

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ERICK LEONEL CRISTAL CUMES,

Petitioner,

v.

DAVID VENTURELLA, Acting Director,
United States Immigration and Customs
Enforcement; MARKWAYNE MULLIN,
Secretary of Homeland Security; TODD
BLANCHE, Acting United States Attorney
General; JOHN RIFE, Field Office
Director, Philadelphia Field Office, United
States Immigration and Customs
Enforcement; *in their official capacities*,

Respondents.

Civ. Act. No.: 1:26-cv-00056

Hon. Thomas S. Klech

REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Erick Leonel Cristal Cumes, by and through undersigned counsel, hereby replies
in support of his Verified Petition for Writ of Habeas Corpus.

I. Statutory text, context, history, and background constitutional principles all support the conclusion that 8 U.S.C. § 1225 does not apply to Petitioner.

As has long been understood:

U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c). . . .

As noted, § 1226 applies to aliens already present in the United States. Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceeding. Section 1226(a) also permits the Attorney General to release those aliens on bond, “[e]xcept as provided in subsection (c) of this section.”

Jennings v. Rodriguez, 583 U.S. 281, 289, 303 (2018). See also, e.g., *Bakuradze v. Adams*, No. 5:26-cv-18, ECF No. 10 at 5-6 (N.D.W. Va. Mar. 2, 2026) (Bailey, J.)¹ (quoting *Said v. Noem*, 2025 WL, at *5 (W.D. N.C. Dec. 17, 2025) (Cogburn, Jr., J.)) (citation modified) (“The distinction between ‘aliens seeking admission into the country’ governed by § 1225(b) and ‘aliens already in the country’ governed by § 1226(a), *Jennings*, 583 U.S. at 238, makes sense in the broader context of U.S. immigration law.”).

The BIA opinion in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, represents a radical departure from twenty-nine (29) years of agency practice spanning five presidential administrations. *Yajure Hurtado* “is owed no deference on judicial review.” See e.g., *Umarov v. Mason*, No. 2:26-cv-00081, 2026 WL 381614, at * 4 (S.D.W. Va. Feb. 11, 2026) (Berger, J.) (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 403 (2024)). Respondents’ creative interpretation of the phrase “seeking admission” in 8 U.S.C. § 1225(b) is at war with its plain meaning, as well as a substantial majority of courts that have considered its meaning. See, e.g., *Briceno Solano v. Mason*, 818 F.Supp.3d 802, 825 (S.D.W. Va. Feb. 4, 2026) (Johnston, J.) (joining “the vast majority of courts confronting this precise issue that have rejected the Government’s interpretation” and finding that the Government’s arguments “contradict the plain text of the statutes”).

a. Respondents’ position cannot be squared with the text of 8 U.S.C. § 1225(b)(2).

- i. Under the plain text of 8 U.S.C. § 1225(b)(2), the mandatory detention provision does not apply to noncitizens in the interior of the United States.

¹ Respondents acknowledge that “*Bakuradze v. Adams* is likely on point” in this case. See *Response to Amended Petition and Motion* (ECF No. 23) (hereinafter “*Response*”) at 19 n.6.

As a matter of plain language, Respondents' interpretation makes no sense. For the mandatory detention provision of 8 §1225(b)(2)(A) to apply, a noncitizen must not only be an "applicant for admission" but must also be "seeking admission." *See, e.g., Briceno Solano*, 818 F.Supp.3d at 825. As Judge Johnston explained in *Briceno Solano*:

"Admission" refers to "the lawful entry of the alien into the United States after inspection and authorization by the immigration officer." 8 U.S.C. § 1101(a)(13)(A). The word "entry," is not defined in the INA, however, it has long been understood to mean "a crossing into the territorial limits of the United States." *Hing Sum v. Holder*, 602 F.3d 1092, 1100-01 (9th Cir. 2010) (quoting *Matter of Pierre*, 14 I. & N. Dec. 467, 468 (BIA 1973)).

How can a person who has already entered the United States be actively "seeking" to enter it? Under any ordinary understanding of the English language, the Government's interpretation of §1225 is wrong.

