U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

February 12, 2026

Honorable Nusrat J. Choudhury
United States District Court Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Bonilla v. Noem, et al.*, 26-cv-0757 (NJC)

Dear Judge Choudhury:

This Office represents the Respondents in the above-captioned case in which Petitioner Jose Amado Bonilla ("Petitioner") filed a petition for a writ of habeas corpus on February 10, 2026 challenging his detention by Immigration and Customs Enforcement ("ICE"). *See* Docket Entry No. 1. After Respondents filed their initial submission, by order dated February 11, 2026, Your Honor questioned what effect, if any, Petitioner's execution of an agreement to voluntarily depart the United States (Docket Entry No. 8 at Ex. 1.B) has on ICE's detention authority pursuant to 8 U.S.C. § 1225(b)(2)(A).

Petitioner was initially detained under 8 U.S.C. § 1225(b)(2)(A) as unlawfully in the United States and subject to mandatory detention. *Saamishvili v. Flanagan, et al.*, No. 25-cv-6178, 2026 WL 377574 at *3 (E.D.N.Y. Feb. 11, 2026) (BMC) ("Since his unlawful entry, petitioner has been, and continues to be, subject to the mandatory detention requirement of Section 1225(b)(2)(A).").[1] Under most circumstances in cases involving detention pursuant to 8 U.S.C. § 1225(b)(2)(A), a Notice to Appear ("NTA") would have been issued to place Petitioner in removal proceedings before an Immigration Judge. However, because Petitioner voluntarily agreed to depart the United States, there was no need for the issuance of an NTA. Docket Entry No. 8 at Ex. 1.B. Once Petitioner executed an agreement to voluntarily depart, his continued detention remains valid under the terms to which he agreed ("I acknowledge that I will remain detained in DHS's custody pending departure.", Docket Entry No. 8 at Ex. 1.B, Addendum to DHS

[1] As set forth in Respondents' first response to Your Honor's order to show cause, Docket Entry No. 8, we are mindful that this Court has not agreed with ICE's interpretation of this statute. *See, e.g. Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065, 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025); *Covelli-Chaparro v. Bondi, et al.*, No. 26-cv-0118, at Docket Entry dated January 15, 2026; *Acevedo v. Nassau Correctional Center, et al.*, No. 26-cv-0250, at Docket Entry dated January 28, 2026; *Caraguay v. Larocco*, No. 26-cv-0569, at Docket Entry 15.

Form I-201) and regulations applicable to voluntary departure, *see* 8 CFR § 240.25(b) ("The Service may attach to the granting of voluntary departure any conditions it deems necessary to ensure the alien's timely departure from the United States, including the posting of a bond, continued detention pending departure, and removal under safeguards.").

The undersigned has confirmed with ICE that Petitioner will be produced at the hearing which was advanced by 24-hours earlier than originally ordered. Thank you for your attention to this matter.

Respectfully Submitted,

JOSEPH NOCELLA, JR.
UNITED STATES ATTORNEY

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