra Sutuj's detention under § 1225(b)(2)(A) violates his rights under the Immigration and Nationality Act and his due process rights. The Court should remedy this violation by either ordering his immediate release or an order holding that Mr. Guerra Sutuj is detained under § 1226(a) and require that the Immigration Court hold a bond hearing.

DATED this 29 of November 2025

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