



January 30, 2026

Via ECF

Honorable John P. Cronan, USDJ
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Alvarado Quezada v. LaDeon*, No. 26-cv-00387-JPC

Your Honor:

Kindly consider the instant letter in response to the question posed by the Court via the January 15, 2026 Order. Specifically, the Court asked the parties to address, *inter alia*, whether there is any basis to distinguish this case from the Court's recent decision in *Chen v. Almodovar*, No. 25-cv-9670 (JPC).

Notwithstanding that it is the Petitioner's position that he is detained pursuant to 8 USC § 1226(a), the statute governing non-mandatory detention for noncitizens already present in the United States, the Petitioner is distinguishable from the Petitioner in *Chen*. The most consequential difference is that the Petitioner herein entered the United States without admission or inspection on or about July 2011. The Petitioner was not apprehended by ICE until October 2025. Conversely, in *Chen*, that Petitioner was encountered by CBP at or near Tecate, California. As such, DHS had discretion to place him in § 1229 removal proceedings, or to place him into expedited removal proceedings.

Your Honor, in *Chen*, concluded that "[t]he fairest reading of Section 1225(b)(2)(A) is that . . . it covers all applicants for admission, including those 'present in the United States' who have 'not been admitted' and never gained lawful entry into the country after inspection and authorization by an immigration officer, regardless of how long they have been present." *Id.* at 26. But while this position includes the Petitioner herein an "applicant for admission," that does not equate to

“seeking admission.” If these concepts held identical legal significance, such a reading would render the phrase “seeking admission” in § 1225(b) superfluous.

Additionally, the Petitioner in *Chen* is not a class member as outlined in *Maldonado Bautista v. Santacruz*, in the Central District of California. Class members include “[a]ll noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.” *Chen*, unlike the Petitioner herein, was apprehended upon arrival by CBP.

Accordingly, the facts herein are distinguishable from those in *Chen*. Notwithstanding this Court’s admission that the holding in *Chen* is not in concert with the majority of decisions, treating these cases as materially indistinguishable further erodes any legal significance between those applicants for admission residing in the United States, and those individuals seeking admission.

Thank you in advance for your consideration.

Respectfully submitted,

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cc: Respondents’ Counsel (ECF)