U.S. Department of Justice

United States Attorney
Eastern District of New York

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February 11, 2026

BY ECF
Honorable Diane Gujarati
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Ali v. Charles*, No. 26-cv-0578 (DG)

Dear Judge Gujarati:

This Office represents Respondents (or "government") in the above-captioned case in which Petitioner Imran Ali ("Petitioner") filed a petition for a writ of habeas corpus on February 2, 2026 challenging his detention by U.S. Immigration and Customs Enforcement ("ICE"). *See* Dkt. No. 1, Petition ("Pet.").

The parties appeared before the Court for a hearing on the petition on February 9, 2026, at which time the Court directed the government to submit a supplemental letter addressing whether the undersigned is aware of other cases in a similar factual posture to this case (*i.e.*, where the petitioner had previously been released pursuant to 8 U.S.C. § 1182(d)(5)(A) parole that was expressly limited in duration and that had terminated automatically prior to detention). The government provides that information below, and also respectfully submits that, as further set forth in the government's prior submission (Dkt. No. 6), after parole expires, the alien is restored to the status that he or she had at the time of parole, and any further inspection or hearing shall be conducted under 8 U.S.C. §§ 1225 or 1229a [INA §§ 235 or 240]. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e)(2)(i). Thus, Petitioner, following the expiration of his parole, remains an applicant for admission subject to mandatory detention under Section 1225(b)(2).

The government also stated that it planned to address a recent Fifth Circuit decision agreeing with the government with respect to 8 U.S.C. §§ 1225, 1226(a) statutory construction issues; that decision is addressed below, along with a decision, issued today by the Honorable Brian M. Cogan, that likewise agrees with the government.

Finally, during Monday's hearing, the Court asked the parties about the significance of the fact that Petitioner was at liberty for approximately one month following the automatic termination of his parole in November 2025 until his detention in December 2025. To the extent Petitioner is arguing that that one-month period somehow estops the government from enforcing Section 1225 as written, there is no legal basis for that argument as set forth briefly below.

I. Relevant Southern and Western District of New York Decisions

As to the impact, if any, of Petitioner's terminated parole on the government's detention

authority, the government respectfully submits that *Lin v. Almodovar*, No. 1:25-CV-9639, 2025 WL 3706626, at *1 (S.D.N.Y. Dec. 22, 2025) (Vyskocil, J.) is instructive. There, as here, the petitioner had previously unlawfully entered the United States and was granted a one-year parole under 8 U.S.C. § 1182(d)(5)(A) (in that case, commencing on December 16, 2024 and expiring on December 16, 2025). *Id.* As here, the petitioner's parole notification provided notice that, after that one-year period, parole would terminate automatically. *Id.* The petitioner in that case was detained in November 2025, shortly before parole would have terminated automatically on December 16, 2025. Following his detention, on December 2, 2025, ICE issued a written notice revoking his parole. *Id.* at *2. The court assumed, without deciding, that the petitioner was entitled to notice of the revocation of his parole under 8 C.F.R. § 212.5(e)(2)(i). *Id.* at *4. However, the court noted that petitioner had been on notice since December 16, 2024 (*i.e.*, when he was granted one-year parole), that parole would automatically terminate on December 16, 2025. *Id.* at *5. Because of that fact, and because the petitioner was ultimately provided written notice of his parole revocation (albeit after his detention), the court concluded that petitioner was not entitled, under the relevant statutes and regulations, to be heard regarding his detention, and denied the writ. *Id.*

Notably, the court distinguished that case from *Savane v. Francis*, 801 F. Supp. 3d 483 (S.D.N.Y. 2025) (Woods, J.) and *Diallo v. Maldonado*, No. 25-CV-05740, 2025 WL 3158295 (E.D.N.Y. Nov. 12, 2025) (Gujarati, J .), explaining that, in those cases, the courts had concluded that written notice was required prior to parole being terminated, whereas in *Lin*, parole had been revoked via written notice and in any event would have automatically terminated by the time of the court's decision.[1] *Cf. also Quintero v. Francis*, No. 25-CV-10107 (MKV), 2026 WL 265921, at *6 (S.D.N.Y. Feb. 2, 2026) (Vyskocil, J.) (concluding that service of Notice to Appear constituted written notice of Section 1182(d)(5)(A) parole termination, such that petitioner was then "restored to the status that [] he had at the time of parole' *i.e.*, an applicant for admission subject to mandatory detention") (citing 8 C.F.R. § 212.5(e)(2)(i)).

