

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

STATE OF TEXAS; STATE OF
LOUISIANA,

Plaintiffs,

v.

The UNITED STATES OF AMERICA;
ALEJANDRO MAYORKAS, Secretary of the
United States Department of Homeland
Security, in his official capacity; UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; TROY MILLER, Senior Official
Performing the Duties of the Commissioner of
U.S. Customs and Border Protection, in his
official capacity; U.S. CUSTOMS AND
BORDER PROTECTION; TAE JOHNSON,
Acting Director of U.S. Immigration and
Customs Enforcement, in his official capacity;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; TRACY RENAUD,
Senior Official Performing the Duties of the
Director of the U.S. Citizenship and
Immigration Services, in her official capacity;
U.S. CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

Civ. Action No. 6:21-cv-00016

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs submit this Notice of Supplemental Authority to advise the Court of the Supreme Court’s recent decision in *Johnson v. Guzman Chavez*, No. 19-897, 2021 WL 2653264 (U.S. June 29, 2021), which interpreted both 8 U.S.C. § 1226(c) and 8 U.S.C. § 1231(a)(2).

In this case, the parties dispute whether those provisions mandate detention of covered aliens. Plaintiffs argue they do. *See* ECF 18 at 13–16, 18–19. Defendants, on the other hand, contend that “[n]either § 1226(c) nor § 1231(a)(2) impose a mandatory duty to detain any noncitizen.” ECF 42 at 22.

In *Guzman Chavez*, the Supreme Court confirmed that both provisions are mandatory. For aliens covered by Section 1226(c), “detention is mandatory and release is permitted in very limited circumstances.” *Guzman Chavez*, 2021 WL 2653264, at *3 n.2 (citing 8 U.S.C. § 1226(c)). Similarly, for aliens covered by Section 1231(a)(2), “detention is mandatory” “during the removal period.” *Id.* at *4 (citing 8 U.S.C. § 1231(a)(2)).

Date: July 1, 2021

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN
Deputy Attorney General for Special Litigation
Attorney-in-Charge
Texas Bar No. 00798537
Southern District of Texas Bar No. 1829509
patrick.sweeten@oag.texas.gov

BRENT WEBSTER
First Assistant Attorney General

JUDD E. STONE II
Solicitor General

WILLIAM T. THOMPSON
Deputy Chief, Special Litigation Unit
Texas Bar No. 24088531
Southern District of Texas Bar No. 3053077
will.thompson@oag.texas.gov

RYAN D. WALTERS
Special Counsel
Texas Bar No. 24105085
Southern District of Texas Bar No. 3369185
ryan.walters@oag.texas.gov

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC-009)
Austin, Texas 78711-2548
Tel.: (512) 463-2100
Fax: (512) 457-4410

COUNSEL FOR PLAINTIFF STATE OF TEXAS

JEFF LANDRY
LOUISIANA ATTORNEY GENERAL

/s/Elizabeth B. Murrill
ELIZABETH B. MURRILL
Solicitor General
JOSEPH S. ST. JOHN
Deputy Solicitor General

Louisiana Department of Justice
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6766
murrille@ag.louisiana.gov
stjohnj@ag.louisiana.gov

COUNSEL FOR PLAINTIFF STATE OF LOUISIANA

CERTIFICATE OF COMPLIANCE

I certify that the total number of words in this response, exclusive of the matters designated for omission, is 163, as counted by Microsoft Word.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on July 1, 2021, which automatically serves all counsel of record who are registered to receive notices in this case.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN