

1 CRAIG H. MISSAKIAN (CABN 125202)
United States Attorney
2 PAMELA T. JOHANN (CABN 145558)
Chief, Civil Division
3 ROMAN A. SWOOPES (CABN 274167)
Assistant United States Attorney
4 60 South Market Street, Suite 1200
San Jose, California 95113
5 Telephone: (408) 535-5084
FAX: (408) 535-5081
6 Roman.Swoopes@usdoj.gov

7 Attorneys for Respondents-Defendants

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 MARIA ELENA RUIZ OTERO, as next friend)	CASE NO. 5:25-cv-06536-NC
and on behalf of ISMAEL DAVID CAICEDO)	
13 RUIZ,)	RESPONDENTS-DEFENDANTS'
)	SUPPLEMENTAL BRIEF
14 Petitioner-Plaintiff,)	
)	
15 v.)	Judge: Hon. Nathanael Cousins
)	
16 SERGIO ALBARRAN, Field Office Director of)	
the San Francisco Immigration and Customs)	
17 Enforcement Office, et al.)	
)	
18 <u>Respondents-Defendants.</u>)	

1 Federal Respondents-Defendants Sergio Albarran, Todd M. Lyons, Kristi Noem, and Pam Bondi
2 respectfully submit this supplemental brief in accordance with the parties' stipulation (ECF No. 21).

3 **I. Under the Text of 8 U.S.C. § 1225, Mr. Caicedo Ruiz Must be Detained Pending the**
4 **Outcome of His Removal Proceedings**

5 "[I]n the case of an alien who is an applicant for admission, if the examining immigration officer
6 determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the
7 alien shall be detained for a proceeding under [8 U.S.C. §] 1229a." 8 U.S.C. § 1225(b)(2)(A). In other
8 words, 8 U.S.C. §§ 1225(b)(1) and (b)(2) "mandate detention of applicants for admission until certain
9 proceedings have concluded." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Petitioner's
10 supplemental brief (ECF No. 22) does not cite any appellate precedent suggesting that due process
11 requires deviating from the statutory text above. On the contrary, an alien who is neither admitted nor
12 paroled, nor otherwise lawfully present in this country, remains an "applicant for admission" who is "on
13 the threshold" of initial entry, even if released into the country "for years pending removal," and continues
14 to be "'treated' for due process purposes 'as if stopped at the border.'" *Dep't of Homeland Sec. v.*
15 *Thuraissigiam*, 591 U.S. 103, 138–140 (2020) ("The Due Process Clause provides nothing more" than the
16 rights Congress provided by statute); *see also Pena v. Hyde*, No. CV 25-11983-NMG, 2025 WL 2108913,
17 *1-3 (D. Mass. July 28, 2025) (holding that an alien living in the country and later detained after a traffic stop
18 "remains an applicant for admission" and his "continued detention is therefore authorized by § 1225(b)(2)(A)"
19 consistent with constitutional due process).

20 District court decisions that have narrowly construed 8 U.S.C. § 1225(b)(2) to exclude aliens
21 within the United States from detention have not squared their conclusion with the one provision
22 elsewhere in § 1225 where Congress expressly explained the relationship between "seeking admission"
23 and "applicants for admission" under the statute. Specifically, in § 1225(a)(3), Congress provided that
24 "[a]ll aliens (including alien crewmen) who are applicants for admission *or otherwise seeking admission*
25 *or readmission to or transit through* the United States shall be inspected by immigration officers."
26 8 U.S.C. § 1225(a)(3) (emphasis added). In this case, Mr. Caicedo Ruiz is both an "applicant for
27 admission" and "seeking admission." The INA provides that "many people who are not actually
28 requesting permission to enter the United States in the ordinary sense [including aliens present in the

1 United States who have not been admitted] are nevertheless deemed to be ‘seeking admission’ under the
2 immigration laws.” *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 221 (BIA 2025).

3 As an alien present without being admitted or paroled, Mr. Caicedo Ruiz is subject to mandatory
4 detention under § 1225(b) and is not entitled to custody redetermination hearings at any time, whether
5 pre- or post-detention. *Jennings*, 583 U.S. at 297 (“[N]either § 1225(b)(1) nor § 1225(b)(2) says
6 anything whatsoever about bond hearings.”); *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 229 (BIA
7 2025) (holding that immigration judge “lacked authority to hear the respondent’s request for a bond as
8 the respondent is an applicant for admission and is subject to mandatory detention under section
9 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A)”). Petitioner’s supplemental brief cites no appellate
10 precedent to the contrary. And at least one California district court recently applied the “plain language
11 of § 1225(a)(1)” to hold that “alien[s] present in the United States who ha[ve]not been admitted” are
12 “subject to the mandatory detention provisions of ‘applicants for admission’ under § 1225(b)(2).”
13 *Chavez v. Noem*, No. 3:25-CV-02325-CAB-SBC, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025).

