

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JORGE LUIS CULCAY VELETANGA,

Petitioner,

v.

KRISTI NOEM, in her Official Capacity as the
Secretary of the U.S. Department of Homeland
Security, *et al.*,

Respondents.

No. 25 Civ. 9211 (NSR)

**RESPONDENTS' MEMORANDUM OF LAW IN OPPOSITION
TO PETITION FOR WRIT OF HABEAS CORPUS**

JAY CLAYTON
United States Attorney for the
Southern District of New York
Attorney for Respondents
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel: (212) 637-2663

JENNIFER JUDE
Assistant United States Attorney
– Of Counsel –

TABLE OF CONTENTS

Preliminary Statement..... 1

Factual Background 5

 I. Petitioner’s Immigration, Detention, and Criminal History 5

 II. The Habeas Petition and Procedural Background 6

Argument 7

 I. Petitioner Is Lawfully Detained Pursuant to Section 1225(b) and Not Entitled to a Bond Hearing 7

 II. Petitioner’s Detention Comports With Due Process..... 11

 III. Alternatively, Petitioner Is Lawfully Detained Under Section 1226(c) 15

 IV. Should the Court Determine That Petitioner Is Detained Pursuant to Section 1226(a), Petitioner May Challenge His Detention Through a Bond Hearing 17

Conclusion 19

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Abbey v. Sullivan</i> , 978 F.2d 37 (2d Cir. 1992).....	19
<i>Abel v. United States</i> , 362 U.S. 217 (1960).....	1
<i>Agustin v. Joyce</i> , 2025 WL 3564494 (S.D.N.Y. December 12, 2025)	8
<i>Al-Thuraya v. Warden</i> , 2025 WL 2858422 (S.D.N.Y. Oct. 9, 2025)	14, 15
<i>Araujo-Cortes v. Shanahan</i> , 35 F. Supp. 3d 533 (S.D.N.Y. 2014).....	19
<i>Beharry v. Ashcroft</i> , 329 F.3d 51 (2d Cir. 2003).....	19
<i>Black v. Decker</i> , 103 F.4th 133 (2d Cir. 2024)	14, 16, 17
<i>Camreta v. Greene</i> , 563 U.S. 692 (2011).....	14
<i>Capunay Guzman v. Joyce</i> , 786 F. Supp. 3d 865 (S.D.N.Y. 2025).....	19
<i>Carlson v. Landon</i> , 342 U.S. 524 (1952).....	13
<i>Castillo Lachapel v. Joyce</i> , 786 F.Supp.3d 860 (S.D.N.Y. 2025).....	19
<i>Chavez v. Noem</i> , 2025 WL 2730228 (S.D.Cal. Sept. 24, 2025).....	10
<i>Comes v. DeLeon</i> , 2025 WL 3206491 (S.D.N.Y. Nov. 14, 2025).....	8
<i>Cruz-Miguel v. Holder</i> , 650 F.3d 189 (2d Cir. 2011).....	18

D.A.V.V. v. Warden, Irwin County Detention Center,
2020 WL 13240240 (M.D. Ga. Dec. 7, 2020) 12

Demore v. Kim,
538 U.S. 510 (2003)..... 2, 13

DHS v. Thuraissigiam,
591 U.S. 103 (2020)..... 4, 9

Fontanelli ex rel. Bernal Garcia v. Francis,
2025 WL 2773234 (S.D.N.Y. Sept. 29, 2025)..... 19

Gonzales Garcia v. Rosen,
513 F. Supp. 3d 329 (W.D.N.Y. 2021) 12

Gonzalez v. Joyce,
2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025) 8

Guzman Andujar v. Ladeon Francis,
2025 WL 3215597 (S.D.N.Y. Nov. 18, 2025)..... 8

Guzman Cardenas v. Almodovar,
2025 WL 3215573 (S.D.N.Y. Nov. 18, 2025)..... 8

Guzman v. Tippy,
130 F.3d 64 (2d Cir. 1997)..... 11

Hing Sum v. Holder,
602 F.3d 1092 (9th Cir. 2011) 2

Huamani v. Francis,
2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025)..... 8

In re Joseph,
22 I. & N. Dec. 799 (BIA 1999) 16

J.G.O. v. Francis,
2025 WL 3040142 (S.D.N.Y. Oct. 28, 2025) 8

Jennings v. Rodriguez,
583 U.S. 281 (2018)..... passim

Johnson v. Guzman Chavez,
594 U.S. 523 (2021)..... 5, 17

Judulang v. Holder,
565 U.S. 42 (2011)..... 2

Landon v. Plasencia,
459 U.S. 21 (1982)..... 2, 13

Lopez Benitez v. Francis,
2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025)..... 8