818 F.Supp.3d at 826-27 (citation modified).² *See also, e.g., Aroca v. Mason*, 819 F.Supp.3d 517, 542 (S.D.W. Va. 2026) (Goodwin, J.) ("As a matter of common sense, one who has already entered the country, even unlawfully, cannot be 'seeking' to enter it."). Like Judge Johnston in *Briceno Solano*, in *Aroca*, Judge Goodwin relied on the INA's statutory definition of "admission" and the ordinary meaning of the terms "seeking" and "entry" to conclude that "the phrase 'seeking admission' describes a noncitizen engaged in a present effort to come into the United States" and that "[o]ne already present cannot, by definition, be engaged in such an effort." 819 F.Supp.3d at 540-41. *See also, e.g., id.* at 542 (quoting *Lopez Benetiz v. Francis*, 795 F.Supp.3d 475, 489 (S.D.N.Y. 2025));

[S]omeone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as "seeking admission" to the theater. Rather, that person would be described as already present there. Even if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as "seeking admission"

² Petitioner acknowledges that Judge Johnston concluded that the petitioner in that matter was deemed an "applicant for admission." This excerpt is modified to focus on those portions of the *Briceno Solano* opinion relevant to the "seeking admission" prong of Section 1225(b)(2)(A).

(or “seeking” “lawful entry”) at that point—one would say that they had entered unlawfully but now seek a lawful means of remaining there.

Additionally, contra to a common-sense understanding of the word “seeking,” Respondents’ interpretation of 8 U.S.C. § 1225(b)(2) would have the effect of rendering noncitizens who are present in the United States, but who have never taken any steps to seek lawful status, to be nonetheless “seeking admission” to the United States. *See, e.g., Aroca*, 819 F.Supp.3d at 541 (“the term ‘seeking’ implies some sort of present-tense action”); *Briceno Solano*, 818 F.Supp.3d at 826 (“the plain text of Section 1225(b)(2)(A) clearly demonstrates that an alien ‘seeking admission’ must do more than simply exist within the United States”).

Nothing in the statute suggests that the words “seeking” or “entry” should be given any meaning other than their ordinary definitions at the time § 1225 was adopted. “Applicant for admission,” in contrast, is deemed by 8 U.S.C. § 1225(a)(1) to include individuals who would not fit within any common-sense definition of that term. *See Barbosa de Cunha v. Freden*, 175 F.4th 61, 76 (2d Cir. 2026) (Congress deemed the phrase “to cover noncitizens who literally cannot be applying for or seeking ‘admission.’”). This “deeming provision . . . places some physically-but-not-lawfully present noncitizens into a *fictive legal status* for purposes of removal proceedings[.]” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc) (emphasis added). Congress chose to define “applicant for admission” in a technical way that makes individuals who entered the United States without admission subject to removal for being “inadmissible.” *See* 8 U.S.C. 1229a(c)(2)(A). In so doing, Congress used its power to create and define legal fictions to *deem* some individuals “to be what [they] are not.” *See Sturgeon v. Frost*, 587 U.S. 28, 47 (2019) (quoting Black’s Law Dictionary 504 (10th ed. 2014)). A provision that explicitly creates a legal fiction untethered from ordinary meaning, “abracadabra-style,” cannot support the government’s efforts to conflate the plain meaning of “seeking admission” with the meaning of “applicant for

admission” set by a deeming clause. *See Barbosa de Cunha*, 175 F.4th at 76 (quoting *Sturgeon*, 587 U.S. at 47).

The “strained analogies with the college admissions process,” *see Buenrostro v. Bondi*, 166 F.4th 494, 512 (5th Cir. 2026) (Douglas, J., dissenting), invoked by the majority opinions in *Buenrostro* and *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), are unpersuasive. As for as the general proposition that a college applicant is seeking admission to college while the application remains pending, that is true enough. But that analogy misses the mark here because, as discussed in *Briceno Solano* and *Aroca*, “admission” is statutorily defined as “the lawful entry of the alien into the United States after inspection and authorization by the immigration officer.” 8 U.S.C. § 1101(a)(13)(A). *Buenrostro* and *Avila* fail to explain how a noncitizen who is already present in the United States can be seeking entry into the United States. In failing to adequately consider the definition of “admission” prescribed by the INA, the Fifth and Circuit majorities “produce[] textualism without the text.” *Buenrostro*, 166 F.4th at 520 (Douglas, J., dissenting). *See also Avila*, 170 F.4th at 1138-39 (Erickson, J. dissenting) (considering the statutory definition of “admission” and criticizing the majority’s “atextual reading”). Likewise, Respondents’ brief acknowledges—but fails to meaningfully engage with—the definition of “admission” set forth in in the INA.

