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

REAGAN EMILIO SANCHEZ ATZ,

Petitioner-Plaintiff,

Case No. 1:26-cv-00214-OEM

v.

KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;

KENNETH GENALO, in his official capacity as Field Office Director of Enforcement and Removal Operations of the New York Office of U.S. Immigration and Customs Enforcement;

PAMELA BONDI, in her official capacity as U.S. Attorney General; and

RAUL MALDONADO, Jr., in his official capacity as Warden of the Metropolitan Detention Center;

Respondents-Defendants.

**REPLY IN FURTHER SUPPORT OF**
**PETITION FOR A WRIT OF HABEAS CORPUS**

## PRELIMINARY STATEMENT

As detailed in the Petition,[1] Mr. Sanchez has been and continues to be unlawfully detained in prison in violation of his constitutional and statutory rights. In their Response, Respondents urge the Court to adopt their novel reading of the INA, which would require mandatory detention for virtually all noncitizens present in the United States without admission. But Respondents' interpretation would not only deprive Mr. Sanchez and countless other noncitizens of their long-recognized constitutional rights, it flies in the face of Supreme Court precedent, the plain language of the INA, legislative history and decades of agency practice and judicial authority. For the same reasons this Court has already held in *J.U.* and *Artiga*,[2] Respondents' arguments fail.

Additionally, Respondents' focus on Mr. Sanchez's prior, failed attempts to cross the border are not relevant to the question presented by the Petition. That Mr. Sanchez was prevented from entering the country in 2022 pursuant to Title 42[3] and labeled a "recidivist" has no bearing on whether Mr. Sanchez's statutory and constitutional rights were violated when Respondents detained him without notice, any individualized determination of the necessity of his detention or due process of law. Further, Respondents fail to point to any factually or legally relevant differences between the circumstances of Mr. Sanchez's detention and those of the petitioners in

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[1] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in *Petitioner Reagan Emilio Sanchez Atz's Verified Petition for Writ of Habeas Corpus* [ECF No. 1] ("Petition" or "Pet.") or the *Memorandum of Law in Response to the Order to Show Cause Why a Writ of Habeas Corpus Should Not Be Issued* [ECF No. 15] ("Response" or "Resp."), as applicable.

[2] *See J.U. v. Maldonado*, No. 25-cv-4836 (OEM), 2025 WL 2772765, at *8-9 (E.D.N.Y. Sept. 29, 2025); *Artiga v. Genalo*, No. 25-cv-5208 (OEM), 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025).

[3] Respondents incorrectly state that Mr. Sanchez was "removed pursuant to Title 42." Resp. 16. However, unlike "the usual removal process [which] involves an evidentiary hearing before an immigration judge, and at that hearing an alien may attempt to show that he or she should not be removed," *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020), Title 42 is a public health statute that was used during the COVID-19 pandemic to immediately expel migrants attempting to cross the border like Mr. Sanchez without standard immigration processing. *See Martinez v. U.S.*, 2025 U.S. Dist. LEXIS 177378 at *2 (E.D. Va. Sept. 10, 2025) (Title 42 authorizes "the federal government to prohibit, in whole or in part, the introduction of persons and property into the U.S. in the interest of public health.").

*J.U.* and *Artiga* that suggest his statutory and due process rights have not been violated. Finally, Respondents fail to address Mr. Sanchez's claim that he was subject to an illegal search and seizure in violation of his Fourth Amendment rights and incorrectly state that he has not filed an appeal of the immigration court's non-final removal order.[4] Accordingly, the Petition should be granted and Mr. Sanchez should be released from detention immediately.

## ARGUMENT

### I. Mr. Sanchez's Detention Violates the INA

Notwithstanding the Court's sound analysis in *J.U.* and *Artiga*—which has been adopted by the overwhelming of district courts throughout the country,[5] including, to Petitioner's knowledge, every judge in this District to consider the issue—Respondents urge the Court to reconsider its analysis and find that nearly all noncitizens present in the United States without admission like Mr. Sanchez are subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) because they are "applicant[s] for admission." Resp. at 10. On its face, however, this provision limits mandatory detention to a subset of applicants for admission who are actively "seeking admission" to the country at the time of inspection, whereas § 1226 applies to individuals who have already entered the country and are apprehended.

