UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION

Ajaypal Singh, Petitioner, v. **Warden**, Philadelphia Federal Detention Center, Philadelphia, PA, **David O'Neill**, Acting Field Office Director, Philadelphia Field Office Immigration and Customs Enforcement, **Kristi Noem** , Secretary U.S. Department of Homeland Security **Pam Bondi**, Attorney General, U.S. Department of Justice, Executive Office for Immigration Review, Respondents.	Case No. 2:26-cv-765

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Ajaypal Singh, by and through undersigned counsel, respectfully submits this Reply to Respondents' Response in Opposition (ECF 4). The dispositive question remains the same: whether DHS may detain a noncitizen who has been living in the interior of the United States for an extended period after release from initial border processing under INA § 235, 8 U.S.C. § 1225(b)(2), thereby foreclosing any custody redetermination hearing, or whether his detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), which provides for an individualized bond hearing before an Immigration Judge.

Under controlling principles of statutory interpretation and consistent with recent decisions from this District addressing materially indistinguishable circumstances, Mr. Singh's

present detention is governed by § 1226(a). Respondents' contrary argument depends on reading the phrase "alien seeking admission" in § 1225(b)(2)(A) to include every person ever deemed an "applicant for admission" under § 1225(a)(1), even years after release into the interior. That reading collapses § 1225 and § 1226 into a single regime, ignores § 1225(b)(2)(A)'s inspection-and-examination context, and would make § 1226(a) largely superfluous for a broad class of arrests that Congress plainly contemplated.

Accordingly, the Petition should be granted and Respondents should immediately release Petitioner; or, Respondents should be ordered to provide a prompt § 1226(a) bond hearing (or release pending that hearing), consistent with the relief ordered in recent decisions from the Eastern District of Pennsylvania.

I. THE GOVERNMENT'S READING OF § 1225(b)(2)(A) IMPROPERLY ELIMINATES THE STATUTORY LIMIT "ALIEN SEEKING ADMISSION" AND COLLAPSES § 1225 INTO § 1226.

A. Section 1225(b)(2)(A) Applies In The Context Of Border Examination And Inspection—Not Interior Re-Arrest After Release.

Section 1225(b)(2)(A) mandates detention "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A) (emphases added). That text matters.

Respondents effectively ask the Court to treat "alien seeking admission" as synonymous with "applicant for admission," so that anyone who could be labeled an "applicant" under § 1225(a)(1) is necessarily "seeking admission" for all time, even after DHS releases the person to live in the United States for years. But Congress did not write § 1225(b)(2)(A) that way. It used additional limiting language ("examining immigration officer," "seeking admission," "not clearly

and beyond a doubt entitled to be admitted") that fits the inspection-and-examination process at or near entry.

Respondents' reading strips "seeking admission" of independent meaning. It also creates an indefinite mandatory-detention regime that § 1225(b)(2)(A) was not designed to address—namely, rearrest in the interior long after DHS has exercised discretion to release a person from initial processing.

B. Respondents' Construction Would Render § 1226(a) Largely Superfluous For A Broad Class Of Interior Detentions.

Section 1226(a) authorizes the arrest and detention of noncitizens "pending a decision on whether the alien is to be removed from the United States," and it is the statutory vehicle that supports individualized custody determinations (including bond) in removal proceedings for large categories of noncitizens. Respondents' approach would allow DHS to bypass § 1226(a) entirely for any noncitizen who entered without inspection (or who is otherwise treated as not admitted), even if DHS has already released the person into the country and the person has lived and complied in the interior for years.

That cannot be reconciled with Congress's decision to enact both § 1225 and § 1226 and to structure them differently: § 1225 addresses examination and processing of applicants for admission; § 1226 addresses custody during removal proceedings more broadly, including arrests in the interior. The government's interpretation collapses the distinction.

II. RECENT E.D. PA DECISIONS REJECT THE GOVERNMENT'S POSITION IN MATERIALLY INDISTINGUISHABLE CIRCUMSTANCES.

A. Vasquez-Rosario Controls The Remedy And Confirms § 1226(a) Governs Post-Release Interior Detention.

In *Vasquez-Rosario v. Noem*, No. 25-cv-7427 (E.D. Pa. Jan. 26, 2026) (Kenney, J.), the Court considered facts closely analogous to those here: initial border encounter; release into the United States; extended residence in the interior; and later arrest/detention without a bond hearing based on the government's assertion that § 1225(b) controls. The Court held that the petitioner was not subject to mandatory detention under § 1225(b) and was instead detained under § 1226(a), requiring an individualized bond hearing within seven days (or release pending that hearing).

