UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOSE SARMIENTO CORREA, Petitioner, v. SAM OLSON, Field Office Director, Chicago Field Office, Immigration and Customs Enforcement, in his official capacity; et al, Respondents.	Case No. 25-CV-1960

PETITIONER'S REPLY TO RESPONSE FOR WRIT OF HABEAS CORPUS

Petitioner, Jose Sarmiento Correa, by and through undersigned counsel, hereby submits this Reply to the Government's Response to Mr. Sarmiento's Petition for Writ of Habeas Corpus. The government does not dispute the Court's jurisdiction to hear this petition. Nor does the government contest any of the relevant facts asserted by Mr. Sarmiento in his motion. Mr. Sarmiento writes simply to supplement the government's incomplete legislative history. A more comprehensive review supports Mr. Sarmiento's position.

The government argues that the legislative history of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) shows that Congress intended the mandatory detention of foreign nationals who entered the United States without inspection. (ECF 8, at p. 10-11.) The government directs this Court to a comment in a Congressional report that discusses replacing the prior "entry doctrine," a location-based distinction (inside the US vs outside it),

with a "new regime" based on "admission." (*Id.* (citing H.R. Rep. No. 104-469, pt. 1, at 225 (1996)).

This evidence is unpersuasive. The cited text from that report does not specifically address either of the custody provisions contained in sections 1225 or 1226. *See* H.R. Rep. No. 104-469, pt. 1, at 225 (1996). But other portions of that same report do. And indeed, when later summarizing the custody provisions, the Report states that section 1226(a) merely "restate[s]" the existing bond provision. (*Id.* pt. 1 at 129.)

Furthermore, the mandatory detention of all foreign nationals who entered the US without inspection would have created practical challenges, for which Congress made no preparations. When Congress was considering passage of IIRIRA it estimated that were that there were "4,000,000 or more" foreign nationals who had entered without inspection present in the United States. H.R. Rep. No. 104-469, pt. 1, at 119 (1996). Yet the bill increased funding for detention by only 50% for the next year—targeting only 8,500 beds. (*Id.* at 123). And, recall, IIRIRA included a mandatory custody provision of individuals convicted of certain crimes—now codified at 1226(c). The funding increase is consistent with the mandatory detention of foreign nationals convicted of crimes, not every foreign national present without inspection.

Ultimately, IIRIRA's legislative history does not contain evidence that Congress was creating a sweeping new detention authority over the millions who had entered the United States without inspection. Such authority, as best counsel can tell, was first proposed last year.

DATED this 26th day of January 2026

Respectfully submitted,

s/Ben Crouse
Attorney for Petitioner