IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARNETT MAISCH	:	
	:	
Petitioner,	:	
	:	
v.	:	Civil Action No. 2:26-cv-2498
	:	
JAMISON, J.L., *ET AL.*,	:	
	:	
Respondents.	:	

RESPONSE IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

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Dated: April 20, 2026

I. INTRODUCTION

Petitioner seeks a writ of habeas corpus, challenging the authority of the Secretary of the U.S. Department of Homeland Security (DHS) to detain him under the Immigration and Nationality Act (INA). **Petitioner in this case is subject to mandatory detention under the Laken Riley Act, 8 U.S.C. § 1226(c)(1)(E), given his arrest on March 19, 2026, by the Philadelphia Police Department for the theft offense of theft by unlawful taking or disposition in violation of 18 Pa.C.S § 3921. Alternatively, Petitioner's detention is lawful under 8 U.S.C. § 1225(b)(2)(A).** As discussed below, because Petitioner's detention comports with the INA and the Fifth Amendment to the U.S. Constitution, the Court should deny the petition for writ of habeas corpus.

As the Court is undoubtedly aware, immigration detainees in this district have filed hundreds of petitions for writs of habeas corpus challenging the authority of the Secretary of the U.S. Department of Homeland Security ("DHS") to detain them without setting a bond hearing. These cases involve individuals who have been detained pending the completion of their removal proceedings, including consideration of their asylum claims as a defense to removal, and break down into four categories:

- ***Hurtado*[1] cases**: individuals who entered the United States without inspection; after a passage of time, they were encountered by immigration authorities in the interior, placed in standard removal proceedings, and recently were detained

[1] "*Hurtado*" refers to the Board of Immigration Appeals' decision in *Matter of Hurtado*, 29 I & N Dec. 216 (BIA 2025).

under 8 U.S.C. § 1225(b)(2)(A); *see, e.g., Cantu-Cortes v. O'Neill*, No. 25-cv-6338, 2025 WL 3171639, at *1–2 (E.D. Pa. Nov. 13, 2025);

- ***Q. Li*[2] cases**: individuals who entered the United States without inspection, were encountered near the border and detained without a warrant, released into the country, and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(2)(A); *see, e.g., Cordero v. Rose*, No. 26-cv-534 (E.D. Pa. Jan. 29, 2026);
- **Arriving Alien cases**: individuals who presented at a port of entry without valid entry documents, were paroled into the country under 8 U.S.C. § 1182(d)(5)(A), and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(2)(A); *see, e.g., Vasquez-Rosario v. Noem*, No. 25-cv-7427, 2026 WL 196505, at *5 (E.D. Pa. Jan. 26, 2026); and,
- **Expedited Removal cases**: individuals who, based on certain conditions related to their time, manner, and place of entry, were placed into expedited removal proceedings, paroled into the country under 8 U.S.C. § 1182(d)(5)(A), and, after a passage of time, recently detained under 8 U.S.C. § 1225(b)(1)(B)(iv); *see, e.g., Seminario Marcos v. Jamison*, No. 26-cv-421 (E.D. Pa. Feb. 6, 2026).

The first three categories of cases (*Hurtado*, *Q. Li*, and Arriving Alien) all share the same authority for mandatory detention: 8 U.S.C. § 1225(b)(2)(A). While there are certain legal and factual distinctions among these cases, the fundamental point of departure between the government's position and the position advanced by petitioners

[2] "*Q. Li*" refers to the Board of Immigration Appeals' decision in *Matter of Q. Li,* 29 I&N Dec. 66 (BIA 2025).

and adopted in over 250 decisions in this district relates to the correct interpretation of § 1225(b)(2)(A):

> In the cases of an alien who is an **applicant for admission**, if the examining immigration officer determines that an **alien seeking admission** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

8 U.S.C. § 1225(b)(2)(A) (emphasis added).

Although petitioners in these cases are indisputably "applicants for admission," *see* 8 U.S.C. § 1225(a)(1), courts in this district (and many elsewhere) have concluded that § 1225(b)(2)(A) does not apply to applicants for admission who are present in the interior of the country because, these decisions conclude, the petitioners are no longer "seeking admission." Courts have reasoned that "seeking admission" should be given meaning beyond "applicant for admission" to avoid surplusage and have read the term to require active and ongoing efforts to be admitted at or near the border. *See, e.g.*, *Kashranov v. Jamison*, Civ. No. 25-5555, 2025 WL 3188399, *6–7 (E.D. Pa. 2025); *Vasquez-Rosario*, 2026 WL 196505, at *9.

