IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Erika RODRIGUEZ-ACURIO, Petitioner, v. Judith ALMODOVAR, Acting Director of the New York City Field Office of Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General, Respondents.	)	Case No.: 25-cv-6065

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

The facts of this case are undisputed. Over four years ago, Immigration and Customs Enforcement ("ICE") paroled Petitioner Erika Rodriguez-Acurio into the United States, so that she could apply for asylum. *See* Dkt. No. 1-2 (parole notice). It did not, however, place her in removal proceedings, where she would have been able to file her asylum application with an immigration judge ("IJ"). And when she attempted to file instead with Citizenship and Immigration Services ("USCIS"), an arm of the Department of Homeland Security ("DHS"), the application was dismissed as improperly filed. *See* Dkt. No. 1-4 (receipt notice); Dkt. No. 1-5 (dismissal notice). But USCIS did leave the door open, or at least ajar, to entertaining Petitioner's claim—it scheduled her for a credible fear interview ("CFI"), where she would have the opportunity to explain why her asylum case *should* be heard by an IJ in full removal proceedings.

Hopeful, Petitioner attended her CFI on October 29, 2025. After testifying at length regarding the [redacted]abuse she had endured in her native Ecuador, Petitioner was escorted into a side room, and promptly arrested by ICE without explanation. *See* Dkt. No. 1-6, at

¶¶ 3–5. She filed a petition for a writ of habeas corpus that night, asking the Court to hold that her sudden re-detention without explanation or due process violated the Constitution as well as the Immigration and Nationality Act ("INA").

In response to the current petition for a writ of habeas corpus, the Government falls back on two familiar arguments. First, it claims that it owes Petitioner no explanation because she is a parolee—an "arriving alien"—to whom the protections of the Constitution simply don't apply. It grounds this claim primarily in *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), and *Dep't of Homeland Sec'y v. Thuraissigiam*, 591 U.S. 103 (2020). *See* Dkt. No. 14, at 10–13. Second, it rehashes a statutory argument that has been rejected by every judge in this district to have heard it—claiming, notwithstanding decades of practice, a tidal wave of contrary authority, and even *its own documentary evidence*, that Petitioner is subject to mandatory detention under INA § 235, 8 U.S.C. §1225, rather than permissive detention under section 236, 8 U.S.C. § 1226. *See* Dkt. No. 14, at 13–18. As in other recent cases, the Government's reasoning fails on both the constitutional and statutory fronts.

I. *Mezei* and *Thuraissigiam*, which rely on a narrow exception to the Fifth Amendment's due process clause known as the "entry fiction," are distinguishable from Petitioner's case.

We begin with the Government's assertion that Petitioner, who has lived in the United States for over four years, with official authorization, during which time she has given birth to a United States citizen son (currently three years old), has no due process rights whatsoever under our Constitution. The Government relies on the fact that, "[a]gainst the general rule that due process applies to all persons, courts have recognized an exception known as the 'entry fiction.' Under the entry fiction, an applicant for admission to the country is treated as if he were stopped

at the border for the purposes of his application for admission. In other words, while a person seeking legal entry into the United States may be granted physical entry into the country pending the determination of his application for admission, the mere fact of his physical presence within our borders provides him no greater constitutional protection *as to his application* than if he were outside the country. This narrowly-tailored legal fiction exists to accommodate the political branches' broad prerogative to exclude." *Al-Thuraya v. Warden, Orange County Correctional Facility*, No. 25 Civ. 2582 (AS), 2025 WL 2858422, at *3 (S.D.N.Y. Oct. 9, 2025) (citations omitted, emphasis in original).

