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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MIANELA INGRID CHANCO SERRANO
[redacted]

Petitioner,

vs.

California City Corrections Center, CHRISTOPHER CHESTNUT, Warden, et al.,

Respondents.

Case No. 1:25-CV-01723-DJC-EFB

PETITIONER'S TRAVERSE TO RESPONDENTS' RETURN TO WRIT OF HABEAS CORPUS

MEMORANDUM OF POINTS AND AUTHORITIES

Respondents contend that (A) Petitioner is subject to mandatory detention under§ 1225 and thus ineligible for a bond hearing. Respondents raise no argument that has not already been rejected by this Court and several others across the United States.

A. Respondents fail to establish why their widely rejected application of 8 U.S.C. § 1225 should supplant contrary rulings of district courts across the United States.

Respondents contend that Petitioner is lawfully detained under § 1225 because Petitioner is "an alien who 'arrived in the United States,' or 'is present' in

this country but 'has not been admitted,' who is treated as 'an applicant for admission.'" But this reading would render the phrase "seeking admission" in § 1225(b) superfluous. To qualify for § 1225(b)(2), a noncitizen must (1) be an applicant for admission, (2) be "seeking admission", and (3) be "not clearly and beyond a doubt entitled to be admitted." If, as the Government argues, all applicants for admission are deemed to be "seeking admission" for as long as they remain applicants, then the phrase "seeking admission" would add nothing to the provision. This "violates the rule against surplusage." *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at *6 (S.D.N.Y. Aug. 13, 2025); *see also United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432, 143 S. Ct. 1720, 216 L. Ed. 2d 370 (2023) ("[E]very clause and word of a statute should have meaning."); *TRW Inc. v. Andrews*, 534 U.S. 19, 31, 122 S. Ct. 441, 151 L. Ed. 2d 339 (2001) ("[N]o clause, sentence, or word shall be superfluous, void, or insignificant.") (quoting *Duncan v. Walker*, 533 U.S. 167, 174, 121 S. Ct. 2120, 150 L. Ed. 2d 251 (2001)).

Respondents insist on their position that the plain language of § 1225(b)(2)(A) mandates Petitioner's detention as an "applicant for admission" as found by the district court in *Ortiz Donis v. Chestnut*, No. 1:25-CV-01228-JLT-SAB, 2025 WL 3268507 (E.D. Cal. Nov. 24, 2025) (holding §1225(b)(2)(A) inapplicable to aliens living in the United States for years). In their argument, Respondents acknowledge and agree that the Court in *Ortiz Donis*, found § 1226 to be the applicable statutory section as the petitioner had resided in the United States for years and ordered Respondents to release petitioner immediately from DHS custody because the government had no evidence that the petitioner posed a risk of flight or a danger to the community. Like *Ortiz Donis*, in the instant case, §1225 (b)(2)(A) is inapplicable and §1226 is the applicable statutory section that applies to Petitioner's removal proceedings as Petitioner has resided in the United States for years and Petitioner should be released from DHS custody as Respondents have

shown no evidence that Petitioner is a flight risk or a danger to the community. Petitioner has complied with all immigration orders and maintains a clean criminal record.

Further bolstering Petitioner's claim, in their argument, Respondents also cite to *Dominguez v. Noem*, No. 1:25-CV-1577-JDP, 2025 WL 3268507 (E.D. Cal. Nov. 24, 2025) (finding §1226 to be applicable statutory in the case of petitioner's removal proceedings). In *Dominguez*, the court found that §1226 is the appropriate statutory section because petitioner had already been residing in the United States when arrested and was not seeking entry at the time of arrest and ordered Respondents to provide petitioner a bond hearing. At the time of Petitioner's arrest and detention, she had been residing in the United States for years and was not seeking entry into the United States. The case law Respondents cite to bolster and support Petitioner's argument that §1226 applies to her removal proceedings rather than § 1225 (b)(2)(A) and that Petitioner shall be released from custody or given a bond hearing.

Respondents' argument that Petitioner is subject to mandatory detention has been rejected by a large majority of district courts nationwide. *See, e.g., Sandigo Manzanez v. Bondi*, No. 1:25-cv-01536-DC-CKD (HC), 2025 U.S. Dist. LEXIS 228976, 2025 WL 3247258, *3 (E.D. Cal. Sept. 3, 2025) ("[T]he legal arguments Respondents [*12] rely upon to support their position that section 1225 applies here have been consistently rejected by a majority of courts in this district, and courts across the country."); *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 U.S. Dist. LEXIS 190934, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025) (collecting cases). The government's argument also runs contrary of the Supreme Court's interpretation of the relevant statutes, which observed that section § 1225(b) "applies primarily to aliens seeking entry into the United States," while sections 1226(a) and (c) "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings. *Jennings v.*

Rodriguez, 583 U.S. 281, 283 (2018).

Statutory interpretations support that Section 1226(a), not Section 1225(b)(2)(A), applies to Petitioner's immigration detention. When a person is apprehended under § 1226(a), an ICE officer makes the initial custody determination. *Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citing 8 C.F.R. § 236.1(c)(8)). A noncitizen [*10] will be released if he or she "demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." *Id.* (citing 8 C.F.R. § 236.1(c)(8)).

Petitioner was arrested and detained by Respondents years after she entered the United States not when seeking admission as required by 8 U.S.C. 1225(b)(2)(A). Moreover, Petitioner is not a flight risk or a danger to the community as she has never failed to attend an immigration hearing or ICE check-in and has a clean criminal record. Thus, Petitioner is being held in violation of Federal Law. Petitioner is entitled to a bond hearing pursuant to 1226(a) and is eligible for her requested relief on the merits of her constitutional arguments.

Respectfully submitted this December 29, 2025.

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