By contrast, the government contends that "applicants for admission" are necessarily "seeking admission" until they have been admitted or until their removal proceedings are complete. And while the government's position has been rejected by the vast majority of district courts to have considered it, two courts of appeals to have squarely considered the argument, the Fifth and Eighth Circuit Courts of Appeals, have agreed with the government. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502 (5th Cir. 2026) ("The everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission.'"); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258, at *3 (8th Cir. Mar. 25, 2026)

(concluding that "the structure of § 1225(b)(2)(A) does not indicate that 'seeking admission' is a separate requirement for detention under the statute"); *but see Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1062 (7th Cir. 2025) (concluding upon review of application for stay of a preliminary injunction that the government was not likely to succeed on the merits of its argument for mandatory detention of applicants for admission present in the United States under § 1225(b)(2)(A)).

Petitioner here is subject to mandatory detention under 8 U.S.C. § 1226(c)(1)(E). In the alternative, if the Court finds that Petitioner's arrest for a theft offense does not require mandatory detention under § 1226(c)(1)(E), the Petitioner is still subject to detention under the BIA's decision in *Q. Li* and 8 U.S.C. § 1225(b)(2)(A). If the Court were to reject Respondent's argument for mandatory detention under § 1226(c)(1)(E), this case would turn on the threshold question of statutory interpretation discussed above—whether petitioner is an "applicant for admission" that is "seeking admission" within the meaning of § 1225(b)(2)(A). The government expands on that argument below in the context of Petitioner, who was first encountered near the border after entering without inspection (thereby falling within the scope of the BIA's decision in *Q. Li*), and addresses Petitioner's separate argument alleging a violation of due process.

Even if the Court again agrees with Petitioner's statutory interpretation in this case, however, Respondents respectfully request that the Court order a bond hearing. Doing so would permit an immigration judge to evaluate whether petitioner poses a flight risk or danger to the community in light of the recent criminal history described above.

II. FACTUAL AND PROCEDURAL HISTORY

Petitioner, a native and citizen of Brazil, crossed the border without inspection on or about November 30, 2023. (Ex. A, Form I-213 at p. 3 (immigration history)).[3] Upon entering the United States, Petitioner was arrested by the United States Border Patrol, placed in removal proceedings, and released on an Order of Recognizance into the country. (*Id.*). Thereafter, on March 19, 2026, Petitioner was arrested by the Philadelphia Police Department and criminally charged with theft by unlawful taking or disposition (18 Pa.C.S § 3921), criminal mischief (18 Pa.C.S § 3304), and the unauthorized use of automobiles and other vehicles (18 Pa.C.S § 3928). (Ex. B, Philadelphia Police Department Arrest Report; Ex. C, Criminal Docket and Court Summary.) On April 1, 2026, ICE issued an I-200 ICE Warrant of Arrest, to locate and arrest Petitioner. (Ex. D, ICE Warrant of Arrest.) On April 15, 2026, ICE arrested and detained Petitioner under to 8 U.S.C. § 1225(b)(2)(A) and § 1226(c)(1)(E).

III. LEGAL STANDARD

A writ of habeas corpus is an "extraordinary remedy." *Shinn v. Ramirez*, 596 U.S. 366, 377 (2022). The petitioner bears the burden of showing his confinement is unlawful. *Hawk v. Olson*, 326 U.S. 271, 279 (1945); *accord Cullen v. Pinholster*, 563 U.S. 170, 181 (2011) (habeas petitioner "carries the burden of proof"); *see also* 28 U.S.C. § 2241.

[3] The Form I-213, Record of Deportable/Inadmissible Alien is a presumptively reliable government document that memorializes, among other information, the facts and circumstances surrounding an alien's encounter with DHS or other law enforcement agencies. *See, e.g.*, *Matter of Barcenas*, 19 I&N Dec. 609. 611 (BIA 1988) (finding that a Form I-213 is an inherently trustworthy document and admissible as evidence to prove alienage and deportability in removal proceedings); *Matter of J-C-H-F-*, 27 I&N Dec. 211, 212 (BIA 2018) ("Generally, there is a presumption of reliability of Government documents.").