#### A. Supreme Court precedent indicates § 1226 applies to Petitioner

Despite Respondents' contentions, "[w]hat the precedent actually shows is that the Supreme Court long has recognized that Section 236 governs detention pending removal of noncitizens like [Petitioner], who is living in the United States." *Barco Mercado*, 2025 WL

[4] On January, 9, 2026, Mr. Sanchez timely appealed the removal order on the basis that the court erred in denying the Motions to Suppress and Terminate. *See Supplemental Declaration of Hannah Rosner*, attached hereto as Ex. 1.

[5] *See Barco Mercado v. Francis*, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *4 n.22 (S.D.N.Y. Nov. 26, 2025) (cataloguing analogous cases as of November 26, 2025 in an appendix and noting the breakdown as being approximately 350 to 12). Additionally, the Seventh Circuit has agreed with this Court's interpretation of the INA. *See Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1060-62 (7th Cir. 2025).

3295903, at *9. Indeed, "[t]he distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court explained in *Jennings v. Rodriguez* that § 1225 authorizes "the Government to detain certain aliens seeking admission *into the country*," while § 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." 583 U.S. 281, 289 (2018). This distinction is repeated throughout *Jennings*. *Id.* at 288 (explaining that § 1226 "generally governs the process of arresting and detaining" aliens "once inside the United States"); *id.* at 303 (§ 1226(a) provides the "default rule" for detaining and removing aliens "already present in the United States.").

Moreover, the primary Supreme Court case relied on by Respondents, *Thuraissigiam*, actually supports Petitioner's position. Though not a detention case, in the portion of the decision addressing petitioner's detention, the Court made clear that "even if released, the petitioner 'would remain subject to arrest, detention, and removal,' citing § 1226(a)" as the applicable provision, not § 1225(b)(2)(A). *Sarmiento Guerrero v. Noem*, No. 25-CV-5881 (EK), 2025 WL 3214787, at *5 (E.D.N.Y. Nov. 18, 2025) (quoting *Thuraissigiam*, 591 U.S. at 119). That the petitioner in *Thuraissigiam*—an individual continuously detained after being apprehended within 25 yards of the border—would be subject to § 1226 detention if allowed to proceed into the country makes abundantly clear that Mr. Sanchez—who was allowed to proceed into the country three years ago and has been living here since—is governed by the same statute.

**B. Respondents' position contradicts thirty years of understanding and practice**

Respondents' reading of the INA would also result in a radical departure from decades of government understanding and practice. *Barco Mercado*, 2025 WL 3295903, at *8 ("Until recently, the executive branch agreed that a system of discretionary release for noncitizens like [Mr. Sanchez] long had existed and continues to exist today."); *Matter of Yajure Hurtado*, 29 I. &

N. Dec. 216, 225 n.6 (BIA 2025) (acknowledging that "for years" individuals like Petitioner have been subject to §1226(a)).

Respondents assert that the INA was amended in 1996 to ensure that noncitizens who enter unlawfully do not receive greater rights than those who present themselves at the border. Resp. at 3. While it is true that Congress sought to equalize certain aspects of the immigration process in enacting the IIRIRA, it did that by consolidating multiple preexisting procedures into a single removal proceeding—"in making these changes, Congress did not fully disrupt the old system, including the system of detention and release." *Sabi Polo v. Chestnut*, No. 25-cv-1342, 2025 WL 2959346, at *10 (E.D. Cal. Oct. 17, 2025); *Rodriguez v. Bostock*, No. 25-cv-5240, 2025 WL 2782499, at *24 (W.D. Wash. Sept. 30, 2025) (Congress "resolved this problem by placing noncitizens 'on equal footing in *removal* proceedings under the INA.'") (quoting *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)). "[I]n fact, according to the legislative record, 'Section 236(a) [1226(a)] restates the [preexisting provisions] regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States.'" *Sabi Polo v. Chestnut*, 2025 WL 2959346, at *10 (citations omitted). "If Congress had wished to enact the transformation of the immigration detention system that Defendants contend it did—requiring the detention of millions of people currently living and working in the United States—then it would have said so more clearly." *Tumba v. Francis*, No. 25-cv-8110 (LJL), 2025 WL 3079014, at *4 (S.D.N.Y. Nov. 4, 2025).

