Jadeja-Cimone Law, PC

March 17, 2026

**BY ECF**
Honorable Rachel P. Kovner
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Murillo-Abrego v. Bondi et al*, No. 2:26-cv-01358-RPK

Dear Judge Kovner:

Petitioner Luis A. Murillo-Abrego ("Petitioner" or "Mr. Murillo-Abrego") submits this letter in reply to Respondents' response filed on 3/15/2026 (ECF No. 9). Attached to this letter are 1. Notice to Appear dated March 7, 2026; and 2. Form I-830, Notice of Alien Address.

Petitioner entered the United States without inspection in approximately August 2006 fleeing threats of violence and various attacks by guerillas in El Salvador based [redacted] He came with the intention of safeguarding his life, not to hurt anyone or to willfully evade the laws of the United States. In fact, during the nearly two decades that Respondent has resided within the U.S., he has never been arrested or charged with criminal misconduct. Despite not having work authorization until recently, Respondent has worked to support himself and his family and has complied with his legal obligation to pay taxes by obtaining an Individual Taxpayer Identification Number ("ITIN"). Respondent has two U.S. citizen children, [redacted] Respondent's [redacted] daughter, [redacted], has been diagnosed [redacted] attends a special education school and is completely nonverbal. Respondent's wife stays home to care for their children, so their family is experiencing financial hardship since Respondent is detained and unable to work.

According to Respondents, Petitioner was detained by Immigration and Customs Enforcement ("ICE") on May 7, 2026 pursuant to a traffic enforcement operation in which ICE (ECF No. 9). They filed a Notice to Appear ("NTA") with the Immigration Court on that day, and allegedly issued a warrant that same day, however, Respondents did not provide a copy of either

of these documents (ECF No. 9). A copy of Petitioner's NTA is attached hereto as Exhibit 1. The Department of Homeland Security ("DHS") also filed a Form I-830, Notice of Alien Address, with the Immigration Court, which states that Petitioner is being held at Brooklyn MDC. Exhibit 2. That is incorrect, as Petitioner is not currently, nor was he previously, held at Brooklyn MDC, as confirmed by Respondents (ECF No. 9). Respondents have not filed any other notice of address of Petitioner with the Immigration Court.

Although Respondents urge the Court to rely on a decision by Judge Brian M. Cogan and a non-binding decision from the Fifth Circuit Court of Appeals (ECF No. 10), this case bears many similarities to *Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065, 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025) ("Acurio"). As in Acurio, Mr. Murillo-Abrego was detained by ICE without any notice or opportunity to be heard. He is not detained under the mandatory detention provisions of either 8 USC 1225(b)(1) or (2), but is detained under Section 1226(a). His detention without notice or opportunity to be heard violates his right to procedural due process under the Fifth Amendment.

The three-part balancing test articulated in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) weighs heavily in favor of Petitioner's release. The Mathews factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. at 335. Here, the first and second Mathews factors weigh heavily in petitioner's favor, as he has been deprived of liberty, erroneously subjected to mandatory detention under § 1225 during his removal proceedings, and denied due process protections. The third Mathews factor also weighs in Petitioner's favor as neither the government nor the public has a significant interest in detaining a man with no criminal history who is participating in removal proceedings, which are civil in nature. See generally 8 U.S.C. § 1229. Petitioner's mandatory detention is not authorized by § 1225, serves no legitimate purpose, and amounts to punitive detention, warranting habeas relief.

Mr. Murillo-Abrego is not an arriving alien under Section 1225(b)(1)(A)(i). As this Court found in *Acurio*, the Arriving Aliens Provision imposes expedited removal and detention on any

noncitizen who is inadmissible due to lack of entry documents or fraud or willful misrepresentation on an admission application *and* "who is arriving in the United States." 8 U.S.C. § 1225(b)(1)(A)(i). *Acurio* at 42. According to the plain meaning of the term "arriving" in Section 1225(b)(1)(A)(i), Mr. Murillo-Abrego cannot be classified as a noncitizen "who is arriving in the United States." *See Bollat Vasquez v. Wolf*, 460 F. Supp. 3d 99, 111 (D. Mass. 2020) ("Under the statutory language, if applicants are apprehended while crossing the border (whether or not at a check point), they are 'arriving' applicants under the statute, and if apprehended at some point thereafter, they are not 'arriving,' but rather "alien[s] present in the United States who [have] not been admitted." (quoting 8 U.S.C. § 1225(a)(1))). DHS also acknowledges that Petitioner is not an arriving alien as indicated on the NTA. Exhibit 1. Petitioner's detention on 5/7/2026, almost twenty years after his entry is not as a result of his "arriving" in the United States.

Nor is Mr. Murillo-Abrego detained under Section 1225(b)(2). Section 1225(b)(2)(A) provides that "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*, the alien shall be detained for a proceeding under section 1229a." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). *See Acurio* at 47. As other courts have recognized, this language requires that "several conditions must be met" to impose mandatory detention under Section 1225(b)(2). *Lopez Benitez*, 2025 WL 2371588, at *5. The noncitizen must be: "(1) an applicant for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted." *Id.*; *Martinez v. Hyde*, 792 F. Supp. 3d 211, 214 (D. Mass., 2025). Petitioner is not "seeking admission" such that he is subject to mandatory detention under Section 1225(b)(2)(A). Like the phrase "arriving alien," the term "'seeking admission' is undefined in the statute," *Martinez*, 792 F. Supp. 3d at 218, but courts have repeatedly held that the term requires "some active desire of process toward admission," *Huamani*, 2025 WL 3079014, at *3; *see Martinez*, 792 F. Supp. 3d at 218 (holding that the term "seeking admission" "necessarily implies some sort of present-tense action"). *See Acurio* at 48. Under a straightforward reading of the statute, "seeking admission is meant to refer to those who are presenting themselves at the border, or who were recently apprehended just after entering." *Hyppolite*, 2025 WL 2829511, at *9.

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Rather, Mr. Murillo-Abrego is detained under the alternative statute, Section 1226(a), which "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings," *Jennings*, 583 U.S. at 289, and it applies when a noncitizen is "arrested and detained" "[o]n a warrant issued by the Attorney General," 8 U.S.C. § 1226(a). According to Respondents' account of events leading up to Petitioner's detention, that is exactly what happened here (ECF No. 9).

Mr. Murillo-Abrego, a father of two minor US citizens with no criminal history who has been residing at the same address for nearly six years, is neither a flight risk nor a danger to the community, and should be released from detention.

Thank you for the Court's time and attention to this manner.

Respectfully submitted,

By: */s/ Brigitte Molina-Nunez*

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cc: All Counsel of Record (by ECF)