Judicial review of immigration matters, including detention issues, is limited. *INS v. Aguirre-Aguirre*, 526 U.S. 415, 425 (1999); *Reno v. Am.-Arab Anti-Discrimination Comm.* (*AADC*), 525 U.S. 471, 489–92 (1999); *Miller v. Albright*, 523 U.S. 420, 434 n.11 (1998); *Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Reno v. Flores*, 507 U.S. 292, 305 (1993); *Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) ("[T]he power over aliens is of a political character and therefore subject only to narrow judicial review."). The Supreme Court has "underscore[d] the limited scope of inquiry into immigration legislation," and "has repeatedly emphasized that over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens." *Fiallo*, 430 U.S. at 792 (internal quotation omitted); *Mathews v. Diaz*, 426 U.S. 67, 79–82 (1976); *Galvan v. Press*, 347 U.S. 522, 531 (1954).

The plenary power of Congress and the Executive Branch over immigration necessarily encompasses immigration detention, because the authority to detain is elemental to the authority to deport and because public safety is at stake. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) ("Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure."); *Demore v. Kim*, 538 U.S. 510, 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of that process."); *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018) ("Congress has authorized immigration officials to detain some classes of aliens during the course of certain immigration proceedings. Detention during those proceedings gives immigration officials time to determine an

alien's status without running the risk of the alien's either absconding or engaging in criminal activity before a final decision can be made.").

Petitioner must make a strong showing to demonstrate that his continued detention violates the Constitution or laws of the United States. *See United States v. Five Gambling Devices*, 346 U.S. 441, 449 (1953) ("This Court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is necessary and proper to execution of that power").

IV. ARGUMENT

The Court should deny the petition because: (1) Petitioner's detention is lawful under 8 U.S.C. § 1226(c)(1)(E); (2) Petitioner's detention is separately lawful under 8 U.S.C. § 1225(b)(2); and (iii) Petitioner's detention under either statutory provision comports with constitutional due process.

A. Petitioner's detention is lawful under 8 U.S.C. § 1226(c)(1)(E).

ICE's current detention of Petitioner is authorized and, indeed, mandated by statute. An alien loses his eligibility for release on bond if he commits one of the statutorily enumerated criminal offenses set forth in 8 U.S.C. § 1226(c). *See* 8 U.S.C. § 1226(c)(1)(A)–(E) (explaining that the Attorney General "*shall* take into custody any alien" who falls into one of the enumerated categories) (emphasis added). The Attorney General "may release" these categories of aliens in only one narrow instance: if the Attorney General decides that doing so is necessary for witness-protection purposes and that the alien will not pose a danger or flight risk. *Id.* § 1226(c)(4). Absent this narrow

exception, aliens detained under § 1226(c) are ineligible for release on bond or, alternatively, parole under 8 U.S.C. § 1182(d)(5)(A). *Id.*

On January 29, 2025, the President signed into law the Laken Riley Act. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Among other things, the Act amended 8 U.S.C. § 1226(c) to provide that the Attorney General:

> **[S]hall** take into custody any alien who … (i) is inadmissible under paragraph 6(A), 6(C), or (7) of section 1182(a) of this title; and (ii) **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 person.

8 U.S.C. § 1226(c)(1)(E)(ii) (emphasis added). Under the plain text of the statute, an arrest or charge for a qualifying crime, even if that charge did not result in a conviction, is sufficient to trigger mandatory detention during the pendency of removal proceedings. *Id.* (listing the qualifying conduct disjunctively with separation by the word "or"). For purposes of detention under § 1226(c)(1)(E)(ii), "the terms 'burglary,' 'theft,' 'larceny,' 'shoplifting,' 'assault of a law enforcement officer,' and 'serious bodily injury' have the meanings given to such terms in the jurisdiction in which the acts occurred." *Id.* § 1226(c)(2).

Petitioner falls within the mandatory detention provision of § 1226(c)(1)(E)(ii). Petitioner is charged as inadmissible under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I) following his unlawful entry into the United States. (Ex. E, Notice to Appear.) Furthermore, he was arrested for and later charged with, *inter alia*, theft by unlawful taking or disposition of movable property. *See* Ex. B, Philadelphia Police Department Arrest Report; Ex. C, Criminal Docket and Court Summary. Under Pennsylvania law, *theft* by unlawful taking or disposition of movable property is defined

as "unlawfully tak[ing], or exercis[ing] unlawful control over, movable property of another with intent to deprive … thereof." 18 Pa.C.S § 3921(a). Accordingly, by the plain language of the statue under which Petitioner was arrested and charged, he was arrested for a theft offense, thus triggering mandatory detention under § 1226(c)(1)(E)(ii).

Here, Congress amended § 1226(c) through the Laken Riley Act to specifically include a broader range of criminal dispositions, including those not resulting in convictions, related to a broader range of criminal activity, including any offense falling within the ambit of a "theft offense." The specific facts of Petitioner's arrest further demonstrate that his offense qualifies as a theft offense, as he was arrested for unlawfully possessing and removing parts from a stolen vehicle. *See* Ex. B, p. 1 (facts of the case). Thus, Petitioner's criminal conduct, which culminated in an arrest and criminal charges, and all of which occurred after the passage of the Laken Riley Act, subjects him to mandatory detention under § 1226(c)(1)(E)(ii).

B. Alternatively, Petitioner's Detention is Authorized by 8 U.S.C. § 1225(b)(2)

i. Petitioner is an "applicant for admission" "seeking admission"

An individual who "arrives in the United States," or is "present" in this country but "has not been admitted," is considered an "applicant for admission" under 8 U.S.C. § 1225(a)(1). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Buenrostro-Mendez*, 166 F.4th at 499. Applicants for admission are covered by either § 1225(b)(1) or § 1225(b)(2). *See Jennings*, 583 U.S. at 287 (section 1225(b)(2) "serves as a catchall provision that applies to *all* applicants for admission not covered by § 1225(b)(1)") (emphasis added).

An alien remains an applicant for admission, and subject to § 1225(b)(2), so long as he is "not clearly and beyond doubt entitled to be admitted" to the United States. *See* 8 U.S.C. § 1225(b)(2)(A); *see also* 8 U.S.C. § 1225(a) (defining applicant for admission as *either* "[a]n alien present in the United States who has not been admitted *or* who arrives in the United States[.]") (emphasis added). Congress defined *all* aliens who are present in the United States without being admitted as "applicant[s] for admission," regardless of when they entered. *See* 8 U.S.C. § 1225(a)(1).

When an immigration officer encounters and examines an applicant for admission who seeks to remain in the United States, and that alien (like Petitioner) desires to remain in the United States, the applicant is necessarily "seeking admission" within the meaning of 8 U.S.C. § 1225(b)(2)(A). *See Buenrostro-Mendez*, 166 F.4th at 503 ("[A]n 'applicant for admission' is necessarily someone who is 'seeking admission.'"); *id*. at 502 ("When a person applies for something, they are necessarily seeking it.). Otherwise, the alien must "withdraw the application for admission and depart immediately from the United States." 8 U.S.C. § 1225(a)(4). An alien continues to be "seeking admission" while in immigration removal proceedings to determine whether he can "be admitted to the United States." *See* 8 U.S.C. § 1229a(3).

The government acknowledges that all courts in this district (and many more elsewhere) have reasoned that § 1225(b)(2)(A) requires that an "applicant for admission" be actively "seeking admission" at or near the border to fall within its scope. *See*, *e.g.*, *Kashranov*, 2025 WL 3188399, at *6–7; *Demirel v. Fed. Detention Ctr.*, Civ. No. 25-5488 (E.D. Pa. Nov. 18, 2025).[4] But, as noted, the Fifth Circuit Court of Appeals

[4] The government is pursuing appeals in the Third Circuit related to both statutory and constitutional due-process claims. The matters on appeal are *Lopes De Andrade v. Director Philadelphia Field Office*

has agreed with the government. *See Buenrostro-Mendez*, 166 F.4th at 502 ("The everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission.'"). The *Buenrostro-Mendez* court concluded, correctly, that an "applicant for admission" is "necessarily someone who is 'seeking admission.'" *Id.* at 503; *but see Castañon-Nava*, 161 F.4th at 1062.

Thus, Petitioner, who is indisputably an "applicant for admission," is also "seeking admission" and covered by § 1225(b)(2)(A).

ii. Applicants for admission must be detained under 8 U.S.C. § 1225(b)(2)(A), absent discretionary parole.

Pursuant to 8 U.S.C. § 1225(b)(2)(A), "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien **shall be detained** for a proceeding under section 1229a [removal proceedings]." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The Supreme Court has held that § 1225(b)(2)(A) is a mandatory detention statute and that individuals detained pursuant to that provision are not entitled to bond. *Jennings*, 583 U.S. at 287 ("Both § 1225(b)(1) and § 1255(b)(2) authorize the detention of certain aliens.").