Perhaps most famously, the Supreme Court has applied the entry fiction in *Mezei* and later *Thuraissigiam*. In *Mezei*, a lawful permanent resident returning to the United States from the Soviet Union "was ordered excluded from the country (on national security grounds) and was detained solely because no other country would take him. Mezei had been conclusively 'denied entry'—he had exhausted all avenues of review. In that context, the Supreme Court said that '[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned.' The Court focused on the fact that a release from detention would undermine the Government's determination to exclude Mezei." *Id., at* *4 (quoting *Mezei*, 34 U.S. at 212, 216). "Similarly, in *Thuraissigiam*, the Court rejected an arriving noncitizen's claim for review *of the agency's removal decision*, which was based on an asylum officer's finding that he lacked a credible fear of persecution. In that context, the Court stated that 'an alien in respondent's position has only those rights *regarding admission* that Congress has provided by statute.'" *Id.* (quoting 591 U.S. at 140) (second emphasis in *Al-Thuraya*).

Petitioner "stands in a different position. Unlike Mezei and Thuraissigiam, [Petitioner] has not been definitively 'denied entry.'" *Id.* Rather, she was paroled into the United States pending

adjudication of her asylum claim. "The Government lacks the authority to remove [her] until all of that gets hashed out. In other words, [Petitioner] has neither been admitted (*i.e.*, granted asylum) nor excluded (*i.e.*, denied asylum . . .). So[,] the concern animating the entry fiction exception—that is, the political branches' authority to legally admit or exclude noncitizens—doesn't apply here. Indeed, the due-process claim [Petitioner] advances doesn't concern h[er] application at all, just the legality of h[er] detention while that application is being reviewed." *Id.* "Because the entry-fiction exception is inapplicable . . . , what's left is the general rule: '[A]ll persons, aliens and citizens alike, are protected by the Due Process Clause.'" *Id.* (quoting *Mathews v. Diaz*, 426 U.S. 67, 78 (1976)) (second alteration in *Al-Thuraya*).[1]

Al-Thuraya is far from an outlier decision. For example, "in *Pinchi v. Noem*, the Northern District of California adjudicated the habeas petition of a noncitizen paroled into the United States and [similarly] held that 'even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody[,] she has a protected liberty interest in remaining out of custody.'" *Rojas Acevedo*, 2025 WL 3034183, at *5 (quoting No. 25 Civ. 5632, 2025 WL 2084921, at *3 (N.D Cal. Jul. 24, 2025)). Indeed, there exists broad-based support for the proposition that an individual who has been "deprived of h[er] physical

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[1] As it did in *Al-Thuraya*, here "the Government cites two cases pointing in the opposite direction, *Poonjani v. Shanahan*, 319 F. Supp. 3d 644 (S.D.N.Y. 2018), and *Mendez Ramirez v. Decker*, 612 F. Supp. 3d 200 (S.D.N.Y. 2020)." *Id.*; *see also* Dkt. No. 14, at 12. "*Poonjani* and *Mendez Ramirez* relied on *Mezei*, but both elided the crucial differences between applicants for interim relief . . . , and individuals conclusively denied entry like Mezei. As . . . explained above, the former, as opposed to the latter, have not been definitively denied entry to the country, have pending claims to stay here, and are not seeking review—directly or indirectly—of any decision to exclude them. Those differences go to the heart of the Supreme Court's due-process holdings. Under the constitutional interpretation adopted by *Poonjani* and *Mendez Ramirez*, 'the Government could permanently detain arriving aliens at detention facilities on the mainland under the fiction that such persons were not in the United States, no matter how long, arbitrary, or capricious such detention. . . . Neither the Supreme Court, the Second Circuit, nor . . . any circuit court, has endorsed this outcome based on *Mezei*.'" *Id.* at *5 (quoting *Birch v. Decker*, No. 17 Civ. 6769, 2018 WL 794618, at *6 (S.D.N.Y. Feb. 7, 2018)); *see also Rojas Acevedo v. Almodovar*, No. 25 Civ. 7189 (LJL), 2025 WL 3034183, at *6 n.5 (S.D.N.Y. Oct. 30, 2025) (distinguishing *Poonjani* and *Mendez Ramirez*).

