U.S. Department of Justice

United States Attorney
Eastern District of New York

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Brooklyn, New York 11201

February 18, 2026

BY ECF
Honorable Pamela K. Chen
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Colindres v. Tellez, et al.*, No. 26-cv-663 (Chen, J.)

Dear Judge Chen:

This Office represents the Respondents in this habeas action, in which Petitioner Eduar Conlindres, an alien subject to a final removal order, challenges his detention by ICE pending his appeal before the Board of Immigration Appeals ("BIA"). *See* ECF No. 1. Respondents write respectfully in response to the Court's Order to Show Cause ("OTSC") directing Respondents to show cause in writing why a writ of habeas corpus should not issue and why Petitioner should not be immediately released. *See* ECF No. 6.

This case turns on ICE's statutory detention authority and whether Petitioner is entitled to a bond hearing. Because this Court has previously ruled on these central legal issues in *R.A.R.R. v. Almodovar*, No. 25-cv-6597 (E.D.N.Y. Dec. 19, 2025) (Chen, J.) and *Yin v. Maldonado*, No. 26-cv-0103, 2026 WL 295389, at *1 (E.D.N.Y. Feb. 4, 2026) (Chen, J.), Respondents respectfully submit this letter brief in lieu of a formal memorandum to conserve judicial and party resources and to expedite adjudication.

A. Relevant Facts

Petitioner is a native and citizen of Honduras. Declaration of William J. Kennedy ¶ 3. On October 27, 2018, United States Border Patrol ("USBP") officers encountered Petitioner near Hidalgo, Texas. *Id.* ¶ 4. Petitioner admitted to the officers that he had illegally entered the United States by crossing the United States-Mexico border without inspection or admission. *Id.* The officers took Petitioner into custody and served him with a Form I-862 Notice to Appear ("NTA"), charging him as inadmissible under 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 a time or place other than as designated by the Attorney General. *Id.* The NTA instructed Petitioner to appear before an immigration judge ("IJ") at 26 Federal Plaza, New York, New York, on January 31, 2019. *Id.* On November 1, 2018, Petitioner was released from ICE custody on an Order of Release on Recognizance ("OREC"). *Id.* ¶ 5.

On March 18, 2019, Petitioner appeared with counsel at a master calendar hearing before an IJ. *Id.* ¶ 6. At that hearing, Petitioner through counsel admitted the factual allegations in the

NTA and conceded to the charge of removability. *Id.* The IJ reset the matter for May 20, 2019, to allow Petitioner to file an application for relief. *Id.* On May 20, 2019, at a master calendar hearing, Petitioner's mother filed an application for relief and listed Petitioner as a derivative applicant. *Id.* ¶ 7. The IJ reset the matter for an individual hearing on November 25, 2019. *Id.* the IJ conducted a full merits hearing and reset the hearing for December 4, 2019, for oral decision. *Id.* ¶ 8. On December 4, 2019, the IJ denied all applications for relief and ordered the Petitioner removed to Honduras. *Id.* ¶ 9. On December 23, 2019, Petitioner filed a timely appeal of the removal order with the BIA. *Id.*

On January 28, 2026, at approximately 7:30 a.m., ICE officers observed a vehicle with a Virginia license plate in Bethpage, New York. *Id.* ¶ 10. Record checks revealed that the vehicle's registered owner was a native and citizen of El Salvador who had been ordered removed by an IJ in August 2006. *Id.* The officers conducted a traffic stop and the vehicle's occupant, Petitioner, provided a New York driver's license. *Id.* Record checks revealed that Petitioner is a native and citizen of Honduras who was ordered removed by an IJ on December 4, 2019. *Id.* ICE officers arrested Petitioner pursuant to a Form I-200, Warrant of Arrest of Alien. Petitioner was transported to 535 Federal Plaza, the New York Central Islip Sub-Office, for processing. *Id.* Petitioner was then transferred to Nassau County Correctional Center for temporary holding. *Id.*

On January 30, 2026, Petitioner was transferred to Brooklyn Metropolitan Detention Center, where he remains detained under INA section 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). *Id.* ¶ 11. Petitioner's appeal remains pending before the BIA. *Id.* ¶ 12.

B. Habeas Petition

Petitioner commenced this action on February 5, 2026. ECF No. 1 ("Pet."). He argues that the mandatory detention provision of 8 U.S.C. § 1225(b)(2)(A) does not apply to him and that he "can only properly be detained pursuant to 8 U.S.C. § 1226(a)." Pet. ¶¶ 3, 8-12. In Counts I and II of the Petition, he argues that his detention violates his procedural and substantive due process rights. Pet. at 5-6. In his prayer for relief, Petitioner asks the Court to either (1) order Respondents to release him; (2) hold a bail hearing pursuant to *Mapp v. Reno*; or (3) order the immigration court to hold a bond hearing pursuant to 8 U.S.C. § 1226(a). Pet. at 7.