At bottom, Respondents’ interpretation of the phrase “seeking admission” is counterintuitive, unreasonable, and inconsistent with the INA’s definition of “admission.”

- ii. Respondents’ reading of 8 U.S.C. § 1225(b)(2) renders the phrase “seeking admission” entirely superfluous.

“It is axiomatic that, in interpreting a statute, we should strive to give effect to every word that Congress has used to avoid surplusage.” *United States v. Umeti*, 167 F.4th 687, 699 (4th Cir. 2026) (citation modified).

“If, as Respondents argue, § 1225(b)(2)(A) were intended to apply to all ‘applicants for admission,’ there would be no need to include the phrase ‘seeking admission’ in the statute.” *Umarov*, No. 2:26-cv-00081, 2026 WL 381614, at * 5 (citation modified). *See also, e.g., Briceno Solano*, 818 F.Supp.3d at 827 (“[T]he Government is essentially asking the Court to strike the term ‘seeking admission’ from the INA.”); *Aroca*, 819 F.Supp.3d at 544 (treating the terms “applicant for admission” and “seeking admission” as identical “would collapse the statutory disjunction and invite surplusage”).

There is no compelling reason for this Court to interpret § 1225(b)(2)(A) in a manner that effectively replaces the phrase “seeking admission” with “seeking-admission.”

iii. Respondents’ reliance on the “or otherwise” clause of 8 U.S.C. § 1225(a)(3) is misguided.

Respondents assert that the phrase “applicants for admission or otherwise seeking admission” in § 1225(a)(3) means that being an “applicant for admission” is necessarily a particular “way or manner” of “seeking admission.” *See Response to Amended Petition and Motion* (hereinafter “*Response*”) at 21 (quoting *Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc)) (“‘or otherwise’ means ‘the first action is a subset of the second action’”). Respondents’ brief itself belies this argument. *See Response* at 30 (emphasis added) (“Many of the issues in that motion were resolved by the entering of the Order [Doc. 13] *or otherwise* addressed by this Response[.]”).

Respondents’ reliance on *Villarreal* is misplaced, as explained by the Eleventh Circuit in *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, 175 F.4th 1258, 1275-76 (11th Cir. 2026) (distinguishing *Villarreal* on several grounds, including the fact that in *Villarreal*, “the ‘or otherwise’ language was the central text at the heart of the parties’ dispute, rather than a different and ancillary mention of ‘or otherwise’ outside of the disputed text”). *See also Hernandez Alvarez*,

175 F.4th at 1275-76 (*quoting Buenrostro-Mendez*, 166 F.4th at 518 (Douglas, J., dissenting)) (citation modified):

Unlike in [*Villarreal*], here, the provision includes a mix of parts of speech: the noun “applicants for admission” alongside the adjectival present participle “seeking” and participle phrase “seeking admission or readmission.” *Contra Villarreal*, 839 F.3d at 963 (“This use of ‘or otherwise’ to connect verbs is a familiar construction.” (emphasis added)). Thus, the subsection Congress actually wrote is more like saying, at the end of football season, “All students who are football players or otherwise seeking to play football or cheerlead should come to the gym for an info session this evening.” Although in a grammatical void, we might be tempted to equate “football players” with “students seeking to play football,” or deem the former a subset of the latter, those players on the actual football team (the high school equivalent of a statutory term of art) would likely disagree.

See also Barbosa de Cunha, 175 F.4th at 78-70 (*citing Helsinn Healthcare S.A. v. Teva Pharmaceuticals USA, Inc.*, 586 U.S. 123 (2019) and *Taylor v. United States*, 495 U.S. 575, 597 (1990)) (“The Supreme Court has rejected the argument that ‘or otherwise’ mandates the subset-superset interpretation urged by the government.”); *Lopez-Campos v. Raycraft*, 175 F.4th 713, 726 (6th Cir. 2026) (noting that cases relied upon by the government, including *Villarreal* and *Kleber v. CareFusion Corporation*, 914 F.3d 480 (7th Cir. 2019), all “involved an ‘otherwise’ clause which immediately followed a list of examples” and “belie its interpretation of ‘otherwise’ in § 1225(a)(3)”).