Martinez v. Att’y General of U.S.,
693 F.3d 408 (3d Cir. 2012)..... 3

Matter of Adeniji,
22 I. & N. Dec. 1102 (BIA 1999) 5

Matter of Cabrera-Fernandez,
28 I. & N. Dec. 747 (BIA 2023) 17

Matter of D-J-,
23 I. & N. Dec. 572 (A.G. 2003) 5

Matter of Guerra,
24 I. & N. Dec. 37 (BIA 2006) 18

Matter of Yajure Hurtado,
29 I. & N. Dec. 216 (BIA 2025) 2, 3, 9

Mendez Ramirez v. Decker,
612 F. Supp. 3d 200 (S.D.N.Y. 2020)..... 12

Nian Liu v. Almodovar,
2025 WL 3458633 (S.D.N.Y. Dec. 2, 2025) 8

Nielsen v. Preap,
586 U.S. 39t2 (2019)..... 17

Ortega-Cervantes v. Gonzales,
501 F.3d 1111 (9th Cir. 2007) 18

Ortiz-Lopez v. Francis,
25 Civ. 7895 (KPF), ECF No. 14 (S.D.N.Y. Nov. 6, 2025) 8

Poonjani v. Shanahan,
319 F. Supp. 3d 644 (S.D.N.Y. 2018)..... 12

Quinteros Moran v. Joyce,
25 Civ. 9645 (GBD), ECF No. 17 (Dec. 15, 2025) 13

Reno v. Flores,
507 U.S. 292 (1993)..... 13

Rueda Torres v. Francis,
2025 WL 3168759 (S.D.N.Y. Nov. 13, 2025)..... 8

Salim v. Tryon,
2014 WL 1664413 (W.D.N.Y. Apr. 25, 2014)..... 12

Samb v. Joyce,
2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025)..... 8

Savane v. Francis,
2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025)..... 15

Shaughnessy v. United States ex rel. Mezei,
345 U.S. 206 (1953)..... passim

Sun v. Almodovar,
2025 WL 3241268 (S.D.N.Y. Nov. 20, 2025)..... 8

U.S. ex rel. Knauff v. Shaughnessy,
338 U.S. 537 (1950)..... 9, 11, 12

U. S. ex rel. Kordic v. Esperdy,
386 F.2d 232 (2d Cir. 1967)..... 9

Vargas Lopez v. Trump,
2025 WL 2780351 (C.D.Cal. Nov. 20, 2025)..... 10

Velasco Lopez v. Decker,
978 F.3d 842 (2d Cir. 2020)..... 2, 13, 18

Wong Wing v. United States,
163 U.S. 228 (1896)..... 13

Zadvydas v. Davis,
533 U.S. 678 (2001)..... 9, 12, 15

Statutes

8 U.S.C. § 1101(a)(13)..... 2

8 U.S.C. § 1101(a)(13)(A) 3, 4

8 U.S.C. § 1182(d)(5)(A)..... 4, 7, 10, 14

8 U.S.C. § 1182(a)(6)..... 7, 16
 8 U.S.C. § 1182(a)(6)(A) 15
 8 U.S.C. § 1182(a)(6)(C) 15
 8 U.S.C. § 1182(a)(6)(A)(i) 6
 8 U.S.C. § 1182(a)(7)..... 15
 8 U.S.C. § 1225 2, 7
 8 U.S.C. § 1225(a)(1)..... 3, 7, 9
 8 U.S.C. § 1225(a)(3)..... 4
 8 U.S.C. § 1225(a)-(b) 2
 8 U.S.C. § 1225(b) 8
 8 U.S.C. § 1225(b)(1) 7
 8 U.S.C. § 1225(b)(1)(A)(i) 8
 8 U.S.C. § 1225(b)(2) 8
 8 U.S.C. § 1225(b)(2)(A)..... passim
 8 U.S.C. § 1226..... 2, 7
 8 U.S.C. § 1226(a) 4, 5, 17
 8 U.S.C. § 1226(a)(1)..... 5, 17
 8 U.S.C. § 1226(a)(2)..... 17
 8 U.S.C. § 1226(a)(2)(B) 18
 8 U.S.C. § 1226(b) 18
 8 U.S.C. § 1226(c) 16
 8 U.S.C. § 1226(c)(1)(E)..... 15
 8 U.S.C. § 1226(c)(1)(E)(i)..... 15
 8 U.S.C. § 1226(c)(1)(E)(ii)..... 16
 8 U.S.C. § 1229a..... 4, 7, 10
 8 U.S.C. § 1231 2, 7
 8 U.S.C. § 1251 2
 8 U.S.C. § 1252(a)(1)..... 2

Regulations

8 C.F.R. § 212.5(b) 10
 8 C.F.R. § 235.1 4
 8 C.F.R. § 235.3(c)..... 10
 8 C.F.R. § 236.1(c)(8)..... 17
 8 C.F.R. § 236.1(d)(1)..... 18
 8 C.F.R. § 1003.1(g) 9
 8 C.F.R. § 1003.19 18
 8 C.F.R. § 1003.19(d) 5, 18
 8 C.F.R. § 1003.19(h)(2)(ii)..... 16
 8 C.F.R. § 1236.1(c)(8)..... 17
 8 C.F.R. § 1236.1(d) 1

Other Authorities

18 Moore’s Fed. Prac. § 134.02[1][d] (3d ed. 2011) 14
 Pub. L. No. 104-208..... 3

Pub. L. No. 107-296..... 5
Pub. L. No. 119-1..... 15

Respondents (the “Government”) respectfully submit this memorandum of law in opposition to the Petition for Writ of Habeas Corpus, ECF No. 1 (the “Petition” or “Pet.”), filed on behalf of petitioner Jorge Luis Culcay Veletanga (“Petitioner”).

PRELIMINARY STATEMENT

Petitioner is an Ecuadoran national and applicant for admission to the United States. On September 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”) took Petitioner into custody after being notified that he had been arrested by local law enforcement for various charges, issued him a Notice to Appear that commenced removal proceedings against him, and transferred him to the Orange County Jail, where he remains pending resolution of his removal proceedings.

On November 5, 2025, counsel for Petitioner filed the Petition and an Application for an Order to Show Cause on his behalf. ECF Nos. 1, 3. In those filings, Petitioner asserts that he is not subject to mandatory detention and that his detention without a bond hearing violates his due process rights. The Petition should be denied. Because Petitioner is an applicant for admission in removal proceedings, under precedent from the Board of Immigration Appeals, Petitioner is detained under Section 1225(b)(2)(A) and thus subject to mandatory detention and potential release only on discretionary parole. Petitioner is also subject to mandatory detention under Section 1226(c)(1)(E) because he has convictions for robbery and larceny. To the extent the Court determines Petitioner is instead detained pursuant to Section 1226(a), as Petitioner asserts, Petitioner would then be entitled to request a bond hearing, which would afford him sufficient process to contest his detention. Accordingly, the Court should deny the Petition.

