U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

February 10, 2026

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

Re: *Erjigitov v. Lyons, et al.*
Civil Action No. 26-cv-0624 (Merle, J)

Dear Judge Merle:

This Office respectfully submits this letter brief on behalf of the Respondents in accordance with the Court's February 5, 2026 Order and in response to the petition for issuance of a habeas writ filed by Shakhzod Alisher Ugli Erjigitov ("Petition"). Attached to this response are a Notice to Appear signed December 8, 2024 (Exhibit A); a Notice to Appear dated January 2, 2024 (Exhibit B); an Order of Release on Recognizance dated January 2, 2024 (Exhibit C); a Warrant for Arrest dated January 21, 2026 and cancelation of Order of Release (Exhibit D); a Form I-213 Record of Deportation/Inadmissible Alien (Exhibit E); and a Property Receipt (Exhibit F).[1]

Relevant Facts

The Petitioner, a native of Uzbekistan, entered the United States unlawfully on or about December 31, 2023 without being admitted or paroled. *See* Exhibit A and B. Two Notices to Appear charged that Petitioner was inadmissible pursuant to § 212(a)(6)(A)(i) of the Immigration and Naturalization Act ("INA"). *Id.* Petitioner was then released on recognizance. *See* Exhibit C. On January 21, 2026, Petitioner was taken into custody at 26 Federal Plaza after his Order of Release was canceled. *See* Exhibits D and E. Certain items of Petitioner's property are now in the possession of Immigration and Customs Enforcement ("ICE"). *See* Exhibit F.

Petitioner's Claims

In brief, Petitioner seeks release from detention and other relief. Petition at 9-10.

[1] Information has been redacted from some the documents for privacy reasons.

Discussion

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)).[2] 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 petitioner, "who has been within the United States for nearly 30 years," cannot be considered stopped at the border. *See id.* at *7. [3] According to the decision, Crespo 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.[4]

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[2] 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.).

[3] Respondents respectfully disagree that Petitioner's presence in the country for a period of time renders § 1226 as controlling his detention. Nor does Petitioner's prior release on bond pursuant to § 1226 in 2002 render § 1226 applicable, because Petitioner absconded. Decl. ¶¶ 12, 14-19. 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, 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.").

[4] As the Court acknowledged in *Crespo Tacuri*, at the time of its January 6, 2026 decision, other courts in this Circuit had endorsed the government's interpretation of the relevant statutory provisions, *see id.* at *3, a group which still more courts have since joined. *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.); *Chen v. Almodovar*, No. 25 Civ. 9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026) (Cronan, J.); *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.); *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.). Moreover, the Second Circuit granted the government's request for expedited appeal in *Barbosa da Cunha v. Freden*, No. 25-3141 (2d Cir.), which

Discussion

While Respondents respectfully disagree with the Court's decision in *Crespo Tacuri*, they acknowledge that the decision would control the result in this case if the Court adheres to that decision, as the facts of this case are materially indistinguishable from those of *Crespo Tacuri*. 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* [5] 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.

The Respondents thank the Court for its consideration of their argument.

Respectfully submitted,
JOSEPH NOCELLA, JR.
United States Attorney

By: */s/ Richard K. Hayes*
Richard K. Hayes
Assistant U.S. Attorney
(718) 254-6050
richard.hayes@usdoj.gov

cc: Counsel for Petitioner (by ECF)

is scheduled to be fully briefed by March 3, 2026. 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).

[5] Specifically, Respondents incorporate by reference all arguments raised in its opposition brief in *Crespo Tacuri*, 25-cv-6417, ECF No. 18.

Exhibits to Respondents' Letter Brief