U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

February 9, 2026

By ECF
Honorable Ramon E. Reyes
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, N.Y. 11201

Re: *Chom v. Noem, et al.*
Civil Action No. 26-cv-0597 (Reyes, J.)

Dear Judge Reyes:

This Office respectfully submits this letter brief[1] on behalf of the Respondents in accordance with the Court's February 4, 2026 Order and in response to the petition for issuance of a habeas writ filed by Henry Serech Chom ("Petition"). Attached to this response are a Notice to Appear dated November 8, 2025 (Exhibit A); a Warrant for Arrest dated November 8, 2025 (Exhibit B); a Notice of Rights dated November 8, 2025 (Exhibit C); a Form I-213, Record of Deportable/Admissible Alien (Exhibit D); and a notice concerning "Section 236 (a) Initial Detention Decisions" (Exhibit E).[2]

Facts

The Petitioner, a native of Guatemala, entered the United States unlawfully at an unknown place and date without being admitted, inspected or paroled. *See* Exhibit D. He was arrested by ICE on November 8, 2025, *id.*, and served with a Warrant for Arrest, a Notice to Appear ("NTA"), a Notice of Rights, and a notice concerning Section 236(a) Initial Detention Decisions, *see* Exhibits A-E. The Petitioner acknowledged service of these documents that day. *Id.* The NTA charged that Petitioner was inadmissible pursuant to § 212 (a)(6)(A)(i) of the Immigration and Naturalization Act ("INA").

Petitioner's Claims

In brief, Petitioner asserts claims based on alleged violation of the INA (Count 1) and

[1] While reserving all rights, including the right to appeal, Respondents submit this brief in lieu of a memorandum of law to conserve judicial and party resources, and to expedite the Court's consideration of this case, in light of this Court's decision on the principal legal issues in *Chander v. Maldonado*, No. 26-cv-021. With leave of the Court, the Respondents incorporate all arguments made in the Government's opposition memorandum in *Chander*, ECF No. 7.

[2] Information has been redacted from some the documents for privacy reasons.

violation of Fifth Amendment due process rights (Count 2). Petitioner seeks release from detention and other relief. Petition at 34-35.

Discussion

The Respondents contend that the Petitioner is an applicant for admission subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) who has received all the process he is due and that he is not entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a). In *Chander*, when presented with somewhat analogous facts, Your Honor granted the petition for habeas corpus. *Chander*, No. 26-cv-0021, ECF Nos. 9-10. Respondents also acknowledge decisions in other cases within this district granting habeas relief based on determinations that the petitioners were not subject to mandatory detention pursuant § 1225(b)(2)(A). *See, e.g., Ye v. Maldonado*, No. 25-cv-6417, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025) (Donnelly, J.) and *O.F.B. v. Maldonado*, No. 25-cv-6336, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025) (Gonzales, J.)

Although the Respondents acknowledge these and other decisions holding for petitioners on the question of § 1225(b)(2)(A) mandatory detention, they respectfully disagree with these decisions. Respondents note that their position is supported by district court rulings within the Second Circuit, such as *Chen v. Almodovar, et al.*, No. 25-cv-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026) (Cronan, J.).[3]

In *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 Chen*, 2026 WL 100761 at *5-*6. The court denied the habeas petition, concluding that the text, structure, and context of § 1225(b)(2)(A) confirm that statute covers individuals 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. Given that the detention authority in § 1225(b)(2)(A) covers "an alien who is an applicant for admission," the court 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.*

[3] Other decisions include *Arana v. Arteta*, No. 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.); *Lopez v. Noem*, No. 26-cv-345, 2026 WL 266597 (S.D.N.Y. Feb. 2, 2026) (Rearden, J.); *Chen v. Almodovar*, No. 25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4. 2025) (Vyskocil, J.), appeal filed Dec. 16, 2025, No. 25-3169 (2d Cir.); and *Candido v. Bondi*, No. 25-cv-867 (Sinatra, J.), 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025), appeal filed Dec. 16, 2025, No. 25-3159 (2d Cir.).

The court reasoned that other district courts erred in holding that the § 1225(b)(2)(A) detention authority covers only the purported subset of applicants for admission who are "seeking admission" through affirmative steps towards lawful admission. *See Chen*, 2026 WL 100761, at *8-*10. As the court held, persons "seeking admission" are not a subset of "applicants for admission" but rather the opposite is true: "Section 1225 itself expressly treats applicants for admission as among those seeking admission." *See id.* at *9 (citing § 1225(a)(3), (5)). The court further held that the other district court holdings "introduce[] more questions to the statute than answers"—which is the very argument Respondents advanced. *Chen*, 2026 WL 100761, at *9; ECF No. 14 at 24-25. "The answer," the court determined, "is the one that Congress has already provided throughout Section 1225: an applicant for admission is 'seeking admission,' even when that noncitizen is 'present in the United States' without having 'been admitted.'" *Id.*

The Respondents urge the Court to follow the reasoning of *Chen*. In doing so, they note that *Chen* and other decisions finding that petitioners were subject to mandatory detention square with the conclusion of the first court of appeals decision on point, *Buenrostro-Mendez v. Bondi*, No.25-20496, -- F.4th --, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

The Respondents thank the Court for its consideration of their arguments.

Respectfully submitted,
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Exhibits to Respondents' Letter Brief