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January 29, 2026

VIA ECF FILING

The Honorable Chad F. Kenney
11613 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: *Luciano Souza Goncalves v. Michael Rose, et al., Civ No. 26-cv-533*

Your Honor:

I represent the United States in the above referenced habeas action. Petitioner Luciano Souza Goncalves is currently detained at Pike County Correctional Facility pending removal proceedings; he was transferred there on January 28, 2026, before Your Honor's Order of that date issued. I have conferred with Petitioner's counsel and we agree that Petitioner should remain there pending this Court's decision on the Petition because, in the event that Petitioner is granted a bond hearing, it can occur at the Pike County facility.

Petitioner seeks release from detention. This matter is not substantively different than prior similar habeas petitions previously addressed by this Court. The United States incorporates by this reference as though set forth in full the arguments asserted in prior briefing filed in the matters referenced in the Court's January 28, 2026 Order in this action: *Demirel v. Fed. Det. Ctr. Philadelphia*, No. 25-cv-5488 (E.D. Pa. Nov. 18, 2025); *Anirudh v. McShane*, No. 25-cv-6458 (E.D. Pa. Dec. 9, 2025); *Porras v. O'Neill*, No. 25-cv-6801 (E.D. Pa. Dec. 22, 2025). I write simply to call the Court's attention to additional legal support for the government's opposition to Goncalves's Petition and arguments.

Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2) and the BIA's decision in *Q. Li*

As an alien initially detained without a warrant while arriving in the United States and subsequently placed into removal proceedings, the Board of Immigration Appeals' (BIA) holding in *Matter of Q. Li,* 29 I&N Dec. 66 (BIA 2025)—which was issued three-months prior to the change in DHS policy that Petitioner is now challenging—confirms Petitioner's lawful detention under § 1225(b)(2).

In *Q. Li*, the BIA expanded upon the Supreme Court's holding in *Jennings* and clarified the scope of §1225(b)(2) for applicants for admission, like Petitioner, who are arriving in the

United States. 29 I&N Dec. at 68 (citing *Matter of M-D-C-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (defining the term "arriving" to apply to aliens "who [are] apprehended" just inside "the southern border, and not at a point of entry, on the same day [they] crossed into the United States"). For aliens in this category, the BIA affirmed that DHS may either place the alien into expedited removal proceedings under § 1225(b)(1) or full removal proceedings under § 1229a. *Id.* For the latter category—aliens arriving in and seeking admission into the United States who are placed directly into full removal proceedings—the Board held that § 1225(b)(2)(A) mandates detention "until removal proceedings have concluded." *Id.* (citing *Jennings*, 538 U.S. at 299). Thus, the BIA held that an applicant for admission "who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings," is detained under § 1225(b)(2) and is thus ineligible for any subsequent release on bond.

Petitioner falls squarely within the BIA's holding in *Q. Li* and the ambit of § 1225(b)(2)(A)'s mandatory detention requirement. He is an "applicant for admission" to the United States. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission,' § 1225(a)(1), and an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry'"); *Matter of Lemus-Losa*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . ."). Petitioner entered by crossing the United States border without being admitted. Pet. ¶ 2. He was arrested and detained without a warrant while arriving in the United States outside of a designated port of entry and subsequently placed into removal proceedings under § 1229a. Therefore, he is an "applicant for admission," and his detention is mandatory. 8 U.S.C. § 1225(b)(2)(A) (stating applicant for admission "shall be" detained); *Q. Li*, 29 I&N Dec. at 68.

The United States respectfully asks the Court to consider the authority discussed herein, in addition to its prior briefing in other matters, and deny the Petition.

Very truly yours,

DAVID METCALF
United States Attorney

/s/ Viveca D. Parker
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Assistant United States Attorney

cc Christopher Casazza, Esq.