Thus, this Court's reading of the INA in *J.U.* and *Artiga* does not "restore the regime Congress sought to discard." Resp. at 15. To the contrary, it acknowledges the regime that Congress enacted in 1996 and saw implemented consistently from 1996 until July 2025. If Respondents' reading is accepted, one must assume that the law enacted by Congress in 1996 was

egregiously misapplied from the get-go—an unreasonable assumption.

**C. The plain language of the INA indicates § 1226 applies to Petitioner**

The INA defines the term "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). Though the standalone phrase "seeking admission" is not defined in the INA, the verb "seeking" "necessarily implies some sort of present-tense action." *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 490 (S.D.N.Y. 2025). And the latter term in the phrase, "admission," is defined in the statute. "Admission" means, "with respect to an alien, the lawful *entry* of the alien *into* the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A) (emphasis added). "[T]he word 'entry' . . . has long been understood to mean a crossing into the territorial limits of the United States." *Goorakani v. Lyons*, No. 25-cv-9456 (DEH), 2025 WL 3632896, at *11 (S.D.N.Y. Dec. 15, 2025) (citation omitted). Thus, "a noncitizen already physically present in the United States, irrespective of whether they presented themselves at the border, does not qualify as 'seeking admission' because they are already in the country." *Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098, at *7 (S.D.N.Y. Dec. 17, 2025); *Castañon-Nava*, 161 F.4th at 1061.

On the other hand, the text of § 1226(a) on its face clearly applies to Mr. Sanchez. § 1226(a) allows for discretionary arrest, detention, and release on bond of "alien[s]," a term that is broadly defined in the INA as "any person not a citizen or national of the United States," such as Mr. Sanchez. 8 U.S.C. §§ 1101(a)(3), 1226(a). Despite this broad language, under Respondents' reading, § 1226 would never actually apply to the vast majority of "aliens," and instead would be limited to the narrow category of aliens who "have already been admitted to the United States, such as those admitted through a tourist, business, student, or other type of visa, but who have

overstayed that visa, or have otherwise violated the terms of that visa, or who have been found later not to have been lawfully admitted." Resp. at 14. Respondents cite no authority for such a narrow application of § 1226(a), which is inconsistent with the statutory structure, context, and decades of practice and precedent and fails to give effect to the words chosen by Congress. *See Lopez Benitez*, 795 F. Supp. 3d at 490 ("Respondents' novel position would . . . narrow[] § 1226(a) such that it would have extremely limited (if any) application."); *Artiga*, 2025 WL 2829434 at *8.

Further, Respondents' reading is "at odds with one of the most basic interpretive canons: a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous." *Sarmiento Guerrero*, 2025 WL 3214787, at *4 (citations omitted). Respondents' interpretation "would mean that Congress used two different phrases to mean the same thing in the same provision." *Id.* But, "in a given statute, . . . different terms usually have different meanings." *Id.* (citation omitted)). It defies reason that Congress would use a defined term, then use a different term to mean the same thing within the very same sentence—rather "[t]he second phrase, 'seeking admission,' modifies and narrows the first" and "does not simply restate it." *J.A.M. v. Streeval*, No. 25-cv-342, 2025 WL 3050094, at *5 (M.D. Ga. Nov. 1, 2025). Moreover, Respondents' construction "would render superfluous the mandatory detention provisions found in § 1226(c)(1)(A), (D), and (E) and the phrase 'seeking admission'" in § 1225(b)(2)."). *Artiga*, 2025 WL 2829434 at *7.

Additionally, the Court's duty is to "construe statutes, not isolated provisions." *Graham Cnty. v. U.S.*, 559 U.S. 280, 290 (2010). "Every part of Section 1225 suggests that it applies to aliens who are arriving in the country," whereas "Section 1226 is filled with language that would most clearly apply to people who are already here." *Sarmiento Guerrero*, 2025 WL 3214787, at *4; *see also id.* at *3 ("§ 1225 is titled 'Inspection by immigration officers; expedited removal of

inadmissible arriving aliens; referral for a hearing,' indicating "that the statute governs 'arriving' noncitizens, not those present already."); *Barco Mercado*, 2025 WL 3295903, at *6 (§ 1226 is broadly titled "Apprehension and detention of aliens," a title that "seems to describe squarely what respondents seek to do to [Petitioner] here.").

