U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

April 3, 2026

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

Re: *Noe Antonio Moran Contreras v. Mullin, et.al.* No. 26-cv-1960 (Bulsara, J.)

Dear Judge Bulsara:

This Office represents Respondents in the above-captioned action, in which Petitioner Noe Antonio Moran Contreras ("Petitioner"), an alien in removal proceedings, filed a petition for a writ of habeas corpus on April 2, 2026, challenging his detention by U.S. Immigration and Customs Enforcement ("ICE"). *See* Dkt. # 1 ("Petition"). Respondents respectfully submit this letter in accordance with Your Honor's Order dated April 2, 2026, requiring Respondents to "inform the Court of Petitioner's current location, and [to] include information about any other locations where Petitioner has been held and the dates of any transfers since his initial detention," and to respond to 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, 8 U.S.C. § 1158, *et seq.* ("INA"). Petitioner principally seeks an order from this Court directing ICE to immediately release him from detention.

Detention Background

As set forth in the accompanying Declaration of Deportation Officer Patrick Heerey, Petitioner is a citizen and national of El Salvador who is present in the United States without authorization. Heerey Decl. ¶¶ 2, 13-22; *see* ¶¶ 5-10; *see also* Petition ¶¶ 15-20 (alleging Petitioner entered United States without inspection in approximately 2006).

On June 14, 2014, Petitioner was arrested by the Nassau County Police Department ("NCPD") and charged with operating a motor vehicle while under the influence of alcohol or drugs, in violation of N.Y. Veh & Traf. Law § 1192(2). Heerey Decl. ¶ 4. He entered a plea of guilty to N.Y. Veh. & Traf. Law § 1192(1), and on December 15, 2015, he was sentenced to term of incarceration of 10 days. *Id.* He also was ordered to pay a $500 fine, and his driver's license was suspended for a period of 90 days. *Id.*

On July 27, 2025, NCPD arrested Petitioner a second time on a charge of operating a motor vehicle while under the influence of alcohol or drugs. *Id.* ¶ 11. Petitioner was charged with violations of N.Y. Veh & Traf. Law §§ 1192(2) and § 1192(3). *Id.* These charges are currently pending. *Id.*

On March 7, 2026, Petitioner was in criminal custody at the Nassau County Correctional Center ("NCCC"). Heery Decl. ¶ 12; *see* ¶¶ 4, 11. NCCC provided Petitioner's name and other identifying information to ICE, which conducted a background check. *Id.* ¶ 13. As the background check showed that Petitioner was not lawfully present in the United States, ICE issued a Form I-200 Warrant for Arrest of Alien ("I-200") that same day, March 7, 2026.[1] *Id.* ¶¶ 13-14; Exh. B to Heery Decl. ICE also issued a Form I-247A, Immigration Detainer – Notice of Action ("Immigration Detainer") to NCCC with respect to Petitioner. Heerey Decl. ¶ 15; Exh. C to Heerey Decl.

On or about April 2, 2026, NCCC notified ICE, pursuant to the Immigration Detainer, that Petitioner had posted bail and was scheduled to be released from NCCC. Heerey Decl. ¶ 16. ICE officers saw Petitioner leave NCCC and identified themselves to Petitioner as ICE officers. *Id.* ¶¶ 17-18. The ICE officers positively identified Petitioner and again confirmed that he was not legally present in the United States. *Id.* ¶ 18. ICE issued a second I-200, bearing the same date as the initial I-200, which was March 7, 2026 (but signed by a different officer on April 2, 2026), served it on Petitioner and arrested him pursuant to 8 U.S.C. § 1225(b)(2)(A). *Id.*. ¶ 18; Exh. D to Heerey Decl. ICE also issued Petitioner a Notice to Appear ("NTA") on April 2, 2026, placing him in immigration proceedings. Heerey Decl. ¶¶ 19-20; Exh. E to Heerey Decl.

As of today, Petitioner remains detained at NCCC. Heerey Decl. ¶¶ 22-23. In the event Petitioner is detained after today, there is a possibility he may be transferred. ICE is aware of the Court's order limiting his detention to the Eastern District of New York and the Southern District of New York.