LEGAL BACKGROUND

For more than a century, the immigration laws have authorized immigration officials to arrest aliens subject to removal and detain them during their removal proceedings. *See Abel v. United States*, 362 U.S. 217, 233-34 (1960). In the INA, Congress has enacted a multi-layered

statutory scheme for the civil detention of aliens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. “Detention during removal proceedings is a constitutionally valid aspect of the deportation process.” *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)).

Prior to 1996, the INA treated aliens differently based on whether the alien had *physically* “entered” the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-23 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *see Judulang v. Holder*, 565 U.S. 42, 45-46 (2011) (“Before 1996, these two kinds of action occurred in different procedural settings, with an alien seeking entry (whether for the first time or upon return from a trip abroad) placed in an ‘exclusion proceeding’ and an alien already here channeled to a ‘deportation proceeding.’”) (citing *Landon v. Plasencia*, 459 U.S. 21, 25-26 (1982)). “Entry” referred to “any coming of an alien into the United States,” 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) “dictated what type of [removal] proceeding applied” and whether the alien would be detained pending those proceedings, *Hing Sum v. Holder*, 602 F.3d 1092, 1099 (9th Cir. 2011).

An alien who arrived at a port of entry would be placed in “exclusion proceedings and subject to mandatory detention, with potential release solely by means of a grant of parole.” *Hurtado*, 29 I. & N. Dec. at 223; *see* 8 U.S.C. § 1225(a)-(b) (1995); *id.* § 1226(a) (1995). By contrast, an alien who physically entered the United States unlawfully would be placed in deportation proceedings. *Id.*; *Judulang*, 565 U.S. at 45. Aliens in deportation proceedings, unlike those in exclusion proceedings, “were entitled to request release on bond.” *Hurtado*, 29 I. & N. Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)).

Thus, the INA's prior framework distinguishing between aliens based on physical "entry" had

the 'unintended and undesirable consequence' of having created a statutory scheme where aliens who entered without inspection 'could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,' *including the right to request release on bond*, while aliens who had 'actually presented themselves to authorities for inspection . . . were subject to mandatory custody.

Hurtado, 29 I. & N. Dec. at 223 (emphasis added) (quoting *Martinez v. Att'y General of U.S.*, 693 F.3d 408, 413 n.5 (3d Cir. 2012)); H.R. Rep. No. 104-469, pt. 1, at 225 (1996) ("House Rep.") ("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").

Congress discarded that regime through enactment of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996). IIRIRA replaced the focus on physical "entry" with a focus on lawful "admission." IIRIRA defined "admission" to mean "the *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) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the "pivotal factor in determining an alien's status" would be "whether or not the alien has been *lawfully* admitted." House Rep. at 226 (emphasis added). IIRIRA also eliminated the exclusion-deportation dichotomy and consolidated both sets of proceedings into "removal proceedings." *Hurtado*, 29 I. & N. Dec. at 223.

Post-IIRIRA, pursuant to 8 U.S.C. § 1225(a)(1), an alien present in the United States who has not been admitted is "deemed . . . an applicant for admission." All applicants for admission

are subject to inspection by immigration officers to determine if they are admissible to the United States. *See* 8 U.S.C. § 1225(a)(3). The term “admission” is defined by the INA to mean “the 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); *see also* 8 C.F.R. § 235.1 (setting forth inspection procedures).

Section 1225(b)(1) provides for the inspection of aliens arriving in the United States who are applicants for admission, and it provides for “expedited removal proceedings” in certain circumstances. *See DHS v. Thuraissigiam*, 591 U.S. 103, 109-13 (2020). Section 1225(b)(2)(A) provides for the inspection of all “other” applicants for admission, and it states 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 [8 U.S.C. §] 1229a.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

While Section 1225(b)(2) does not allow for aliens to be released on bond, the INA grants DHS discretion to temporarily release an applicant for admission “only on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). Parole, however, “shall not be regarded as admission of the alien.” *Id.*; *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (discussing parole authority). Moreover, when the Secretary determines that “the purposes of such parole . . . been served,” the “alien shall . . . be returned to the custody from which he was paroled” and be “dealt with in the same manner as that of any other applicant for admission to the United States.” 8 U.S.C. § 1182(d)(5)(A).

In contrast, aliens who are not applicants for admission may (but need not) be detained at the Government’s discretion. Pursuant to 8 U.S.C. § 1226(a), “an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.”

8 U.S.C. § 1226(a). The Attorney General and DHS thus have broad discretionary authority to detain an alien during removal proceedings.¹ *See* 8 U.S.C. § 1226(a)(1) (DHS “may continue to detain the arrested alien” during the pendency of removal proceedings). Under Section 1226(a)(1), “[t]o secure release, the alien must show that he does not pose a danger to the community and that he is likely to appear for future proceedings.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999)).