liberty, which had previously been granted," has a "clearly established" "liberty interest" which cannot be infringed without due process. *Lopez v. Sessions*, 18 Civ. 4189 (RWS), 2018 WL 2932726, at *11 (S.D.N.Y. Jun. 12, 2018); *see also Valdez v. Joyce*, No. 25 Civ. 4627 (GBD), 2025 WL 1707737, at *2 (S.D.N.Y. June 18, 2025) ("[N]oncitizens have a liberty interest in continued freedom from civil immigration confinement."). These "cases vary in their facts and reasoning, but at base, all hold that a non-admitted noncitizen is not precluded from seeking the protections of the Due Process Clause where they are granted limited status in the country by the Government and that status was revoked without notice. Put differently, a noncitizen who is neither admitted nor denied, but who is granted permission to live in the United States, is protected by the Due Process Clause." *Rojas Acevedo*, 2025 WL 3034183, at *6 (citing *Lopez Benitez v. Francis*, 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025); *Valdez*, 2025 WL 1707737, at *2; *Kelly v. Almodovar*, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025)).

Petitioner's "engendered reliance interest, and h[er] compliance with everything that the Executive Branch asked of h[er], entitles h[er] to more than summary arrest and detention on the mere say-so of a government official." *Cardin Alvarez v. Rivas*, No. 25 Civ. 2943 (CDB), 2025 WL 2898389, at *16 (D. Ariz. Oct. 7, 2025) (quoting *Mata Velasquez v. Kurzdorfer*, No. 25 Civ. 493 (LJV), 2025 WL 1953796, at *14 (W.D.N.Y. Jul. 16, 2025)) (alteration adopted). As such, ICE's "ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates h[er] due process rights." *Valdez*, 2025 WL 1707737, at *4 (citing *Lopez*, 2018 WL 2932726, at *15).[2] Neither *Thuraissigiam* nor

[2] Respondents' estoppel argument, Dkt. No. 14 at 22–23, misses the mark. Petitioner does not invoke equitable estoppel, but rather the constitutional rule that once the Government confers liberty upon a noncitizen living in the interior, it cannot revoke that liberty without individualized process.

Mezei stands for the proposition that § 1225(b) should be construed to permit the summary re-detention of a parolee and long-term resident without due process.

Finally, we would note that disclosures made by the Government in the course of this litigation further evince a lack of due process. Recall that arresting ICE agents expressly suggested to Petitioner that she was bound for the "Delaney" facility in Newark, New Jersey. Dkt. No. 1-6, at ¶ 9. However, in its opposition to the Petition, the Government revealed in a footnote that the Delaney facility "is presently full," Dkt. No. 14 at 9 n.3, and its affiant indicated that prior to this Court's timely intervention, ICE had intended to transfer Petitioner to "a detention facility in Louisiana," Dkt. No. 14-1 at ¶ 14. A separate filing on November 4, 2025 confirmed that Petitioner "remain[ed] housed in ICE's processing space at 26 Federal Plaza, New York, New York," Dkt. No. 15, at ¶ 15, a location which—as this Court noted—is the subject of a preliminary injunction finding "significant overcrowding, pervasive unsanitary conditions, lack of basic hygiene resources, insufficient food and water, inadequate sleeping conditions, substandard medical care, and extremely significant restrictions on attorney-client communications," *Mercado v. Noem*, No. 25 Civ. 6568 (LAK), 2025 WL 2658779, at *6 (Sep. 17, 2025).[3]

These disclosures could mean one of two things. Either: (a) ICE agents affirmatively misled Petitioner at the time of her arrest, and intended to whisk her off to Louisiana all along,[4] which

[3] On November 5, 2025, the Government submitted a letter stating that it had managed to find space "for Petitioner at the Elizabeth Contract Detention Facility in Elizabeth, New Jersey. . . . at approximately 10:30 p.m." the previous day. Dkt. No. 16.

[4] This would be consistent with ICE's behavior in other recent cases. *See, e.g.*, *Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025) (concerning attempted transfer to ICE detention center in Louisiana); *Mahdawi v. Trump*, 136 F.4th 443 (2d Cir. 2025) (same). It is also corroborated by the apparent speed with which ICE made the arrangements to transfer Petitioner to Louisiana. *See* Dkt. No. 15, at ¶ 9 (explaining that "[p]rior to learning of this Court's October 30 Order, ICE's New Orleans Field Office had [already] approved bedspace to accommodate the Petitioner").

would suggest bad faith on the Government's part; or (b) ICE detained Petitioner with absolutely no plan in place for where to house her, which would reflect a lack of pre-detention deliberation. Neither scenario smacks of due process.

