U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

January 26, 2026

By ECF

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

Re: *Luz Valdez Acevedo v. U.S. Department of Homeland Security et al.*, Civil Action 26-cv-250 (Choudhury, J.)

Dear Judge Choudhury:

This Office represents Respondents United States Department of Homeland Security ("DHS") and United States Department of Justice ("DOJ") (hereinafter, "Respondents")[1] in the above referenced action. Respondents submit this letter and the accompanying declaration in response to the Court's January 24, 2026 and January 26, 2026 Orders directing the Respondents to respond to the Petition with, *inter alia*, information "identifying the precise statutory basis for detaining the petitioner and all documents material to their asserted statutory basis for the detention." Docket, Order dated January 24, 2026.

The legal issues presented concern whether Petitioner's detention violates his due process protections, and the statutory authority for ICE's detention of Petitioner. Petitioner principally seeks an order from this Court directing ICE to immediately release him from detention. DE 1 at 5 (Prayer for Relief). 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 decision on the principal legal issues in *Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065, 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025) ("*Acurio*"), as well as Judge Bulsara's decision in *Gopie v. Lyons*, No. 25-cv-5229, 2025 WL 3167130, *3 (E.D.N.Y. Nov. 13, 2025), as discussed below.

Petitioner was detained on January 15, 2026 pursuant to an Immigration and Customs Enforcement ("ICE") Form I-205, Warrant of Removal/Deportation, dated January 15, 2026 ("I-205"), and Form I-871 Notice of Intent/Decision to Reinstate Prior Order, dated January 15, 206 ("Reinstatement Notice"). *See* Exh. A (I-205) and Exh. B (Reinstatement Notice) hereto. As set forth in those documents, the detention authority initially relied upon by ICE was Immigration and Nationality Act ("INA") § 231(a)(6), 8 U.S.C. § 1231(a)(6). *See id.*; *see also* Declaration of

[1] This Office does not represent respondent Nassau County Correctional Center.

Michael Damiano, dated January 26, 2026 ("Damiano Decl.") ¶ 12. At the time of the detention, ICE was unaware that the Petitioner had been granted parole on May 29, 2008, and was working on information and belief that Petitioner had reentered the United States unlawfully at an unknown time and place. *See id.* ICE subsequently became aware of Petitioner's parole on May 29, 2008, and therefore acknowledges that its reliance on § 1231(a)(6) was in error.

However, ICE's position is that detention remains valid under 8 U.S.C. 1225(b)(2)(A) because Petitioner was nonetheless subject to mandatory detention as an "arriving alien" because, according to the information available to them, Petitioner's parole expired on February 24, 2025,[2] and therefore her status reverted to the status that she was in at the time the parole was issued. *See id.* ¶¶ 15, 16.[3]

While the government respectfully disagrees with the Court's decision in *Rodriguez-Acurio*, the government acknowledges that the decision would control the result in this case, with respect to Respondents' position that Petitioner is an "arriving alien" under § 1225(b)(2)(A), if the Court adheres to that decision, as the facts of this case are materially indistinguishable from those in *Acurio*. Additionally, although not a decision of this Court, the government is also aware of Judge Bulsara's holding in *Gopie v. Lyons*, No. 25-cv-5229, 2025 WL 3167130, at *3 (November 13, 2025) (Bulsara, J.) that "ICE does not the free -ranging ability to arrest and detain people and figure out the reasons later, like they apparently did here."

Thus, to conserve judicial resources and to expedite the Court's consideration of this case, the government hereby relies upon, and incorporates by reference, the legal arguments it presented in *Rodriguez-Acurio* and *Gopie v. Lyons* 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.[4]

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[2] Neither ICE nor Customs and Border Protection has any record of Petitioner's parole being extended to May 29, 2026, as alleged in the Petition. *See* Petition ¶ 22.

[3] To the extent the Court concludes, as it did in *Acurio* that 8 U.S.C. § 1226, and not § 1225 applies, Petitioner would be subject to mandatory detention pursuant to 8 U.S.C. § 1226(c)(1)(A), as she is inadmissible pursuant to 8 U.S.C. § 1182(a)(2)(C) (Controlled Substance Traffickers).

[4] The government notes that notices of appeal were recently filed in a number of similar cases, *Da Cunha v. Moniz*, 25-cv-00867 (W.D.N.Y.) and *Chen v. Almodovar*, 25-8350 (S.D.N.Y.)

The Federal Respondents thank the Court for its attention to this matter.

Respectfully submitted,

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