



U.S. Department of Justice

United States Attorney

Eastern District of Pennsylvania

Monique Myatt Galloway, AUSA
Direct Dial: (215) 861-8216
Facsimile: (215) 861- 8618
Monique.galloway@usdoj.gov

615 Chestnut Street
Suite 1250
Philadelphia, Pennsylvania 19106-4476
(215) 861-8200

February 3, 2026

VIA ECF FILING

Honorable Mary Kay Costello
United States District Court
6614 US Courthouse
601 Market Street
Philadelphia, PA 19106

Re: *Wanderson Lopes de Andrade v. Michael Rose et al.*,
Civ. No. 26-cv-603-MKC

Dear Judge Costello:

I represent the United States in the above referenced habeas action. As of the date of this correspondence, Petitioner Wanderson Lopes de Andrade is detained at the Philadelphia Federal Detention Center pending removal proceedings.

Petitioner seeks release from detention. Per the Court’s January 30, 2026 Order, “Respondents shall advise the Court whether they oppose the Petition, and if so, whether they intend to make any arguments other than the ones they made in *Jamolzoda v. Rose*, Case No. 2:26-cv-0193-MKC.” (ECF No. 2).

I write to inform the Court that Respondents oppose the Petition, however, this matter is not substantively different from *Jamolzoda*. Respondents incorporate by this reference, as though set forth in full the arguments asserted in prior briefing filed in the *Jamolzoda* and referenced in the Court’s Order. *See* ECF No. 2. Respondents further respectfully, and briefly, call to the Court’s attention additional legal support in opposition to Petitioner Lopes de Andrade’s arguments.

Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2) and the BIA’s decision in *Q. Li*.

As an alien initially detained without a warrant while arriving in the United States and subsequently placed into removal proceedings, the Board of Immigration Appeals’ (BIA) holding in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)—which was issued three-months prior to the change in DHS policy that Petitioner is now challenging—applies to Petitioner’s detention under § 1225(b)(2).

In *Q. Li*, the BIA expanded upon the Supreme Court’s holding in *Jennings* and

February 3, 2026

Page 2

clarified the scope of §1225(b)(2) for applicants for admission, like Petitioner, who are arriving in the United States. 29 I&N Dec. at 68 (citing *Matter of M-D-C-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (defining the term “arriving” to apply to aliens “who [are] apprehended” just inside “the southern border, and not at a point of entry, on the same day [they] crossed into the United States”). For aliens in this category, the BIA affirmed that DHS may either place the alien into expedited removal proceedings under § 1225(b)(1) or full removal proceedings under § 1229a. *Id.* For the latter category—aliens arriving in and seeking admission into the United States who are placed directly into full removal proceedings—the Board held that § 1225(b)(2)(A) mandates detention “until removal proceedings have concluded.” *Id.* (citing *Jennings*, 538 U.S. at 299). Thus, the BIA held that an applicant for admission “who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings,” is detained under § 1225(b)(2) and is thus ineligible for any subsequent release on bond.

Petitioner entered by crossing the United States border without being admitted. Pet. ¶ 2. He was apprehended by Customs and Border Patrol near Roma, Texas, while arriving in the United States outside of a designated port of entry and placed into removal proceedings. Pet. ¶ 3; *see also* 8 U.S.C. § 1225(b)(2)(A) (stating applicant for admission “shall be” detained); *Q. Li*, 29 I&N Dec. at 68.

Respondents submit that Petitioner falls within the BIA’s holding in *Q. Li* and the ambit of § 1225(b)(2)(A)’s mandatory detention requirement. He is an “applicant for admission” to the United States. *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that “an alien who tries to enter the country illegally is treated as an ‘applicant for admission,’ § 1225(a)(1), and an alien who is detained shortly after unlawful entry cannot be said to have ‘effected an entry’”); *Matter of Lemus-Losa*, 25 I&N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission.”).

Respondents respectfully request the Court’s consideration of authority discussed herein, in addition to their prior briefing in *Jamolzoda*.

Respectfully yours,

DAVID METCALF
United States Attorney

/s/ Monique Myatt Galloway
Monique Myatt Galloway
Assistant United States Attorney

cc: Christopher Casazza (via ECF)