## II. Respondents' Detention of Mr. Sanchez Violates His Due Process Rights

Respondents' lone argument in response to Mr. Sanchez's due process claim relies on the so-called "entry fiction"—the incorrect assumption that Mr. Sanchez is an applicant for admission subject to § 1225 and therefore must be treated as if he has only those due process rights provided by Congress to noncitizens held at the border while attempting to enter the country. Resp. at 21. Of course, such rights effectively do not exist under § 1225, consisting of mandatory detention subject only to potential for humanitarian parole.

But the cases relied on by Respondents in fact "stand for the limited principle that those 'at the threshold of initial entry' stand on a different footing for due process purposes than noncitizens 'who have established connections in this country,'" like Mr. Sanchez. *Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065 (NJC), 2025 WL 3314420, at *26 (E.D.N.Y. Nov. 28, 2025). Indeed, *Thuraissigiam* involved a petitioner apprehended 25 yards from border subject to continuous detention who impermissibly sought to use a habeas petition to obtain "a new opportunity to apply for asylum and other applicable forms of relief" and whose petition "made no mention of release from custody." 591 U.S. at 115. No case cited by Respondents suggests the "entry fiction" should apply to noncitizens like Mr. Sanchez. *See Make the Rd. N.Y. v. Noem*, No. 25-cv-190 (JMC), 2025 WL 2494908, at *12 n.15 (D.D.C. Aug. 29, 2025) ("Just as *Thuraissigiam* cannot swallow the general rule that those who have effected entry are entitled to due process, neither can the legal fiction that the Court crafted for parolees."). Indeed, "Respondents' position here would create a startling rule—that unless and until someone is lawfully admitted, they are entitled to zero process

beyond whatever courtesy Congress might offer. If that was right, Congress could subject noncitizens who had spent decades in the United States to immediate removal, without any advance notice or right to a hearing, and the Constitution would have nothing to say about it." *Rodriguez-Acurio*, 2025 WL 3314420, at *27 (citation omitted).

To the contrary, it is well settled that "once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Mr. Sanchez has now resided in the United States for more than three years, and his detention implicates "the most significant liberty interest there is—the interest in being free from imprisonment." *Rodriguez-Acurio*, 2025 WL 3314420, at *27 (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). As discussed in the Petition, the Due Process Clause and § 1226(a) require that a noncitizen present in the country receive, at a minimum, an individualized determination as to a noncitizen's risk of flight and danger to the community prior to detention. Pet. ¶ 59. Nothing in the record suggests Mr. Sanchez is a flight risk or danger to the community, and at no time prior to arresting and detaining Mr. Sanchez did Respondents conduct an individualized assessment of the need for his detention—in fact, according to Respondents, Mr. Sanchez was stopped because of his alleged resemblance to another Latino man.

Because Respondents' opposition to Mr. Sanchez's due process claims relies on the § 1225 "entry fiction," they do not appear to contest that his due process rights were violated if § 1226 governs. Nevertheless, to the extent Respondents attempt to argue ICE officers at the scene of the arrest made an individualized determination that Mr. Sanchez was a flight risk based on "his prior disregard for the United States immigration law," this is clearly meritless. "Section 1226(a) 'authorizes detention only '[o]n a warrant issued' by the Attorney General," *J.U.*, 2025 WL

2772765 at *6 (quoting *Jennings*, 583 U.S. at 302), unless ICE officers meet certain requirements for conducting a warrantless arrest are met, including determining that a noncitizen is "likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); *see also* 8 C.F.R. § 287(c)(2)(iii). In making this determination, ICE officers are "required to consider the totality of the circumstances, including the officer's ability to determine the person's identity; knowledge of that individual's prior escapes or evasions of immigration authorities; attempted flight from an ICE officer; and the person's ties to the community (such as a family, home, or employment)." *Castañon Nava v. Dep't of Homeland Sec.*, No. 18-CV-3757, 2025 WL 2842146, *13-14 (N.D. Ill. Oct. 7, 2025). Further, ICE officers are required to document the "specific, particularized facts supporting the conclusion that the foreign national was likely to escape before a warrant could be obtained," in a Form I-213. *Id.*