In *Q. Li*, the BIA expanded upon the Supreme Court's holding in *Jennings* and clarified the scope of § 1255(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]

Immigration and Customs Enforcement, et al., No. 26-1454 (3d Cir.), and *Buele Morocho v. Warden Philadelphia FDC, et al.*, No. 26-1150 (3d Cir.), which are now consolidated for all purposes. The government's consolidated opening brief was filed on March 20, 2026. The Third Circuit granted the Government's motion to expedite the consolidated appeals and scheduled them for disposition by the Court during the week of May 11, 2026.

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*, 583 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. *But see Cordero v. Rose*, Civ. No. 26-0534, ECF No. 5 at 5–6 (E.D. Pa. Jan. 29, 2026) (Marston, J.) (disagreeing with the United States' interpretation of *Q. Li* and concluding that the petitioner, who entered the United States more than three years ago, was not an applicant for admission that was actively "seeking admission" within the meaning of § 1225(b)(2)); *Cajas-Duchimaza v. McShane*, Civ. No. 26-0621, ECF No. 6 (E.D. Pa. Feb. 3, 2026) (similar); *Gurievi v. Rose*, Civ. No. 26-0736, ECF No. 6 (E.D. Pa. Feb. 9, 2026).

Petitioner remains an applicant for admission seeking admission, as he has not clearly and beyond doubt established that he is entitled to be admitted to the United States. Consequently, he is subject to mandatory detention under § 1225(b)(2), and ineligible for a bond hearing before an immigration judge.

C. Petitioner's detention comports with constitutional due process.

Petitioner's argument that his detention violates procedural due process also lacks merit. The Supreme Court has long recognized that "an alien seeking initial

admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Further, applicants for admission like Petitioner lack any constitutional due process rights with respect to admission aside from the rights provided by statute: "[w]hatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned," *Shaughnessy v. ex. rel. Mezei*, 345 U.S. 206, 212 (1953), and, "it is not within the province of any court, unless expressly authorized by law, to review [that] determination." *United States ex. rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543 (1950). *See also Dep't of Homeland Sec. v. Thuraissigiam* 591 U.S. 103, 140 (2020) ("[T]he Due Process Clause provides nothing more.").

The Supreme Court reaffirmed "[its] century-old rule regarding the due process rights of an alien seeking initial entry" in *Thuraissigiam*, explaining that an individual who illegally crosses the border—like Petitioner—is an applicant for admission and "has only those rights regarding admission that Congress has provided by statute." 591 U.S. at 139–40. The *Thuraissigiam* Court explained that "[w]hile aliens who have established connections in this country have due process rights in deportation proceedings, the Court held long ago that Congress is entitled to set the conditions for an alien's lawful entry into this country and that, as a result, an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause." *Id.* at 107.

"When an alien arrives at a port of entry—for example, an international airport—the alien is on U.S. soil, but the alien is not considered to have entered the country." *Id.* at 139. The same "threshold" rule applies to individuals who are apprehended after trying "to enter the country illegally" since by statute, such individuals are also defined

as applicants for admission. *Id.* at 139–40. And all applicants for admission, "even those paroled elsewhere in the country for years pending removal," "have no entitlement to procedural rights other than those afforded by statute." *Id.* at 107, 139. And the statute provides no more procedural protection than allowing an applicant for admission to seek relief from removal if he fears return to his home country, and to seek parole from the agency. *Id.* During that process, however, applicants for admission may be detained without a bond hearing pending admission or removal without running afoul of the Constitution. *Demore v. Kim*, 538 U.S. 510, 531 (2003)

Petitioner's recent detention under § 1226(c)(1)(E) during the pendency of his removal proceedings does not violate Due Process. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (detention less than six months presumed constitutional). The Third Circuit Court of Appeals has recognized that there may come a time when mandatory civil detention without a bond hearing becomes unreasonable. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 211 (3d Cir. 2020) (analyzing detention under § 1226(c)). However, at this time, Petitioner does not challenge the reasonableness or length of his detention under *German Santos*. Therefore, the Court should find that Petitioner's detention is constitutional and deny the petition for writ of habeas corpus.

V. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the petition for writ of habeas corpus be denied.

