U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

March 24, 2026

Honorable Nusrat J. Choudhury
United States District Court Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Salvador Menjvar Giron v. Genalo, et al.*
No. 26-cv-1714 (Choudhury, J.)

Dear Judge Choudhury:

This Office represents Respondents in the above-referenced action, in which Petitioner Salvador Menjvar Giron ("Petitioner") filed a Petition for a writ of habeas corpus on March 20, 2026, challenging his detention by Immigration and Customs Enforcement ("ICE"). *See* ECF Dkt. # 1.[1] Respondents respectfully submit this letter in response to the Stay of Removal and Order to Show Cause entered on March 23, 2026 (ECF Dkt. #10) (the "Order"), requiring Respondents to provide certain information identified by the Court by today, March 24, 2026, at 2:30 p.m. As directed by the Order, Respondents address the merits of the Petition below, while reserving all rights, including the right to appeal, in lieu of a formal responsive memorandum of law to conserve judicial and party resources, and to expedite the Court's consideration of this case.

With regard to the questions posed to Respondents on the first two pages of the Order, Respondents respond as follows:

Petitioner is a native of El Salvador and has been assigned A number [redacted]. The undersigned has conferred with agency counsel for ICE who has stated that Petitioner is currently detained at the Delaney Hall Detention Facility ("Delaney Hall") in New Jersey. *See* Declaration of ICE Deportation Officer ("DO") Spiro Vandoros, submitted herewith, ¶ 19. At the time of his arrest on March 19, 2026, Petitioner was transported to the Nassau County ICE Intake Facility in East Meadow, New York, for processing and then detained at Nassau County Correctional Center. *Id.* ¶¶ 15-17. Petitioner was subsequently transferred to Delaney Hall on March 20, 2026 and has been detained there since then. *Id.* ¶¶ 17, 19. Petitioner has not been detained at the Central Islip, New York federal courthouse in connection with the 2026 arrest and, as of the filing of this letter,

[1] This case was originally filed in the Southern District of New York (*see* ECF Dkt. #1), but was transferred to this District after the United States Attorney's Office for the Southern District of New York filed a letter stating that Petitioner was detained in the Eastern District of New York at the time the action was filed. *See* ECF Dkt. #5 (letter) and #7 (order transferring case).

there is no indication that he will be detained there other than as required to produce him for the hearing scheduled to be conducted on March 27, 2026. In the event Petitioner is detained after March 27, 2026, there is a possibility that he will be transferred. ICE has been made aware of the Court's order prohibiting transfer of Petitioner to a facility outside of this district, the Southern District of New York or the District of New Jersey[2] and has advised that Petitioner will not be transferred outside thereof prior to the Court's scheduled hearing on March 27, 2026. In the event Petitioner is transferred, this Office will promptly notify Petitioner's counsel. While detained at Delaney Hall, Petitioner's counsel may contact Deportation Officer ("DO") Dmitry Rousseau at Dmitry.Rousseau@ice.dhs.gov.

Petitioner entered the United States without inspection on an unknown date and at an unknown place, and was neither admitted nor paroled after inspection by an Immigration Officer. *See* Vandoros Decl. ¶ 5. In September 2021, Petitioner was issued a Notice to Appear (the "2021 NTA") placing him in removal proceedings. *See* Vandoros Decl. ¶ 6; Exh. A. After proceedings in immigration court, on February 20, 2024, Petitioner's removal proceedings were dismissed upon the joint agreement of the parties. *See* Vandoros Decl. ¶ 8; Exh. B.

On March 7, 2025, Petitioner was arrested and charged with Aggravated Driving While Intoxicated. *See* Vandoros Decl. ¶ 9. On March 18, 2026, ICE became aware that Petitioner had an appointment scheduled with the Nassau County Department of Probation in connection with his DWI arrest. *See* Vandoros Decl. ¶ 10; Petition ¶¶ 4-5. Also on March 18, 2026, a Form I-200, Warrant for Arrest of Alien was executed, reflecting a determination that there is probable cause to believe Petitioner is removable from the United States because Petitioner lacks immigration status in the United States. Vandoros Decl. ¶ 11; Ex. C.

On March 19, 2026, Petitioner was arrested at the Nassau County Department of Probation. Vandoros Decl. ¶ 12. Petitioner was then detained pursuant to Immigration and Nationality Act section 212(a)(6)(A)(i) and was placed in removal proceedings. *See* Vandoros Decl. ¶¶ 13-17, Ex. D. Petitioner has an immigration court date of March 25, 2026. Vandoros Decl. ¶ 18; Ex. E.

The statutory basis for detaining Petitioner is 8 U.S.C. § 1225(b)(2)(A). The legal issues presented concern whether Petitioner's detention violates his due process protections and the statutory authority for ICE's detention of Petitioner. While reserving all rights, including the right to appeal, Respondents submit that this Court has already ruled on the principal legal issues herein in *Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065, 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025) ("*Rodriguez-Acurio*"), and other matters such as *Castellon v. Doe, et al.*, No. 26-cv-0647, Memorandum and Order entered February 7, 2026 (ECF Dkt. # 13) ("*Castellon*"); *Covelli-Chaparro v. Bondi, et al.*, No. 26-cv-0118, Opinion and Order entered January 15, 2026 (ECF Dkt. # 13) ("*Covelli-Chaparro*") *Acevedo v. Nassau Correctional Center, et al.*, No. 26-cv-0250, Minute Entry and Order entered January 28, 2026 ("*Acevedo*") and *Caraguay v. Larocco*, No. 26-

[2] Your Honor has also ordered that Petitioner not be removed from the United States pending the Court's further Order; ICE will comply with this Order as well but, even absent such Order, Respondents respectfully note that there is no administratively final order of removal for Petitioner.

cv-0569, Memorandum and Order entered on February 4, 2026 (ECF Dkt. # 15) ("*Caraguay*"). While the Government respectfully disagrees with the Court's decisions in *Rodriguez-Acurio*, *Castellon*, *Covelli-Chaparro*, *Acevedo* and *Caraguay*, the Government acknowledges that the decisions would control the result in this case if the Court adheres to those decisions, as the facts of this case are materially indistinguishable from those in *Rodriguez-Acurio*. Accordingly, Respondents adopt the Government's Memorandum of Law in *Rodriguez-Acurio* (ECF Dkt. # 14).

Notwithstanding, Respondents note that a number of decisions in this Circuit have endorsed the Government's interpretation of the relevant statutory provisions, including the decision issued last month in *Saamishvili v. Flanagan*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026) (Cogan, J.), *appeal filed. See also, e.g. 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; Liang v. Almodovar*, No. 25-cv-9322, at *4-11 (S.D.N.Y. Dec. 15, 2025) (Vyskocil, 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.) ("Having considered the statutory text and other relevant authorities, the undisputed facts of this case, and the parties' submissions and oral arguments, the Court concludes that Petitioner's detention is governed by Section 1225."); *Arana v. Arteta*, 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.) On February 6, 2026, the Court of Appeals for the Fifth Circuit, 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).[3]

Nonetheless, to conserve judicial resources and to expedite the Court's consideration of this case, the government respectfully adopts its previous arguments in *Rodriguez-Acurio*, and submits that the Court can decide this matter without further briefing or additional hearings. 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.

Respondents thank the Court for its consideration of this submission.

[3] Notices of appeal were filed in two similar cases, *Da Cunha v. Moniz*, 25-cv-00867 (W.D.N.Y.) and *Chen v. Almodovar*, 25-8350 (S.D.N.Y.) In addition to the 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 scheduled for oral argument on April 6, 2026.

Respectfully submitted,

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