

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOSE ANGEL CHINEA SANZ,
Petitioner,

v.

Case No. 2:26-cv-838-KCD-DNF

SOUTH FLORIDA DETENTION CENTER,
ICE, DHS,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Jose Angel China Sanz seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of detention by U.S. Immigration and Customs Enforcement and seeking release from custody. The petition should be denied, as this case is distinct from recent immigration habeas cases filed in this District, which have primarily dealt with petitioners who—critically—had not been paroled into the United States as an arriving alien. Petitioner, however, received such temporary parole and, because Petitioner’s parole has now ended, Petitioner is restored to the status prior to parole, as an applicant for admission. Petitioner is therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

FACTS

Petitioner is a national and citizen of Cuba who was paroled into the United States in April 1997. *See* Ex. A. On or about October 21, 2010, ICE issued a Notice

to Appear to Petitioner. *See* Ex. B. at 1-5. Petitioner apparently filed a motion to dismiss, which an Immigration Judge granted on May 28, 2011. *See id.* at 6. ICE advises that in October 2015, Petitioner filed an application of adjustment (I-485) with USCIS, which was denied on November 9, 2017.¹

ICE encountered Petitioner at the Miami jail on January 10, 2026, *see* Ex. C, and issued Petitioner a Notice to Appear. *See* Ex. D. ICE advises that Petitioner entered ICE custody as of January 17, 2026.² Petitioner is currently detained at Krome North SPC. *See* Ex. E. As of the date of this Response (April 10, 2026), Petitioner has been detained for 83 days.³

On March 17, 2026, Petitioner filed this pro se petition for writ of habeas corpus alleging among other things, that the present detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. *See generally* Dkt. 1. Petitioner seeks release from detention. *See id.*

CERTIFIED HABEAS RETURN

ICE is detaining Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A). *See* 28 U.S.C. § 2243 (“The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.”). Petitioner

¹ The undersigned does not currently have any supporting documents for these statements.

² *See* footnote 1 above.

³ If in fact Petitioner entered ICE custody on January 10, 2026, then the length of Petitioner’s current detention would be 90 days.

bears the burden to prove the present detention and custody violates federal law.

Whitfield v. U.S. Sec’y of State, 853 F. App’x 327, 329 (11th Cir. 2021).

ARGUMENT

Petitioner’s detention comports with the INA and the Due Process Clause of the Fifth Amendment.

Title 8 U.S.C. § 1225 -- applicable to “applicants for admission,” that is, aliens present in the United States who have not been admitted -- is the specific detention authority applicable to Petitioner. Under § 1225(a), an “applicant for admission” is defined as an “alien present in the United States who has not been admitted *or who arrives in the United States.*” (Emphasis added). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(2) -- the provision relevant here -- is the “broader” of the two. *Id.* It “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here).” *Id.* And § 1225(b)(2) mandates detention. *Id.* at 297; *see also* 8 U.S.C. § 1225(b)(2); *Matter of Q. Li*, 29 I & N. Dec. at 69 (“[A]n 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 section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).”); *see also Matter of Yajure Hurtado*, 29

I&N Dec. 216 (BIA Sept. 5, 2025).

The present case is factually and legally distinct from recent Orders of this Court finding § 1225(b)(2) an inapplicable basis for detention. Here, the record establishes that Petitioner was paroled into the United States in 1997 as an arriving alien. *See* Ex. A. Petitioner's parole at a port of entry allowed the otherwise mandatory § 1225(b)(2)(A) detention to be suspended, subject to, however, the government's right to treat Petitioner "as if stopped at the border." *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

ICE has served another Notice to Appear on Petitioner. *See* Ex. D. Title 8 CFR § 212.5(e)(2)(i) provides, "When a charging document is served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified." After service of the NTA, Petitioner was therefore restored to the status of an arriving alien subject to mandatory detention. *Cf. Chanaguano Caiza v. Scott*, No. 1:25-CV-00500-JAW, 2025 WL 3013081, at *6 (D. Me. Oct. 28, 2025) (holding the petitioner's parole automatically terminated upon expiration subjecting him to mandatory detention).⁴ For noncitizens who have never been "been

⁴ Respondents recognize the Court previously ruled against the government in a similar case, *Velasquez Mendez v. Warden, Glades Cnty. Detention Cntr.*, 2:25-cv-01211-KCD-DNF, Doc. 11 (M.D. Fla. Jan. 14, 2026). Respondents nevertheless respectfully assert that a previously paroled arriving alien is subject to mandatory detention. As the Code of Federal Regulations recognizes, Immigration Judges generally lack jurisdiction to redetermine conditions of custody for "[a]rriving aliens" in removal proceedings, including previously paroled aliens. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B); *see also Mina v. Trump*, No. 8:25CV583, 2025 WL 3141178, at *4 n.4 (D. Neb. Nov. 10, 2025) (recognizing that an alien

admitted into the country pursuant to law . . . the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law.” *Thuraissigiam*, 591 U.S. at 139. Petitioner is therefore lawfully detained under 8 U.S.C. § 1225(b)(2).

Conclusion

WHEREFORE, the Federal Respondents assert the Court should deny the Petition.

Respectfully submitted,

April 10, 2026

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paroled into the country may be an “arriving alien”). *Cf. Cooper-Pedro v. Warden*, Case No. 2:25-cv-524-KCD-DNF, at *9 (M.D. Fla. April 2, 2026) (holding alien whose parole was terminated – by virtue of arrest on criminal charges – was subject to detention under § 1225(b)(2)) (copy of *Cooper-Pedro* order attached as Ex. F).

CERTIFICATE OF FILING

I hereby certify that, on the date set forth above, I filed the foregoing documents and any exhibits referenced therein using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

I further certify that I caused the foregoing documents and any exhibits referenced therein to be sent by first class mail to Petitioner at the address shown on the Court's docket.

s/ Charles T. Harden III
Charles T. Harden III
Assistant United States Attorney