At bottom, Respondents’ reliance on the “or otherwise” clause cannot bear the weight that Respondents assign to it. *See Hernandez Alvarez*, 175 F.4th at 1275 (*quoting Maryland v. King*, 569 U.S. 435, 466 (2013) (Scalia, J., dissenting)) (citation modified) (finding that the Government’s reading of the “or otherwise” clause “taxes the credulity of the credulous” and “produces a paradigmatic ‘elephant in a mousehole’ that we are reluctant to embrace”).

b. Respondents' reliance on the legislative history is unavailing.

Respondents make much of the legislative history and asserted purpose of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), purporting to divine a congressional intent consistent with their position. Of course, when the plain text of a statute is unambiguous, "it is unnecessary for the Court to analyze its legislative history." *Wright v. Antero Res. Corp.*, No. 1:20-cv-222, 2025 WL 837328, at *6 (N.D.W. Va. Mar. 17, 2025) (Kleeh, J.). While Petitioner submits that the plain text of § 1225 is obviously inapplicable to him, assuming *arguendo* that the statute is ambiguous, the legislative history favors Petitioner.

Importantly, the part of the House Report on which Respondents rely "says *nothing* about detention[.]" *Aroca*, 819 F.Supp.3d at 544 n.42. Congress intended IIRIRA to place all unadmitted immigrants "on equal footing in *removal proceedings* under the INA[.]" *Torres v. Barr*, 976 F.3d at 928. "There is no indication, however, that Congress intended the same with respect to detention under § 1225(b)(2)[.]" *Umarov*, No. 2:26-cv-00081, 2026 WL 381614, at *5 n.7. *See also Barbosa de Cunha*, 175 F.4th at 88 (citation modified) (criticizing the government's "looking over a crowd and picking out your friends" approach to legislative history); *id.* at 89-90 (noting that Congress neither estimated the number of individuals covered by § 1225(b)(2)(A)'s detention mandate, nor included a "safety-valve provision" allowing delayed enforcement based on insufficient detention capacity, when it took both of those steps with respect to the dramatically smaller number of noncitizens subject to mandatory detention under the newly enacted § 1226(c)); *Hernandez Alvarez*, 175 F.4th at 1281-82 ("[W]hen Congress drafted IIRIRA in 1996, it should come as no great surprise that it used similar language it had applied unambiguously to arriving aliens for over a century of practice.").

Moreover, the BIA's pre-2025 "longstanding practice" of interpreting 8 U.S.C. §§ 1225 and 1226 consistently with Petitioner's position herein, while not dispositive, "can inform [this Court's] determination of what the law is." *Loper Bright*, 603 U.S. at 368 (citation modified). "[T]hat five presidential administrations over three decades have read IIRIRA to distinguish between arriving and present aliens is 'powerful evidence' that the reading is 'natural and reasonable.'" *Hernandez Alvarez*, 175 F.4th at 1283-84 (quoting *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting)).

IIRIRA did not seek "to abolish all distinctions between arriving and already present noncitizens." *Barbosa de Cunha*, 175 F.4th at 89. Rather, it "had the much more modest goal of altering 'certain aspects of the [then] current 'entry doctrine''": namely, it reoriented "whether or not the alien has been lawfully admitted" as "the pivotal factor in determining an alien's status." *Id.* (citing H.R. Rep. No. 104-469, pt. 1, at 225 (1996)). This statute has the vital consequence of placing the burden of proof on the noncitizen rather than on the government (which must prove the deportability of previously admitted noncitizens by clear and convincing evidence) and by subjecting "applicants for admission" to broader set of requirements (crimes which render someone inadmissible, for example, may not make someone deportable). 8 U.S.C. §§§ 1229a(c)(2)-(3); 1182 (inadmissibility grounds); 1227 (deportability grounds). Nothing in the history or context of the enactment of IIRIRA indicates that Congress also meant to surreptitiously work a sea change in detention practices for "applicants for admission."

Respondents' reliance on legislative history fails not only because their supposition regarding legislative intent conflicts with the plain text of 8 U.S.C. § 1225(b)(2), but also on its own terms.

c. Petitioner's interpretation of U.S.C. § 1225(b)(2) is consistent with background constitutional principles and historical practices.