Respondents attempt to reframe the dispute through labels such as "arriving alien" and by relying on selected language from § 1225(a)(1). But *Vasquez-Rosario* addressed the core statutory question and rejected the premise that § 1225(b) supplies indefinite mandatory detention authority for interior arrests after release into the United States.

B. Cantu-Cortes Provides Additional E.D. Pa. Authority For § 1226(a) Treatment And Prompt Bond-Hearing Relief.

In Cantu-Cortes v. O'Neill, No. 25-cv-6338 (E.D. Pa. Nov. 13, 2025) (Kenney, J.), the Court granted habeas relief, holding the petitioner "is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and is instead subject to detention, if at all, pursuant to the discretionary provisions of 8 U.S.C. § 1226(a)." The Court ordered a bond hearing within seven days and provided for release if DHS could not timely provide one. While the factual duration of residence may differ case to case, the legal principle is the same: once DHS has released a person from initial processing and later chooses to re-arrest and detain the person in the interior during § 240 proceedings, § 1226(a) supplies the custody framework and the Immigration Court has jurisdiction to conduct a bond hearing.

III. THE GOVERNMENT'S RELIANCE ON MATTER OF Q. LI AND MATTER OF HURTADO DOES NOT CARRY THE DAY IN ARTICLE III HABEAS REVIEW.

Respondents rely heavily on the BIA's decision in Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), and also cite Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), to argue Mr. Singh is forever subject to § 1225(b)(2) mandatory detention because he is an "applicant for admission." But in a § 2241 habeas action, it is this Court's duty to determine whether the Executive is detaining Petitioner "in violation of the Constitution or laws … of the United States." 28 U.S.C. § 2241(c)(3). The Court is not bound to adopt the agency's litigation-driven interpretation where, as here, it conflicts with the statutory structure and with persuasive—and recent—authority within this District.

In any event, Q. Li addressed a specific context and does not compel the result Respondents seek: indefinite mandatory detention under § 1225(b)(2) long after DHS has released a person into the interior. Nor does Hurtado resolve the question presented here for Article III purposes. This Court should follow the reasoning and remedial approach adopted in recent cases from the Eastern District of Pennsylvania addressing the same post-release interior detention posture.

IV. DUE PROCESS PROVIDES AN INDEPENDENT BASIS FOR RELIEF (AND CONFIRMS THE APPROPRIATE REMEDY IS A PROMPT BOND HEARING).

Even if § 1225(b)(2) could be stretched to cover interior re-arrest after years of residence (it cannot), due process would still require meaningful, individualized procedures before prolonged civil detention may continue. Mr. Singh has been living in the United States and complying with immigration reporting requirements for a substantial period. He was taken into custody at an ICE check-in and has been denied any opportunity to demonstrate he is not a flight risk or danger and to seek release on conditions.

Courts have repeatedly recognized that the constitutional posture of a person already inside the United States differs from an individual stopped at the threshold seeking initial entry. The government's heavy reliance on cases about entry and expedited removal does not answer the due-process question presented by interior detention during proceedings where Congress otherwise provided for custody redetermination under § 1226(a).

Consistent with *Vasquez-Rosario* and *Cantu-Cortes*, the appropriate relief is an order requiring a prompt § 1226(a) bond hearing before an Immigration Judge (or release pending that hearing if DHS cannot timely provide one), with the parties afforded the opportunity to present evidence and argument on flight risk and danger.

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the Petition and order Respondents to provide Mr. Singh with an individualized bond hearing pursuant to 8 U.S.C. § 1226(a) within seven (7) days of the Court's Order. If Respondents cannot provide a bond hearing within that time, Petitioner requests that the Court order his release from detention pending the bond hearing, together with such other relief as the Court deems just and proper.

Respectfully submitted,

Dated: February 13, 2026 /s/ *david m bercovitch*

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February 2026, a true and correct copy of the foregoing Petitioner's Reply to Response in Opposition was served upon counsel for Respondents via the Court's electronic filing system (ECF).

/s/ David M. Bercovitch
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