U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

March 17, 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: *Nilson Molina Lara v. Genalo, et al.*
Civil Action No. 26-cv-01424 (Chen, J.)

Dear Judge Chen:

This Office respectfully submits this letter brief on behalf of the Respondents in accordance with the Court's Order of March 12, 2026, concerning the petition for a writ of habeas corpus ("Petition") filed by Nilson Molina Lara ("Petitioner"). This Office encloses the following documents received from Immigration and Customs Enforcement ("ICE"): a Notice to Appear dated June 11, 2025 (Exhibit "A"); a Form I-200 Warrant for Arrest dated March 10, 2026 (Exhibit "B"); a Notice of Cancellation of Order of Release on Recognizance (Exhibit "C"); a Notice to EOIR (Exhibit "D"); Notices of Rights (Exhibit "E"); a Form I-213, Record of Deportable/Admissible Alien dated November 4, 2022 (Exhibit "F"); a Form I-213, Record of Deportable/Admissible Alien dated March 11, 2026 (Exhibit "G"); and Property Receipts (Exhibit "H").[1]

Relevant Facts

In brief, the Petition alleges that the Petitioner is an 18-year-old who came to the United States as an unaccompanied minor on or about November 3, 2022, after which he was placed in the custody of the Office of Refugee Resettlement. He was thereafter released to his aunt. Petition at ¶¶8-9.

ICE records indicate that the Petitioner was initially arrested November 2022 after entering the country unlawfully. *See* Exhibits F and G. The Petitioner was served with a Notice to Appear on June 16, 2025, charging him with being inadmissible pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"). *See* Exhibit A. The Petitioner was subsequently arrested on March 11, 2026 pursuant to warrant signed on March 10, 2026. *See* Exhibits A and G. According to ICE's records, Homeland Security Investigations ("HSI") had received information that the Petitioner was involved in an attempted arson. During post arrest processing, the Petitioner

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

admitted that he was involved in the attempted arson, which involved persons arrested by the Suffolk County Police Department who were in possession of two Molotov Cocktails. *See* Exhibit G. The Petitioner's Order of Release on Recognizance was cancelled, *see* Exhibit C, notice of his address was provided to EOIR, *see* Exhibit D, and he was provided with notices of rights, *see* Exhibit E. ICE has custody of certain of the Petitioner's property. *See* Exhibit H.[2]

The Petitioner's Claims

In brief, the Petition asserts claims based on alleged violation of the Fifth Amendment due process clause (Count One); violation of the Trafficking Victims Protection Reauthorization Act ("TVPRA") (Count Two); violation of the Administrative Procedure Act ("APA") (Count Three);[3] and violation of the Fourth Amendment (Count Four). Petition at ¶¶25-41. It seeks the Petitioner's release from detention and other relief. *Id.* at pages 12-13.

Discussion

The Respondents contend the Petitioner is subject to mandatory detention pursuant to § 1225(b)(2)(A). In response to the Court's inquiry concerning what distinguishes this case from cases in which petitioners residing in the United States for several years were found to be improperly detained pursuant to 8 U.S.C. § 1225(b)(2)(A), the Respondents state that they acknowledge those cases, including Your Honor's decisions 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 (E.D.N.Y. Feb. 4, 2026) (Chen, J.), though they and respectfully disagree with the decisions.[4]

With respect to the Court's question as to what distinguishes this case from ones finding that re-detainment of individuals placed in least restrictive settings by the Office of Refugee Resettlement was unconstitutional, Respondents note that unlike *R.A.R.R.*, in which this Court premised its decision on facts that suggested that the petitioner was not a threat to the community, here there are such facts. Specifically, the Petitioner was, by his own admission, involved in an attempted arson.

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[2] This Office notes that it has not yet received all documents and information that may be relevant to this case.

[3] The Court should not entertain the APA claim. The limited waiver of sovereign immunity in the APA is only for agency action "for which there is no other adequate remedy in a court." 5 U.S.C. § 704. The Petitioner has availed himself of an adequate remedy, specifically, a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Habeas is generally the only possible district court vehicle for challenges brought pursuant to immigration statutes. *See Trump v. J.G.G.*, 604 U.S. 670, 674 (2025) (Kavanaugh, J., concurring) ("[G]iven 5 U.S.C. § 704, which states that claims under the APA are not available when there is another 'adequate remedy in a court,' I agree with the Court that habeas corpus, and the APA, is the proper vehicle here.").

[4] The Respondents note that other decisions have adopted the Respondents' position. *See, e.g., Saamishvili v. Flanagan*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026) (Cogan, J.), *appeal filed* Feb. 12, 2026, and *Quezada v, Francis.*, No. 26 Civ. 387, 2026 WL 380711 (S.D.N.Y. Feb. 11, 2026) (Cronan, J.). The Respondents also note that their position has been adopted by the Fifth Circuit. *See Buenrostro-Mendez v. Bondi*, -- F.4th --, 2026 WL 323330, at *4-9 (5th Cir. Feb. 6, 2026). Respondents reserve all rights in this case, including the right to appeal.

As to the basis for the initial stop, the Respondents note that the Petitioner was arrested pursuant to warrant issued a day before the arrest and after HSI learned of the Molotov Cocktail incident.

The Respondents respectfully submit that, if the Court is inclined to grant the Petition, ordering a bond hearing before an immigration judge would be more appropriate than immediate release, given the facts of this case that suggest the petitioner is a threat to the community.

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

Respectfully submitted,

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