FACTUAL BACKGROUND

I. Petitioner’s Immigration, Detention, and Criminal History

Petitioner entered the United States without admission or inspection at a place unknown to the Government, in or about 2003. *See* Declaration of Deportation Officer Mincheol So (“So Decl.”) ¶¶ 4, 22. Over the last ten years, Petitioner has been arrested numerous times by local law enforcement offices. As relevant here, Petitioner was arrested for first-degree robbery in 2015, and petit larceny in 2024, and pleaded guilty to both offenses. *Id.* ¶¶ 5, 9; Return to Habeas Petition (“Ret.”) Exs. 5, 6. Most recently, Petitioner was arrested by the Carmel Town Police Department, So Decl. ¶ 12, after which, on September 6, 2025, the Putnam County Sheriff’s Office issued a notification to ICE that they had Petitioner in custody, and provided information about the charges against him, *id.* ¶ 13; Return Ex. 1. In response, ICE determined Petitioner was subject to

¹ Although the relevant statutory sections refer to the Attorney General, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred all immigration enforcement and administration functions vested in the Attorney General, with few exceptions, to the Secretary of Homeland Security. The Attorney General’s authority—delegated to immigration judges, *see* 8 C.F.R. § 1003.19(d)—to detain or authorize bond for aliens under § 1226(a) is “one of the authorities he retains . . . although this authority is shared with [DHS] because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings.” *Matter of D-J-*, 23 I. & N. Dec. 572, 574 n.3 (A.G. 2003).

mandatory detention, and on September 8, 2025, arrested him at Putnam County Jail. *Id.* ¶ 16; Return Ex. 2. ICE initiated removal proceedings against Petitioner that day by serving him with a Notice to Appear (“NTA”) charging him under 8 U.S.C. § 1182(a)(6)(A)(i) for being present without being admitted or paroled, and for having entered the United States at a time or place other than as designated by the Attorney General. So Decl. ¶ 17; Return Ex. 4. Also on September 8, 2025, Petitioner was transported to Orange County Jail in Goshen, New York, where he remains today. So Decl. ¶ 19.

On September 30, 2025, Petitioner submitted an application for relief from removal, and at hearing before the Immigration Court on October 2, 2025, Petitioner conceded the charge in the NTA. *Id.* ¶¶ 22-23. On October 9, 2025, Petitioner moved the Immigration Court for a bond and custody redetermination, which the Court denied due to lack of jurisdiction on October 17, 2025. *Id.* ¶¶ 25-26; Return Ex. 8. The Immigration Court has set Petitioner’s removal case for a merits hearing on January 16, 2026. So Decl. ¶ 31.

II. The Habeas Petition and Procedural Background

On November 4, 2025, Petitioner filed his Petition, ECF No. 1, and an Application for an Issuance of Order to Show Cause, ECF No. 3 (“OSC Application”). The Court conducted an order to show cause hearing on December 18, 2025. *See* 12/18/25 Minute Entry.

In the Petition and the OSC Application, Petitioner asserts that his detention without a bond hearing is unlawful and based on an erroneous finding that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).” OSC Application at 6. He also asserts that his detention violates his due process rights. *Id.* As ultimate relief, Petitioner requests that the Court order his immediate release. Pet. at Prayer for Relief.

ARGUMENT

I. Petitioner Is Lawfully Detained Pursuant to Section 1225(b) and Not Entitled to a Bond Hearing

Contrary to Petitioner's argument, ECF No. 3 at 6-8, Petitioner's detention is governed by 8 U.S.C. § 1225, which mandates that he remain in detention during the pendency of his removal proceedings, subject to DHS's discretionary release on parole under 8 U.S.C. § 1182(d)(5)(A). Pursuant to 8 U.S.C. § 1225(b)(2)(A), "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 [8 U.S.C. §] 1229a."

Petitioner falls within the ambit of Section 1225(b)(2)(A)'s mandatory detention requirement. First, by statute, Petitioner is an "applicant for admission" to the United States because he is an alien present in the United States who has not been admitted. 8 U.S.C. § 1225(a)(1). Second, because Petitioner has not demonstrated to an examining immigration officer that he is "clearly and beyond a doubt entitled to be admitted," his detention is mandatory. 8 U.S.C. § 1225(b)(2)(A). Petitioner cannot demonstrate that he is "clearly and beyond a doubt entitled to be admitted" because, as charged in his removal proceedings, he is present in the United States without being admitted or paroled, or arrived in the United States at a time and place other than as designated by the Attorney General, and he is inadmissible under 8 U.S.C. § 1182(a)(6). Accordingly, Petitioner is detained pursuant to Section 1225(b)(2)(A), which mandates that he "shall be" detained pending removal proceedings.

This reasoning comports with Supreme Court precedent. As explained in *Jennings*, applicants for admission fall into one of two categories: those covered by Section 1225(b)(1) and those covered by Section 1225(b)(2). 583 U.S. at 287. Section 1225(b)(1) applies to aliens arriving

in the United States who are initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation. 8 U.S.C. § 1225(b)(1)(A)(i). Section 1225(b)(2)—the provision relevant here—is “broader” and “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here).” *Jennings*, 583 U.S. at 287. And Section 1225(b) mandates detention. *Id.* at 297; *see also* 8 U.S.C. § 1225(b)(2). Moreover, the Supreme Court has confirmed that this statutory mandate for detention extends for the entirety of removal proceedings. *See id.* at 302 (“[Section] 1225(b)(2) . . . mandates[s] detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin.”).

