U.S. Department of Justice

United States Attorney
Eastern District of New York

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Brooklyn, New York 11201

By ECF

February 9, 2026

Honorable Natasha C. Merle
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Tacuri Yumbla v. Tellez, et al.*, No. 26-cv-594 (Merle, J.)

Dear Judge Merle:

This Office represents Respondents Attorney General of the United States Pamela Bondi, Secretary of the Department of Homeland Security Kristi Noem, Acting Director or U.S. Immigration and Customs Enforcement ("ICE") Todd Lyons, Acting New York Field Office Director for U.S. Immigration and Customs Enforcement Judith Almodovar, and Warden of the Metropolitan Detention Center Raul Maldonado, Jr. (collectively, "Respondents"). Respondents submit this response in accordance with the Court's Order to Show Cause dated February 3, 2026 ("OTSC"), which directed the Respondents to "show cause, in writing, as to why the relief sought in the Petition should not be granted and otherwise respond to the factual and legal assertions in the Petition," ECF No. 5, and in advance of the hearing presently scheduled for February 18, 2026 at 10:00 a.m.

Respondents respectfully submit that the legal issues presented here concern whether: Petitioner's detention violates due process; the statutory authority for ICE's detention of Petitioner; and, whether Petitioner is entitled to a bond hearing. Petitioner seeks an order from this Court directing ICE to immediately release him from detention. While reserving all rights—including the right to appeal—Respondents submit 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 decisions on the principal legal issues in *Crespo Tacuri v. Genalo,* No. 25-cv-6896, 2026 WL 35569 (E.D.N.Y. Jan. 6, 2026) (Merle, J.) and *Y-C- v. Genalo*, No. 25-cv-6558, 2025 WL 3653496 (Merle, J.) (E.D.N.Y. Dec. 17, 2025) (Merle, J.), as discussed below.

Relevant Facts

On May 30, 2024, Petitioner, a native and citizen of Ecuador, illegally entered the United States was apprehended near Tecate, California by U.S. Customs and Border Protection. *See* Declaration of Keton Mei dated February 9, 2026 ("Decl."), ¶¶ 3-4. On May 31, 2024, Petitioner was served with a Form I-862 Notice to Appear ("NTA"), charging him as inadmissible pursuant to Immigration and Nationality Act ("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 who arrived in the United States at any time or place other than as designated by the Attorney General. Decl. ¶ 5. On the same date, Petitioner also received a Form I-220A, Order of Release on Recognizance, and was released on his own recognizance, pursuant to INA § 236(a), 8 U.S.C. § 1226(a). Decl. ¶ 6.

On December 24, 2025, Petitioner was arrested by members of the Amtrak Police Department for Disorderly Conduct, N.Y. Pen. Law § 242.20. Decl., ¶ 8. Amtrak Police Department contacted ICE and handed custody of Petitioner over to ICE. *Id.* After a serious of questions, Petitioner was arrested pursuant to a Warrant for Arrest of Alien, Form I-200. *Id.* Petitioner was taken to the ICE Office at 26 Federal Plaza, New York for processing. *Id.* On December 30, 2025, Petitioner was booked into Brooklyn MDC located at 80 29th Street, Brooklyn, New York Decl., ¶ 9. Petitioner has been detained at Brooklyn MDC pursuant to Immigration and Nationality Act § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A) since December 30, 2025. *Id.*

Habeas Petition

Petitioner commenced this action on February 3, 2026. ECF No. 1. Petitioner argues that his mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) violates his procedural due process rights. *See* ECF No. 1, ¶¶ 60-72. Petitioner further argues that he should be deemed detained pursuant to 8 U.S.C. § 1226, and that he is entitled to either immediate release or a bond hearing. *See* ECF No. 1, ¶ 105.

Crespo Tacuri v. Genalo* and *Y-C- v. Genalo

On January 6, 2026, this Court issued a decision on the principal legal question presented in this action in a similar habeas case challenging an alien's detention pursuant to 8 U.S.C. § 1225(b)(2)(A) after having been present in the country for a period of time. *Crespo Tacuri v. Genalo,* No. 25-cv-6896, 2026 WL 35569 (E.D.N.Y. Jan. 6, 2026).

The Court's decision addressed three issues. First, the Court concluded that, notwithstanding the fact that Crespo Tacuri was never admitted into the United States, he was not an "applicant for admission" under § 1225(a)(1) because he was not also seeking admission pursuant to § 1225(b)(2)(A). *Crespo Tacuri,* 2026 WL 35569, at *4-5. As result, the Court found that petitioner was someone "already in the country," and therefore subject to discretionary detention under § 1226(a). *See id.* at *5 (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 283 (2018)).[1] Second, the Court held that the due process clause of the Fifth Amendment not only applied to Crespo Tacuri but also provided him with protections beyond the process afforded to him by the INA. *See Crespo Tacuri,* 2026 WL 35569, at *6. According to the Court, this was because an individual, like him, "who has been within the United States for nearly 30 years," cannot be considered stopped at the border. *See id.* at *7.[2] According to the decision, Crespo

[1] 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, 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 Crespo Tacuri*, No. 25-cv-6896 (Merle, J.), ECF No. 18, at 10 (Resp's Mem. Law Opp.).