14 In addition, although DHS initially elected to place Mr. Caicedo Ruiz in full removal
15 proceedings under § 1229a, he remains amenable to expedited removal due to his presence in the United
16 States without having been either “admitted or paroled” or physically present in the United States
17 continuously for the two-year period immediately preceding the date of the determination of
18 inadmissibility. Given that his full removal proceedings are still pending (*i.e.*, until the BIA decides
19 whether to affirm the immigration judge’s dismissal of those proceedings), Mr. Caicedo Ruiz’s
20 detention is mandatory under § 1225(b)(2). If the full removal proceedings are finally dismissed, his re-
21 detention will remain mandatory, but the detention authority will shift to § 1225(b)(1).

22 Detention under § 1225(b)(2) is not limited to “arriving” aliens. Had Congress so intended, it
23 could have done so. Indeed, Congress used the phrase “arriving” in other sections of § 1225 but chose
24 not to in § 1225(b)(2). *See* 8 U.S.C. § 1225(b)(1) (“Inspection of aliens *arriving* in the United States
25 and certain other aliens who have not been admitted or paroled”) (emphasis added); 8 U.S.C.
26 § 1225(b)(1)(A)(i) (“If an immigration officer determines that an alien . . . who is *arriving* in the United
27 States. . .”) (emphasis added).

28 The INA’s implementing regulations also support the view that mandatory detention applies to

1 people like Mr. Caicedo Ruiz who were previously released into the United States. 8 C.F.R. § 235.3
 2 provides that the expedited removal provision of § 1225(b)(1) applies to “arriving aliens,” 8 C.F.R.
 3 § 235.3(b)(1)(i), and that an arriving alien can be placed into regular removal proceedings, 8 C.F.R.
 4 § 235.3(c)(1). But most significantly, the regulations expressly provide that § 1225(b)(2) is not limited
 5 to arriving aliens:

6 An alien who was *not* inspected and *admitted or paroled into the United*
 7 *States but* who establishes that he or she has been *continuously physically*
 8 *present in the United States for the 2-year period immediately prior to the*
 9 *date of determination of inadmissibility* shall be detained in accordance
 with section 235(b)(2) of the Act for a proceeding under section 240 of the
 Act.

10 8 C.F.R. § 235.3(b)(1)(ii) (emphasis added). This implementing regulation—applying § 1225(b)(2) to
 11 aliens able to establish their presence in the United States for two consecutive years—shows that
 12 detention under § 1225(b)(2) is not limited to aliens arriving at the border.

13 **II. Petitioner’s Application for SIJS Does Not Change the Applicability of Section 1225(b)**

14 Petitioner’s supplemental brief notes that Mr. Caicedo Ruiz filed an application for Special
 15 Immigrant Juvenile Status (SIJS) just before he turned 21 years old, but that does not change the fact
 16 that he remains subject to detention under 8 U.S.C. § 1225(b)(2). Despite mentioning a potential
 17 application for SIJS in his earliest filing before this Court (*see, e.g.*, ECF No. 1 ¶ 1), Petitioner provides
 18 no analysis and cites no authority for the proposition that a mere application for SIJS would preclude
 19 him from detention under § 1225(b)(2) pending Immigration Court proceedings. Indeed, the notice form
 20 Petitioner filed with this Court states: “THIS NOTICE DOES NOT GRANT ANY IMMIGRATION
 21 STATUS OR BENEFIT.” ECF No. 22-1 at 6. Even if Mr. Caicedo Ruiz had been granted SIJS, that
 22 status would have “no effect on ICE’s statutory and regulatory authority to detain him.” *Benito Vasquez*
 23 *v. Moniz*, No. CV 25-11737-NMG, 2025 WL 1737216, at *2 (D. Mass. June 23, 2025). Thus, the Court
 24 should ignore Petitioner’s filing unless and until Mr. Caicedo Ruiz can show that he is “clearly and
 25 beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2).

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1 DATED: October 10, 2025

Respectfully submitted,

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3 CRAIG H. MISSAKIAN
United States Attorney

4 /s/ Roman A. Swoopes
5 ROMAN A. SWOOPES
Assistant United States Attorney