Notwithstanding Respondents' policy-based objections to interpreting "seeking admission" in accordance with its plain meaning, the differential treatment of noncitizens arriving at the border and noncitizens physically present in the United States, regardless of whether they have been admitted, comports with this country's long history of affording greater due process protections to noncitizens within the United States than at the border. *See Bakuradze*, No. 5:26-cv-18, ECF No. 10 at 5-6 (*quoting Said*, 2025 WL 3657217, at *5) (citation modified):

The distinction between "aliens seeking admission into the country" governed by § 1225(b) and "aliens already in the country" governed by § 1226(a), *Jennings*, 583 U.S. at 238, makes sense in the broader context of U.S. immigration law. That is, "the distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadyvdas v. Davis*, 533 U.S. 678, 693 (2001). For those who have already entered the United States, "the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry.'" *Leng May Ma v. Barber*, 357 U.S. 185 (1958).

See also, e.g., Zadyvdas, 533 U.S. at 693 ("[O]nce a [noncitizen] enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent."). It is logical to conclude that Congress wanted to draw a distinction in bond eligibility accordingly. *Hewitt v. United States*, 606 U.S. 419, 421 (2025) (citation modified) ("When interpreting statutes, we recognize that Congress legislates against the backdrop of certain unexpressed presumptions.").

The grave due process concerns that arise from Respondents' version of § 1225—which would subject a large category of residents of the United States who indisputably enjoy due process protections to lengthy mandatory detention absent any opportunity for individualized fact-finding regarding whether such detention is necessary or appropriate—further counsels in favor of

interpreting it as inapplicable to noncitizens present in the United States. *See Barbosa de Cunha*, 175 F.4th at 93-96 (concluding that the constitutional-avoidance canon would warrant rejection of the government's petition even if the statute were ambiguous); *Villagrez v. Bondi*, No. 3;26-cv-72, 2026 WL 545380, at *2 (W.D. Pa. Feb. 26, 2026) (Ranjan, J.) (applying the canon of constitutional avoidance after finding that the government's interpretation of § 1225 raised serious constitutional concerns and adopting the majority view of § 1225).

Finally, whatever else the Government might say, it cannot credibly assert that § 1225(b) provide unambiguous notice to noncitizens present in the United States that the executive may lawfully subject to them to mandatory detention simply because they have not been admitted. Thus, the fair notice requirement of the Due Process Clause is yet another reason to interpret § 1226 consistently with Petitioner's position. *See Sessions v. Dimaya*, 584 U.S. 148, 177-88 (2018) (Gorsuch, J., concurring).

II. Respondents' exhaustion argument fails.

Respondents do not dispute that under established Fourth Circuit law, detained immigrants challenging their confinement face no statutory exhaustion requirement. *See Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022). The overwhelming majority of district courts have declined to require prudential exhaustion when evaluating a detained immigrant's petition under the circumstances facing Petitioner, including every district court in West Virginia to have considered the issue. *See, e.g., Briceno Solano*, 818 F. Supp. 3d at 821 (finding that "any attempt by Petitioner to exhaust his administrative remedies would be futile" in light of *Yajure Hurtado*); *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992) ("an administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it").

Respondents' invocation of *Hernandez Alvarez*, see *Response* at 29-30, is irrelevant. Neither Petitioner nor his immigration court are in the Eleventh Circuit. As Petitioner stands, the issue before this Court has been predetermined by *Yajure Hurtado*. Any attempt at exhaustion would be futile.³

III. This Court should promptly order Petitioner's immediate release.

Respondents present no argument as to why immediate release is not the appropriate remedy in this case in the event this Court finds that a constitutional violation has occurred. As set forth in the Petition, Judge Bailey, Judge Johnston, Judge Chambers, Judge Berger, and Judge Goodwin have all found that immediate release is the appropriate remedy in similar matters. See *Amended Petition for a Writ of Habeas Corpus Pursuant to § 2241* (hereinafter "*Petition*") at ¶ 50 (collecting cases); see also *id.* at ¶ 51 (collecting cases from district courts outside West Virginia).

At least three separate rationales, none of which are meaningfully addressed by Respondents, independently support immediate release in this case. This Court need not address all three rationales if it agrees with even one.