None of the relevant circumstances support the conclusion that Mr. Sanchez was likely to escape. Mr. Sanchez did not attempt to flee and was fully cooperative with the agents who swarmed his vehicle and attempted to comply with the agents' requests. Sanchez Decl. ¶¶ 6-8. Mr. Sanchez has never been charged with a crime (or even a traffic violation). *Id.* ¶ 4. Mr. Sanchez was stopped and arrested approximately three blocks from his home, which officers observed him leaving on his way to work with his father. *Id.* ¶¶ 5-6. The I-213 does not provide "specific, particularized" facts showing ICE officers considered these circumstances and instead merely points to Mr. Sanchez's alleged disregard for U.S. immigration law to support officers' conclusion that he was likely to escape before a warrant could be obtained. *See* Lisovicz Decl., Ex. 3.[6] Courts have concluded arrests without a proper flight risk determination violate § 1357(a)(2) in similar

[6] Clearly, this is not a sufficient basis for a flight risk determination. *See Moreno v. Napolitano*, 213 F.Supp.3d 999, 1007 (N.D. Ill. 2016) ("Nor can it be the case that, simply by being potentially removable, an alien must be deemed to be likely to evade detention by ICE. Such a reading would render the limitations on warrantless arrest created by 8 U.S.C. §§1226(a) and 1357(a)(2) meaningless.").

circumstances. *See, e.g., U.S. v. Hernandez-Hernandez*, No. 3:18-cr-00009, 2018 WL 6517437, at *5 (E.D. Ky. Dec. 11, 2018) (defendant unlikely to flee where he: "(i) was arrested near his home; (ii) lacked a known criminal history at the time of his arrest; (iii) answered questions without incident; (iv) was working in the area; (v) had a stable residence with a fiancée and children."); *U.S. v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 889 (S.D. Ohio 2016) (same).

Thus, Respondents' ongoing detention of Mr. Sanchez violates his due process rights. *J.U.*, 2025 WL 2772765 at *10 ("Respondent'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 his due process rights."). Accordingly, Mr. Sanchez is entitled to be released from detention immediately. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) ("The typical remedy for [unlawful executive] detention is, of course, release."); Pet. ¶¶ 78-80 (citing cases granting immediate release in analogous circumstances).

## III. Respondents' Unlawful Arrest of Mr. Sanchez Violates the Fourth Amendment

The Petition sets forth a clear claim that Mr. Sanchez was subjected to an illegal search and seizure in violation of his Fourth Amendment rights. Pet. ¶¶ 72-76, 105-08. Respondents do not address this claim, and instead merely assert that it fails because he was civilly arrested without a warrant pursuant to 8 C.F.R. § 287(c)(2)(iii). Resp. 24-25. Mr. Sanchez's illegal search and seizure claim is separate and distinct from the issue of Respondents' alleged authority to arrest and detain him without a warrant.[7] Mr. Sanchez's Fourth Amendment claim should be granted given Respondents' failure to oppose it. *See, e.g., Materano v. Arteta*, 2025 WL 2630826, at *17 (S.D.N.Y. Sep. 9, 2025) (finding petitioner was detained in violation of his Fourth Amendment rights where respondents failed to provide any arguments in opposition to such claim).

[7] As explained *infra* II, Respondents did not have authority to execute a warrantless arrest.

## CONCLUSION

For the reasons set forth above, Mr. Sanchez respectfully requests that this Court order his immediate release, allowing him to return home and reunite with his father, without any further restrictions on his liberty.

Date: January 26, 2026

Respectfully submitted,

**AKIN GUMP STRAUSS HAUER & FELD LLP**

By: */s/ Edan Lisovicz*

Avi E. Luft
Edan Lisovicz
Rachel Lu
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Tel: (212) 872-1000
Facsimile: (212) 872-1002
aluft@akingump.com
eliosvicz@akingump.com
rlu@akingump.com

*Attorneys for Petitioner*
*Reagan Emilio Sanchez Atz*