U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

November 10, 2025

By ECF

Honorable Nusrat J. Choudhury
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Erika Rodriguez-Acurio v. Judith Almodovar et al.*,
Civil Action 25-cv-6065 (Choudhury, J.)

Dear Judge Choudhury:

This Office represents Respondents in the above-referenced action. Respondents write in response to the Electronic Order entered on November 8, 2025, at 11:25 a.m., as amended by the Minute Entry at 4:34 p.m. on November 8, 2025 (the November 8, 2025 Minute Entry"), which directed Respondents to provide specific information and documentation.

Response to Order to Provide Information Regarding ICE Check-ins

The November 8, 2025 Minute Entry first directed Respondents to provide for "any documentation showing (1) the scheduling of any ICE check-ins for Petitioner between her October 21, 2021 parole check-in and her credible fear interview on October 29, 2025, (2) what transpired at any such check-ins, including the October 21, 2021 check-in, and (3) all paperwork provided to the Petitioner related to any such ICE check-in, including but not limited to the October 21, 2021 check-in. [Together with] an affidavit attesting under penalty of perjury what was communicated to Petitioner during the October 21, 202[1] check-in, whether any other check-ins were scheduled and what was communicated to Petitioner during those check-ins, how and where notice was provided to Petitioner of those check-ins, and what documentation was provided to Petitioner at or after any check-ins."

As set forth in the Fourth Declaration of Jason V. Langlois, dated November 10, 2025 ("Fourth Langlois Decl."), submitted herewith, DHS records do not indicate what documents, if any, were given to Petitioner on October 21, 2021, or whether any information was otherwise conveyed to Petitioner on that date. *See* Fourth Langlois Decl. ¶ 11. ICE did not reschedule Petitioner for another check-in. *See id.* ¶ 13.

Response to Order to Address *Make the Road* Designation Notice

Second, the November 8, 2025 Minute Entry directed Respondents to "address . . . what role the January 21, 2025 Designation Notice, titled Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139, 8139 (Jan. 24, 2025), played in Petitioner's detention. That notice is the subject

of *Make the Rd. New York v. Noem*, No. 25-cv-190, 2025 WL 2494908, at *5 (D.D.C. Aug. 29, 2025)"

The 2025 Designation Notice did not play a role in Petitioner's detention, and as such the decision in *Make the Rd. New York* expressly does not apply to this habeas action. *See Make the Rd. New York*, 2025 WL 2494908, at *8 ("Nothing in the Court's opinion, then, affects previous designations by which DHS has applied expedited removal to noncitizens who arrived by sea, or who are detained within 14 days of arriving and within 100 miles of the border. The *only* things challenged are the 2025 Designation and the Huffman Memorandum implementing that designation.") (emphasis original). As stated in the November 3, 2025, Declaration of Jason V. Langlois [¶ 3] ("First Langlois Decl."), Petitioner was encountered and taken into custody by Customs and Border Protection ("CBP") officer on September 4, 2021, near Eagle Pass, Texas. Although the exact location of Petitioner's detention is not stated, Eagle Pass, Texas is located on the border with Mexico and is thus within 100 miles of the border. Additionally, Petitioner was issued a Notice and Order of Expedited Removal Form I-860 ("Form I-860") on September 6, 2021. *See* November 6, 2025, Declaration of Jason V. Langlois ("Second Langlois Decl.") ¶ 3. Further, as clarified below, the issuance of the Form I-860 came after Petitioner was inspected on September 6, 2021, and determined to be inadmissible. Moreover, during her inspection interview, Petitioner acknowledged that she had crossed into the United States on the day that she was apprehended, therefore she was detained within 14 days of entering the United States. Thus, Petitioner was detained, inspected, determined to be inadmissible, and placed into expedited removal by September 6, 2021, so the 2025 Designation Notice did not, and could not have, played a role in Petitioner's detention.

Response to Order to State Whether Petitioner Has Been Inspected

Third, the November 8, 2025 Minute Entry directed Respondents to clarify the statement in the Declaration of Jason V. Langlois dated November 3, 2025 (ECF No. 14-1), "that on 'September 4, 2021, the United States Customs and Border Protection ("CBP") encountered Petitioner near the port of entry in Eagle Pass, Texas. During the encounter, Petitioner admitted that she entered the United States by crossing the Rio Grande River near Eagle Pass, Texas, and was not then inspected by an immigration officer.' Respondents are ordered to address in their letter if this encounter constituted an inspection, and if not, whether Petitioner was ever inspected and on what date. Petitioner shall include in her letter authority supporting Petitioner's position that she was necessarily inspected before she was granted temporary parole."

Petitioner's initial encounter with, and questioning by, CBP officers did not constitute an "inspection." *See* First Langlois Decl. ¶ 3, Fourth Langlois Decl. ¶ 5. However, Petitioner was inspected, and determined to be inadmissible, on September 6, 2021. *See* Fourth Langlois Decl. ¶ 9. After Petitioner's inspection on September 6, 2021, she was issued a Form I-860 which designated her as inadmissible pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I), and placed her into expedited removal proceedings. *See* Second Langlois Decl., Exh. A; Fourth Langlois Decl. ¶ 9.

Thank you for the Court's time and consideration of this submission.

Respectfully submitted,

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