UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NEW YORK

IMRAN ALI,

Petitioner,

v.

Marcos CHARLES, in his official capacity as Acting Executive Associate Director of Enforcement and Removal Operations, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. **1:26-cv-00578-DG**

Hon. Diane Gujarati

PETITIONER'S REPLY TO RESPONDENTS' SUBMISSION

I. INTRODUCTION

Respondents' opposition largely reprises the same statutory arguments this Court declined to resolve in *Diallo v. Maldonado*, No. 25-cv-5740, 2025 WL 3158295 (E.D.N.Y. Nov. 12, 2025). As in *Diallo*, the dispositive issue here is constitutional: whether the government may re-detain a noncitizen who has been released into the United States without providing individualized process.

Petitioner was Processed by DHS at the border, discretionarily paroled into the United States, released into the interior for over one year, and re-detained without individualized justification. The Immigration Judge declined to hear his arguments for bond on jurisdictional grounds. Respondents' attempt to distinguish *Diallo* by arguing that Petitioner's parole expired automatically. Resp't Br. at 3. But the constitutional violation identified in *Diallo* does not turn on the technical label attached to the prior release. It arises from the government's decision to re-detain a person living freely in the community without any opportunity to seek release before a neutral adjudicator. *Diallo*, No. 25-cv-5740 at 10. At minimum, due process requires a bond hearing.

II. FACTUAL BACKGROUND

Respondents do not dispute the essential sequence of events: Petitioner entered the United States without inspection in September 2024. DHS processed him and issued a Notice to Appear. DHS granted discretionary parole for one year beginning November 29, 2024. Petitioner lived in New York City during that period. He was arrested by ICE at 26 Federal Plaza on December 30, 2025 while attending his regularly scheduled ICE appointment.

III. ARGUMENT

A. This Court's Decision in *Diallo* Controls the Constitutional Analysis

In *Diallo*, this Court declined to resolve the statutory dispute over whether detention fell under §1225 or §1226. *Id.* at 7. Instead, the Court held that the petitioner's re-detention violated procedural due process because he had previously been released into the United States and the government re-detained him without individualized procedures. *Id.* at 9.

The same material facts exist here. Respondents acknowledge that *Diallo* involved a noncitizen who had not been admitted, was released into the United States, and was later re-detained under §1225. Resp't Br. at 2. Petitioner's circumstances are indistinguishable for constitutional purposes. He was released into the United States under DHS's discretionary authority and lived freely in the community for over a year before being re-detained. Under *Diallo*, that sequence triggers due-process protections.

B. The Government's "Automatic Expiration" Theory Does Not Avoid the Due-Process Violation

Respondents argue that *Diallo* does not apply because Petitioner's parole expired automatically after one year. Resp't Br. at 3. That distinction is immaterial. The constitutional violation arises from re-detention after community release. The core holding of *Diallo* was not dependent on the technical form of release. The Court focused on the constitutional reality: The petitioner had been released into the United States, had lived in the community, and was later re-detained without individualized process. *Diallo*, No. 25-cv-5740 at 10. That same constitutional injury occurred here.

Regulatory expiration of parole does not eliminate constitutional protections. Respondents contend that no procedures were required because parole expired by operation of regulation. Resp't

Br. at 3. But the Constitution does not permit the government to avoid due-process obligations through regulatory formalism. Once DHS released Petitioner into the community and allowed him to remain there for an extended period, Petitioner acquired a liberty interest in his freedom from physical restraint. Re-detention after such release requires individualized justification; and an opportunity to seek release before a neutral adjudicator. *Diallo*, No. 25-cv-5740 at 10.

C. The INA § 236(a) Initial Custody Determination by ERO is inconsistent

Pursuant to *Velesaca v. Decker*, No. 20-cv-1803 (SDNY), ERO Officers at Federal Plaza had to make an individualized custody determination under INA § 236(a) before determining whether the Petitioner should be taken into ICE custody. Pursuant to 8 CFR §236.1(c)(8), ERO Officers are to determine whether 1) the noncitizen poses a danger to persons or property, and 2) if the noncitizen is likely to appear at future proceedings, before determining if detention is warranted.

