



U.S. Department of Justice

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April 14, 2026

BY ECF

Honorable Nina R. Morrison
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Leal v. Maldonado, et al.*, No. 26-cv-2139 (Morrison, J.)

Dear Judge Morrison:

This Office represents the Respondents in this habeas case, in which Petitioner Luis Buitrago Leal challenges his detention by U.S. Immigration and Customs Enforcement ("ICE"). See ECF No. 1. Respondents write respectfully in response to the Court's April 13, 2026 Order directing Respondents to file a letter by Tuesday, April 14, 2026 at 3:00 p.m. stating, *inter alia*, whether there is "any basis to distinguish the asserted grounds for detention in this case" from this Court's decision in *Hyppolite v. Noem*, 808 F. Supp. 3d 474 (E.D.N.Y. 2025) (Morrison, J.), and whether the conference scheduled for April 20, 2026 is necessary."

While reserving all rights, including the right to appeal, Respondents submit this letter in lieu of a formal memorandum of law to conserve judicial and party resources, and to expedite the Court's consideration of this case, in light of Your Honor's decision in *Hyppolite*, and respectfully submit that a conference is not necessary.

A. Relevant Facts

Petitioner, [REDACTED], is a national of Colombia who entered the United States unlawfully in June 2022. He was apprehended by U.S. Customs and Border Patrol officers and released that month on parole as an alternative to detention because of detention capacity in Yuma Arizona. On February 20, 2026, ICE arrested and detained him pursuant to 8 U.S.C. § 1225(b)(2)(A). He was later transferred to the Brooklyn Metropolitan Detention Center, where he is presently in custody. In accordance with the Court's order, Respondents report that ICE Deportation Officer Imani Montgomery can facilitate counsel's access to Petitioner. DO Montgomery's phone number has been produced to Petitioner's counsel.

The Department of Homeland Security ("DHS") has commenced removal proceedings against Petitioner by serving him with a Notice to Appear. Petitioner has filed an I-589 application for asylum and withholding of removal. See ECF No. 1 ("Pet.") ¶ 26. Those proceedings remain pending. Petitioner has never been admitted to the United States and remains detained under § 1225(b)(2)(A).

B. Habeas Petition

Petitioner commenced this action on Friday, April 10, 2026. ECF No. 1. He argues that his detention pursuant to § 1225(b)(2)(A) violates his procedural and substantive due process rights. *Id.* He asks the Court to, *inter alia*, declare his detention unlawful and issue a writ of habeas corpus ordering his immediate release from custody. Pet. at 9.

C. *Hyppolite*

The basis for Petitioner's detention is that, because he has not been admitted to the United States, he remains an applicant for admission and is thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Respondents acknowledge, however, that on October 7, 2025, Your Honor issued the *Hyppolite* decision that, *inter alia*, rejected the government's position as to the scope of 8 U.S.C. § 1225(b)(2)(A). Your Honor found that the *Hyppolite* petitioner was detained under 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), because, among other things: (i) the Court interpreted Section 1225 to apply only to those "*presently seeking to enter the United States, and not those, like Hyppolite, who have lived in the country for almost three years,*" and (ii) the mandatory detention provisions of the Laken Riley Act ("LRA"), Pub. L. 119-1, 139 Stat. 3 (2025), would be superfluous under the government's reading of § 1225(b)(2)(A). *Hyppolite*, 808 F. Supp. 3d at 484-90. Your Honor held that the *Hyppolite*'s detention violated due process because, as a person subject to § 1226, he should have received an individualized determination prior to his detention in accordance with § 1226(a). *Id.* at 491-94.¹

¹ At the time of this filing, one district court judge in this District, and six other district court judges in this Circuit, have endorsed the government's interpretation of the relevant statutory provisions. On February 11, 2026, the Honorable Brian M. Cogan issued a decision in *Saamishvili v. Flanagan*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026), *notice of appeal filed* Feb. 12, 2026, concurring with the Respondents' statutory construction. *See id.* at *3 ("Since his unlawful entry, petitioner has been, and continues to be, subject to the mandatory detention requirement of Section 1225(b)(2)(A).").

