U.S. Department of Justice

United States Attorney
Eastern District of New York

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December 20, 2025

BY ECF
Honorable Pamela K. Chen
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Fernando Adalberto Galeas Miranda. v. Maldonado*, No. 25-cv-6882 (PKC)

Dear Judge Chen:

This Office represents Respondents in the above-captioned case in which Petitioner Fernando Adalberto Galeas Miranda ("Petitioner"), an alien in removal proceedings, filed a petition for a writ of habeas corpus on December 15, 2025 challenging his detention by U.S. Immigration and Customs Enforcement ("ICE"). *See* Dkt. No. 1. The legal issues presented concern whether Petitioner's detention violates his due process protections, the statutory authority for ICE's detention of Petitioner, and whether Petitioner is entitled to a bond hearing. Petitioner principally seeks an order from this Court directing ICE to immediately release him from detention. While reserving all rights, including the right to appeal, the government submits this letter in lieu of a formal responsive memorandum of law to conserve judicial and party resources, and to expedite the Court's consideration of this case, in light of this Court's oral ruling on the principal legal issues in *R.A.R.R. v. Almodovar*, No. 25-cv-6597 (E.D.N.Y. Dec. 19, 2025) ("*R.A.R.R.*"), as discussed below.

Relevant Facts

In December 2022, Petitioner, a native and citizen of Ecuador, unlawfully entered the United States near El Paso, Texas, outside of a port of entry, and was encountered by U.S. Border Patrol ("Border Patrol"). *See* Decl. of Deportation Officer Michael Charles dated Dec. 19, 2025 ("Charles Decl."), ¶ 3. He was taken into custody and transported to the Paso Del Norte, Texas, Border Patrol station for further processing. *Id.* Petitioner was paroled into the United States pursuant to Immigration and Nationality Act ("INA") § 212(d)(5), 8 U.S.C. § 1182(d)(5), which expired on March 2, 2023, and was given instructions to report to the nearest ICE office of his destination within 60 days. *Id.* At that time, Petitioner had indicated to CBP that he was going to reside in Kissimmee, Florida, and was advised to report to the Orlanda ICE office. *Id.*

Petitioner's parole expired on March 2, 2023. *Id.* ¶ 4.[1] On April 11, 2024, ICE issued a Notice to Appear ("NTA"), charging Petitioner as inadmissible under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or

[1] Petitioner does not challenge the expiration of parole.

paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under INA § 211(a), 8 U.S.C. § 1181(a). *Id.* The NTA was sent by first class mail to the address provided by Petitioner to United States Citizenship and Immigration Services ("USCIS"). *Id.* The NTA advised Petitioner to appear before an Immigration Judge in the New York Immigration Court located at 201 Varick Street, New York, New York 10014 on August 19, 2024, at 8:30 a.m. EST. *Id.* On April 12, 2024, the NTA was filed with Executive Office for Immigration Review ("EOIR"), commencing removal proceedings against Petitioner under 8 U.S.C. § 1229a. *Id.* ¶ 5.

Petitioner appeared in person before an Immigration Judge at Varick Immigration Court on August 19, 2024. *Id.* ¶ 6. The Immigration Judge granted an adjournment for Petitioner to retain counsel. *Id.* His next hearing was scheduled for June 23, 2025. *Id.* ¶ 7. Petitioner appeared in person before an Immigration Judge at Varick Immigration Court on June 23, 2025. Pleadings were taken, Petitioner admitted to the factual allegations contained in the NTA, and the Immigration Judge sustained the charges under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), and INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I). *Id.* Petitioner filed a change of address with the court, listing an address in Minnesota. *Id.* The Immigration Judge ordered a Change of Venue to the Fort Snelling Immigration Court located at 1 Federal Drive, Suite 1850, Fort Snelling, Minnesota 55111. *Id.* Following this hearing, Petitioner was detained and taken into Immigration Custody by ICE officers. *Id.* ICE served Petitioner with a Form I-200, Warrant for Arrest of Alien as well as a Form I-286, Notice of Custody Determination. *Id.*

Following his arrest on June 23, 2025, Petitioner was taken to 26 Federal Plaza, New York, New York, for further processing. He was booked into the New York City Temporary Hold Room at approximately 11:00 a.m. EST. *Id.* ¶ 8. On June 23, 2025, ICE filed with the Immigration Court, a Form I-830, Notice to EOIR: Alien Address, indicating that Petitioner was to be detained at Metropolitan Detention Center located at 80 29th Street, Brooklyn, New York, 11232. *Id.* ¶ 9. On June 24, 2025, Petitioner was booked out of the New York City Temporary Hold Room at approximately 3:28 p.m. EST and transported to Metropolitan Detention Center, where he remains detained. *Id.* ¶ 10.