Firstly, this document reveals that the case is treated as INA § 236(a) and not mandatory detention under §236(c). Resp't Br. Exhibit 6-6. Importantly, the officer found no danger and no flight risk. On page 1 of said document, the boxes checked appear as follows: "Has the individual established that he does not pose a danger to persons or property?" → YES. *Id.* On page 3 of said document, the boxes checked appear as follows: "Has the individual established that he/she does not pose a flight risk?" → YES. *Id.* However, the final determination shows that "Detain" is checked instead of "Release" or "Bond". *Id.* This is internally inconsistent. The officer clearly found that there was no vulnerability or flight concerns, yet he still imposed detention. DHS abused its discretion and violated due process by ordering detention despite findings that release criteria were satisfied. Respondent's own submission solidifies our position, that the subsequent arrest was arbitrary. Where the government has already determined the noncitizen is neither dangerous nor flight risk, continued detention is unconstitutional.

a. Form I-200 Arrest Warrant for Alien contains a defective Certificate of Service

Additionally, the arrest of the Petitioner in this case was based on the administrative warrant. Resp't Br. Exhibit 6-7. Petitioner hereby challenges the warrant as the Certificate of Service is incomplete and incorrect. The Petitioner's best language is "Urdu" and not "Punjabi." Additionally, the interpreter's information is missing from the warrant. Respondents were well aware of Petitioner's best language. Resp't Br. Exhibit 6-3, page 2. Therefore, the I-200 administrative warrant is unreliable and procedurally defective. The Petitioner is prejudiced because there is no record to show that he understood his arrest, his rights, or the basis of his detention. The Petitioner was not provided meaningful notice due to the said defects.

D. Petitioner is properly detained under 8 U.S.C. §1226(a), not §1225

Even if the Court reaches the statutory question, §1226(a) governs Petitioner's detention. DHS completed the inspection process and released petitioner. After processing Petitioner at the border, DHS issued an NTA and exercised discretionary authority to parole him into the United States. At that point, Petitioner was no longer at the threshold of entry. He was living in the interior of the country. He was subject to removal proceedings under §240. Section 1226(a) governs the arrest and detention of noncitizens already inside the United States pending removal proceedings.

E. Even if §1225 applies, mandatory detention without a bond hearing violates Due Process

Regardless of the statutory classification, the Constitution requires meaningful procedural safeguards. Supreme Court and Second Circuit precedent require individualized process. The Supreme Court has repeatedly recognized that immigration detention is civil and must remain reasonably related to its purposes. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

The Second Circuit has likewise held that prolonged immigration detention without adequate procedural safeguards raises serious due-process concerns.

In *Velasco Lopez v. Decker*, the Second Circuit held that at some point, detention without adequate procedural protection becomes so unreasonable or unjustified as to violate due process. 978 F.3d 842, 855 (2d Cir. 2020). The court further emphasized that freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects. Id. at 846 (quoting *Zadvydas*, 533 U.S. at 690). Similarly, in *Hechavarria v. Sessions*, the Second Circuit recognized that different detention statutes reflect different constitutional considerations and that prolonged detention without process raises constitutional concerns. 891 F.3d 49, 57–58 (2d Cir. 2018). And in *Lora v. Shanahan*, the Second Circuit held that prolonged mandatory detention without a bond hearing raises serious constitutional concerns requiring procedural safeguards. 804 F.3d 601, 616–17 (2d Cir. 2015), vacated on other grounds by *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

a. *Yinxiao Chen* is inapposite and does not control the constitutional analysis in this case.

Respondents rely on *Yinxiao Chen v. Almodovar*, No. 25-cv-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026), but that decision does not control here. The posture, legal theory, and constitutional analysis in *Yinxiao Chen* differ materially from those presented in this case. In *Yinxiao Chen*, the court resolved the case as a purely statutory dispute over whether the petitioner was detained under 8 U.S.C. §1225(b)(2)(A) or §1226(a). 2026 WL 100761, at *8–14. The court adopted the government's interpretation of §1225 and denied the petition on that basis. Critically, the court did not grant or deny relief based on a developed constitutional analysis. Instead, it

concluded that any due-process challenge was premature because the petitioner's detention had been relatively brief. Id. at *14.