[2] Respondents respectfully disagree that the prior release of petitioner under Section 1226 is controlling. Another court in this Circuit recently rejected the proposition that "if one presidential administration fails to enforce a statute, the next administration cannot enforce it, even though the statute clearly applies, according to its plain terms, and no promises not to enforce it have been made." *Chen v. Almodovar, et al.*, No. 25-cv-8350, 2025 WL 3484855, at *7 (S.D.N.Y. Dec. 4, 2025), *notice of appeal filed Dec. 16, 2025*; *see also Liang v. Almodovar*, No. 25-cv-9322, 2025 WL 3641512 at *8 (S.D.N.Y. Dec. 15, 2025) (rejecting proposition that "prior Administration's decision to catch and then release Petitioner into the interior under Section 1226 means that the current Administration has 'relinquished the authority[]' . . . to apply Section 1225 according to its plain terms.").

Tacuri's detention without a bond hearing, therefore, violated the due process clause. *Id.* at *7. Finally, the Court concluded that the appropriate remedy for the due process violation was immediate release. *Id.* The Court granted Crespo Tacuri's petition and directed the Government to release the petitioner from custody. *Id.* at *8.[3]

The Court reached a similar conclusion in *Y-C-*. *Y-C- v. Genalo*, No. 25-cv-6558, 2025 WL 3653496 (Merle, J.) (E.D.N.Y. Dec. 17, 2025) (Merle, J.). Of particular relevance to this matter, the petitioner in *Y-C-*, like the Petitioner here, was apprehended when he arrived in the United States, released on his own recognizance pursuant to 8 U.S.C. § 1226(a), and later detained pursuant to 8 U.S.C. § 1225(b)(2)(A). *Y-C-*, 2025 WL 3653496, at *2. The Court found the petitioner's prior release pursuant to § 1226 to be the "principal reason" that the due process clause governed the petitioners' detention. *Id.* at *6. The Court therefore granted the petition and ordered the petitioner to be released.

Discussion

Petitioner alleges that his detention violates his due process rights. *See* ECF No. 1.

While Respondents respectfully disagree with the Court's decisions in *Crespo Tacuri* and *Y-C-*, they acknowledge that those decisions would control the result in this case if the Court adheres to those decisions, as the facts of this case are materially indistinguishable from those of *Crespo Tacuri* and *Y-C-*. Thus, to conserve judicial resources and to expedite the Court's consideration of this case, the Respondents hereby rely upon, and incorporate by reference, the legal arguments presented by the Government in *Crespo Tacuri* and *Y-C-*[4] and respectfully submit that the Court can decide this matter without further briefing. However, should the Court prefer to receive a memorandum of law in this matter, Respondents will file such a brief upon the Court's request. Notwithstanding its submission of this letter in lieu of a formal brief, Respondents reserve all rights, including the right to appeal.

Accordingly, for the reasons set forth in the government's briefs in *Crespo Tacuri* and *Y-*

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[3] The Court acknowledged in *Crespo Tacuri*, at the time of its January 6, 2026 decision, and in *Y-C-*, at the time of its December 17, 2025 decision, that other courts in this Circuit had endorsed the government's interpretation of the relevant statutory provisions. *See Crespo Tacuri*, 2026 WL 35569, at *4 (citing *Candido v. Bondi*, No. 25-cv-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) (Sinatra, J.) [*appeal filed* Dec. 16, 2025, No. 25-3159 (2d Cir.)]; and *Xiaoquan Chen v. Almodovar*, No. 25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4. 2025) (Vyskocil, J.) [*appeal filed* Dec. 16, 2025, No. 25-3169 (2d Cir.)]; *Y-C-*, 2025 WL 3653496, at *2 (same). Respondents respectfully note that, since those decisions, still more courts have since agreed with the Government's position. *See Arana v. Arteta*, No. 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.); *Acosta v. Arteta*, No. 25-cv-9916, 2026 WL 263470 (S.D.N.Y. Feb. 2, 2026) (Vyskocil, J.); *Lopez v. Noem*, No. 26-cv-345, 2026 WL 266597 (S.D.N.Y. Feb. 2, 2026) (Rearden, J.); *Quintero v. Francis*, No. 25-cv-10107, 2026 WL 265921 (S.D.N.Y. Feb. 2, 2026) (Vyskocil, J.); *Yinxiao Chen v. Almodovar*, No. 25 Civ. 9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026) (Cronan, J.). Moreover, the Second Circuit granted the government's request for expedited appeal in *Barbosa da Cunha v. Freden*, No. 25-3141 (2d Cir.), which is scheduled to be fully briefed by March 3, 2026. In *Da Cunha*, the government appealed a district court decision that ruled in favor of the petitioner; also pending in the Second Circuit are appeals of district court decisions that ruled in favor of the government. In addition, Respondents note that the first court of appeals to issue a merits decision interpreting the relevant statutory provisions has agreed with the government's interpretation. *Buenrostro-Mendez v. Bondi*, -- F.4th --, 2026 WL 323330, at *4-9 (5th Cir. Feb. 6, 2026).

[4] Specifically, Respondents incorporate by reference all arguments raised in its opposition brief in *Crespo Tacuri*, 25-cv-6417, ECF No. 18. Respondents also incorporate by reference the arguments made in the opposition brief in *Y-C- v. Genalo*, No. 25-cv-6558, ECF No. 10, to the extent the Court concludes that those arguments are relevant here.

C-, Respondents respectfully request that the Court deny this habeas petition.

Respondents thank the Court for its time and consideration of this request.

Respectfully submitted,

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