

Luis Angeles, Esq.
Angeles Law LLC
2112 Broadway St NE STE 225 #53
Minneapolis, MN 55413
T: (321) 334-0568
Luis@abogadoangeles.com
Attorney for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION**

**ISLAM MAHMOUD ABDELRAHMAN
MAHMOUD ALY,**

Petitioner,

v.

MARKWAYNE MULLIN, in his official capacity)
as Secretary of the Department of Homeland)
Security; **TODD BLANCHE**, in his official)
capacity as Attorney General of the United)
States; **TODD LYONS**, in his official)
capacity as Acting Director and Senior)
Official Performing the Duties of the)
Director of U.S. Immigration and Customs)
Enforcement; **DAVID O'NEILL**, in his)
official capacity as Field Office Director of the)
Philadelphia Field Office of U.S. Immigration)
and Customs Enforcement, Enforcement and)
Removal Operations; **LEONARD ODDO**,)
in his official capacity as Warden of the)
Moshannon Valley Ice Processing Center,)

Respondents.

Case No. 3:26-cv-00831-AJS

**PETITION REPLY TO
RESPONSE TO HABEAS
PETITION**

PETITIONER'S REPLY TO RESPONSE TO HABEAS PETITION

Petitioner Islam Mahmoud Abdelrahman Mahmoud Aly (“Petitioner”) respectfully submits this Reply to the Response (Doc. 9) filed by Respondents. The Government’s Response rests on a single premise that Petitioner is an “arriving alien” subject to mandatory detention under 8 U.S.C. § 1225(b)(2). That premise is wrong as a matter of regulatory text, statutory structure, controlling precedent, and constitutional law.

Petitioner is not a new arrival at the border. He has lived continuously in the United States for approximately thirteen (13) years. He was lawfully admitted multiple times beginning in 2012, adjusted to E-2 status in 2016, and remained continuously present in this country thereafter. He is married to a United States citizen; he has a pending Form I-360 VAWA self-petition for which USCIS has found him *prima facie* eligible; and he has a pending Form I-485 application for adjustment of status. Critically, before he traveled abroad in late 2025, Petitioner applied for and obtained from USCIS a Form I-512L Authorization for Parole of an Alien into the United States (“Advance Parole”), valid from October 7, 2025, through October 6, 2030. *See* Pet., Ex. E. He returned to the United States on December 23, 2025, using that very document. *See* Pet., Ex. B (CBP I-213) (noting receipt of “Advanced Parole card with receipt#  and “advance parole approved as of October 08, 2025”).

Under the plain text of the agency’s own regulations, an individual who has “applied for and obtained” advance parole “in the United States prior to the alien’s departure from and return to the United States” is *categorically excluded* from the definition of “arriving alien.” 8 C.F.R. §§ 1.2, 1001.1(q)¹. The Government’s Response does not mention this regulation. It does not

¹ 8 CFR 1001.1(q): “The term *arriving alien* means an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether

acknowledge Petitioner's Advance Parole. It does not address Petitioner's thirteen years of continuous residence. Instead, the Government treats Petitioner as though he were a stranger first arriving at the border—a characterization that the agency's own regulations expressly forbid.

Even if the Court were to disregard the regulatory definition, it should not, the Response still fails. The overwhelming majority of federal courts to have considered the question, including the Second, Seventh, and Eleventh Circuits, have rejected the Government's post-July-2025 reinterpretation of § 1225(b)(2).

The Response should be denied. The writ should issue, and Petitioner should be released or, in the alternative, afforded an immediate bond hearing at which the Government bears the burden of proof by clear and convincing evidence.

ARGUMENT

I. PETITIONER IS NOT AN “ARRIVING ALIEN” BECAUSE HE RETURNED ON A VALID, UNEXPIRED ADVANCE PAROLE DOCUMENT.

A. The Plain Text of 8 C.F.R. §§ 1.2 and 1001.1(q) Categorically Excludes Returning Advance Parolees from the Definition of “Arriving Alien.”