Respectfully submitted,

DAVID METCALF
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Dated: April 20, 2026

Counsel for Respondents

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing Response in Opposition to Petition for Writ of Habeas Corpus via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: April 20, 2026

/s/ Fernando I. Rivera
FERNANDO I. RIVERA
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BARNETT MAISCH	:	
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Petitioner,	:	
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v.	:	Civil Action No. 2:26-cv-2498
	:	
JAMISON, J.L., *ET AL.*,	:	
	:	
Respondents.	:	

EXHIBIT LIST

Exhibit A: Form I-213, Notice Record of Deportable/Inadmissible Alien (dated April 15, 2026)

Exhibit B: Philadelphia Police Department Arrest Report (dated April 1, 2026)

Exhibit C: Criminal Docket and Court Summary (printed April 17, 2026)

Exhibit D: ICE Warrant of Arrest (dated April 1, 2026)

Exhibit E: Notice to Appear (dated December 3, 2023)

Exhibit A

U.S. Department of Homeland Security Subject ID : [redacted] **Record of Deportable/Inadmissible Alien**

Family Name (CAPS): BARNETT MAISCH, PABLO ARNO	First	Middle	
Country of Citizenship: BRAZIL	Passport Number and Country of Issue: [redacted] BRAZIL	File Number: [redacted]	
U.S. Address: [redacted]			
Date, Place, Time, and Manner of Last Entry: Unknown Date Unknown Time,	Passenger Boarded at:		
Number, Street, City, Province (State) and Country of Permanent Residence:			
Date of Birth: [redacted] Age: 25	Date of Action: 04/15/2026	Location Code: PHI/PHI	
City, Province (State) and Country of Birth: BRAZIL	AR ☒	Form : (Type and No.) Lifted ☐ Not Lifted ☐	
NIV Issuing Post and NIV Number	Social Security Account Name		
Date Visa Issued	Social Security Number		

Sex: M	Hair: BLK	Eyes: BRO	Cmplxn:
Height: 69	Weight: 150	Occupation: UNR	
Scars and Marks:			
F.B.I. Number: [redacted]	☐ Single ☐ Divorced ☐ Married ☐ Widower ☐ Separated		
Method of Location/Apprehension: NCA			
At/Near: See I-831	Date/Hour: 04/15/2026 07:15		
By: A11010 SOTO			
Status at Entry	Status When Found		
Length of Time Illegally in U.S.			

Immigration Record: NEGATIVE	Criminal Record: See Narrative
Name , Address, and Nationality of Spouse (Maiden Name, if Appropriate)	Number and Nationality of Minor Children: None
Father's Name, Nationality, and Address, if Known	Mother's Present and Maiden Names, Nationality, and Address, if Known

Monies Due/Property in U.S. Not in Immediate Possession: None Claimed	Fingerprinted? ☐ Yes ☒ No	Systems Checks: See Narrative	Charge Code Words(s): See Narrative
Name and Address of (Last)(Current) U.S. Employer	Type of Employment: Unemployed or Retired	Salary / Hr	Employed from/to

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

Left Index fingerprint Right Index fingerprint

[redacted]

Body Worn Camera (BWC) Information

BWC footage was recorded for this enforcement activity.
BWC footage was viewed prior to the completion of this report.

FAMILY INFORMATION

Father:Subject has not provided information for Father.
Mother:Subject has not provided information for Mother.
Spouse:Subject is not married. ...(CONTINUED ON I-831)

A11010 SOTO
Deportation Officer

Alien has been advised of communication privileges _____ (Date/Initials) (Signature and Title of Immigration Officer)

Distribution:

A File

Alien

Received: (Subject and Documents) (Report of Interview)

Officer: A11010 SOTO

on: April 15, 2026 (time)

Disposition: Other

Examining Officer: BROWN, #9453

Form I-213 (Rev. 08/01/07)

Alien's Name	File Number	Date
BARNETT MAISCH, PABLO ARNO	[redacted]	04/15/2026

Child:Subject does not have children or dependents.

SUBJECT HEALTH STATUS

The subject claims good health.

CURRENT ADMINISTRATIVE CHARGES

04/15/2026 - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)04/15/2026 - 212a7AiI - IMMIGRANT WITHOUT AN IMMIGRANT VISA

RECORDS CHECKED

CIS checked on 04/15/2026 with Positive result.EARM checked on 04/15/2026 with Positive result.IAFIS checked on 04/15/2026 with Positive result.NCIC checked on 04/15/2026 with Unknown result.TECS checked on 04/15/2026 with Unknown result.

