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 in response to Your Honor's Order issued on January 26, 2026 at approximately 8:10 p.m. directing Respondents to immediately "file on the docket in this action the specific arguments advanced in *Gopie* that Respondents seek to advance here."

Attached hereto as Exhibit A is a copy of the brief filed by the government in *Gopie v. Lyons*, No. 25-cv-5229, 2025 WL 3167130, *3 (E.D.N.Y. Nov. 13, 2025). Although not squarely on point, Respondents refer the Court, and Petitioner's counsel, to pages 5 to 7 wherein the government argued that the petitioner was lawfully detained pursuant to 8 U.S.C. § 1226(a). Here, as set forth in our letter brief submitted earlier today [DE 26] Respondents argue that Petitioner's detention is valid pursuant to 8 U.S.C. § 1225(b)(2)(A), however, should the Court conclude that § 1226, and not § 1225, is the appropriate section, detention would nonetheless be valid under § 1226(c)(1)(A). *See* DE 26 at 2, n.3.

Although *Gopie* addressed the permissive release provisions of § 1226(a), and more specifically whether the requirement for an individualized custody determination was required prior to detention as opposed to after, the broad conclusion in Judge Bulsara's decision that "ICE does not have free-ranging ability to arrest and detain people, and figure out the reasons later, like they apparently did here," is contrary to Respondents' argument that § 1226(c) provides an alternative basis for detention here, or at least that the error cannot be cured while Petitioner remains in custody. *See* DE 26 at 2.

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

For the above reasons, as well as those set forth in DE 26, Respondents respectfully incorporate the government's arguments presented in *Gopie* in their response to the Petition.

Respondents thank the Court for its attention to this matter.

Respectfully submitted,

JOSEPH NOCELLA, JR.
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