The starting point—and the ending point—of the Government's argument is its assertion that Petitioner is an “arriving alien” within the meaning of 8 U.S.C. § 1225. The Government cites the statutory text but ignores the regulation that defines who is, and who is not, an “arriving alien.”

or not to a designated port-of-entry, and regardless of the means of transport. An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked. However, an arriving alien who was paroled into the United States before April 1, 1997, or who was paroled into the United States on or after April 1, 1997, pursuant to a grant of advance parole which the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States, will not be treated, solely by reason of that grant of parole, as an arriving alien under section 235(b)(1)(A)(i) of the Act.”

Both 8 C.F.R. § 1.2, which is DHS regulations, and 8 C.F.R. § 1001.1(q) (EOIR regulations) define “arriving alien” identically. The definition contains an express, dispositive carve-out for individuals in Petitioner’s position:

“An arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked. *However, an arriving alien . . . who was paroled into the United States on or after April 1, 1997, pursuant to a grant of advance parole which the alien applied for and obtained in the United States prior to the alien’s departure from and return to the United States, will not be treated, solely by reason of that grant of parole, as an arriving alien under section 235(b)(1)(A)(i) of the Act.*”

8 C.F.R. § 1.2 (emphasis added); accord 8 C.F.R. § 1001.1(q).

Petitioner’s facts fit squarely within the carve-out. (1) he was paroled into the United States after April 1, 1997; (2) the parole was granted pursuant to INA § 212(d)(5) (Form I-512L is the implementing document); (3) he “applied for and obtained” the advance parole “in the United States prior to . . . departure” (USCIS approved his Form I-131 on October 7, 2025); and (4) he used that advance parole to return on December 23, 2025. *See* Pet., Exs. E, G; Pet., Ex. B. The regulation’s text is mandatory because such a person “will not be treated . . . as an arriving alien.”

The Government’s Response—four pages of text—does not cite 8 C.F.R. § 1.2 or 8 C.F.R. § 1001.1(q). It does not mention Petitioner’s Advance Parole at all. Yet the Government’s own Form I-213 narrative, attached as Exhibit B in Petitioner’s Habeas, expressly states that Petitioner “arrived at Philadelphia International Airport from Doha, Qatar . . . and an Advanced Parole card with receipt# IOE0919162457” and that “the subject ALY is a match to advance parole approved as of October 08, 2025.” The Government cannot rely on the I-213 to establish the *fact* of Petitioner’s admission posture while simultaneously ignoring the legal consequences of that fact under the agency’s own regulations.

B. The Regulatory History Confirms That the Carve-Out Was Designed for Precisely This Situation.

The current language of § 1.2 and § 1001.1(q) traces back to the 1998 INS Interim Rule, 63 Fed. Reg. 19382 (Apr. 20, 1998). The agency explained that the carve-out was added to give “more advantageous treatment” to the limited group of returning advance parolees—precisely because those individuals had affirmatively engaged with the immigration system before traveling and had received the agency’s permission to return without being treated as new applicants for admission. The rule preserved the procedural posture of long-resident applicants for adjustment of status who needed to travel abroad.

That same understanding underlies *Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771 (BIA 2012). The Board held that “an alien who has left and returned to the United States under a grant of advance parole has not made a ‘departure’” within the meaning of INA § 212(a)(9)(B)(i)(II)(2006). *Id.* at 779. The Board reasoned that travel under a grant of advance parole is different from a regular departure because the alien is given the “assurance that they will be paroled back” to continue “to seek the benefit of adjustment of status.” *Id.* at 778. *Arrabally* remains binding BIA precedent.

The principle of *Arrabally* is that a person who travels on advance parole does not abandon his pending application or shed his prior immigration status; he is paroled back precisely so that he may continue to pursue the relief he was already pursuing. To label such a person an “arriving alien” subject to no-bond mandatory detention—for the rest of however long his adjustment takes—would invert the purpose of advance parole and render USCIS’s I-512L authorization a trap rather than a benefit.