Petitioner argues that Section 1226(a), rather than Section 1225(b), applies, and he was therefore entitled to process before being detained. *See* ECF No. 3 at 6-8.² However, after IIRIRA, “an alien who tries to enter the country illegally is treated as an ‘applicant for admission,’ § 1225(a)(1), and an alien who is detained shortly after unlawful entry cannot be said to have

² Multiple courts, including in this district, have endorsed this argument. *See, e.g., Agustin v. Joyce*, No. 25 Civ. 10122 (AT), 2025 WL 3564494 (S.D.N.Y. December 12, 2025) (granting habeas petition based on conclusion that petitioner’s detention was pursuant to Section 1226(a) rather than Section 1225(b)); *Nian Liu v. Almodovar*, No. 25 Civ. 9256 (ER), 2025 WL 3458633, at *1 (S.D.N.Y. Dec. 2, 2025) (same); *Guzman Cardenas v. Almodovar*, No. 25 Civ. 9169 (JMF), 2025 WL 3215573 (S.D.N.Y. Nov. 18, 2025) (same); *Huamani v. Francis*, No. 25 Civ. 8110 (LJL), 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025) (same); *J.G.O. v. Francis*, No. 25 Civ. 7233 (AS), 2025 WL 3040142 (S.D.N.Y. Oct. 28, 2025) (same); *Gonzalez v. Joyce*, No. 25 Civ. 8250 (AT), 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025) (same); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (same); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025) (same); *Guzman Andujar v. Ladeon Francis*, No. 25 Civ. 9199 (JLR), 2025 WL 3215597 (S.D.N.Y. Nov. 18, 2025) (same); *Comes v. DeLeon*, No. 25 Civ. 9283 (AT), 2025 WL 3206491 (S.D.N.Y. Nov. 14, 2025) (same); *Rueda Torres v. Francis*, No. 25 Civ. 8408 (DEH), 2025 WL 3168759 (S.D.N.Y. Nov. 13, 2025) (same); *Ortiz-Lopez v. Francis*, 25 Civ. 7985 (KPF), ECF No. 14 (S.D.N.Y. Nov. 6, 2025) (same); *see also Quinteros Moran v. Joyce*, No. 25 Civ. 9645 (GBD), ECF No. 17 (Dec. 15, 2025) (concluding that petitioner’s detention was pursuant to Section 1226(a) and ordering a bond hearing); *Sun v. Almodovar*, No. 25 Civ. 9262 (PKC), 2025 WL 3241268 (S.D.N.Y. Nov. 20, 2025) (same).

‘effected an entry.’” *Thuraissigiam*, 591 U.S. at 140. Applicants for admission like Petitioner are “treated, for constitutional purposes, as if stopped at the border,” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (internal quotation marks omitted), even if they are paroled into the United States for a limited purpose, see *United States ex rel. Kordic v. Esperdy*, 386 F.2d 232, 235 (2d Cir. 1967) (“A ‘parolee,’ even though physically in the country, is not regarded as having ‘entered’ and thus has not acquired the full protection of the Constitution.”). And such applicants for admission are not permitted release under Section 1226(a).

Petitioner entered the country without detection and therefore “cannot be said to have ‘effected an entry,’” *Thuraissigiam*, 591 U.S. at 140, and by statute is deemed an applicant for admission, 8 U.S.C. § 1225(a)(1), treated for constitutional purposes as if stopped at the border. Because under BIA precedent that is binding on ICE, Petitioner is an applicant for admission, he was re-arrested and his detention is mandatory pursuant to Section 1225(b)(2)(A). See *Hurtado*, 29 I. & N. Dec. at 220 (alien who entered without admission or inspection are applicants for admission subject to mandatory detention under § 1225(b)(2)(A) even if they “have been residing in the United States for years without lawful status”).³

Petitioner is lawfully detained pursuant to Section 1225(b), and he is not entitled to a bond hearing, particularly given the short length of his detention thus far. Because arriving aliens have not been admitted to the United States, their constitutional rights are truncated: “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (quoting *U.S. ex rel. Knauff*

³ BIA decisions are binding on ICE. See 8 C.F.R. § 1003.1(g) (“Except as Board decisions may be modified or overruled by the Board or the Attorney General, decisions of the Board and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States.”).

v. Shaughnessy, 338 U.S. 537, 544 (1950)). Here, the procedure authorized by Congress in Section 1225(b) and related provisions expressly excludes the possibility of a bond hearing. *Jennings*, 583 U.S. at 297 (“[N]either § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.”). Instead, for an applicant for admission, “if the examining immigration officer determines that [he] is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under [8 U.S.C. §] 1229a.” 8 U.S.C. § 1225(b)(2)(A). That is, Congress has provided that Petitioner shall be detained for removal proceedings before an immigration judge, which afford the alien a host of procedural protections. *See* 8 U.S.C. § 1229a. The exclusive means of release for an applicant for admission such as Petitioner is DHS’s discretionary parole authority under 8 U.S.C. § 1182(d)(5)(A). *See Jennings*, 583 U.S. at 298-301; 8 U.S.C. § 1182(d)(5)(A) (parole may be granted for “urgent humanitarian reasons or significant public benefit”); 8 C.F.R. §§ 212.5(b), 235.3(c) (elaborating on instances where parole may be appropriate).

Reading Section 1225(b)(2) to mandate detention for any “applicant for admission” is in accordance with the plain meaning of the text as enacted by Congress in IIRIRA. *See Vargas Lopez*, 2025 WL 2780351, at *9 (denying habeas petition and holding that petitioner was “an alien within the ‘catchall’ scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a”). This reading does not render Section 1226(a) superfluous as that provision continues to apply, for example, to aliens who have been convicted of certain criminal offenses since admission. *See Chavez*, 2025 WL 2730228, at *5 (observing that “[h]eeding the plain language of the statute . . . does not contradict or render superfluous § 1226, as Petitioners urge,” explaining that “§ 1226 ‘generally governs the process of arresting and detaining’ certain aliens, namely ‘aliens who were inadmissible at the time of entry or who have been

convicted of certain criminal offenses since admission” (quoting *Jennings*, 583 U.S. at 288)). And it maintains the dichotomy prescribed by Congress in IIRIRA by distinguishing between those who effectuate a lawful entry (even if later found removable) and are subject to Section 1226(a), and those who illegally entered and are statutorily deemed to be applicants for admission subject to Section 1225(b).

