U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

March 20, 2026

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

Re: *Andrade Escobar v. Mullin, et. al.*, No. 26-cv-1661 (SJB)

Dear Judge Bulsara:

This Office represents the Respondents in the above-captioned case in which Petitioner Alexi Javier Andrade Escobar ("Petitioner") filed a petition for a writ of habeas corpus (the "Petition") on March 19, 2026 challenging his detention by Immigration and Customs Enforcement ("ICE). *See* Docket Entry ("DE") No. 1. Respondents respectfully submit this letter and accompanying Declaration in response to the Court's March 20, 2026 Order and the Petition.

The legal issues presented in this action concern whether Petitioner's detention violates his procedural and substantive due process rights, and the Immigration and Nationality Act ("INA") under the Administrative Procedure Act, 5 U.S.C. § 701 et. seq ("APA"). Petitioner principally seeks an order from this Court directing ICE to immediately release him from detention.

Detention Background:

As set forth in the attached Declaration of Supervisory Detention and Deportation Officer Jason Langlois, dated March 20, 2026 ("Langlois Decl."), Petitioner entered the United States without inspection on an unknown date, place and time. *See* Langlois Decl. ¶ 5. On February 6, 2026, Nassau County Police Department ("NCPD") conducted a roadside stop of a vehicle being driven by the Petitioner for a possible traffic infraction and contacted ICE after Petitioner failed to provide a valid driver's license and advised the NCPD officers that he was from El Salvador. *See* Langlois Decl. ¶ 6. After ICE conducted a record check of the Petitioner and made a determination that Petitioner did not have lawful status in the United States, ICE issued a I-200 Warrant of Arrest of Alien on the same date. *See* Langlois Decl. ¶¶ 6-7 & Ex. A. After an ICE officer arrived at the scene of Petitioner's vehicle stop, Petitioner admitted to being a citizen and national of El Salvador without current lawful status in the United States. *See* Langlois Decl. ¶ 8. Petitioner was then arrested by the ICE officer and transported to the Nassau County ICE Intake Facility in East Meadow, New York (the "ICE Intake Facility"), where he was processed, served with the arrest warrant, and afforded the opportunity to make a phone call. *See* Langlois Decl. ¶¶ 8-11. On the same date, the Petitioner was placed into removal proceedings with the issuance and service of a

Notice to Appear ("NTA"), Form I-862, charging inadmissibility pursuant to Section 212(a)(6)(A)(i) of the INA as being an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General of the United States of America. *See* Langlois Decl. ¶ 12 & Ex. B. Petitioner was served with a copy of the NTA at the ICE Intake Facility. *See* Langlois Decl. ¶ 13 & Ex. B. After processing, on February 6, 2026, Petitioner was transported to the Nassau County Correctional Center ("NCCC"), where he stayed from February 6, 2026 until February 9, 2026. *See* Langlois Decl. ¶ 14. On February 9, 2026, he was transferred to Delaney Hall Detention Facility in Newark, New Jersey and remained there until February 26, 2026. *See* Langlois Decl. ¶ 15. On February 26, 2026, Petitioner was transferred to Brooklyn Metropolitan Detention Center ("Brooklyn MDC"), where he remains currently detained. *See* Langlois Decl. ¶ 16. ICE has been made aware of the Court's order prohibiting transfer of Petitioner to a facility outside of this district and the Southern District of New York.

As for the background on Petitioner's current immigration proceedings, the Master Calendar hearing took place on March 17, 2026, where Immigration Judge Dara Reid denied the Petitioner's bond request because of "[lack] of jurisdiction as per the [Board of Immigration Appeal]'s decision in [*Matter of Yajure-Hurtado*], 29 I&N Dec. 216 (BIA 2025)." *See* attached Order of the Immigration Judge. The Petitioner is scheduled for a Master hearing on March 31, 2026 to file his relief applications in Immigration Court, where he is currently represented by an attorney. *See* attached Master hearing notice.

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, should the Court follow its prior precedent here, that would be dispositive. Thus, to conserve judicial resources and to expedite the Court's consideration of this case, the

[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-cv-298 (Bulsara, J.) on January 20, 2026; *Argueta v. Francis, et.al.*, No. 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; *Magana v. Joyce, et.al.* No. 26-CV-835 (Bulsara, J.) on February 13, 2026; *Antonio Benitez v. Genalo, et al.*, No. 26-cv-1122 (Bulsara, J.) on February 27, 2026; *Omar Abreu v. Genalo, et al.*, No. 26-cv-1181 (Bulsara, J.) on March 4, 2026.

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). Respondents further note that a number of decisions in this Circuit have endorsed the Government's interpretation of the relevant statutory provisions and 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; *Alvarado Quezada v. Francis,* No. 26-cv-387, 2026 WL 380711, at *4 (S.D.N.Y. Feb. 11, 2026) (Cronan, J.); *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 for oral argument on April 6, 2026.

To the extent that an APA claim is asserted by the Petitioner for a purported violation of the INA, these statutes are not the proper vehicle for Petitioner's claims arising out of his detention, which drives this suit. In *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025), in which claims including due process claims were brought under the APA, the INA and various habeas provisions, the Supreme Court held that where the claims for relief, as here, "necessarily imply the invalidity of their confinement," regardless of whether he requests release from confinement, those claims "fall within the 'core' of the writ of habeas corpus and must be brought in habeas." The Supreme Court's holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234-35 (1953)). All the claims in this suit constitute a core habeas claim — though they fail for the reasons discussed above—and are not cognizable under the INA or the APA. Further, by the APA's terms, it is available only for agency action "for which there is no other adequate remedy in a court." 5 U.S.C. § 704. Thus, Petitioner's APA claims are independently barred by this limitation. As noted by Justice Kavanaugh's concurrence in *J.G.G.*, "given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here." *J.G.G.*, 604 U.S.at 674 (Kavanaugh, J. concurring). Here, as in *J.G.G.*, habeas is an "adequate remedy" through which Petitioner can challenge his detention.

Accordingly, Respondents have no objection to the Court deciding the petition on the submissions in lieu of a hearing.

Respectfully submitted,

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