Thus, *Yinxiao Chen* stands for the limited proposition that, on the particular record before that court, §1225 applied as a matter of statutory interpretation. It does not address the constitutional question presented here. Unlike in *Yinxiao Chen*, the central issue here is not merely statutory classification. It is the constitutional permissibility of re-detaining a noncitizen who has already been released into the United States. Here, the government acknowledges that the Petitioner was processed at the border, he was granted discretionary parole into the United States, he lived in the community for over a year, and he was later re-detained. The Immigration Judge denied hearing his bond request on jurisdictional grounds. This sequence—release into the community followed by re-detention without individualized process—is precisely the constitutional defect identified by this Court in *Diallo v. Maldonado*, No. 25-cv-5740, 2025 WL 3158295 (E.D.N.Y. Nov. 12, 2025).

In *Diallo*, this Court declined to resolve the statutory dispute between §§1225 and 1226 and instead held that the petitioner's re-detention violated procedural due process because he had previously been released into the United States. Id. at *3–5. That same constitutional injury exists here. Because this case presents the same constitutional posture as *Diallo*, not the statutory posture of *Yinxiao Chen*, the reasoning of *Diallo* is controlling.

Additionally, the short duration of detention in *Yinxiao Chen* further distinguishes that case. In *Yinxiao Chen*, the court specifically noted that the petitioner's detention had been brief and that any constitutional claim would therefore be premature. 2026 WL 100761, at *14. Here, by contrast, Petitioner was released into the community for over a year and the constitutional injury arises from his re-detention after that period of liberty. This is not a case involving an initial, short-term

detention at the threshold of entry. It is a case involving re-detention after DHS exercised its discretion to release Petitioner into the interior of the United States. Accordingly, *Yinxiao Chen* does not defeat Petitioner's claim, and *Diallo* remains the controlling authority for the constitutional analysis in this case.

b. *Xiaoquan Chen* is inapposite and does not control the constitutional analysis in this case

Respondents also rely on *Xiaoquan Chen v. Almodovar*, No. 25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025). That decision, however, does not control the outcome of this case because it addressed a fundamentally different legal theory and constitutional posture. In *Xiaoquan Chen*, the court resolved the petition as a statutory dispute over whether the petitioner was detained under 8 U.S.C. §1225(b)(2)(A) or §1226(a). 2025 WL 3484855, at *4–7. The court adopted the government's interpretation of §1225 and denied relief on that basis. The Court held that the Petitioner in that case was an "applicant for admission" because he entered without inspection and had not been admitted or paroled. *Id.*

The court did not grant relief based on a developed constitutional analysis. Instead, the case turned entirely on statutory interpretation. This case presents a different question: whether the government may re-detain a noncitizen who has already been released into the United States without providing individualized procedural safeguards. Here, Respondents acknowledge that Petitioner was processed at the border, was granted discretionary parole into the United States, he lived in the community for over a year and he was later re-detained without a bond hearing. As analyzed above, this sequence—release into the community followed by re-detention without individualized process—is precisely the constitutional defect identified by this Court in *Diallo v. Maldonado*. Again, the same constitutional injury exists here.

Because this case presents the same constitutional posture as *Diallo*, not the statutory posture of *Xiaoquan Chen*, the reasoning of *Diallo* governs the outcome. Accordingly, *Xiaoquan Chen* does not defeat Petitioner's claim, and *Diallo* remains the controlling authority for the constitutional analysis in this case.

Petitioner here was released into the community, lived in the United States for over a year, was re-detained without individualized findings, and has had no opportunity for a bond hearing. Under Second Circuit precedent, such detention without meaningful procedural safeguards is constitutionally suspect.

F. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the writ of habeas corpus and order either petitioner's immediate release; or a bond hearing before an immigration judge within seven (7) days.

Respectfully submitted this 7th day of February 2026

/s/ Jana Junuz

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