Additionally, in *Ramos Funes v. Searls*, No. 19-CV-6332 CJS, 2020 WL 1956346, at *10 (W.D.N.Y. Apr. 23, 2020), the court concluded that the petitioner was subject to mandatory detention under Section 1225 notwithstanding his prior receipt of Section 1182(d)(5)(A) parole which the petitioner himself contended had "ended." The court concluded that, pursuant to 8 C.F.R. § 212.5, upon the termination of parole, petitioner's status was "restored to the status that he or she had at the time of parole," which, in that case, was that of an arriving alien.[2] *Id.*

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[1] In *Lin*, unlike here, the petitioner conceded that he was subject to mandatory detention under Section 1225, a fact which also guided the court's decision. Notwithstanding that distinction, the decision remains instructive for the purposes of this case (*i.e.*, for analyzing whether Petitioner would be entitled to release if the Court assumes without deciding, as it did in *Diallo*, that Section 1225 applied).

[2] The court separately concluded that petitioner's prior status as a legal permanent resident ("LPR") prior to his departure from the United States provided some due process rights upon his return to the United States, although the court concluded that his detention did not violate those rights under the particular facts and circumstances of that case. *Id.* at *12-19. Here, by contrast, Petitioner was never granted LPR status.

II. Pending EDNY Cases

The undersigned is also aware of two other pending cases in this district that involve similar facts.

One case, *Musinov v. Maldonado, et al.*, No. 26-cv-628 (E.D.N.Y.), is pending before Your Honor. In *Musinov*, as here, the petitioner had been paroled under Section 1182(d)(5) in 2021, but that parole was explicitly limited in duration to one year, expiring in 2022. *See* Dkt. No. 6 at 1. As here, the petitioner in *Musinov* was detained under Section 1225 following the automatic termination of parole and thus the government has argued that *Musinov* is distinguishable from *Diallo*. *Id.* at 1-3.

Another case, *Sarmiento Guerrero v. Noem*, 25-cv-5881 (E.D.N.Y.), is pending before the Honorable Eric R. Komitee. In that case, the petitioner, as here, had previously been paroled under Section 1182(d)(5) for a limited duration which had expired before the petitioner was redetained. The petitioner sought an ex-parte temporary restraining order ("TRO") and a preliminary injunction in addition to a writ of habeas corpus ordering his release. *See* Dkt. Nos. 1-2. The Miscellaneous Duty Judge assigned to the case, the Honorable Nina R. Morrison, granted the ex-parte TRO and ordered the petitioner's release prior to the government submitting a response. Dkt. No. 6. Then, the case was assigned to Judge Komitee, who issued an order on November 18, 2025 (Dkt. No. 20) granting the preliminary injunction, in part, after briefing and oral argument. Judge Komitee found that the petitioner demonstrated a likelihood of success on the merits because his detention was discretionary under 8 U.S.C. § 1226(a), and ordered the government to show cause why the habeas petition should not be granted for the reasons set forth in that preliminary injunction order. The government argued in that case, as it has argued here, that the petitioner is subject to mandatory detention under Section 1225 and, moreover, that no notice or other procedures were required by virtue of petitioner's already-expired Section 1182 parole. *See* Dkt. No. 23 at 7-10. The order-to-show-cause briefing was completed in that matter on February 6, 2026 and, as of the time of this filing, the court has not yet issued a decision on the petition.

III. Other Cases Involving Expired Section 1182(d)(5)(A) Parole That Held That Section 1226, Not 1225, Applied

The undersigned is also aware of other cases in which, at the time of his or her recent detention, the petitioner had expired Section 1182(d)(5)(A) parole. *See, e.g.*, *Qasemi v. Francis*, No. 25-CV-10029, 2025 WL 3654098, at *6-13 (S.D.N.Y. Dec. 17, 2025) (Liman, J.); *Rodriguez-Acurio v. Almodovar, et al.*, 25-cv-6065, 2025 WL 3314420, at * 14-19, 21-24 (E.D.N.Y. Nov. 28, 2025) (Choudhury, J.); *Mohd v. Noem*, No. 2:26-CV-680, 2026 WL 363525, at *3 n.5 (E.D.N.Y. Feb. 9, 2026) (Choudhury, J.).[3] In these cases, the courts concluded that the petitioners were subject to Section 1226(a), not Section 1225(b)(1) or (b)(2), because, *inter alia*, they were already present in the United States at the time of their redetention, even if not lawfully admitted. *Id.* The

[3] The government respectfully notes that this list is not exhaustive and that there may be other decisions involving expired parole in which the courts concluded that Section 1226, not Section 1225, applied, and therefore did not analyze the impact of expired Section 1182(d)(5)(A) parole on detention under Section 1225.

government respectfully submits that the courts erred in these cases in interpreting the relevant statutes for the reasons previously set forth in the government's response. *See* Dkt. No. 6 at 3-9. Moreover, because these decisions concluded that Section 1226(a), not Section 1225, applied, the government respectfully submits that they do not assist in assessing the impact of an already-expired Section 1182(d)(5)(A) parole on a detention that the court assumes is pursuant to Section 1225(b)(2).