C. Petitioner's Underlying Immigration Posture Confirms That He Is Not a New Applicant for Admission.

The fiction that Petitioner is an “arriving alien” first knocking on the door of the United States cannot be reconciled with the record:

- Petitioner entered the United States lawfully on a B-2 visa on August 14, 2012; entered again lawfully on an F-1 student visa on May 27, 2013; and was lawfully adjusted to E-2 treaty-investor status in 2016. See Pet., Ex. B (CBP narrative).
- Petitioner has resided continuously in the United States for approximately thirteen (13) years. *Id* (“The subject claims he had lived in the U.S. for thirteen years.”).
- Petitioner filed Form I-485 on January 23, 2023 (Receipt No. [REDACTED]), which remains pending. See Pet., Ex. C.
- Petitioner filed Form I-360 (VAWA self-petition) on November 9, 2023 (Receipt No. [REDACTED]), and USCIS has found him *prima facie* eligible. See Pet., Ex. D.
- USCIS approved Petitioner's Form I-131 application for advance parole on October 7, 2025, issuing Form I-512L valid through October 6, 2030. See Pet., Exs. E, G.

These are not the indicia of someone arriving at the border for the first time. They are the indicia of a long-term resident with a pending adjustment of status application who, like thousands of others, traveled abroad pursuant to a USCIS-issued travel document and returned to continue prosecuting his pending applications. The regulatory carve-out exists for exactly this person.

D. This Court's Decision in *Rivera Juarez* Supports Petitioner.

The Government attempts to distinguish this Court's ruling in *Rivera Juarez v. Oddo*, Civ. No. 3:26-718 (W.D. Pa.), on the ground that the petitioner there was arrested in the interior and not at a port of entry. That distinction is not legally meaningful here because the question is not where Petitioner was physically encountered but whether he qualifies as an “arriving alien” under the regulatory definition. The regulation answers that question that he does not. A returning

advance parolee “will not be treated . . . as an arriving alien” irrespective of the physical location of his encounter with immigration officers. 8 C.F.R. § 1.2.

Indeed, the Government’s logic, if accepted, would make the regulatory carve-out a dead letter. By definition, every returning advance parolee will present himself at a port of entry—that is what advance parole is. If “physical presentation at a port of entry” alone converted such an alien into an “arriving alien” subject to no-bond mandatory detention, the agency’s express regulatory exception would never apply. Regulations must be read to give effect to every word. *See Corley v. United States*, 556 U.S. 303, 314 (2009).

II. EVEN IF PETITIONER WERE TREATED AS AN “APPLICANT FOR ADMISSION,” HIS DETENTION IS GOVERNED BY 8 U.S.C. § 1226(a), NOT § 1225(b)(2).

A. The Government Misstates the Holding of *Hernandez Alvarez*.

The Government’s Response rests heavily on *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, No. 25-14065 (11th Cir. May 6, 2026). The Government characterizes that decision as holding that “no-bond detention generally applies to arriving aliens seeking lawful entry to the country, and not to aliens who are simply present here.” Resp. at 2. That characterization stops short of the case’s actual holding.

In *Hernandez Alvarez*, the Eleventh Circuit affirmed the district court’s grant of habeas relief and rejected the Government’s argument that § 1225(b)(2)(A) authorizes mandatory no-bond detention. The court held that § 1225(b)(2)(A) “does not apply” to unadmitted aliens merely present in the country’s interior unless they are actively seeking lawful entry after inspection by an immigration officer, and that § 1226 governs the detention of such individuals, making them

generally eligible for bond. *Hernandez Alvarez*, No. 25-14065, slip op. at *3–4. The case was a defeat for the Government’s post-July-2025 reinterpretation of the statute, not a victory.

More importantly, *Hernandez Alvarez* did not address an advance parolee—the petitioners there had entered without inspection and were apprehended in the interior. The court’s analysis of “seeking admission” therefore cannot be read to settle the proper detention authority for someone like Petitioner, who returned from abroad on a USCIS-issued advance parole document expressly designed to preserve his pending I-485. Whatever the Eleventh Circuit’s gestures about port-of-entry arrivals, its actual ruling collapses, not supports, the Government’s theory.