Petitioner’s claim alleging violation of the INA therefore fails.

II. Petitioner’s Detention Comports with Due Process

Because Petitioner is deemed an applicant for admission and thus is treated for constitutional purposes as if stopped at the border, he is lawfully detained pursuant to Section 1225(b), and neither his procedural nor substantive due process rights have been violated. First, with respect to his procedural due process rights, the Supreme Court has made clear that “[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.” *Mezei*, 345 U.S. at 212 (citing *Knauff*, 338 U.S. at 544); cf. *Guzman v. Tippy*, 130 F.3d 64, 66 (2d Cir. 1997) (the rights of excluded aliens “are determined by the procedures established by Congress and not by the due process protections of the Fifth Amendment”).

In *Mezei*, the Supreme Court held that an alien’s detention at the border without a hearing to effectuate his exclusion from the United States did not violate due process. *Mezei*, 345 U.S. at 206. *Mezei* arrived at Ellis Island seeking admission into the United States; although he had resided in the United States previously, he had since been “permanently excluded from the United States on security grounds.” *Id.* at 207. His home country would not accept him, and he had been detained for more than a year and a half to effectuate his exclusion when he filed a habeas petition seeking release into the United States. *Id.* at 207-08. The Supreme Court held that *Mezei*’s detention did not “deprive[] him of any statutory or constitutional right.” *Id.* at 215. The Court recognized that “once passed through our gates, even illegally,” aliens “may be expelled only after proceedings

conforming to traditional standards of fairness encompassed in due process of law.” *Id.* at 212. “But an alien on the threshold of initial entry stands on a different footing.” *Id.* For aliens seeking admission, “[w]hatever the procedure authorized by Congress is, it is due process.” *Id.* (quoting *Knauff*, 338 U.S. at 544).

Indeed, as a court in this district recognized in a case (decided after *Jennings*) involving an applicant for admission, “because the immigration statutes at issue here do not authorize a bond hearing, *Mezei* dictates that due process does not require one here.” *Poonjani v. Shanahan*, 319 F. Supp. 3d 644, 649 (S.D.N.Y. 2018). Another court in this district has held the same. *See Mendez Ramirez v. Decker*, 612 F. Supp. 3d 200, 220-21 (S.D.N.Y. 2020) (following *Mezei*, holding constitutional due process rights for alien deemed at threshold of entry extended no further than the process outlined by statute). Other judges have agreed. *See, e.g., Gonzales Garcia v. Rosen*, 513 F. Supp. 3d 329, 333-36 (W.D.N.Y. 2021) (applying *Mezei* and *Thuraissigiam* and holding that an applicant for admission is not entitled to procedural protections beyond those provided by statute); *D.A.V.V. v. Warden, Irwin County Detention Center*, No. 20 Civ. 159 (WLS) (MSH), 2020 WL 13240240, at *4-6 (M.D. Ga. Dec. 7, 2020) (“Applying this rule in *Thuraissigiam*, which squares with longstanding Supreme Court precedent, this Court similarly holds that arriving aliens’ procedural due process rights entitle them only to the relief provided by the INA.”); *Salim v. Tryon*, No. 13 Civ. 6659 (JTC), 2014 WL 1664413, at *2 (W.D.N.Y. Apr. 25, 2014) (“The Due Process Clause provides an inadmissible alien no procedural protection beyond the procedure explicitly authorized by Congress, nor any right to be free from detention pending removal proceedings.”).

Moreover, more than a century of Supreme Court precedent confirms that applicants for admission are treated differently under the law for due process purposes from other categories of detained aliens. *See, e.g., Zadvydas*, 533 U.S. at 693 (“The distinction between an alien who has

effected an entry into the United States and one who has never entered runs throughout immigration law.”). In the relevant provisions of the INA, Congress has decided to treat applicants for admission differently by detaining them during ongoing proceedings to effectuate their exclusion from the United States while considering whether to admit them. Unlike admitted aliens later placed in removal proceedings and detained under Section 1226(a), applicants for admission are “request[ing] a privilege,” *Landon*, 459 U.S. at 32, and therefore “stand[] on a different footing,” *Mezei*, 345 U.S. at 212. Their lack of entitlement to a bond hearing thus flows logically from their lack of admission to the United States in the first instance. Given that the constitutional due process rights of applicants for admission are limited to the process that Congress chooses to provide, Petitioner cannot show that he has suffered a procedural due process violation.

Petitioner’s detention for the time-limited pendency of his removal proceedings also does not run afoul of his substantive due process rights. “Detention during removal proceedings is a constitutionally valid aspect of the deportation process.” *Velasco Lopez*, 978 F.3d at 848 (citing *Demore*, 538 U.S. at 523); *see Demore*, 538 U.S. at 523 n.7 (“prior to 1907 there was no provision permitting bail for *any* aliens during the pendency of their deportation proceedings”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is necessarily a part of [the] deportation procedure.”). Indeed, removal proceedings ““would be [in] vain if those accused could not be held in custody pending the inquiry into their true character.”” *Demore*, 538 U.S. at 523 (quoting *Wong Wing v. United States*, 163 U.S. 228, 235 (1896)); *cf. Reno v. Flores*, 507 U.S. 292, 306 (1993) (“Congress eliminated any presumption of release pending deportation, committing that determination to the discretion of the Attorney General.”).

Because Petitioner’s detention under 8 U.S.C. § 1225(b)(2)(A) for the duration of his removal proceedings is statutorily mandated, subject only to the possibility of release on

discretionary parole by ICE under 8 U.S.C. § 1182(d)(5)(A), *see Jennings*, 583 U.S. at 298-301, Petitioner is not entitled to further process, *see Mezei*, 345 U.S. at 212. *Matter of Hurtado* provides a detailed analysis of the INA's statutory framework and explains why Petitioner's detention is governed by Section 1225(b)(2)(A).

