

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ADILET AKMATBEKOV,

Petitioner,

v.

J.L. JAMISON, in his official capacity as
Warden, FDC Philadelphia, et al.,

Respondents.

Case No. 2:26-cv-02148-PD

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

INTRODUCTION

Petitioner Adilet Akmatbekov, by and through undersigned counsel, respectfully submits this Reply to Respondents' Response in Opposition (ECF No. 7). The Government's opposition recycles the same arguments that over 250 federal district courts have rejected, and it does so without engaging the strongest evidence against its position: the Government's own release order, which confirms that Petitioner's custody has always been governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A).

As set forth below, the Court should grant the Petition and order a bond hearing under § 1226(a), consistent with the overwhelming weight of authority in this District and across the country.

ARGUMENT

I. THE GOVERNMENT'S OWN RELEASE ORDER CONFIRMS § 1226 GOVERNS PETITIONER'S DETENTION.

The Government's brief overlooks a dispositive fact. When DHS initially processed and released Petitioner, the agency issued an "Order of Release on Recognizance" expressly citing *Section 236 of the INA*, i.e., 8 U.S.C. § 1226. *See* ECF No. 1-3, Ex. F. The Government itself acknowledges this. ECF No. 7 at 5. The release order imposed conditions under § 1226, including a requirement that Petitioner "not violate[] any federal, state, or local laws." *Id.*

This is not a trivial detail. DHS's own charging document and release order establish that the agency exercised its authority under § 1226, not § 1225(b)(2). Having processed Petitioner under § 1226 for nearly nine years, the Government cannot now retroactively recharacterize his detention authority to strip him of the bond hearing rights that § 1226(a) provides. *See Kashranov*

v. Jamison, No. 2:25-cv-05555, 2025 WL 3188399, at *6-7 (E.D. Pa. Nov. 14, 2025) (rejecting the Government's attempt to reclassify detention authority).

II. SECTION 1225(b)(2)(A) DOES NOT APPLY TO PETITIONER.

A. "Seeking Admission" Requires Active, Ongoing Conduct at the Border.

The Government's core argument is that every "applicant for admission" is necessarily "seeking admission" until removal proceedings conclude. ECF No. 7 at 7-8. This reading impermissibly collapses two distinct statutory phrases into one, violating the cardinal principle that "each word Congress uses is there for a reason." *Pulsifer v. United States*, 601 U.S. 124, 143 (2024).

Section 1225(b)(2)(A) requires *both* that the individual be "an applicant for admission" *and* that the individual be an "alien seeking admission." The present participle "seeking" denotes ongoing, active conduct. A person who entered the United States as a minor child in 2017, has lived in the country for nearly a decade, and is currently residing in the community is not actively "seeking admission" at a border or port of entry. *See Vasquez-Rosario v. Noem*, No. 25-cv-7427, 2026 WL 196505, at *9 (E.D. Pa. Jan. 26, 2026); *Kashranov*, 2025 WL 3188399, at *6-7.

This reading is confirmed by the structure of the INA. Section 1225 is titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens" and governs the inspection process at the border. By contrast, § 1226 is titled "Apprehension and detention of aliens" and governs those "already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

B. The Overwhelming Weight of Authority Rejects the Government's Position.

The Government acknowledges that "all courts in this district (and many more elsewhere)" have rejected its interpretation. ECF No. 7 at 8. This is an understatement. As of the date of this

Reply, over 250 district courts have concluded that § 1225(b)(2)(A) does not authorize mandatory detention of individuals who are present in the interior. The Government's reliance on two circuit court decisions does not change this calculus.

The Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), is not binding on this Court. Nor is the Eighth Circuit's decision in *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026). Meanwhile, the Seventh Circuit has agreed with Petitioner's position. *See Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1062 (7th Cir. 2025). The Third Circuit has not yet ruled, and the consolidated appeals in *Lopes De Andrade* and *Buele Morocho* are not scheduled for disposition until the week of May 11, 2026. ECF No. 7 at 8 n.4. In the absence of binding Third Circuit precedent to the contrary, this Court should follow the near-unanimous consensus of district courts.

