U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, NY 11201

April 29, 2026

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

Re: *Jurabek Musinov v. Maldonado, et al.*, Civ. No. 26-628 (Gujarati, J.)

Dear Judge Gujarati:

This Office represents Respondents (or "government") in the above-captioned case in which Petitioner Jurabek Musinov ("Petitioner"), an alien in removal proceedings, filed a petition for a writ of habeas corpus on February 4, 2026 challenging his detention by U.S. Immigration and Customs Enforcement ("ICE"). *See* Dkt. No. 1, Petition.

Yesterday, the Court issued an Order stating that "[i]n light of the decision of the United States Court of Appeals for the Second Circuit in *Barbosa da Cunha v. Freden*, No. 25-3141-pr (2d Cir. Apr. 28, 2026), Respondents shall file a letter by 5:00 p.m. on April 29, 2026 indicating whether they maintain their opposition to the Petition." The Order further stated that "[i]f Respondents maintain their opposition, Respondents shall show cause in their letter why the Petition should not be granted in light of the *Barbosa da Cunha* decision."

Da Cunha v. Freden, No. 25-3141, 2026 WL 1146044, *2 (2d Cir. April 28, 2026) held that 8 U.S.C. § 1225(b)(2)(A) does not apply to aliens who are present in the United States after entering the country without inspection and admission, and who were not apprehended at or near the border at the time of entry. Rather, the Second Circuit ruled, 8 U.S.C. § 1226(a) applies. The Government is still evaluating its next steps in *Da Cunha*.

Respondents respectfully acknowledge that *Da Cunha* controls and would lead this Court to grant the petition. For purposes of a potential future appeal in the event *Da Cunha* is vacated, stayed, or overruled, Respondents respectfully preserve their arguments that Section 1225(b)(2)(A) applies.

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

Respectfully submitted,

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