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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GUSTAVO RAMIREZ GARCIA,

Petitioner

v.

**WARDEN, CENTRAL VALLEY
ANNEX, et al.,**

Case No.: 1:26-cv-05117-EJD

**PETITIONER'S REPLY TO
RESPONDENTS' OPPOSITION
TO THE FIRST AMENDED
PETITION FOR WRIT OF
HABEAS CORPUS**

I. Introduction

Petitioner challenges the lawfulness of his continued detention, which Respondents contend is mandated by INA § 235(b) following Petitioner's first immigration encounter approximately twenty-two years after entering the United States without inspection. This case does not involve an arriving noncitizen encountered at the border, a recent entrant apprehended shortly after crossing, or an individual undergoing inspection or admission under INA § 235. Rather, Petitioner was first encountered in the interior of the United States during an enforcement operation, taken into immigration custody, and subsequently placed in removal proceedings under INA § 240. Respondents now contend that his detention is governed by INA § 235(b).

1 The question presented is narrow: whether DHS may invoke INA § 235(b)'s mandatory
2 detention framework for the first time against a noncitizen who was never subjected to inspection
3 or processing under that provision at or near the border and whose first immigration encounter
4 occurred approximately twenty-two years later following an interior arrest. It may not.

5 Respondents' opposition does not answer that question. Instead, after Petitioner filed the
6 First Amended Petition reframing the case around the statutory limits of INA § 235(b),
7 Respondents elected simply to incorporate by reference the arguments they previously made in
8 response to the original petition. As a result, Respondents never address the amended petition's
9 central contention that INA § 235(b) governs the inspection and admission process and does not
10 authorize mandatory detention for the first time decades after an undetected entry following an
11 interior arrest.

12 This Court has already rejected Respondents' expansive interpretation of INA § 235(b).
13 In *Estevez Herrera v. Warden, Central Valley Annex*, No. 1:26-cv-03960-EJD (E.D. Cal. June 8,
14 2026), the Court observed that Respondents' position "has been widely rejected across this
15 circuit, and indeed, throughout the United States," citing, among other authorities, *Guerrero*
16 *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC), 801 F. Supp. 3d 1104 (E.D. Cal. 2025),
17 *J.A.C.P. v. Wofford*, No. 1:25-cv-01354-KES-SKO (HC) (E.D. Cal. Oct. 27, 2025), and *Crispin*
18 *M. C. v. Noem*, No. 1:25-cv-01487-KES-HBK (E.D. Cal. Jan. 8, 2026), before concluding that
19 INA § 235(b) was inapplicable to a noncitizen who had been released and later re-arrested in the
20 interior of the United States.

21 Under the statutory framework established by Congress, INA § 235 governs detention
22 during the inspection and admission process, while detention following an interior arrest pending
23 removal proceedings proceeds, if at all, under INA § 236(a). Respondents' interpretation would
24 erase that distinction by allowing DHS to treat every noncitizen who entered without inspection,
25 regardless of how much time has elapsed or where the first immigration encounter occurs, as
26 though the individual remained perpetually at the threshold of admission.

1 Because Respondents identify no lawful basis for invoking INA § 235(b) under the
2 circumstances presented here, the Petition should be granted. Immediate release is therefore the
3 appropriate remedy. In the alternative, and only if the Court declines to order immediate release,
4 Petitioner respectfully requests a prompt constitutionally adequate custody hearing before a
5 neutral decisionmaker at which Respondents bear the burden of establishing that continued
6 detention is justified.

7 **II. This Court Has Already Rejected Respondents' Interpretation**
8 **of INA § 235(b)**

9 Respondents' opposition rests upon the same expansive interpretation of INA § 235(b)
10 that this Court has already rejected. They contend that Petitioner is subject to mandatory
11 detention under INA § 235(b) solely because he entered the United States without inspection and
12 has never been formally admitted. In *Estevez Herrera v. Warden, Central Valley Annex*, No.
13 1:26-cv-03960-EJD (E.D. Cal. June 8, 2026), this Court concluded that INA § 235(b) does not
14 confer the sweeping detention authority Respondents claim and reaffirmed that Congress
15 established distinct detention frameworks under INA §§ 235 and 236. Respondents identify no
16 statutory basis for extending that rejected interpretation to Petitioner's circumstances, where
17 DHS seeks to invoke INA § 235(b) for the first time approximately twenty-two years after
18 Petitioner's entry and following his first immigration encounter in the interior of the United
19 States.

20 The government's position improperly conflates two distinct statutory concepts. The
21 question presented is whether INA § 235(b)'s mandatory detention provisions may be invoked
22 for the first time decades after entry against a noncitizen whose first immigration encounter
23 occurred in the interior of the United States rather than during the border inspection process.
24 Respondents' opposition never answers that question. Instead, Respondents simply assume the
25 conclusion they seek to establish: that because Petitioner entered without inspection, INA §
26 235(b) necessarily governs his detention regardless of when or where DHS first encountered
27 him. That assumption is not supported by the statutory text.

1 Respondents also contend that this Court lacks jurisdiction, characterizing the Petition as
2 a challenge to the government's discretionary decision to commence removal proceedings. That
3 argument mischaracterizes the Petition. Petitioner does not challenge the commencement of
4 removal proceedings, the merits of removability, or any final order of removal. He challenges
5 only Respondents' asserted statutory authority to detain him under INA § 235(b), not the
6 government's discretionary decision to commence removal proceedings.