C. *R.A.R.R. v. Almodovar* and *Yin v. Maldonado*

On December 19, 2025, this Court issued an oral ruling on the principal legal question presented in this action in a similar habeas case challenging an alien's re-detention after prior release. *R.A.R.R. v. Almodovar*, No. 25-cv-6597 (Chen, J.) (Oral Ruling Dec. 19, 2025 and Docket Order dated Dec. 19, 2025). The Court concluded that the petitioner, who was detained as an unaccompanied alien minor ("UAC") after crossing the border in 2024, placed in the custody of the Office of Refugee Resettlement ("ORR"), a division of the Department of Health and Human Services, then released to a verified family sponsor, and who was arrested again in August 2025

(after he had turned 18), was detained pursuant to § 1226 and not, as ICE contended, § 1225 as an applicant for admission.[1]

The Court stated that it was persuaded by the reasoning of the "legion of cases" considering similar petitions that have rejected the government's position, concluding that detention of the petitioner without process violated his due process rights.[2] The Court granted the petition.

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[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, and who was initially detained after crossing the border, 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 R.A.R.R. v. Almodovar*, No. 25-cv-6597, Dkt. No. 11, 18-31 (Resp's Mem. Law Opp.).

[2] At the time of this filing, one district court judge in this District, and four other district court judges in this Circuit, have endorsed the government's interpretation of the relevant statutory provisions. On February 11, 2026, the Honorable Brian M. Cogan issued a decision in in *Saamishvili v. Flanagan*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026) concurring with the Respondents' statutory construction. See Mem. Op. at 6 ("Since his unlawful entry, petitioner has been, and continues to be, subject to the mandatory detention requirement of Section 1225(b)(2)(A).").

In *Xiaoquan Chen v. Almodovar*, No. 25-cv-8350, 2025 WL 3484855, at *7 (S.D.N.Y. Dec. 4, 2025), *notice of appeal filed* Dec. 16, 2025, the petitioner had entered the United States without having been admitted, was detained, and was released on his own recognizance due to lack of bed space; he was recently re-detained pursuant to 8 U.S.C. § 1225(b)(2)(A). The Honorable Mary Kay Vyskocil dismissed the habeas petition, holding that "under the plain language" of § 1225(b)(2)(A), which by its terms requires mandatory detention for "applicant[s] for admission," the petitioner—an applicant for admission—was subject to mandatory detention. *Xiaoquan Chen*, 2025 WL 3484855 at *4. In particular, the court cited the statutory definition of "applicant for admission" in Section 1225(a), which "is specifically defined to include an 'alien *present in* the United States who has not been admitted.'" *Id.* (emphasis in *Xiaoquan Chen*) (citing Section 1255(a)). Moreover, the court noted that the terms "'admitted' and 'admission' are specifically defined in terms of '*lawful*' entry," not mere physical entry. *Id.* (emphasis in *Xiaoquan Chen*) (citing 8 U.S.C. § 1101(a)(13)(A)); *accord Candido v. Bondi*, No. 25-cv-867, 2025 WL 3484932, at *1-2 (W.D.N.Y. Dec. 4, 2025) (holding detention under 8 U.S.C. § 1225(b)(2)(A) was proper for alien present in United States unlawfully without having been admitted based on a "a straightforward and fair reading of the governing statute," noting that "[t]he fact that more district courts . . . have decided this issue differently from this [c]ourt is neither binding nor persuasive"), *notice of appeal filed* Dec. 16, 2025. *Xiaoquan Chen* also rejected the proposition that Congress would not have needed to pass the LRA – which provides for mandatory detention for "inadmissible" aliens charged with, arrested for, convicted of, or who admit to, certain crimes – if Section 1225 already provided for mandatory detention. *Xiaoquan Chen*, 2025 WL 3484855, at *6-7. The court explained, *inter alia*, that the LRA mandates detention in additional circumstances – for example, for aliens who fraudulently procure visas – not covered by Section 1225. *Id.*; *accord Arana v. Arteta*, No. 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.) (adopting the reasoning of *Xiaoquan Chen*). On December 15, 2025, Judge Vyskocil issued another decision concluding that the Government's interpretation is correct. *See Wenxin Liang v. Almodovar*, No. 25-cv-9322, 2025 WL 9322, at *4-11 (S.D.N.Y. Dec. 15, 2025) (holding that petitioner who entered the United States without being admitted was properly subject to detention under the plain language of Section 1225, notwithstanding prior release on his own recognizance under Section 1226, and further concluding that petitioner was not entitled to any process beyond that set forth in the statute).

