UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
Case No. 0:25-cv-62708-AHS

ARNALDO MENDIBUR CASADO,

Petitioner,

v.

Garrett RIPA, et al.,

Respondents.
_____/

PEITIONER'S REPLY TO RESPONDENT'S RETURN TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Arnaldo Mendibur Casado, hereby submits this Reply to Respondents' Response to Habeas Petition [DE 12]. Mr. Mandibur Casado challenges his mandatory detention under 8 U.S.C. § 1225 pursuant to new Department of Homeland Security (DHS) policy and precedent from the Board of Immigration Appeals, and asserts that he is instead entitled to immediate release, or in the alternative, to a bond hearing under 8 U.S.C. § 1226.

FACTUAL AND PROCEDURAL BACKGROUND

Mr. Mendibur Casado entered the United States on May 13, 2022. Petition for Writ of Habeas Corpus (Petition) at ¶ 28. It is undisputed that on or about May 15, 2022, Petitioner was encountered by Customs and Border Patrol (CBP), who placed Petitioner in removal proceedings by issuing a Notice to Appear (NTA), charging him under INA § 212(a)(6)(A)(i) and placing him in § 240 removal proceedings before the Immigration Court. *Id.* Also undisputed is the fact that

Petitioner was detained by (CBP) but released on his own recognizance. Return to Petition for Writ of Habeas Corpus (Response) at ¶ 2. On June 3, 2025, the Immigration Judge dismissed the NTA. Petition at ¶ 28. Immediately thereafter, DHS issued a Form I-860, placing Respondent into expedited removal proceedings under INA § 235. *Id.* Respondent subsequently requested a custody redetermination hearing, and on July 8, 2025, however, the Immigration Judge denied jurisdiction, reasoning that Respondent was subject to mandatory detention as an "applicant for admission" citing Matter of M-S- and Matter of Q. Li. *Id.*

ARGUMENT

As a preliminary matter, Respondents argue that that the only appropriate Respondent in this habeas action is acting ICE Assistant Field Office Director Carlos Nunez, in his official capacity. But the Supreme Court has expressly declined to resolve the very questions Respondents assert it is settled, refusing to decide whether habeas petitions challenging immigration detention must be directed to the Attorney General or the immediate physical custodian. See Rumsfeld v. Padilla, 542 U.S. 426, 435 n.8 (2004). This footnote recognizes that immigration detention raises unique considerations and leaves this precise question open.

Respondents main contention is that Petitioner's entry into the United States without inspection or admission renders him an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A), making him subject to mandatory detention. Response at ¶ 6. Petitioner incorporates by reference the arguments in his initial habeas petition. This Court, and District courts within this District, have consistently rejected similar arguments in granting habeas petitions. See e.g., Puga v. Assistant Field Off. Dir., Krome N. Serv. Processing Ctr., No. 25-cv-24535, 2025 WL 2938369, at *5 (S.D. Fla. Oct. 15, 2025); Ceballo v. Parra, et. al. Case No. 25-cv-25271-JB, 2025 WL

3481908 (S.D. Fla. Dec. 4, 2025), Acosta v. Ripa, et. al., Case No. 25-cv-62360-WPD (S.D. Fla. Dec. 26, 2025); Taffur v. Noem, et. al. Case No. 25-cv-62308-WPD (S.D. Fla. Dec. 22, 2025), Garcia-Perez v. Walker, et. al. Case No. 25-cv-62639, 2025 WL 52258 (S.D. Fla. Jan. 6, 2026). The Seventh Circuit has likewise rejected that argument. See Castanon-Nava v. U.S. Dep't of Homeland Sec., No. 25-3050, 2025 WL 3552514, at *8 (7th Cir. Dec. 11, 2025).

In January 2025, the Laken Riley Act ("LRA"), Pub. L. No. 119-1, section 2, 139 statute 3, 3 (2025), added § 1226(c)(1)(E), which "mandates detention for noncitizens who (i) "are inadmissible under § 1182(a)(6)(A) (noncitizens present in the United States without being admitted or paroled, like Petitioner), § 1182(a)(6)(C) (obtaining a visa, documents, or admission through misrepresentation or fraud), or § 1182(a)(7) (lacking valid documentation)" and (ii) "have been arrested for, charged with, or convicted of certain crimes." Puga, 2025 WL 2938369, at *5 (citing 8 U.S.C. § 1226(c)(1)(E)(i)–(ii)). This recent amendment to § 1226 would be rendered meaningless under Respondents' interpretation of § 1225. See Puga, 2025 WL 2938369, at *5. Congress would have had no reason to enact § 1226(c)(1)(E) if Respondents' interpretation of § 1225 were correct. See Lepe v. Andrews, No. 25-cv-01163, 2025 WL 2716910, at *6 (E.D. Cal. Sept. 23, 2025) (citations omitted). "[A] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]" Corley v. United States, 556 U.S. 303, 314 (2009) (cleaned up). "This principle . . . applies to interpreting any two provisions in the U.S. Code, even when Congress enacted the provisions at different times." Bilski v. Kappos, 561 U.S. 593, 608 (2010) (citation omitted).

Respondent also contends that Petitioner's APA Claim should be dismissed. Petitioner incorporates by reference the arguments in his initial habeas petition. Petitioner further argues that

although Courts have addressed APA claims raised within habeas petitions in different ways, this Circuit has acknowledged that "on occasion, federal courts have chosen to consider APA claims bought in support of a § 2241 habeas petition" Wright v. Haynes, 410 Fed.Appx. 262 (2011) (citing Arrington v. Daniels, 516 F.3d 1106, 1111–16 (9th Cir.2008) (addressing prisoners' claim, brought in a § 2241 petition, that the BOP violated the APA when it promulgated a rule that rendered the prisoners ineligible for the residential drug abuse treatment program); Mora–Meraz v. Thomas, 601 F.3d 933, 938–43 (9th Cir.2010) (same)). Similarly, this Circuit has considered an APA claim raised in a habeas petition pursuant to 5 U. S. C. § 703. See Salmeron-Salmeron v. Spivey, 926 F.3d 1283 (2019) (ultimately concluding that the habeas claim was moot and that the APA claim failed on the merits).

Finally, as to the Respondents' assertion that judicial estoppel is an affirmative defense and therefore should be dismissed, Petitioner incorporates by reference the judicial estoppel arguments in his initial habeas petition. In the alternative, Petitioner respectfully requests that this Court invokes judicial estoppel *sua sponte*, and bar Respondent from asserting an inconsistent position. "[T]he district court 'may invoke the [judicial estoppel] doctrine *sua sponte*' and therefore 'the court is not bound to accept a party's apparent waiver of the doctrine.' " Allen v. C & H Distribs., L.L.C., 813 F.3d 566, 572 (5th Cir. 2015) n.4 (quoting 18 *Moore's Federal Practice* § 134.34 (3d ed. 2015)).

CONCLUSION

For these reasons, and the reasons stated in the Petition, the Court should GRANT the Petition for Writ of Habeas Corpus and order Petitioner's immediate release or, in the alternative,

provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a).

Date: January 21, 2026

Respectfully submitted,

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