THE BRONX DEFENDERS

February 9, 2026

VIA ECF

Honorable Ramon E. Reyes, Jr.
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: *Serech Chom v. Noem*
Civil Action No. 26-cv-0597 (Reyes, J.)

Dear Judge Reyes:

We write on behalf of petitioner Henry Serech Chom ("Mr. Serech Chom" or "Petitioner") in the above-referenced habeas corpus action, which challenges his detention by U.S. Immigration and Customs Enforcement ("ICE"). On February 9, 2026, the Respondents filed a letter in response to Mr. Serech Chom's Petition "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 the Court's decision on the principal legal issues in *Chander v. Maldonado*, No. 26-cv-021." *See* ECF. No. 7, at 1 n.1. Mr. Serech Chom submits this letter as reply to Respondents' February 9, 2026, letter. Because Mr. Serech Chom's Petition rests on largely the same set of facts and law as *Chander*, the Court should grant this Petition and order his release.

Although Respondents contend that Mr. Serech Chom is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), they acknowledge that this Court granted a petition for habeas corpus "when presented with somewhat analogous facts," and further "acknowledge decisions in other cases within this district granting habeas relief based on determinations that the petitioners were not subject to mandatory detention pursuant to § 1225(b)(2)(A)." *Id.* at 2; *see also Chander*, No. 26-cv-0021, ECF Nos. 9–10. Respondents nonetheless note their disagreement with those decisions and cite *Chen v. Almodovar*, No. 25-cv-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026), in support of their position that Mr. Serech Chom is subject to mandatory detention under § 1225(b)(2)(A).

Mr. Serech Chom respectfully notes that *Chen* is not binding on this Court and, further, that the case is an "outlier[] in this Circuit, . . . which has otherwise adopted the reasoning" set forth in his Petition. *Singh v. Maldonado*, No. 26-CV-00019 (OEM), 2026 WL 233216, at *8 (E.D.N.Y. Jan. 29, 2026); *see also Lira Caceres v. Shanahan*, No. 26-CV-00016 (OEM), 2026 WL 233215, at *8 (E.D.N.Y. Jan. 28, 2026). Indeed, since *Chen* was decided, numerous courts in this district have granted habeas relief to petitioners similarly situated to Mr. Serech Chom. *See, e.g.*, *Aguinaga Castellon v. Doe*, No. 2:26-CV-647 (NJC), 2026 WL 326947, at *3–*6 (E.D.N.Y. Feb. 7, 2026) (ordering immediate release of petitioner with no criminal history detained following

warrantless arrest); *J.G.I. v. Genalo*, No. 26-CV-581 (AMD), 2026 WL 323036, at *2 (E.D.N.Y. Feb. 6, 2026); *F.H.H. v. Genalo*, No. 26-CV-00525 (HG), 2026 WL 323174, at *2–*4 (E.D.N.Y. Feb. 6, 2026); *Ambroladze v. Maldonado*, No. 26-CV-0473 (PKC), 2026 WL 295405, at *2 (E.D.N.Y. Feb. 4, 2026); *Puerto v. Leeper*, No. 26-CV-405, 2026 WL 206485 (NRM), at *1–*2 (E.D.N.Y. Jan. 27, 2026).

Indeed, every court to have considered the issue in this district has rejected the statutory reading urged by Respondents and advanced in *Chen*, which provides that all applicants for admission are "seeking admission" under 8 U.S.C. § 1225(b)(2)(A). Equating "applicants for admission" with "seeking admission" "would render the phrase 'seeking admission' in § 1225(b) superfluous—that is, it is not doing any work in the statutory text, which would violate the rule against surplusage." *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765, at *6 (E.D.N.Y. Sept. 29, 2025). The expansive reading of § 1225(b)(2)(A) pressed by Respondents would similarly "render superfluous the mandatory detention provisions found in § 1226(c)(1)(A), (D), and (E)." *Id.* at *8. Further, Respondents' "interpretation of the statutory scheme does not square with more than a century of Supreme Court[] holdings interpreting the relationship between §§ 1225(b) and 1226(a)." *Id.*; *see also Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) (holding that individuals within the United States have certain rights and privileges not afforded to those on the threshold of entry); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (noting that "once [a noncitizen] enters the country, the legal circumstances change, for the Due Process Clause applies to all 'persons' within the United States"). Ultimately, "[i]f Congress had understood the terms ['applicant for admission' and 'seeking admission'] to be synonyms, 'Congress could have replaced "an alien seeking admission" with "the alien" or even "he or she"—much clearer expression, with (ostensibly) no change in meaning.'" *Y-C- v. Genalo*, No. 25-CV-06558 (NCM), 2025 WL 3653496, at *4 (E.D.N.Y. Dec. 17, 2025) (quoting *Sarmiento Guerrero v. Noem*, No. 25-CV-5881 (EK), 2025 WL 3214787, at *3 (E.D.N.Y. Nov. 18, 2025)).