On July 1, 2025, Petitioner appeared for his scheduled hearing with counsel. *Id.* ¶ 12. A bond hearing was set by the Immigration Court for July 22, 2025 at 1:00 p.m. EST. *Id.* On July 22, 2025, Petitioner appeared with counsel for his scheduled bond hearing. *Id.* ¶ 13. The Immigration Judge agreed with ICE that Petitioner was detained pursuant to INA § 235(b)(2)(A), 8 U.S.C. 1225(b)(2)(A), subject to mandatory detention, and denied bond. *Id.* On August 5, 2025, Petitioner appeared for a fourth Master Calendar hearing with counsel. *Id.* ¶ 14 Petitioner requested another bond hearing pursuant to a change in circumstances. *Id.* A bond hearing was scheduled for August 8, 2025, and another master calendar hearing was scheduled for August 19, 2025. *Id.* On August 8, 2025, the Immigration Judge denied bond and found Petitioner subject to mandatory detention. *Id.* ¶ 15. Between August 19, 2025 to December 16, 2025, Petitioner has appeared for eight additional Master Calendar hearings. *Id.* ¶¶ 16-25. His next hearing is scheduled for January

13, 2026. *Id.*

Habeas Petition

Petitioner commenced this action on December 15, 2025. Dkt. No. 1 ("Pet."). He argues that the mandatory detention provision of 8 U.S.C. § 1225(b)(2)(A) does not apply to him because he had already entered, was paroled in, and had been residing in the United States at the time he was arrested by ICE; he also asserts that he is not a flight risk or a danger to the community. Pet. ¶¶ 86, 91. In his first claim for relief, he argues that his detention without individualized consideration of whether he is a flight risk or danger to others and without notice or opportunity to respond violated his right to due process. Pet. ¶¶ 98-101. In his second claim for relief, he argues that his re-detention violated his substantive due process rights. Pet. ¶¶ 102-06. In his third claim for relief, he argues that the length of his detention, approximately five months, violates his due process rights. Pet. ¶¶ 107-09. In his fourth claim for relief, he argues that his arrest was unlawful in violation of the Fourth Amendment. Pet. ¶¶ 110-12. Finally, he argues that the application of § 1225(b)(2) to him violates the Administrative Procedure Act, 5 U.S.C. §§ 702, 706 and INA. *See* Pet. ¶¶ 113-121.

In his prayer for relief, Petitioner, in relevant part, asks that the Court enjoin ICE from transferring him outside of New York State while this habeas petition is pending and issue a writ of habeas corpus ordering his immediate release, or in the alternative, releasing Petitioner on a bond of $3,000 or providing Petitioner with a bond hearing within seven days at which the government would have the burden to prove that his detention is authorized under § 1226(a). Pet. at 37-38 (Prayer for Relief).

R.A.R.R. v. Almodovar

On December 19, 2025, this Court issued an oral ruling on the principal legal question presented in this action in a similar habeas case challenging an alien's re-detention after prior release. *R.A.R.R. v. Almodovar*, No. 25-cv-6597 (Chen, J.) (Oral Ruling Dec. 19, 2025 and Docket Order dated Dec. 19, 2025). The Court concluded that the petitioner, who was detained as an unaccompanied alien minor ("UAC") after crossing the border in 2024, placed in the custody of the Office of Refugee Resettlement ("ORR"), a division of the Department of Health and Human Services, then released to a verified family sponsor, and who was arrested again in August 2025 (after he had turned 18), was detained pursuant to § 1226 and not, as ICE contends, § 1225 as an applicant for admission.[2]

The Court stated that it was persuaded by the reasoning of the "legion of cases" considering similar petitions that have rejected the government's position, concluding that detention of the

[2] ICE contended that the petitioner's detention was governed by 8 U.S.C. § 1225(b)(2)(A) because, as an alien who entered without inspection or parole, and who was initially detained after crossing the border, he was an applicant for admission who is treated, for constitutional purposes, as if stopped at the border. As such, he would not be entitled to release or a bond hearing that is a feature of detentions under 8 U.S.C. § 1226(a). *See R.A.R.R. v. Almodovar*, No. 25-cv-6597, Dkt. No. 11, 18-31 (Resp's Mem. Law Opp.).

petitioner without process violated his due process rights. [3] The Court granted the petition.

