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 Hector Gonzalez
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Anyelo Canate Gallardo v. Maldonado, et al.,*
Civil Action No. 26-cv-01685 (HG)

Dear Judge Gonzalez:

This Office respectfully submits this letter on behalf of the Respondents in accordance with the Court's March 23, 2026 Order ("Order") concerning the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 ("Petition," Document 1) filed by Anyelo Canate Gallardo ("Petitioner"). Respondents state, in response to the direction in the Order, that the Petition is controlled by this Court's prior decisions in *O.F.B. v. Maldonado*, No. 25-cv-6336, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025) ("*O.F.B.*"); *R.P.L. v. Maldonado*, No. 25-cv-6886, 2025 WL 3731864 (E.D.N.Y. Dec. 26, 2025) ("*R.P.L.*"); and *Ndiaye v. Francis*, No. 26-cv-0069, 2026 WL 99930 (E.D.N.Y. Jan. 14, 2026) ("*Ndiaye*"). Because Respondents do not, however, consent to Petitioner's release, they are submitting this letter to set forth their position. In addition, documents received by this Office from ICE are enclosed, in compliance with the language of the Order.[1]

Summary of the Petition

The Petition alleges that the Petitioner has been detained by Immigration and Customs Enforcement ("ICE") since February 14, 2026, and that he is currently detained at the Metropolitan Detention Center ("MDC") in Brooklyn. Petition ¶¶ 16, 20, 23. The Petition alleges that "Petitioner has never been arrested for, charged with, or convicted of a crime in the United States or any other country[,]" Petition ¶ 22, but the Petition, other than referring to the Notice to Appear served on the Petitioner, Petition ¶¶ 17-18, is devoid of any allegations as to when and how Petitioner entered the United States. The Petition sets forth two claims for relief based on the Fifth Amendment: count one alleges a violation of procedural due process and count two alleges a violation of substantive due process. Petition 5-6. In the Prayer for Relief (Petition 7), the Petitioner requests, *inter alia*, that he be released from detention "pursuant to the Court's broad discretionary [power]

[1] Some of the documents reflect redactions made pursuant to, *inter alia*, Fed. R. Civ. P. 5.2.

under 28 U.S.C. § 2243." *See also* Petition ¶ 13.

Summary of the Information Provided by ICE Regarding Petitioner

According to ICE, Petitioner entered the United States on June 14, 2022, outside of a port of entry, by crossing the international border near El Paso, Texas. When then encountered by United States Customs and Border Protection ("CBP"), a component of the Department of Homeland Security ("DHS"), Petitioner did not express fear of return to Venezuela, his home country. Petitioner was processed for expedited removal but, on June 15, 2022, he instead was paroled into the United States. As such parole automatically terminates upon the recipient's removal or departure from the United States or within one year of its issuance, Petitioner's parole terminated one year after its issuance. On June 1, 2023, Petitioner filed an I-589, application for asylum, with U.S. Citizenship and Immigration Services ("USCIS"). In November 2025, Petitioner filed an I-821, application for Temporary Protected Status, which has been terminated by USCIS. Petitioner has an owl tattoo on his chest. On February 14, 2026, Petitioner was arrested by ICE on the ground that he is illegally present in the United States, pursuant to a Warrant for Arrest of Alien (Form I-200). Also that day, Enforcement and Removal Operations ("ERO") served the Petitioner with a Notice to Appear ("NTA"), charging him as inadmissible under Immigration and Nationality Act ("INA") § 212(a)(6)(A)(i), *i.e.,* 8 U.S.C. § 1182(a)(6)(A)(i), as 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. The NTA indicated a hearing date of March 3, 2026, at the Immigration Court located at 201 Varick Street, New York, New York. Petitioner had his first Master Calendar Hearing on February 27, 2026, and is detained pursuant to 8 USC § 1225(b)(2)(A).

Discussion

It is the Respondents' position that the Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). The Respondents acknowledge, however, in response to the directive in the Order, that, if this Court were to apply the reasoning of its decisions in *O.F.B.*, *R.P.L.*, and *Ndiaye* to this case, those prior opinions would control the Court's determination of this Petition. The Respondents respectfully disagree with those prior opinions and note that certain district courts within the Second Circuit have since agreed with 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 docketed as* No. 26-354 (2d Cir.); *Quezada v, Francis*, No. 26 Civ. 387, 2026 WL 380711 (S.D.N.Y. Feb. 11, 2026) (Cronan, J.); and *Arana v. Arteta*, No. 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.).[2] Respondents' position also has been adopted by the Fifth Circuit in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 501-08 (5th Cir. 2026), by the Eighth Circuit this month, and is expected to be addressed next month by the Second Circuit in *Da Cunha v. Lyons*, No. 25-3141 (argument set for April 6, 2026).

The Respondents thank the Court for its consideration of this submission.

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[2] The Respondents recognize, however, that, since the decisions in *O.F.B.*, *R.P.L.*, and *Ndiaye*, many other district courts within the Second Circuit have *disagreed* with Respondents' position.

Respectfully submitted,

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