Respondents briefly cite the recent decision of the United States Court of Appeals for the Fifth Circuit in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), as additional support for their position. *But see Castanon-Nava v. DHS*, 161 F.4th 1048, 1062 (7th Cir. 2025) (concluding preliminarily that Respondents' position regarding § 1225(b)(2)(A) was erroneous). The Fifth Circuit's decision is not binding on this Court, and its reasoning is neither meaningfully different nor more persuasive than that of *Chen*. *See, e.g.*, *Yoricis P. v. Bondi*, No. 26 Civ. 1080 (ECT), 2026 WL 327937, at *2 (D. Minn. Feb. 8, 2026) (acknowledging *Buenrostro-Mendez* and declining to reconsider Respondents' position).

Notably, Respondents' own exhibits support the proposition that Mr. Serech Chom is detained pursuant to 8 U.S.C. § 1226(a), rather than § 1225(b)(2). Section 1226(a) authorizes detention "[o]n a warrant issued by the Attorney General," 8 U.S.C. § 1226(a), while § 1225(b)(2) permits warrantless arrests, *see Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018). Following Mr. Serech Chom's arrest, ICE produced—albeit seemingly post-hoc—Form I-200, an administrative warrant, pursuant to § 1226(a). *See* ECF No. 7, at 11. ICE also served Mr. Serech Chom with a document entitled "Important Information About Section 236(a) Initial Detention Decisions," indicating the agency detained him under the discretionary detention authority at § 1226(a), rather than § 1225(b)(2). Respondents do not explain the divergence between the apparent statutory basis for Mr. Serech Chom's detention at the time of his arrest and the statutory argument that they now

advance. Consequently, "[t]he record before the Court . . . establishes that Petitioner was detained pursuant to the government's discretionary authority under § 1226(a)." *J.U.*, 2025 WL 2772765, at *5.

Finally, Respondents do not meaningfully address Mr. Serech Chom's claim that his detention violated his procedural due process rights under the Fifth Amendment. *See* ECF No. 7, at 2 ("The Respondents contend that the Petitioner . . . has received all the process he is due . . . ."). Yet again, the agency's own documents tell a different story. ICE's narrative of Mr. Serech Chom's arrest indicates that he was not the intended subject of their operation, that he was not previously known to the officers who arrested him, and that he was apprehended and detained only after being questioned about his alienage. *See* ECF No. 7, at 16. Although the same document indicates that Mr. Serech Chom "has no known criminal history," it nonetheless concludes that ICE determined that he was to be "detained in ICE custody pending removal proceedings"—without any elaboration or explanation. *Id.* at 17. On this record, it is clear that ICE did not provide Mr. Serech Chom with any individualized assessment as to danger or flight risk before choosing to detain him. *See Arango v. Genalo*, No. 25-CV-6720 (RER), 2025 WL 3637500, at *2 (E.D.N.Y. Dec. 16, 2025) ("[T]here is no indication in the record that a custody determination was made before or contemporaneous with [Petitioner's] arrest.").

Consequently, "ICE's detention of Mr. [Serech Chom] was unlawful from its inception, notwithstanding Respondents' efforts at post-hoc rationalization based on its expansive interpretation of Section 1225(b)(2)." *Aguinaga Castellon*, 2026 WL 326947, at *5; *see also J.G.I.*, 2026 WL 323036, at *2 (while agreeing with the petitioner's statutory misclassification argument, observing that, "[e]ven if Section 1225 applied to the petitioner's detention, the petitioner was still entitled to due process before the government arrested him and detained him"). As such, just as this Court ordered the immediate release of the petitioner in *Arango* in light of due process violations, it should do the same for Mr. Serech Chom.

In closing, the Court should grant the habeas petition because, as Respondents acknowledge, Mr. Serech Chom's case is analogous to that of *Chander*. Mr. Serech Chom therefore respectfully requests his immediate release. In addition, Mr. Serech Chom's *pro bono* counsel respectfully requests that the Court order costs and reasonable attorney's fees.

Respectfully submitted,

/s/ Jessica Coffrin-St. Julien
Jessica Coffrin-St. Julien, Esq.
Nhu-Y Ngo, Esq.
The Bronx Defenders
360 East 161st Street
Bronx, New York 10451

CC: Counsel of record (via ECF)