II. The Government's novel interpretation of the immigration detention statutes has been rejected by nearly every court to address it, and the Government's instant defense renders the theory internally incoherent.

Given the sheer volume of judicial caselaw rejecting the Government's current legal theory, we will not dwell on any of the general arguments. Suffice it to say that "Respondents' construction of § 1225(b)(2)(A) disregards the plain meaning of that provision, would render § 1226 and a recent amendment to it superfluous, and is inconsistent with [the] Supreme Court's prior statutory interpretations." *Artiga v. Genalo*, No. 25 Civ. 5208 (OEM), 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025) (citing *J.U. v. Maldonado*, No. 25 Civ. 4836 (OEM), 2025 WL 2772765, at *7 (E.D.N.Y. Sept. 29, 2025)).

"Indeed, in the approximately two and one-half-months since Respondents began to broadly invoke § 1225(b)(2)(A) to justify the mandatory detention of noncitizens who already reside within the United States, well over a dozen federal courts around the country have rejected Respondents' novel and illogical interpretation of the INA." *Hyppolite v. Noem*, No. 25 Civ. 4304 (NRM), 2025 WL 2829511, at *12 (E.D.N.Y. Oct. 6, 2025) (citing *Lopez Benitez*, 2025 WL 2371588; *Mata Velasquez*, 2025 WL 1953796; *Lepe v. Andrews*, No. 25 Civ. 1163 (KES), 2025 WL 2716910 (E.D. Cal. Sep. 23, 2025); *Barrera v. Tindall*, No. 25 Civ. 541 (RGJ), 2025 WL 2690565 (W.D. Ky. Sep. 19, 2025); *Pablo Sequen v. Kaiser*, No. 25 Civ. 6487 (PCP), 2025 WL 2650637 (N.D. Cal. Sep. 16, 2025); *Pizarro Reyes v. Raycraft*, No. 25 Civ. 12546 (RJW), 2025 WL 2609425 (E.D. Mich. Sep. 9, 2025); *Doe v. Moniz*, No. 25 Civ. 12094 (IT), 2025 WL 2576819

(D. Mass. Sep. 5, 2025); *Garcia v. Noem*, No. 25 Civ. 2180 (DMS), 2025 WL 2549431 (S.D. Cal. Sep. 3, 2025); *Lopez-Campos v. Raycraft*, No. 25 Civ. 12486 (BRM), 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 25 Civ. 1093 (JE), 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *dos Santos v. Noem*, No. 25 Civ. 12052 (JEK), 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. 25 Civ. 2157 (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Gomes v. Hyde*, No. 25 Civ. 11571 (JEK), 2025 WL 1869299 (D. Mass. Jul. 7, 2025)); *see also Echevarria v. Bondi*, No. 25 Civ. 3252 (DWL), 2025 WL 2821282, at *4 (D. Ariz. Oct. 3, 2025) (relying on some of the same cases as *Hyppolite*, while also citing *Hasan v. Crawford*, 25 Civ. 1408 (LMB), 2025 WL 2682255 at *9 (E.D. Va. Sep. 19, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025); and *Vazquez v. Feeley*, No. 25 Civ. 1542 (RFB), 2025 WL 2676082, at *16 (D. Nev. Sep. 17, 2025)).

At the time of filing the Petition, there was only one court in the country that had accepted the Government's argument. *See Chavez v. Noem*, No. 25 Civ. 2325 (CAB), 2025 WL 2730228 (S.D. Cal. Sep. 24, 2025). As of today, there appear to be at least three. *See id.*; *Cirrus Rojas v. Olson*, No. 25 Civ. 1437 (BHL), 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25 Civ. 1467 (DCJ), 2025 WL 3048926 (W.D. La. Oct. 31, 2025). According to the Government, each decision out of this district has gotten this issue dead wrong—it asks the Court instead to take a page from Judge Ludwig in the Eastern District of Wisconsin. *See* Dkt. No. 14 at 18, 20 ("Respondents respectfully disagree with the recent decisions from this district . . . . Instead, this Court should follow the reasoning of the Court in [*Cirrus*] *Rojas*.").

