U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

March 30, 2026

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

Re: *Nicolas Guaman Urena v. Genalo, et. al.*, No. 26-cv-1851 (SJB)

Dear Judge Bulsara:

This Office represents the Respondents in the above-captioned case in which Petitioner Tito Nicolas Guaman Urena ("Petitioner") filed a petition for a writ of habeas corpus on March 28, 2026 challenging his detention by Immigration and Customs Enforcement ("ICE"). *See* Docket Entry ("DE") No. 1 (the "Petition"). Respondents respectfully submit this letter and accompanying Declaration in response to the Court's March 29, 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 Brenden Cuni ("SDDO Cuni"), dated March 30, 2026 ("Cuni Decl."), Petitioner entered the United States without inspection on an unknown date, place and time. *See* Cuni Decl. ¶ 4. On March 18, 2026, ICE officers were conducting surveillance operations, targeting an individual, who was not the Petitioner, in Irvington, New Jersey (the "Target"). *See* Cuni Decl. ¶ 5. At this Target location, ICE officers observed a male exit a Grey Honda CRV that matched the description of the Target. *See id.* ICE officers ran a license plate check that verified that it was registered and owned by the Petitioner, who was a native of Ecuador and did not have legal entry into the United States and lacked legal status to remain in the United States. *See id.* Thereafter, ICE officers conducted a roadside stop, identified themselves as ICE law enforcement and Petitioner started backing his vehicle toward ICE officers to evade arrest. *See* Cuni Decl. ¶ 6. Petitioner drove away from the scene and was stopped by ICE officers a second time near the exit ramp 142A of the Garden State Parkway in Union, New Jersey. See Cuni Decl. ¶ 7. After ICE officers identified themselves for the second time, Petitioner failed to adhere to ICE officers' commands and again attempted to utilize his vehicle as a weapon to avoid arrest. *See id.* 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* Cuni Decl. ¶ 5 & Ex. A. Petitioner was then arrested by the ICE officer and transported to 26 Federal Plaza, New York, New York, where he was processed, served with the arrest warrant, and 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 Immigration and Nationality Act ("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* Cuni Decl. ¶ 12 & Ex. B. On March 19, 2026, Petitioner was transported to Brooklyn Metropolitan Detention Center, where he remains currently detained. *See* Cuni Decl. ¶ 14. 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.

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. Respondents acknowledge the allegations asserted in the Petition and letter filed by Petitioner's counsel on March 29, 2026 (DE No. 5) that relate to the circumstances of the vehicle stop, and the alleged use of excessive force and firearms against the Petitioner by ICE officers during the encounter. While Respondents contest these allegations, *see* Cuni Decl. ¶ 8, they nonetheless have no relevance to the question before this court—whether Petitioner's detention was lawful pursuant to 8 U.S.C. § 1225(b)(2)(A). Respondents acknowledge that this Court has already resolved nearly identical legal questions 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 government respectfully adopts its previous arguments in *Gopie* and *Rodriguez-Acurio* and

[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; *Andrade Escobar v. Mullin, et. al.*, No. 26-cv-1661 (Bulsara, J.) on March 20, 2026; *Castro Escobar v. Mullin, et. al.*, No. 26-cv-1795 (Bulsara, J.) on March 27, 2026.

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, while not binding on this Court, held that the government's interpretation of 8 U.S.C. § 1225 was correct. *Buenrostro-Mendez v. Bondi*, 166 F. 4th 494 (5th Cir. 2026). On March 25, 2026, the Eighth Circuit Court of Appeals became the second U.S. Court of Appeals to hold that the government's interpretation of 8 U.S.C. § 1225, which mandates detention of non-citizens falling under its scope, is correct. *See Joaquin Herrera Avila v. Bondi et al.*, No. 25-cv-3248, 2026 WL 819258, *4 (8th Cir. Mar. 25, 2026) ("While ultimately 'Congress's purpose matters far less than what it wrote,' the purpose here nevertheless 'confirms what the statutory text already makes clear,' which is that § 1225(b)(2)(A) mandates the detention of unadmitted aliens already present inside the United States.") (quoting *Buenrostro-Mendez,* 166 F.4th at 508). 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.

To the extent that Petitioner's Fourth Amendment claim is construed as arising directly under the Fourth Amendment, and not under the APA, the claim fails because his civil detention was a reasonable and lawful exercise of federal immigration authority. As the Supreme Court recognized in *Abel v. United States*, 362 U.S. 217 (1960), administrative arrests for deportation have a long-standing statutory history and are distinct from arrests for criminal offenses. The Supreme Court held that that "[s]tatutes authorizing administrative arrest to achieve detention pending deportation proceedings have the sanction of time. It would emphasize the disregard for the presumptive respect the Court owes to the validity of Acts of Congress, especially when confirmed by uncontested historical legitimacy, to bring into question for the first time such a long-sanctioned practice of government at the behest of a party who not only did not challenge the exercise of authority below, but expressly acknowledged its validity." *Abel*, 362 U.S. at 230. Petitioner's arrest was not a criminal arrest requiring a judicial warrant or probable cause of a new crime; rather, it was a civil, administrative arrest carried out pursuant to the broad authority granted by Congress to enforce the nation's immigration laws.

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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