In *Xiaoquan Chen v. Almodovar*, No. 25-cv-8350, 2025 WL 3484855, at *7 (S.D.N.Y. Dec. 4, 2025), *notice of appeal filed* Dec. 16, 2025, the petitioner had entered the United States without having been admitted, was detained, and was released on his own recognizance due to lack of bed space; he was later re-detained pursuant to 8 U.S.C. § 1225(b)(2)(A). The Honorable Mary Kay Vyskocil dismissed the habeas petition, holding that "under the plain language" of § 1225(b)(2)(A), which by its terms requires mandatory detention for "applicant[s] for admission," the petitioner—an applicant for admission—was subject to mandatory detention. *Xiaoquan Chen*, 2025 WL 3484855 at *4. In particular, the court cited the statutory definition of "applicant for admission" in Section 1225(a), which "is specifically defined to include an 'alien present in the United States who has not been admitted.'" *Id.* (emphasis in *Xiaoquan Chen*) (citing Section 1255(a)). Moreover, the court noted that the terms "'admitted' and 'admission' are specifically defined in terms of 'lawful' entry," not mere physical entry. *Id.* (emphasis in *Xiaoquan Chen*) (citing 8 U.S.C. § 1101(a)(13)(A)); *accord Candido v. Bondi*, No. 25-cv-867, 2025 WL 3484932, at *1-2 (W.D.N.Y. Dec. 4, 2025) (holding detention under 8 U.S.C. § 1225(b)(2)(A) was proper for alien present in United States unlawfully without having been admitted based on "a straightforward and fair reading of the governing statute," noting that "[t]he fact that more district courts . . . have decided this issue differently from this [c]ourt is neither binding nor persuasive"), *notice of appeal filed* Dec. 16, 2025. In *Xiaoquan Chen*, the court also rejected the proposition that Congress would not have needed to pass the LRA – which provides for mandatory detention for "inadmissible" aliens charged with, arrested for, convicted of, or who admit to, certain crimes – if Section 1225 already provided for mandatory detention. *Xiaoquan Chen*, 2025 WL 3484855, at *6-7. The court explained, *inter alia*, that the LRA mandates detention in additional circumstances – for example, for aliens who fraudulently procure visas – not covered by Section 1225. *Id.*; *accord Arana v. Arteta*, No. 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.) (adopting the reasoning

D. Discussion

While Respondents respectfully disagree with the Court's decision in *Hyppolite*, Respondents acknowledge that the Court will grant the Petition in this case if it adheres to its reasoning in *Hyppolite*. Petitioner's detention is based on ICE's position as to the scope of 8 U.S.C. § 1225(b)(2)(A), which Your Honor rejected in *Hyppolite*. Therefore, to conserve party and judicial resources and to expedite the Court's consideration, Respondents rely upon, and incorporate by reference, the legal arguments the government presented in *Hyppolite*² and respectfully submit that the Court can decide this matter without further briefing or argument.

of *Xiaoquan Chen*). On December 15, 2025, Judge Vyskocil issued another decision concluding that the Government's interpretation is correct. See *Wenxin Liang v. Almodovar*, No. 25-cv-9322, 2025 WL 9322, at *4-11 (S.D.N.Y. Dec. 15, 2025) (holding that petitioner who entered the United States without being admitted was properly subject to detention under the plain language of Section 1225, notwithstanding prior release on his own recognizance under Section 1226, and further concluding that petitioner was not entitled to any process beyond that set forth in the statute).

In *Yinxiao Chen v. Almodovar*, No. 25-cv-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026), the Honorable John P. Cronan issued a decision endorsing the Government's interpretation. In *Yinxiao Chen*, the petitioner entered the United States without inspection or legal documents, was arrested and later released on his own recognizance under 8 U.S.C. § 1226, served with a Notice to Appear for removal proceedings, and recently detained under 8 U.S.C. § 1225(b)(2)(A). See *Yinxiao Chen*, 2026 WL 100761 at *5-*6. Judge Cronan denied the habeas petition, concluding that the text, structure, and context of § 1225(b)(2)(A) confirm that statute covers aliens like that petitioner. *Id.* at *8-14.