Though it mainly reiterates arguments that have been rejected by nearly every court to have heard them, the Government here does raise one fresh claim of error with respect to the district

decisions Petitioner relies upon. Specifically, the Government pushes back on the conclusion in *J.U.*, *Artiga*, and *Hyppolite*, *supra*, that its interpretation of section 1225 would render superfluous recent amendments to section 1226 contained in the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025) (the "LRA"). But in attempting to do so, the Government renders its broader theory internally inconsistent—indeed, incoherent.

Straightforward statutory analysis reveals that the LRA poses a serious surplusage problem for the Government, as a chorus of district judges has explained. Congress in the LRA amended section 1226(c) to provide for the mandatory detention of any individual who both "is inadmissible under paragraph (6)(A), (6)(C), or (7) of [INA] section 212(a)," 8 U.S.C. §1182(a), "and is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another." LRA § 2. This new ground of section 1226(c) mandatory detention forms the core of the LRA. But if we accept the Government's reading of section 1225, then individuals covered by at least two of the cross-referenced paragraphs of section 1182(a) would *already* have been subject to mandatory detention under section 1225(b). *See Gomes*, 2025 WL 1869299, at *7 ("After all, a noncitizen who is present in the United States without being admitted or paroled, 8 U.S.C. § 1182(a)(6)(A), or who lacks requisite documentation, *id.* § 1182(a)(7), is unlikely to prove to an examining immigration officer that he 'is clearly and beyond a doubt entitled to be admitted.'" (quoting 8 U.S.C. § 1225(b)(2)(A))). In fact, on the Government's theory, such individuals could not be subject to 1226 detention at all. *See Matter of Q. Li*, 29 I&N Dec. 66, 68, 69 n.4 (BIA 2025) ("[F]or aliens arriving in and seeking admission into the United States . . . , section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention . . . . [and] [o]nce an alien is detained under

section 235(b), DHS cannot convert the statutory authority governing her detention from section 235(b) to section 236(a)[, 8 U.S.C. § 1226(a)].").

The LRA is not a lengthy piece of legislation. It consists entirely of this new mandatory detention ground, *see* LRA § 2, together with a series of jurisdictional amendments designed to waive sovereign immunity in order to permit state attorneys general to sue the federal government over its release decisions, *see id.* § 3. So, it is not much of an exaggeration to say that "Respondents' position that § 1225 applies to noncitizens who are arrested on a warrant while residing in the United States would render § 1226(c)(1)(E)'s criminal conduct requirement superfluous, thereby 'nullify[ing] a statute that Congress enacted this very year.'" *Artiga*, 2025 WL 2829434, at *7 (quoting *Gomes*, 2025 WL 1869299, at *7 ("Such an interpretation, which would largely nullify a statute Congress enacted this very year, must be rejected.")) (alteration in *Artiga*).

Of the three decisions the Government has managed to secure in its favor, none adequately addresses the LRA problem. One of them, *Barrios Sandoval*, does not even mention the LRA. *See generally* 2025 WL 3048926. Another, *Chavez*, states without further elaboration that the LRA (which it erroneously refers to as the "Riley Laken Act") "simply removed the Attorney General's detention discretion for aliens charged with specific—but not all—crimes." 2025 WL 2730228, at *5. But this elides the key issue. The LRA triggers upon the satisfaction of two necessary conditions: (1) lack of admission, and (2) qualifying criminal conduct. If the Government is correct that anyone meeting the first condition is mandatorily detained under section 1225, then it will never logically matter what section 1226 says about "the Attorney General's detention discretion" with respect to those satisfying both conditions. *Id.* For its part, *Cirrus Rojas*, the Government's favorite case (though, in its defense, it does not have many to choose from), adopts the Government's claim that "legislation passed in 2025 has little bearing on the meaning of legislation

