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May 1, 2026

The Honorable John L. Sinatra, Jr.
United States District Judge
Robert H. Jackson United States Courthouse
2 Niagara Square
Buffalo, New York 14202

Re: A.J. v. Marich, et al.
26-cv-00324-JLS

Dear Judge Sinatra:

Petitioner admits that he entered without admission or inspection and parole and was thereafter apprehended at or near the border. ECF No. 1 at ¶ 2. This Court's prior holdings in *Candido* and *Castillo* therefore apply, because he fits within the carve-out created by the Second Circuit in *Da Cunha:*

> Section 1225(b)(2)(A) applies to those noncitizens who present themselves at a port of entry for admission, or who cross the physical border into the United States but are apprehended at the "threshold of initial entry." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107, 140, 140 S.Ct. 1959, 207 L.Ed.2d 427 (2020) (holding that a noncitizen "apprehended just 25 yards from the border" had not effected an "entry"); *see also Leng May Ma v. Barber*, 357 U.S. 185, 189, 78 S.Ct. 1072, 2 L.Ed.2d 1246 (1958) (treating noncitizens paroled into the country "as [if] stopped at the boundary line").

Da Cunha v. Freden, No. 25-3141-PR, 2026 WL 1146044, at *6 (2d Cir. Apr. 28, 2026).

Respectfully submitted,

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BY: /s/ Adam A. Khalil
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