U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

March 25, 2026

By ECF
Honorable Ann M. Donnelly
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, N.Y. 11201

Re: *Y.S.A. v. Genalo, et al.*
Civil Action No. 26-cv-01557 (Donnelly, J.)

Dear Judge Donnelly:

This Office respectfully submits this letter brief on behalf of the Respondents (or "government") in accordance with the Court's March 24, 2026 Order and in further response to the petition for issuance of a habeas writ filed by Y.S.A.[1] Attached to this supplemental response is a copy of the judgment in the Petitioner's criminal case (Exhibit "D").[2]

The Petitioner's Conviction Provides the Predicate for Section 1226(c) Detention

The Petitioner argues that the "Petitioner's conviction would only constitute a CIMT [crime involving moral turpitude] under [Board of Immigration Appeals] precedent that postdates his conviction." Petitioner's Reply at 4 n.3 (citing *Matter of Diaz-Lizarraga*, 26 I.& N. Dec. (BIA 2016)). But the Petitioner's conviction does postdate *Diaz-Lizarraga*.

The Immigration and Nationality Act ("INA") defines "conviction" as a "formal judgment of guilt of the alien entered by a court." 8 U.S.C. § 1101(a)(48)(A). As determined by the Second Circuit, under the INA, the entry of a formal judgment of guilt by a court occurs when judgment is entered on the docket, not when a defendant pleads guilty. *See Puello v. Bureau of Citizenship & Immigration Services*, 511 F.3d 324, 327-33 (2d Cir. 2007).

Here, the judgment in the Petitioner's criminal case was entered after the BIA's decision in *Diaz-Lizarraga*. The Petitioner was not convicted of his crime within the meaning of the INA until January 6, 2017, at the earliest, when he was sentenced, or January 11, 2017, when the judge signed the judgment of conviction. Thus, the Respondents do not contend that *Diaz-Lizarraga* should be applied retroactively, as the Petitioner suggests. And, therefore, the Petitioner's reliance on *Obeya v.*

[1] This Office apologizes for the hour of this submission and respectfully asks leave to file at this time, nunc pro tunc.

[2] Information has been redacted from the document for privacy reasons.

Sessions, 884 F.3d 442, 449 (2d Cir. 2018) and *Almanzar v. Att'y Gen. United States*, No. 21-3092, 2023 WL 11833060 at * 3 (3d Cir. 2024), Petitioner's Reply at 4 n.3, is misplaced.

With respect to the Petitioner's other arguments concerning the application of 8 U.S.C. § 1226(c), Petitioner's Reply at 3-6, pursuant to 8 U.S.C. § 1101(a)(13)(C)(v), "[a]n alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws *unless* the alien has committed an offense identified in section 1182(a)(2) of this title..." (emphasis added). In *Lau v. Bondi*, 130 F.4th 42, 47 (2d. Cir. 2025), the Second Circuit expressly recognized that lawful permanent residents may be treated as arriving aliens if they "'ha[ve] committed' certain offenses ... including 'crime[s] involving moral turpitude...'" (citing 8 U.S.C § 1182(a)(2)(A)(i)(I)). Moreover, one conviction suffices; two or more are not required, as the Petitioner argues. *See* 8 §1182(a)(2)(A)(i)(I) (an alien is inadmissible where he commits "*a* crime involving moral turpitude....") (emphasis added).

Petitioner's Due Process Argument

With respect to the Petitioner's argument that a bond hearing would be inadequate to protect his due process rights, Petitioner's Reply at 7, the Petitioner charges that bond hearings before immigration judges "have routinely resulted in continued detention." Petitioner's Reply at 7.[3] This assessment presupposes that bond hearings in all cases should result in release from detention regardless of the facts and statutory bases for detention. This is manifestly wrong. Similarly, Petitioner concludes that he would be denied due process by an immigration judge because several courts (out of all in the United States) have found non-compliance with certain orders regarding bond hearings. *Id.* at 7-8. Whatever the merits and ultimate outcomes of those cases (all are at the district court level), they do not stand for the proposition that there is no such thing as a fair bond hearing before an immigration judge.[4]

[3] The Petitioner makes other general, broad-based due process claims, including about conditions of confinement at the MDC, where he is currently detained. Although he states that conditions at the MDC are "inhumane", and that Respondents do not dispute his claim, Petitioner's Reply at 6, the Petitioner has offered no evidence that he is subjected to such conditions at the facility.

[4] The government repeats its points from its initial submission concerning whether a bond hearing would be appropriate in this case. It acknowledges that in one case in this district, the Court conducted a hearing. *See L.G.M. v. LaRocco*, 788 F.Supp.3d 401 (E.D.N.Y. 2025) (Chen, J.)

The government thanks the Court for its consideration of this submission.

Respectfully submitted,

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Exhibit D