The Government is aware that another judge in this district has held that noncitizens subject to mandatory detention under Section 1225(b) have a constitutional right to a bond hearing under *Black v. Decker*, 103 F.4th 133 (2d Cir. 2024), even though *Black* itself involved individuals detained under Section 1226(c). *See Al-Thuraya v. Warden*, No. 25-CV-2582 (AS), 2025 WL 2858422 (S.D.N.Y. Oct. 9, 2025). The Government respectfully submits that the Court should not apply that reasoning here. *See Camreta v. Greene*, 563 U.S. 692, 709 n.7 (2011) (“A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case.”) (quoting 18 Moore's Federal Practice § 134.02[1] [d] (3d ed. 2011)). As explained above, individuals detained under Section 1225(b)—as opposed to those detained under Section 1226(a)—are treated as stopped at the border, and the Supreme Court has held that Congress defines the amount of process that is “due” for such persons. In *Al-Thuraya*, the Court concluded that this concept, known as the “entry fiction,” is “inapplicable in the context of [the petitioner's] request for a bond hearing” and instead applies to “the political branches' authority to legally admit or exclude noncitizens.” *Al-Thuraya*, 2025 WL 2858422, at *4. But in *Mezei*, the Supreme Court upheld the Attorney General's detention without a hearing and reversed the district court's order that he be released on bond. 345 U.S. at 207-08. It was in this context that the Supreme Court explained that “an alien on the threshold of initial entry stands on a different footing: ‘Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.’” *Mezei*, 345 U.S. at 212.

The entry fiction is not limited to “the political branches’ authority to legally admit or exclude noncitizens,” *Al-Thuraya*, 2025 WL 2858422, at *4, but instead “runs throughout immigration law.” *Zadvydas*, 533 U.S. at 693 (discussing *Mezei* and noting that the “indefinite detention” of the petitioner on Ellis Island “did not count as entry into the United States” and instead he was “‘treated,’ for constitutional purposes, ‘as if stopped at the border’”). The Government respectfully submits that *Al-Thuraya* did not fully account for this fact.⁴

Petitioner’s due process claim should therefore be denied.

III. Alternatively, Petitioner Is Lawfully Detained Under Section 1226(c)

To the extent the Court declines to hold that section 1225(b) is applicable here, it should instead hold that Petitioner is lawfully detained under section 1226(c)(1)(E). Section 1226 “generally governs the process of arresting and detaining [aliens who have already entered the United States] pending their removal.” *Jennings*, 583 U.S. at 288. Congress amended Section 1226 earlier this year via the Laken Riley Act. *See* Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025) (adding 8 U.S.C. § 1226(c)(1)(E)). The amendment to Section 1226 mandates detention of an alien if two criteria are met. *See* 8 U.S.C. § 1226(c)(1)(E). First, the alien must be inadmissible because they are present in the United States without being admitted or paroled, 8 U.S.C. § 1182(a)(6)(A), obtained documents or admission through misrepresentation or fraud, *id.* § 1182(a)(6)(C), or lack valid documentation, *id.* § 1182(a)(7). 8 U.S.C. § 1226(c)(1)(E)(i). And second, the alien “is charged with, is arrested for, is convicted of, admits having committed, or admits committed acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a

⁴ Additionally, at least one judge in this district addressing a similarly situated petitioner has determined that, even if Section 1225 governs, the petitioner’s due process rights were violated. *Savane v. Francis*, No. 25 Civ. 6666 (GHW), 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025). DHS submits that the matter was wrongly decided and respectfully disagrees with the court’s decision.

law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.” 8 U.S.C. § 1226(c)(1)(E)(ii). Notably, the Laken Riley Act does not require a conviction to bring an alien within its ambit.

Petitioner is subject to mandatory detention because both criteria under Section 1226(c)(1)(E) are met. On the first prong, Petitioner is inadmissible under 8 U.S.C. § 1182(a)(6) because he is present in the United States without being admitted or paroled. *See* So Decl. ¶¶ 4, 17, 23. And on the second prong, Petitioner pleaded guilty to “acts which constitute the essential elements of” both theft (the 2015 first-degree robbery conviction) and larceny (the 2024 petit larceny conviction). *See* 8 U.S.C. § 1226(c)(1)(E)(ii); So Decl. ¶¶ 5, 9; Return Exs. 5-6. Thus, ICE’s detention of Petitioner is mandatory under Section 1226(c)(1)(E).⁵

Furthermore, Petitioner’s mandatory detention under Section 1226(c) comports with due process. The Second Circuit has recognized that such detention is justified by two legitimate” and “importan[t]” interests: “(1) ensuring the noncitizen’s appearance at proceedings, and (2) protecting the community from noncitizens who have been involved in crimes that Congress has determined differentiate them from others.” *Black*, 103 F.4th at 153. While it is true that the balance of interests can shift towards an alien if “detention is prolonged without any particularized assessment of need,” that is not the case here where Petitioner has only been detained for a “relatively short-term” period. *Id.* at 154. On the other hand, ICE has demonstrated that it has a “particularized need” for detaining Petitioner, consistent with the Congressional mandate to detain

⁵ Although aliens in mandatory detention are not statutorily entitled to bond hearings, they may receive hearings before an immigration judge where they can contest whether they are properly subject to mandatory detention. 8 C.F.R. § 1003.19(h)(2)(ii); *In re Joseph*, 22 I. & N. Dec. 799, 805 (BIA 1999) (explaining that the “purpose of the regulation . . . is to provide an alien . . . with the opportunity to offer evidence and legal authority on the question whether [DHS] has properly included him within a category that is subject to mandatory detention”).

such individuals under the Laken Riley Act. *Black*, 103 F.4th at 153. Accordingly, Petitioner cannot maintain that mandatory detention at this time under section 1226(c) would violate due process.

