UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ABDI LOPEZ HERNANDEZ, Petitioner vs. **TODD LYONS**, Acting Director, Immigration and Customs Enforcement, **KRISTI NOEM**, Secretary of United States Department of Homeland Security, **MARISSA A. FLORES**, Immigration and Customs Enforcement, El Paso Field Office Director, **DIRECTOR,** El Paso Service Processing Center, **PAMELA BONDI**, United States Attorney General, Respondents	**CASE NO. 3:25-cv-579-LS** **REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

Respondent argues that the only relief this Court may grant is relief from detention. As such, should the Court conclude, as almost every court that has reviewed the issue concluded, that Mr. Lopez Hernandez is unlawfully detained, the Court should order his immediate release.

The Respondents make the same arguments here that have been rejected by over 300 district courts nationwide. Respondent's arguments about this Court lacking jurisdiction and that 8 U.S.C. §1226 does not apply or that it authorizes mandatory detention have been rejected virtually universally and have already been addressed. They do not present any new or different arguments that would warrant a response. That the Respondents persist in these clearly merit-less and obfuscating arguments is precisely why EAJA fees are appropriate.

For example, Respondent misleadingly and deceptively cites 8 U.S.C. § 1225 (a)(1) by actually deleting words from the statute because doing so is the only way it can persist in this argument. On page 3, using multiple ellipses, the Respondent cites the statute as: "An alien present in the United States who has not been admitted . . . shall be deemed . . . an applicant for admission." The statute actually reads: "An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brough to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission." Again, the legal arguments have been previously made by this Petitioner and rejected by hundred of district courts, but it is Respondents' deceit in erasing meaningful portions of a statute that must be pointed out. Removing the wording about arrival changes the statute. As Congress has not removed those words from the statute, neither should Respondents.

Respondent takes the liberty of saying, "there is no disagreement Petitioner is in 'full' removal proceedings under 8 U.S.C. §1229a." This is inaccurate. Petitioner is unaware of what

"full" removal proceedings are and whether there are any "partial" removal proceedings. Nowhere in the statutes or regulations is the phrase "full removal proceedings" written. There are removal proceedings, withholding only proceedings, and exclusion proceedings, but Petitioner does not agree that he, or anyone, is in "full" removal proceedings. While this distinction may not have any legal meaning, the importance is the Respondents' willingness to make up legal standards and legal proceedings that do not exist, while escribing the acquiescence of those who suffer from these legal absurdities to the fabrication.

Respondent argues that any "non-habeas claims should be severed or dismissed." Respondent does not articulate any claim that is a non-habeas claim.

Respondent writes that Petitioner "evaded" detection for 15 years. The dictionary definition of evade is "escape or avoid, especially by cleverness or trickery." Petitioner lived openly, worked, requested and obtain an ITIN, paid taxes, had children including his name on the birth records, appeared in court for custody and child support proceedings, and had a driver's license in his name with his home address. As the Respondent argues elsewhere, that the Respondent elected to arbitrarily and capriciously change its policies, does not retroactively place blame on the Petitioner. Respondents did not look for Petitioner, so he could not have been evading them. As soon as they looked for him, they found him. The respondents playing fast and loose with the English language and the law does not lend any credibility to their representations.

The Respondent also argues that the Ex Post Facto clause does not apply. This is a strange argument as it is not one raised by the Petitioner. In doing so, the Respondent confirms that the law has remained unchanged for decades and only the Respondents' arbitrary malicious decision to ignore decades of statutory, administrative and caselaw law has changed. Effectively,

this concession by the Respondent that it is willfully ignoring decades of law and jurisprudence should be all this Court needs to grant this Petitioner and order immediate release.

Respectfully submitted,

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