In *Yin v. Maldonado*, another case alleging improper detention pursuant to § 1225(b)(2)(A), this Court "adhere[d] to its conclusion in *R.A.R.R.* that Section 1226(a), not Section 1225(b)(2)(A), governs Petitioner's detention." *Yin*, 2026 WL 295389, at *2.

D. Discussion

i. Petitioner Is Subject to Mandatory Detention under 8 U.S.C. § 1225(b)(2)

Petitioner alleges that his arrest and detention violate his due process rights because he is subject to 8 U.S.C. § 1226, not the mandatory detention provisions of 8 U.S.C. § 1225. As noted, this Court has already resolved similar claims in *R.A.R.R.* and *Yin*.

While Respondents respectfully disagree with the Court's ruling in *R.A.R.R.* and *Yin*, Respondents acknowledge that this case would be decided in Petitioner's favor if the Court adheres its conclusions in those cases. Thus, to conserve judicial resources and to expedite the Court's consideration of this case, Respondents hereby rely upon, and incorporate by reference, the legal

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In *Yinxiao Chen v. Almodovar*, No. 25-cv-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026), the Honorable John P. Cronan issued a decision endorsing the Government's interpretation. In *Yinxiao Chen*, the petitioner entered the United States without inspection or legal documents, was arrested and later released on his own recognizance under 8 U.S.C. § 1226, served with a Notice to Appear for removal proceedings, and recently detained under 8 U.S.C. § 1225(b)(2)(A). *See Yinxiao Chen*, 2026 WL 100761 at *5-*6. Judge Cronan denied the habeas petition, concluding that the text, structure, and context of § 1225(b)(2)(A) confirm that statute covers aliens like that petitioner. *Id.* at *8-14.

With respect to the text of § 1225(b)(2)(A), Judge Cronan held that § 1225(a)(1) "'deem[s]'" an "applicant for admission" "'[a]n alien *present in the United States who has not been admitted* or who arrives in the United States (whether or not at a designated port of arrival ...).'" *See id.* at *8 (emphasis supplied in *Yinxiao Chen*). Given that the detention authority in § 1225(b)(2)(A) covers "an alien who is an applicant for admission," Judge Cronan held, it follows that "[p]ut together, Section 1225(b)(2)(A) initially reaches situations concerning noncitizens . . . present in the United States who have not gained lawful entry into the country after inspection and authorization by an immigration officer." *Id.*

The Honorable Jennifer F. Rearden, in *Weng v. Genalo*, No. 25-cv-9595, 2025 WL 194248 (S.D.N.Y. Jan. 25, 2026), concluded that the petitioner in that case was subject to § 1225(b)(2)(A) mandatory detention even though ICE had previously released him from detention on a § 1226(a)(2)(B) order of release on recognizance. Judge Rearden noted that Congress in 1996 enacted § 1225(a)(1) and 8 U.S.C. § 1101(a)(13)(A), which together limited the category of those "admitted" to persons who lawfully entered the United States. *Id.* at *3. Thus, persons who entered the United States unlawfully have not been "admitted" and are subject to § 1225(b)(2)(A) mandatory detention. *Id.* Judge Rearden also, *inter alia*, declined to follow the courts that have held § 1226 (a) mandatory detention applies only to persons who are "seeking admission" and thus cannot apply to persons who are already in the United States. She perceptively noted that "the term 'applicant for admission' in Section 1225 is defined to include an 'alien *present* in the United States who has not been admitted," 8 U.S.C. § 1101(a)(13)(A) (emphasis added) and thus explicitly encompasses aliens who are 'already here.'" *Id.* at *4.

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).

arguments it presented in *R.A.R.R.*[3] and respectfully submit that this case can be adjudicated without further briefing. Respondents are prepared to file a formal memorandum 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.[4]

Accordingly, for the reasons set forth in the government's brief in *R.A.R.R.*, Respondents respectfully request that the Court deny the Petition.

Respondents thank the Court for its time and consideration in this matter.

Respectfully submitted,

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Enclosure (Declaration of William J. Kennedy III)

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[3] Specifically, the government incorporates by reference all arguments raised in its opposition brief in *R.A.R.R.*, 25-cv-6597, Dkt. No. 11.

[4] In addition to pending appeals by petitioners regarding the denials of habeas petitions, the government has appealed the grant of a habeas petition in *Cunha v. Moniz*, No. 25-cv-6532 (W.D.N.Y. Nov. 25, 2025) (concluding, *inter alia*, that Section 1226(a), not Section 1225(b)(2)(A), applied), *notice of appeal filed* Dec. 11, 2025, No. 25-3141 (2d Cir.). The Second Circuit has granted the government's motion to expedite the appeal. Briefing is scheduled to be completed by March 3, 2026. *See Cunha v. Moniz*, No. 25-3141 (2d Cir.) Jan. 30, 2026 Order.