IV. Should the Court Determine That Petitioner Is Detained Pursuant to Section 1226(a), Petitioner May Challenge His Detention Through a Bond Hearing

Should this Court determine that Petitioner’s detention is not governed by Section 1225, ICE nevertheless has authority to detain Petitioner pursuant to Section 1226(a), which “generally governs the process of arresting and detaining [aliens who have already entered the United States] pending their removal.” *Jennings*, 583 U.S. at 288. Section 1226(a) provides that “an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). The Attorney General and DHS thus have broad discretionary authority to detain an alien during removal proceedings. *See* 8 U.S.C. § 1226(a)(1) (DHS “may continue to detain the arrested alien” during the pendency of removal proceedings); *Nielsen v. Preap*, 586 U.S. 392, 409 (2019) (highlighting that “subsection (a) creates authority for *anyone*’s arrest or release under § 1226—and it gives the Secretary broad discretion as to both actions”).

When an alien is apprehended, a DHS officer makes an initial custody determination. *See* 8 C.F.R. § 236.1(c)(8). DHS “may continue to detain the arrested alien.” 8 U.S.C. § 1226(a)(1). “To secure release, the alien must show that he does not pose a danger to the community and that he is likely to appear for future proceedings.” *Guzman Chavez*, 594 U.S. at 527 (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8)). If DHS decides to release the alien, it may set a bond or place other conditions on release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8).⁶ If DHS decides to release

⁶ In addition to bond, the Government may release an alien detainee on his own recognizance under Section 1226(a)(2)(B), which is a form of conditional parole. *See Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747 (BIA 2023) (“The respondents were . . . released on their own recognizance pursuant to DHS’s conditional parole authority under . . . 8 U.S.C.

an alien, it may “at any time” revoke such release, “rearrest the alien under the original warrant, and detain the alien.” 8 U.S.C. § 1226(b).

An alien detained pursuant to Section 1226(a) may request a post-deprivation custody redetermination hearing (*i.e.*, a “bond hearing”) before an immigration judge. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The immigration judge then conducts a bond hearing and decides whether to release the alien, based on a variety of factors and a determination whether the alien poses a flight risk or danger to the community. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *see also* 8 C.F.R. § 1003.19(d) (“The determination of the Immigration Judge as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS].”).

Thus, to the extent the Court determines that Petitioner’s current detention does not fall within the scope of Section 1225, the Government nevertheless has authority to detain Petitioner pursuant to Section 1226(a), and Petitioner may then request a bond hearing for a determination as to whether he presents a danger to others or a risk of flight.⁷ *See* 8 C.F.R. § 1003.19. Such hearing would provide constitutionally sufficient process for Petitioner’s continued detention. *See Velasco Lopez*, 978 F.3d at 855.

To the extent the Court determines that Petitioner is detained pursuant to Section 1226(a), Petitioner should be required to exhaust his administrative remedies through a bond hearing before obtaining relief from a federal court. While “[t]here is no statutory requirement that a habeas

§ 1226(a)(2)(B)[.]”); *see also Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) (“It is apparent that the [government] used the phrase ‘release on recognizance’ as another name for ‘conditional parole’ under § 1226(a).”); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011) (similar).

⁷ To be clear, in light of *Matter of Hurtado*, a ruling from this Court that Petitioner was detained under Section 1226(a) would be required for him to then request and receive the bond hearing.

petitioner exhaust his administrative remedies before challenging his immigration detention [in federal court],” *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014), “district courts in this Circuit have recognized such a requirement as a prudential matter,” *Castillo Lachapel v. Joyce*, 786 F.Supp.3d 860, 864 (S.D.N.Y. 2025) (internal quotation marks omitted) (requiring exhaustion for habeas petitioner detained under § 1226(a)). *See also Capunay Guzman v. Joyce*, 786 F. Supp. 3d 865, 869-71 (S.D.N.Y. 2025) (same); *Fontanelli ex rel. Bernal Garcia v. Francis*, No. 25 Civ. 7115 (JLR), 2025 WL 2773234, at *5-*8 (S.D.N.Y. Sept. 29, 2025) (same).

Where the exhaustion requirement is “judicially imposed instead of statutorily imposed,” certain exceptions permit courts to excuse a party’s failure to exhaust administrative remedies, including when: “(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question.” *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (internal quotation marks omitted). However, “[e]xhaustion is the rule, waiver the exception.” *Abbey v. Sullivan*, 978 F.2d 37, 44 (2d Cir. 1992). These exceptions do not apply here, where Petitioner will have access to a bond hearing if the Court determines that his detention is properly under Section 1226(a), not Section 1225. Petitioner should therefore be required to request a bond hearing before an immigration court before this Court grants his release.

CONCLUSION

For the foregoing reasons, the Court should deny the petition for a writ of habeas corpus.

Dated: New York, New York
December 22, 2025

Respectfully submitted,

JAY CLAYTON
United States Attorney for the
Southern District of New York
Attorney for Respondents

By: /s/ Jennifer Jude
JENNIFER JUDE
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2663
E-mail: jennifer.jude@usdoj.gov

Certificate of Compliance

Pursuant to Local Civil Rule 7.1(c) and Section III.D of the Court's Individual Practices, the above-named counsel hereby certifies that this memorandum complies with the word-count limitation of this Court's Local Civil Rules and the Court's Individual Practices. As measured by the word processing system used to prepare it, this memorandum contains 6,438 words.