enacted in 1996." 2025 WL 3033967, at *9. But "[t]his argument profoundly mistakes [the judicial] role. Where a statutory term presented . . . for the first time is ambiguous, [courts] construe it to contain that permissible meaning which fits most logically and comfortably into the body of both previously *and subsequently* enacted law. [Courts] do so not because that precise accommodative meaning is what the lawmakers must have had in mind (how could an earlier Congress know what a later Congress would enact?), but because it is [their] role to make sense rather than nonsense out of the *corpus juris.*" *W. Va. Univ. Hosp., Inc. v. Casey*, 499 U.S. 83, 100–01 (1991) (citations omitted, emphasis added).

Attempting to extricate itself from the LRA problem, and receiving little aid in this effort from three outlier decisions in its favor, the Government offers a creative corollary to its already novel theory. Its interpretation of section 1225, says the Government, does not render the LRA superfluous, because the LRA operates as an independent limit on the Government's authority to release covered individuals. To hear the Government tell it, a noncitizen who meets LRA condition one (lack of admission), but not condition two (qualifying criminal conduct), is subject to a less-mandatory version of mandatory detention—*i.e.*, they are detained under 1225(b), and can be released from custody under DHS's discretionary parole authority. On the other hand, an individual who meets *both* conditions is subject to a more-mandatory version of mandatory detention—*i.e.*, they are (become?) detained under 1226(c), and can be released only if such release is "necessary to provide protection to a person who is a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate" thereof. Dkt. No. 14 at 21 (quoting 8 U.S.C. § 1226(c)(4)).

Thus, in engineering a workaround to rescue its legal theory from the LRA, the Government turns that theory inside out. Recall that the very foundation of the Government's

reasoning is that there is a bright line separating 1225 detention from 1226 detention; that the statutes apply to different classes of noncitizens; that an individual noncitizen cannot be subject to both forms of detention simultaneously; and that detention under one statute "cannot convert" into detention under the other. *Q. Li*, *supra*. But now, in an attempt to skirt its way around an obvious surplusage problem, the Government claims that § 1225 and § 1226 operate, at least at times, as belt-and-suspenders detention authority, applying differing degrees of "mandatory" detention to the same class of noncitizens simultaneously. Rather than rescue its broader legal theory, the Government's proposed corollary would capsize it.

In sum, though the Government has been rebuffed at nearly every turn, its strategy of returning to the same well, no matter how many times it comes up dry, has paid off. It has convinced three district courts—out of dozens—to adopt its novel mass detention theory. Now, it invites this Court to become the fourth. Respectfully, the Court should decline.

One final note: Though this fact would not alone be dispositive, it is worth pausing to observe that "Respondents['] own documentation provided to [Petitioner] on the date of h[er] arrest expressly stated that h[er] detention was authorized under the authority Congress provided to DHS under § 1226(a), *not* § 1225(b)(2)(A)." *Hyppolite*, 2025 WL 2829511, at *8 (emphasis in original); *see also* Dkt. No. 14-3 (arrest warrant citing INA § 236, 8 U.S.C. § 1226). "[W]hile . . . this history is not controlling, it certainly is relevant to the Court's assessment of the credibility and good faith of 'Respondents' new position as to the basis for [Petitioner's] detention, which was adopted post hoc and raised for the first time in this litigation.'" *Hyppolite*, 2025 WL 2829511, at *8 (cleaned up) (quoting *Lopez Benitez*, 2025 WL 2371588, at *5); *see also J.U.*, 2025 WL 2772765, at *6 ("[T]he use of a warrant . . . to arrest and detain Petitioner is further evidence that Petitioner could only be detained pursuant to § 1226(a).").

Conclusion

As others in this district and across the Nation have done, the Court should reject the Government's novel and lawless claims of unfettered detention authority, and order Petitioner's immediate release from ICE custody.

Respectfully submitted,

/s/ Cassandra Esteban Brusi
Attorney for Petitioner

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Brooklyn, New York