ARRESTED AT/NEAR

[redacted] UNITED STATES

RECORD OF DEPORTABLE/EXCLUDABLE ALIEN:

ARREST:

On April 15, 2026, ERO Philadelphia conducted a targeted enforcement operation at [redacted] A prior investigation identified this location as the residence of Pablo Arno BARNETT MAISCH, [redacted] an illegal alien present in the United States in violation of law. At approximately 0718 hours EST, Officers witnessed a male exit the target residence matching the description of Pablo Arno BARNETT MAISCH based on height, weight, and skin complexion. The subject walked closer to where Officers were parked, at this time officers were able to positively ID the subject as Pablo Arno BARNETT MAISCH, [redacted].

Officers, wearing agency tactical vests with visible police markings approached the subject and identified themselves as ICE officers. The subject, identified as Pablo Arno BARNETT MAISCH, [redacted], a 25-year-old citizen of Brazil, took an aggressive posture and attempted to flee from officers on foot. Officers shouted verbal commands to "stop", "police". Officers told the subject to turn around and place his hands behind his back. Officers informed him that there is a warrant for his arrest. The subject, Pablo Arno BARNETT MAISCH, [redacted] refused to listen to verbal commands and resisted arrest by running away, one of the officers made physical contact with the subject right outside of the front yard on the public sidewalk and began to wrestle with both of the subjects arms in an attempt to put handcuffs on. The subject Pablo Arno BARNETT MAISCH, [redacted] continued to actively resist by locking his arms and did not allow officers to place his arms behind him and place handcuffs on. Officers continued to attempt to gain compliance by giving verbal commands to stop resisting and place your hands behind your back. Again, the subject Pablo Arno BARNETT MAISCH, [redacted] did not comply with offices. One of the officers then removed a taser from his holster and began issuing verbal warnings with the taser out and powered on, gave multiple commands that he will be tased if he does not comply with the officers' commands. The subject Pablo Arno BARNETT MAISCH, [redacted] did not comply. An ERO Philadelphia officer deployed his Electro-Muscular Disruption Device (EMDD), Taser 10, serial number T19C33821, aiming for the middle of Pablo Arno BARNETT MAISCH, [redacted] chest with the first probe and his lower abdomen with the second, from approximately 2 1/2 feet. Both probes impacted the intended area with the first probe striking the right side of Pablo Arno BARNETT MAISCH, [redacted] chest and the second probe striking his left side lower abdomen. The deployment of the second probe established a connection, initiating

Signature	Title
A11010 SOTO	Deportation Officer

Alien's Name	File Number	Date
BARNETT MAISCH, PABLO ARNO	[redacted]	04/15/2026

a 5 second cycle and successfully incapacitated Pablo Arno BARNETT MAISCH, [redacted]. Once the EMDD five second cycle ended, Pablo Arno BARNETT MAISCH, [redacted] recommenced physical resistance by attempting to push himself off the wall and pulling his arms away to prevent officers gaining control of his hands. Officers controlled Pablo Arno BARNETT MAISCH, [redacted] hands enough to place him in front restraints. While in front restraints, Pablo Arno BARNETT MAISCH, [redacted] removed the first probe which had entered the skin on the right-side chest area. The officer removed the second probe from Pablo Arno BARNETT MAISCH, [redacted] lower abdomen. Pablo Arno BARNETT MAISCH, [redacted] 231 wore a t-shirt and chino style cargo pants. Both impact sites had minimal bleeding and were covered with bandages. Search incident to arrest was performed, no weapons or drugs found on the target. The target was then placed into a government vehicle and secured his body with a seat belt. Officers asked Pablo Arno BARNETT MAISCH, [redacted] whether he held any legal status in the United States. Pablo Arno BARNETT MAISCH, [redacted] responded that he was "in process" for immigration status. Officers asked if he was present in the United States in violation of law, to which Pablo Arno BARNETT MAISCH, [redacted] stated "yes." Officers did not observe any physical injuries. Pablo Arno BARNETT MAISCH, [redacted] was then transported to ICE/ERO Philadelphia without incident.

ALIENAGE/REMOVABILITY:

BARNETT MAISCH is not a citizen, national, resident or arriving alien in the United States.

BARNETT MAISCH is a citizen and national of Brazil.