C. Matter of Q. Li Is Not Binding and Deserves No Deference.

The Government relies heavily on the BIA's decision in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). But after *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overruled *Chevron* deference, courts must "exercise their independent judgment in deciding whether an agency has acted within its statutory authority." *Id.* at 392. The BIA's statutory interpretation in *Q. Li* is entitled to no deference.

Notably, *Q. Li* itself acknowledged that "for years Immigration Judges have conducted [§ 1226(a)] bond hearings for aliens who entered the United States without inspection." 29 I. & N. Dec. at 71. The BIA's abrupt reversal of decades of agency practice further undermines any claim to deference.

D. The Government's Own Regulatory History Contradicts Its Position.

When implementing IIRIRA in 1997, the Government itself stated that noncitizens "who are present [in the United States] without having been admitted or paroled" would be "eligible for bond and bond redetermination" under § 1226(a). 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). This prior interpretation, issued by the same agency now arguing the opposite, powerfully undermines the Government's current litigation position.

**III. PETITIONER'S CRIMINAL HISTORY DOES NOT JUSTIFY MANDATORY
DETENTION WITHOUT A HEARING.**

The Government highlights Petitioner's Bucks County criminal case. ECF No. 7 at 5-6; ECF No. 7-1. The record shows that the felony criminal trespass (F2) and misdemeanor criminal mischief (M3) charges were *nolle prossed*. Petitioner pled guilty only to four counts of disorderly conduct, a *summary offense* under 18 Pa.C.S. § 5503(a)(4), and received 90 days' probation per count. ECF No. 7-1 at 2. He received no jail time.

A summary offense conviction for disorderly conduct is not a basis for mandatory detention without any hearing. To the contrary, this is precisely the type of individualized assessment that a bond hearing under § 1226(a) is designed to evaluate. An immigration judge can weigh this minor criminal history alongside Petitioner's nearly nine years of community presence, his family ties, and his pending asylum claim to make an informed custody determination.

IV. EVEN IF § 1225(b)(2) APPLIED, DUE PROCESS REQUIRES A BOND HEARING.

The Government argues that Petitioner's detention does not violate due process, relying on *Demore v. Kim*, 538 U.S. 510 (2003), and *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). ECF No. 7 at 11-12. But the Government's own authority cuts against it. *Demore* involved § 1226(c) mandatory detention of criminal aliens during "brief" removal proceedings with an average

duration of 47 days. 538 U.S. at 529-30. That factual context is far removed from the indefinite, open-ended detention the Government seeks to impose here under § 1225(b)(2) with no hearing and no temporal limit.

Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the balance of interests favors a bond hearing. The private interest at stake, freedom from physical custody, is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The risk of erroneous deprivation is high because without a hearing, there is no mechanism to assess whether Petitioner poses a flight risk or danger. And the Government's burden is minimal: bond hearings are routine administrative proceedings that immigration courts conduct daily.

The Third Circuit has recognized that mandatory civil detention without a bond hearing may become constitutionally unreasonable. See *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020). While the Government notes that Petitioner has been detained only briefly, that fact supports granting a bond hearing now, before detention becomes prolonged, rather than waiting for a constitutional crisis to develop.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court: (1) grant the Petition for Writ of Habeas Corpus; (2) declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a); (3) order an individualized bond hearing before an Immigration Judge within fourteen (14) days, at which the Government bears the burden of justifying continued detention by clear and convincing evidence; and (4) grant such other and further relief as the Court deems just and proper.

Dated: April 10, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2026, a true and correct copy of the foregoing Petitioner's Reply to Respondents' Response in Opposition to Petition for Writ of Habeas Corpus was served upon the following by the means indicated:

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All counsel of record who are registered CM/ECF users will be served by the Court's electronic filing system.

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