Discussion

Petitioner alleges that his arrest and detention violate his due process rights, the APA, and the INA because he is subject to 8 U.S.C. § 1226, not the mandatory detention provisions of 8 U.S.C. § 1225. As noted, this Court has already resolved similar claims in *R.A.R.R. v. Almodovar*.

While the government respectfully disagrees with the Court's ruling in *R.A.R.R.*, the government acknowledges that the decision would control the result in this case if the Court adheres to that ruling. Although this case does not involve a UAC, as the Court stated during the December 19 hearing in *R.A.R.R.*, had *R.A.R.R.* not involved a UAC, the grant of the habeas petition in that case would have been even easier to make. Thus, to conserve judicial resources and to expedite the Court's consideration of this case, the government hereby relies upon, and

[3] At the time of its December 19, 2025 ruling in *R.A.R.R.*, two district court judges in this Circuit had endorsed the government's interpretation of the relevant statutory provisions. In *Chen v. Almodovar,* No. 25-cv-8350, 2025 WL 3484855, at *1 (S.D.N.Y. Dec. 4, 2025), *notice of appeal filed* Dec. 16, 2025, as here, the petitioner had entered the United States without having been admitted, was detained, and was released on his own recognizance due to lack of bed space; he was recently re-detained pursuant to 8 U.S.C. § 1225(b)(2)(A). The Honorable Mary Kay Vyskocil dismissed the habeas petition, holding that "under the plain language" of § 1225(b)(2)(A), which by its terms requires mandatory detention for "applicant[s] for admission," the petitioner—an applicant for admission—was subject to mandatory detention. *Id.* at *4. In particular, the court cited the statutory definition of "applicant for admission" in Section 1225(a), which "is specifically defined to include an 'alien *present in* the United States who has not been admitted.'" *Id.* (emphasis in *Chen*) (citing Section 1255(a)). Moreover, the court noted that the terms "'admitted' and 'admission' are specifically defined in terms of '*lawful*' entry," not mere physical entry. *Id.* (emphasis in *Chen*) (citing 8 U.S.C. § 1101(a)(13)(A)); *accord Candido v. Bondi, et al.*, No. 25-cv-867, 2025 WL 3484932, at *1-2 (W.D.N.Y. Dec. 4, 2025) (finding detention under 8 U.S.C. § 1225(b)(2)(A) was proper for alien present in United States unlawfully without having been admitted based on a "a straightforward and fair reading of the governing statute," noting that "[t]he fact that more district courts . . . have decided this issue differently from this [c]ourt is neither binding nor persuasive"), *notice of appeal filed* Dec. 16, 2025. *Chen* also rejected the proposition that Congress would not have needed to pass the Laken Riley Act ("LRA") – which provides for mandatory detention for "inadmissible" aliens charged with, arrested for, convicted of, or who admit to, certain crimes – if Section 1225 already provided for mandatory detention. *Chen*, 2025 WL 3484855, at *6-7. The court explained, *inter alia*, that the LRA mandates detention in additional circumstances – for example, for aliens who fraudulently procure visas – not covered by Section 1225. *Id.* On December 15, 2025, Judge Vyskocil issued another decision concluding that the government's interpretation is correct. *See Liang v. Almodovar*, No. 25-cv-9322, 2025 WL 3641512, at *4-11(S.D.N.Y. December 15, 2025) (holding that petitioner who entered the United States without being admitted was properly subject to detention under the plain language of Section 1225, notwithstanding prior release on his own recognizance under Section 1226, and further concluding that petitioner was not entitled to any process beyond that set forth in the statute).

incorporates by reference, the legal arguments it presented in *R.A.R.R.*[4] and respectfully submits that the Court can decide this matter without further briefing. However, should the Court prefer to receive a memorandum of law in this matter, the government will file such a brief upon the Court's request. Notwithstanding its submission of this letter in lieu of a formal brief, the government reserves all rights, including the right to appeal.[5]

Accordingly, for the reasons set forth in the government's brief in *R.A.R.R.*, the government respectfully requests that the Court deny this habeas petition.

Thank you for the Court's time and attention to this matter.

Respectfully submitted,

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[4] Specifically, the government incorporates by reference all arguments raised in its opposition brief in *R.A.R.R.*, 25-cv-6597, Dkt. No.11.

[5] In addition to the pending appeals by petitioners regarding the denials of habeas petitions as noted above, the government has appealed the grant of a habeas petition in *Cunha v. Moniz*, No. 25-cv-6532 (W.D.N.Y. Nov. 25, 2025) (concluding, *inter alia*, that Section 1226(a), not Section 1225(b)(2)(A), applied), *notice of appeal filed* Dec. 11, 2025, No. 25-3141 *(2d Cir.)*.