No records of a current lawful status, or approved benefit application, were discovered during this officer's investigation.

Per this officer's investigation, the subject has no probative claims to US Citizenship acquired or derived.

BARNETT MAISCH appears to be unlawfully present in the United States.

IMMIGRATION HISTORY:

On 12/3/2023, Pablo Arno BARNETT MAISCH was encountered by Border Patrol in the Boulevard Border Patrol Station Area of Responsibility. A Border Patrol Agent determined this subject had unlawfully entered the United States from Mexico, at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States. After determining that this subject was an alien who illegally entered the United States, the subject was arrested and transported to the Boulevard Border Patrol Station. Due to lack of space subject was later transported to SAD TSA for further processing using the E3/IDENT and IAFIS Systems.

CRIMINAL HISTORY:

[redacted]

HEALTH & HUMANITARIAN:

BARNETT MAISCH appears to be in good health overall.

FOREIGN IDENTITY AND TRAVEL DOCS:

BARNETT MAISCH is not currently in possession of any foreign identity documents however BARNETT MAISCH stated that he can have someone drop off his Brazilian passport to the

Signature	Title
A11010 SOTO	Deportation Officer

U.S. Department of Homeland Security **Continuation Page for Form** I-213

Alien's Name	File Number	Date
BARNETT MAISCH, PABLO ARNO	[redacted]	04/15/2026

office.

PHONE CALL & CONSULAR NOTIFICATION:

BARNETT MAISCH was made aware of his consulate communication rights in the Portuguese language. BARNETT MAISCH stated that he understood his rights and did not want to exercise them.

DISPOSITION:

BARNETT MAISCH will be processed as a custody determination and will be detained pending hearing with the IJ.

I-77: [redacted]
G-589:

OTHER IDENTIFYING NUMBERS

ALIEN-[redacted]
Other Biometric-[redacted]
State Criminal Number/State Bureau Number-[redacted]UNITED STATES)

Signature	Title
A11010 SOTO	Deportation Officer

Exhibit D

U.S. DEPARTMENT OF HOMELAND SECURITY **Warrant for Arrest of Alien**

File No. [redacted]

Date: 04/01/2026

To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that BARNETT MAISCH, PABLO is removable from the United States. This determination is based upon:

☐ the execution of a charging document to initiate removal proceedings against the subject;

☒ the pendency of ongoing removal proceedings against the subject;

☐ the failure to establish admissibility subsequent to deferred inspection;

☒ biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or

☐ statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

PATRICK MCCALLION - SDDO
(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at Philadelphia, PA (Location)

on BARNETT MAISCH, PABLO (Name of Alien) on _____ (Date of Service), and the contents of this notice were read to him or her in the _____ (Language) language.

_____ Name and Signature of Officer

null Name or Number of Interpreter (if applicable)

Exhibit E

Uploaded on: 02/15/2024 at 04:42:32 PM (Eastern Standard Time) Base City: PHI

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted]

DOB: [redacted]

File No: [redacted]

In the Matter of:

Respondent: PABLO ARNO BARNETT MAISCH currently residing at:

[redacted] [redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of BRAZIL and a citizen of BRAZIL ;
3. You arrived in the United States at or near TECATE, CA , on or about November 30, 2023 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

900 MARKET STREET, SUITE 504 PHILADELPHIA PA 19107

(Complete Address of Immigration Court, including Room Number, if any)

on May 13, 2025 *(Date)* at 08:30 AM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

LUIS MANENT
Date: 2023.12.03 [illegible] -08:00
0345968265.CBP

(A) WATCH COMMANDER

(Signature and Title of Issuing Officer)

Date: December 03, 2023 San Diego, California

(City and State)

EOIR – 1 of 3

Uploaded on: 02/15/2024 at 04:42:32 PM (Eastern Standard Time) Page City, PA!

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

_____ (Signature of Respondent)

_____ Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on December 03, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the PORTUGUESE language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Pablo Anno Barnett Marsh

(Signature of Respondent if Personally Served)

JESUS RUBIO-JR, Border Patrol Agent

JESUS RUBIO JR
Date: 2023.12.03 09:16:09 -08:00
0530294842.CBP

(Signature and Title of officer)

EOIR – 2 of 3

Uploaded on: 02/15/2024 at 04:42:32 PM (Eastern Standard Time) - Base City: PHI

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR – 3 of 3