IV. Recent Fifth Circuit and EDNY Decisions Agreeing with The Government on Other Statutory Interpretation Issues

As briefly discussed at the hearing on February 6, 2026, the government notes that the Fifth Circuit, in addressing the 8 U.S.C. §§ 1225, 1226(a) statutory construction issues, recently found that aliens who are applicants for admission under 8 U.S.C. § 1225(a) are subject to mandatory detention under 1225(b), and are not eligible for a bond. *Buenrostro-Mendez v. Bondi, et al.*, -- F.4th --, 2026 WL 323330, at *5-6 (5th Cir. Feb. 6, 2026). The court agreed with the government that, *inter alia*, applicants for admission are necessarily "seeking admission" such that they are subject to mandatory detention under Section 1225(b)(2)(A); that this interpretation does not render other statutory provisions superfluous; that the government's past practice could not foreclose the government from now exercising its authority consistent with the statutes passed by Congress; and that the government's interpretation is consistent with the purposes of those statutes as reflected in the legislative history. *Id.* at *4-9.

Moreover, earlier today, Judge Cogan concurred with the government's statutory construction arguments. *See Saamishvili v. Flanagan*, No. 25-CV-6178, 2026 WL 377574, at *3 (E.D.N.Y. Feb. 11, 2026) ("Since his unlawful entry, petitioner has been, and continues to be, subject to the mandatory detention requirement of Section 1225(b)(2)(A).").

V. The Government Cannot Be Equitably Estopped from Enforcing the INA

Finally, to the extent Petitioner suggests that the government should be estopped from detaining him because it did not do so earlier in the one-month period between when his parole expired in November 2025 and when he was actually detained in December 2025, *see, e.g.*, Dkt. No. 8 at 3-4, 7-8, he is wrong. "[I]t is well settled that the Government may not be estopped on the same terms as any other litigant." *Heckler v. County. Health Servs. Of Crawford Cty., Inc.*, 467 U.S. 51, 60 (1984). The Second Circuit has held that the doctrine of equitable estoppel is applied against the Government only "'in the most serious of circumstances'... and is applied 'with the utmost caution and restraint.'" *Rojas-Hayes v. INS*, 235 F.3d 115, 126 (2d Cir. 2000) (quotations omitted). To apply estoppel, there must be a showing of "affirmative misconduct" by the Government, as well as reasonable and *detrimental* reliance. *City of New York v. Shalala*, 34 F.3d 1161, 1168 (2d Cir. 1994). In particular, a party must establish "both that the Government made a misrepresentation upon which the party reasonably and *detrimentally* relied and that the Government engaged in affirmative misconduct.'" *See Coppola v. United States*, 938 F. Supp. 204, 208 (S.D.N.Y. 1996) (citing *Shalala*, 34 F.3d at 1168) (emphasis added). Mere negligence is insufficient to show affirmative misconduct. *Ahmed v. Holder*, 624 F.3d 150, 155 (2d Cir. 2010).

Petitioner cannot demonstrate any affirmative misconduct in allowing him to remain at

liberty for an extra month beyond his parole termination, nor can he persuasively argue that the government permitting him to remain at liberty for an extra month was somehow detrimental to him. Moreover, the mere fact that some of the documentation issued in connection with Petitioner's recent detention mentions Section 1226 does not change the outcome. *See, e.g.*, *Rodriguez-Figueroa v. Barr*, 442 F. Supp. 3d 549, 558 (W.D.N.Y. 2020) (concluding that petitioner was at all relevant times detained pursuant to § 1225(b) and holding "that an inartfully drafted form, even one that generates confusion, does not rise to anything more than negligence, and thus, is insufficient to estop the Government."); *Romero v. Bondi*, No. 25-cv-993, 2025 WL 2490659, *2-3 (E.D. Va. July 2, 2025) (holding that form language in a notice of custody determination citing § 1226 did not change the petitioner's status under the law as subject to mandatory detention under§ 1225(b), nor did the petitioner's prior release on bond; the petitioner "is still considered an 'applicant for admission' as he has never been admitted into the United States").

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

Respectfully submitted,

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