B. The Overwhelming Weight of Federal Authority Rejects the July 8, 2025

DHS Memo.

The Government’s position is the product of an Interim Guidance Memorandum issued on July 8, 2025 (the “July 2025 Memo”), in which DHS announced for the first time, after nearly thirty years of contrary practice, that all “applicants for admission”—construed to include long-resident persons who entered without inspection or were paroled—are subject to mandatory detention under § 1225(b)(2). The BIA followed suit in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Federal courts have overwhelmingly rejected both the Memo and *Yajure Hurtado*.

Within this Circuit, district courts in this District and the Eastern District of Pennsylvania have routinely granted habeas relief to noncitizens whose detentions DHS sought to justify under the July 2025 Memo. *See, e.g., Dore v. ICE*, No. 2:26-cv-203 (E.D. Pa. 2026) (noting that virtually all decisions in the district have rejected the Government’s position). The Government’s litigation position has been a near-unbroken string of losses.

C. The Government's Reinterpretation Conflicts with the Agency's Own

Longstanding Position.

DHS's present litigation position contradicts twenty-eight years of agency practice. The 1997 Interim Rule contemporaneously explained that, "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). The BIA itself, in *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025), confirmed that an EWI entrant's custody was governed by § 1226(a)—a position the BIA then attempted to limit, on thin grounds, in *Yajure Hurtado*. The inconsistency undercuts the persuasive force of the agency's new view, and after *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), this Court owes the agency no *Chevron* deference.

Petitioner's case is *a fortiori* easier than the EWI cases. He did not enter without inspection; he was lawfully admitted on multiple occasions and adjusted to E-2 status. His most recent return was on a USCIS-issued, valid, unexpired Advance Parole document. If the Government's § 1225(b)(2) theory fails for EWI entrants—as nearly every court to have considered it has held—it fails *more obviously* for a thirteen-year resident with valid advance parole.

III. THE JULY 2025 DHS MEMO IS PROCEDURALLY AND SUBSTANTIVELY INVALID UNDER THE APA AND THE *ACCARDI* DOCTRINE.

Finally, to the extent the Government grounds Petitioner's detention in the July 2025 Memo, that Memo is independently invalid.

First, the Memo is a substantive legislative rule that announces a binding agency position and reverses nearly thirty years of contrary practice. It was not subject to notice and comment as

required by 5 U.S.C. § 553. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1 (2020) (rejecting agency's failure to consider reliance interests).

Second, the Memo conflicts with the agency's duly-promulgated regulations at 8 C.F.R. §§ 1.2 and 1001.1(q), which expressly exempt returning advance parolees from "arriving alien" status. An agency must follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

Third, after *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), this Court owes no *Chevron* deference to the agency's sudden reinterpretation of the statute. The Court is to interpret the statute independently, exercising its own judgment. Under any honest reading, § 1225(b)(2)(A) does not reach a thirteen-year resident returning on a USCIS-issued I-512L.

CONCLUSION

For the foregoing reasons, the Court should grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release on his own recognizance.

Dated: October 9, 2025

Respectfully Submitted,

/S/ Luis Angeles

Luis Angeles, Esq. Bar N. 25-384
Angeles Law LLC
2112 Broadway St NE STE 225 #53
Minneapolis, MN 55413
T: (321) 334-0568
Luis@abogadoangeles.com
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, ISLAM MAHMOUD ABDELRAHMAN MAHMOUD ALY, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing PETITIONER'S REPLY TO RESPONSE TO HABEAS PETITION are true and correct to the best of my knowledge.

Dated: May 15, 2026

/s/Luis Angeles
Luis Angeles
Pending Pro Hac Vice Admission

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2026, I filed the foregoing PETITIONER'S REPLY TO RESPONSE TO HABEAS PETITION electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: May 15, 2026

/s/Luis Angeles
Luis Angeles
Pending Pro Hac Vice Admission