U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

December 10, 2025

By ECF
Honorable Gary R. Brown
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Clarke v. Nassau County Correctional Center, et al.*,
Civil Action No. 25-cv-6773 (Brown, J.)

Dear Judge Brown:

The U.S. Department of Homeland Security and the Executive Office for Immigration Review ("Federal Respondents") respectfully submit this letter briefing in further response to the Court's Orders and the petition for writ of habeas corpus ("Petition") filed by Erron Anthony Clarke ("Petitioner"). In doing so, the Federal Respondents note that the Petitioner is scheduled for a bond hearing in his Immigration Court proceedings this coming Monday, December 15, 2025. (Previously, it had been this Office's understanding that a Master Calendar hearing was scheduled for that day).

Facts

This Office respectfully refers the Court to the Declaration of Immigration and Customs Enforcement ("ICE") Supervisory Detention Officer John C. Diaz, which accompanies this letter briefing. In particular, the Federal Respondents emphasize the following facts.

Petitioner was arrested after an investigation prompted by Petitioner's statement (in response to a question posed in a Form I-485 filed with United States Citizenship and Immigration Services) that he had "violated the terms of his nonimmigrant status." Diaz Dec. at ¶ 3 and Exhibit A.

During the investigation, ICE learned that Petitioner was admitted to the United States on a nonimmigrant visa on April 20, 2018 for a period not to exceed November 15, 2018. Diaz Dec. at ¶ 5. Based on the investigation, an ICE Acting Supervisory Detention and Deportation Officer executed an arrest warrant for Petitioner and ICE officers proceeded to arrest Petitioner on December 5, 2025. *See id.* at ¶¶ 7, 9-11 and Exbibit B. Petitioner was also served with a Form I-286 (Notice of Custody Determination) and a Form I-862 (Notice to Appear, "NTA"). *Id.* at ¶ ¶ 12-13 and Exhibits C and D. The NTA charged the Petitioner as removable pursuant to Section 237(a)(1)(B) of the Immigration and Naturalization Act ("INA), 8 U.S.C. § 1227(a)(1)(B), for remaining in the United States for longer than permitted. *Id.* at ¶ 13 and Exhibit D.

As of the today's date, it is the Federal Respondents' understanding that Petitioner is scheduled for a bond hearing in Immigration Court for Monday, December 15, 2025. Diaz Dec. at ¶ 17.

Argument

Petitioner has been detained pursuant to Section 236(a) of the INA, 8 U.S.C. § 1226(a), Diaz Dec. at ¶ 21. He has requested a bond hearing before the Immigration Court and that hearing is scheduled for this coming Monday, December 15, 2025. He thus has available to him, and is now availing himself of, administrative process whereby he may address his detention. For the reasons set forth by the Federal Respondents' December 9, 2025 letter, Petitioner must exhaust his administrative remedies, and the Petition should be dismissed.

Respectfully submitted,
JOSEPH NOCELLA, JR.
United States Attorney

By: */s/ Richard K. Hayes*
Richard K. Hayes
Assistant U.S. Attorney
(718) 254-6050
richard.hayes@usdoj.gov

cc: Counsel for Petitioner (by ECF)