7 Instead, Respondents rely on the general proposition that a noncitizen who has not been
8 admitted remains an applicant for admission. But that premise does not establish that every such
9 noncitizen is forever subject to INA § 235(b)'s border-processing detention framework regardless
10 of when, where, or how immigration authorities first encounter the individual. Acceptance of
11 Respondents' interpretation would effectively eliminate the distinction Congress established
12 between INA §§ 235 and 236 by allowing DHS to invoke mandatory detention years—or even
13 decades—after an undetected entry based solely upon the manner of entry.

14 Respondents identify no statutory basis authorizing DHS to invoke INA § 235(b) for the
15 first time approximately twenty-two years after Petitioner's entry and following his first
16 immigration encounter in the interior of the United States. Nor do they explain why Congress
17 would have enacted separate detention authorities under INA §§ 235 and 236 if the government
18 could always rely on INA § 235(b) whenever a noncitizen originally entered without inspection.
19 Because Respondents rely exclusively on the same expansive interpretation of INA § 235(b) that
20 this Court has already rejected, their position cannot be sustained.

21 **III. Respondents' Due Process Argument Depends Entirely on Their Incorrect**

22 **Interpretation of INA § 235(b)**

23 Respondents contend that Petitioner's due process rights are coextensive with the
24 detention procedures Congress prescribed in INA § 235(b). Relying principally upon
25 *Department of Homeland Security v. Thuraissigiam*, Respondents argue that because Petitioner
26 is allegedly an applicant for admission subject to mandatory detention under INA § 235(b), the
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1 Constitution affords him no greater procedural protection than the statute itself provides. That
2 argument assumes the very question presented by this case.

3 The Petition does not dispute that Congress may prescribe procedures governing
4 detention under INA § 235(b). Rather, Petitioner challenges Respondents' threshold
5 determination that INA § 235(b) applies at all. As alleged in the First Amended Petition,
6 Petitioner was never encountered by immigration authorities at or near the border, was never
7 subjected to inspection, expedited removal proceedings, credible-fear screening, or any other
8 form of initial processing under INA § 235, and was first encountered by DHS approximately
9 twenty-two years after entering the United States during an interior enforcement operation
10 unrelated to any inspection or admission process. Under those circumstances, the Government
11 cannot simply assume that INA § 235(b) governs Petitioner's detention.

12 Respondents' reliance on *Thuraissigiam* assumes the very point in dispute. That decision
13 addressed the constitutional rights of a noncitizen apprehended shortly after an unlawful entry
14 while undergoing the expedited-removal process established by Congress. It did not address
15 whether DHS may invoke INA § 235(b) for the first time decades after an undetected entry
16 against a noncitizen whose first immigration encounter occurred entirely within the interior of
17 the United States. Because Respondents never establish that INA § 235(b) applies under these
18 circumstances, their constitutional argument necessarily fails.

19 Respondents' constitutional argument depends upon the threshold statutory question
20 before the Court. If Respondents lack statutory authority to detain Petitioner under INA § 235(b),
21 then their contention that Petitioner's due process rights are limited to the procedures available
22 under that statute necessarily fails. The Government cannot justify the absence of an
23 individualized custody determination by relying on a detention statute that does not govern
24 Petitioner's custody in the first place.

25 Accordingly, Respondents' due process argument provides no independent basis for
26 denying the Petition. It rises or falls with their interpretation of INA § 235(b), and for the reasons
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discussed above, that interpretation is contrary to the statutory framework and this Court's prior decisions.

IV. Immediate Release Is the Appropriate Remedy

Respondents rely exclusively upon INA § 235(b) to justify Petitioner's continued detention. They identify no alternative statutory authority authorizing Petitioner's custody if the Court rejects their interpretation of that provision. Accordingly, if the Court concludes that INA § 235(b) does not apply under the circumstances presented here, Petitioner's continued detention cannot be sustained.

Habeas corpus exists to remedy unlawful detention. Where the Government's sole asserted basis for detention is legally deficient, the appropriate remedy is immediate release—not continued detention while the Government attempts to identify or invoke a different statutory basis after the fact. Respondents have had a full opportunity to defend the legality of Petitioner's detention under INA § 235(b). If the Court rejects that statutory basis, the appropriate remedy is habeas relief, not continued detention while Respondents attempt to identify another source of detention authority.

Moreover, Respondents acknowledge contrary decisions in this District, yet identify no meaningful factual or legal distinction between those cases and Petitioner's that would warrant a different result here. Consistent with those decisions, immediate release is the appropriate remedy.

In the alternative, and only if the Court declines to order Petitioner's immediate release, Petitioner respectfully requests that the Court order Respondents to provide a prompt, constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight and that no less restrictive alternatives to detention would reasonably serve the Government's interests.

V. Conclusion

For the foregoing reasons, Respondents have failed to establish that INA § 235(b) lawfully governs Petitioner's detention. They identify no statutory authority permitting DHS to invoke INA § 235(b) for the first time approximately twenty-two years after Petitioner's undetected entry and following his first immigration encounter in the interior of the United States. Nor do they identify any alternative lawful basis for Petitioner's continued detention.

Accordingly, Petitioner respectfully requests that the Court grant the First Amended Petition for Writ of Habeas Corpus and order his immediate release from Respondents' custody.

In the alternative, and only if the Court declines to order Petitioner's immediate release, Petitioner respectfully requests that the Court order Respondents to provide a prompt, constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight and that no less restrictive alternatives to detention would reasonably serve the Government's interests.

Respectfully submitted,

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