First, a *post hoc* bond hearing is inadequate to remedy the due process violation that Petitioner has been experiencing since the inception of his detention. *Petition* at ¶¶ 51-52. See also, e.g., *Simanca Gonzalez v. Aldridge*, Civil Action No. 3:26-0055, 2026 WL 313476, at *6 (S.D. W.Va. Feb. 5, 2026) (Chambers, J.) (finding immediate release appropriate when petitioner did not receive a prompt initial individualized custody determination by an immigration officer); *Izaguirre v. Mason*, No. 2:26-cv-00121, 2026 WL 561235, at *3 (S.D.W. Va. Feb. 27, 2026) (Goodwin, J.) ("Immediate release is the only appropriate remedy. Where detention has been found

³ Even if this were not so, a bond hearing is an inadequate remedy for the reasons set forth in Section III, *supra*.

unlawful and no constitutionally adequate bond hearing has been provided, continued custody cannot stand.”).

Second, the Government does not attempt to rebut the increasing body of evidence of structural bias in immigration court proceedings, rendering the remedy of an immigration court bond hearing inadequate as a matter of due process. *See Petition* at ¶¶ 53-59; *Exhibits A-E*.

Third, the Government presents no argument that Petitioner poses a flight risk or a danger to the community, rendering immediate release the appropriate remedy under the circumstances. *See, e.g., Rodriguez Flores v. Mason*, No. 2:26-cv-00044, ___ F.Supp.3d ___, 2026 WL 227010, at *5-6 (S.D.W. Va. 2026) (Goodwin, J.) (ordering immediate release when the Government did not present evidence that Petitioner was a flight risk or danger to community); *Flores v. Aldridge*, Civil Action No. 3:26-0088, 2026 WL 447167, at *1-2 (S.D.W. Va. Feb. 17, 2026) (Chambers, J.) (same); *Umarov*, No. 2:26-cv-00081, 2026 WL 381614, at *6 (same); *Cabreja Bueno v. O'Neill*, No. 26-304, 2026 WL 413315, *7-8 (E.D. Pa. Feb. 13, 2026) (conducting due process analysis pursuant to *Mathews* and concluding that “[b]ecause Mr. Cabreja does not appear to be a danger to the community nor a flight risk, and is being unlawfully and unconstitutionally detained,” immediate release was appropriate); *Gonzalez Centeno v. Lowe*, No. 3:25cv2518, 2026 WL 94642, at *4 (M.D. Pa. Jan. 13, 2026) (conducting due process analysis pursuant to *Mathews* and ordering petitioner released from custody when the government did not provide “any information suggesting that Gonzalez Centeno is a flight risk or a danger to the community”).

* * *

“[F]or a person deprived of their liberty without due process, it can be the most important thing in their life, and its denial the worst thing that has ever happened to them.” *Briceno Solano*, 818 F.Supp. at 812. As of the date of this filing, Erick Cristal Cumes has now been deprived of his

liberty without due process for more than a month.⁴ Given the exigency of this matter to Petitioner, counsel for Petitioner proposed—and counsel for Respondents graciously accepted—a mutual agreement to complete briefing in advance of the expedited deadlines set by the Court. The government will respond by this Wednesday, July 1. If necessary, Petitioner will again reply, and the matter will be submitted, by this Thursday, July 2.

Petitioner recognizes that the issues raised by this case require careful and thorough consideration, and that a full opinion in this case may take some time to write. But if this Court concludes that Petitioner's release is appropriate, Petitioner respectfully requests that the Court consider immediately ordering his release upon so concluding, with any opinion to follow. *See, e.g., Umarov v. Mason*, No. 2:26-cv-00081, ECF No. 26 (S.D.W. Va. Feb. 6, 2026) (Berger, J.) (summarily ordering Petitioner's immediate release the day of hearing and stating intention to enter a full opinion at a later date); *Simanca Gonzalez v. Aldridge*, No. 3:26-0055, ECF No. 20 (S.D.W. Va. Feb. 4, 2026) (Chambers, J.) (summarily ordering Petitioner's immediate release the day after hearing and stating intention to enter a full opinion the next day); *Aroca v. Mason*, No. 2:26-cv-00057, ECF No. 30 (S.D.W. Va. Feb. 5, 2026) (Goodwin, J.) (ordering Petitioners' immediate release the day of hearing in two-page order and stating intention to enter an opinion at a later date).

⁴ Counsel appreciate the Court's speedy disposition of the jurisdictional issue, as well as its setting of an expedited briefing schedule.

Dated: June 29, 2026

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