U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

February 20, 2026

Honorable Sanket J. Bulsara
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Argueta Diaz v. LaRocco, et.al.* No. 26-CV-975 (Bulsara, J.)

Dear Judge Bulsara:

This Office, on behalf of the United States Department of Homeland Security and the Executive Office for Immigration Respondents ("Federal Respondents"), respectfully submits this letter and accompanying Declaration in response to the Court's February 19, 2026 Order and in response to the Petition (Docket Entry ("DE") #1) of Jose Elias Argueta Diaz ("Petitioner") for release from custody by Immigration and Customs Enforcement ("ICE").

The legal issues presented in this action concern whether Petitioner's detention violates his procedural and substantive due process rights and seeks an order from this Court directing ICE to immediately release him from detention.

Petitioner's Detention History and Current Location:

As discussed in the attached Declaration, Petitioner was arrested on February 19. 2026 following a motor vehicle stop and a records check that showed Petitioner was not lawfully admitted to the Unted States. He was transported to the ICE intake facility at Nassau County Correctional Center ("NCCC") and subsequently transferred to NCCC. Petitioner remains detained at NCCC. He was served with Form I-200 Arrest Warrant and Form I862 Notice to Appear on February 19, 2026 during processing. Both documents are attached to the Declaration.

Discussion Regarding the Merits of the Petition[1]

The statutory basis for detaining Petitioner is 8 U.S.C. § 1225(b)(2)(A). In sum and substance, Petitioner alleges that his detention violates his due process rights and his detention violates the INA because he is subject to 8 U.S.C. § 1226, not 8 U.S.C. § 1225. As noted, this Court has already resolved nearly identical claims in prior cases.

Respondents are aware of this Court's decisions in similar matters. *See for e.g., Gopie v. Lyons, et. al.*, 2025 WL 3167130 (E.D.N.Y. November 13, 2025) (Bulsara, J.) and *Rodriguez-Acurio v. Noem, et.al.*, 2025 WL 3314420 (E.D.N.Y. November 28, 2025)(Choudhury, J.) While Respondents respectfully disagree with the Court's assessment of the § 1225/§ 1226 issue, they acknowledge that, in view of that assessment, Respondents cannot prevail in this action. Thus, to conserve judicial resources and to expedite the Court's consideration of this case, the government respectfully adopts its previous arguments in *Gopie* and *Rodriguez-Acurio* and submits that the Court can decide this matter without further briefing or a hearing. 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 their submission of this letter in lieu of a formal brief, Respondents reserve all rights, including the right to appeal.

On February 6, 2026, the Court of Appeals for the Fifth Circuit issued an opinion that, while not binding on this Court, held that the government's interpretation of 8 U.S.C. § 1225 was correct. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). In this Circuit, a number of district court judges (albeit a minority) have ruled in the government's favor on this issue. *See Saamishvili v. Flanagan, et al.*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026)(Cogan, J.), *appeal filed* Feb. 12, 2026; *Chen v. Almodovar*, 25-cv-9670, 2026 WL 100761, at *8-9 (S.D.N.Y. Jan. 14, 2026) (Cronan, J.); *Weng v. Genalo et al.*, No. 25-cv-09595, 2026 WL 184627, at *1 (S.D.N.Y. Jan. 23, 2026) (Rearden, J.); *Candido v. Bondi*, 25-cv-867, 2025 WL 3484932, at *2 (W.D.N.Y. Dec. 4, 2025) (Sinatra, J.); *Chen v. Almodovar, et al.*, No. 25-cv-8350, 2025 WL 3484855, at *7 (S.D.N.Y. Dec. 4, 2025) (Vyskocil, J.), notice of appeal filed Dec. 16, 2025; *Liang v. Almodovar*, No. 25-cv-9322, 2025 WL 3641512, at *8 (S.D.N.Y. Dec. 15, 2025) (Vyskocil, J.), notice of appeal filed Jan. 15, 2026. In addition to pending appeals by petitioners regarding the denials of habeas petitions as noted above, the Government has affirmatively appealed the grant of a habeas petition in *Cunha v. Moniz*, 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 *Cunha* appeal is proceeding on an expedited track and is scheduled to be fully briefed March 3, 2026.

[1] This Office notes that it filed similar letters as this with Your Honor in several other matters, including, *inter alia*, *Flores-Linares v. Bondi, et. al.*, No. 26-298 (SJB) on January 20, 2026; *Argueta v. Francis, et.al.*, 26-CV-408 (Bulsara, J.) on January 26, 2026; *Delarca-Avila v. Bondi, et al.*, No. 26-cv-0543 (Bulsara, J.), on February 2, 2026; *Rivera Orellana v. Noem, et al.*, No. 26-cv-0574 (Bulsara, J.), on February 3, 2026; *Romero v. Bondi, et.al.* 26-796 (Bulsara, J.) on February 13, 2026. *Sandoval v. LaRocco, et al.*, No. 26-cv-00832 (Bulsara, J.) on February 13, 2026; and *Magana v. Joyce, et.al.* No. 26-CV-835 (Bulsara, J.) on February 13, 2026.

Federal Respondents thank the Court for consideration of this submission.

Respectfully submitted,

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