With respect to the text of § 1225(b)(2)(A), Judge Cronan held that § 1225(a)(1) "'deem[s]'" an "applicant for admission" "[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival ...)." See *id.* at *8 (emphasis supplied in *Yinxiao Chen*). Given that the detention authority in § 1225(b)(2)(A) covers "an alien who is an applicant for admission," Judge Cronan held, it follows that "[p]ut together, Section 1225(b)(2)(A) initially reaches situations concerning noncitizens . . . present in the United States who have not gained lawful entry into the country after inspection and authorization by an immigration officer." *Id.*; accord, *Alvarado Quezada v. Francis*, No. 26 Civ. 387, 2026 WL 380711 (S.D.N.Y. Feb. 11, 2026) (Cronan, J.); see also *Portilla Hernandez v. Noem*, No. 25-cv-10393, 2026 WL 836735, at *3 (S.D.N.Y. Mar. 26, 2026) (Halpern, J.) (adopting the reasoning of *Yinxiao Chen* and *Xiaoquan Chen*).

The Honorable Jennifer F. Rearden, in *Weng v. Genalo*, No. 25-cv-9595, 2025 WL 194248 (S.D.N.Y. Jan. 25, 2026), concluded that the petitioner in that case was subject to § 1225(b)(2)(A) mandatory detention. Judge Rearden noted that Congress in 1996 enacted § 1225(a)(1) and 8 U.S.C. § 1101(a)(13)(A), which together limited the category of those "admitted" to persons who lawfully entered the United States. *Id.* at *3. Thus, persons who entered the United States unlawfully have not been "admitted" and are subject to § 1225(b)(2)(A) mandatory detention. *Id.* Judge Rearden also, *inter alia*, declined to follow the courts that have held § 1225(b)(2)(A) mandatory detention applies only to persons who are "seeking admission" and thus cannot apply to persons who are already in the United States. She noted that "the term 'applicant for admission' in Section 1225 is defined to include an 'alien present in the United States who has not been admitted,'" 8 U.S.C. § 1101(a)(13)(A) (emphasis added) and thus explicitly encompasses aliens who are "already here." *Id.* at *4; accord *Espinoza Lopez v. Noem*, No. 26 CIV. 00345 (JHR), 2026 WL 266597 (S.D.N.Y. Feb. 2, 2026) (Rearden, J.).

In addition, Respondents note that both the Fifth Circuit and the Eighth Circuit have agreed with the government's statutory interpretation. See *Avila v. Bondi*, -- F.4th --, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026); *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 501-08 (5th Cir. 2026).

² Specifically, the Government incorporates by reference the arguments raised in its opposition brief in *Hyppolite*, ECF No. 17.

Notwithstanding its submission of this letter in lieu of a formal brief, Respondents reserve all rights, including the right to appeal.³

E. Conclusion

Accordingly, for the reasons set forth in the Government's brief in *Hyppolite*, the Government respectfully requests that the Court deny this habeas petition. Further, given that the Court has previously addressed the central legal dispute in this case, Respondents respectfully submit that the hearing scheduled for April 20, 2026 is not necessary and respectfully request that the conference be adjourned *sine die*.

Respectfully submitted,

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³ In addition to pending appeals by petitioners regarding the denials of habeas petitions, the Government has appealed the grant of a habeas petition in *Da Cunha v. Freden*, No. 25-CV-6532-MAV, 2025 WL 3280575, at *1 (W.D.N.Y. Nov. 25, 2025) (concluding, *inter alia*, that Section 1226(a), not Section 1225(b)(2)(A), applied), *notice of appeal filed*, No. 25-3141 (2d Cir. Dec. 11, 2025). The Second Circuit granted the government's motion to expedite the appeal. *See Cunha v. Moniz*, No. 25-3141 (2d Cir.) Jan. 30, 2026 Order. Briefing was completed on March 3, 2026, and oral argument was held on April 6, 2026.