Discussion Regarding the Merits of the Petition [2]

[1] In 2018, applications pertaining to immigration were submitted by or on behalf of Petitioner with U.S. Citizenship and Immigration Services ("USCIS"). Heerey Decl. ¶¶ 5-7. USCIS approved the Form I-130 Petition for Alien Relative that had been submitted on Petitioner's behalf by his wife, a U.S. citizen. *Id.* ¶ 9; Exh. A to Heerey Decl. USCIS denied Petitioner's Form I-601 Application for a Waiver of Grounds of Inadmissibility and Form I-485 Application to Register Permanent Residence or Adjust Status. Heerey Decl. ¶¶ 8, 10.

[2] 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-0298 (Bulsara, J.) on January 20, 2026; *Argueta v. Francis, et.al.*, 26-cv-0408 (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.

Detention Authority

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. In light of this Court's decision on the principal legal issues in *Bonilla-Romero v. Bondi, et al.*, 26-cv-0796, Memorandum and Order entered February 13, 2026 (Dkt. # 7), and other matters, including, but not limited to, *Parada Cruz v. Noem, et al.*, No. 26-cv-1110, Memorandum and Order entered February 27, 2026 (Dkt. # 7); *Magana v. Joyce, et. al*, No. 26-cv-835, Memorandum and Order entered February 13, 2026 (Dkt. # 13); *Sandoval v. LaRocco, et al.*, No. 26-cv-00832, Memorandum and Order entered February 13, 2026 (Dkt. # 10); and *Rivera Orellana v. Noem, et al.*, No. 26-cv-0574, Memorandum and Order entered February 3, 2026 (Dkt. # 7), which found that an individual who has resided in the United States is not subject to Section 1225, Respondents acknowledge that, should the Court follow its prior precedent here, they cannot prevail in this action.

Respondents submit, however, that ICE had issued an I-200 warrant for Petitioner on March 7, 2026, nearly a month prior to the date on which he was detained. Heerey Decl. ¶¶ 14; Exh. B to Heerey Decl. Moreover, an NTA was issued to Petitioner contemporaneously with his detention on April 2, 2026. Heerey Decl. ¶¶ 19-21; Exh. E to Heerey Decl. *See Gopie v. Lyons,* No. 25-cv-5229, 2025 WL 3167130, at * 1 (E.D.N.Y. Nov. 13, 2025) (Bulsara, J.), citing *Castañon Nava v. Dep't of Homeland Sec.*, 806 F. Supp. 3d 823, 853-54 (N.D. Ill. Oct. 7, 2025) ("ICE lacked statutory and regulatory authority to engage in its policy of issuing I-200 warrants to collaterals in the field without the concurrent or prior issuance of an NTA."); *see also Cancino Castellar v. McAleenan*, 388 F. Supp. 3d 1218, 1224 (S.D. Cal. 2019) ("DHS regulations authorize an immigration officer to formally arrest and take the alien into custody pursuant to a Form I-200 Warrant of Arrest at the time an NTA is issued."); *Castellar v. Nielsen*, No. 17-cv-0491, 2018 WL 786742, at *3 (S.D. Cal. Feb. 8, 2018) ("At the time an NTA is issued, DHS regulations authorize an immigration officer to formally arrest and take the alien into custody.").

While Respondents respectfully disagree with the Court's assessment of the § 1225/§ 1226 issue, they submit this letter 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, and respectfully submit that the Court can decide this matter without further briefing.

However, Federal Respondents respectfully submit that the facts here are more similar to those in *Saamishvili v. Flanagan*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026) (Cogan, J.), in which petitioner was already in removal proceedings at the time of detention, as was Petitioner. *See Saamishvili*, 2026 WL 377574, at *1 ("Since his unlawful entry, petitioner has been, and continues to be, subject to the mandatory detention requirement of Section 1225(b)(2)(A)"). *See also Garcia Lanza v. Noem, et al.*, No. 26-cv-0029 (Brown, J.), Memorandum and Order entered March 3, 2026 (Dkt. #.15), FN 9 (noting that in *Saamishvili*, ICE had commenced removal proceedings against petitioner upon his entry in the country).

26-cv-1661 (Bulsara, J.) on March 20, 2026; and *Garcia Xicay v. Leeper, et al.*, No. 26-cv-1833 (Bulsara, J.) on March 30, 2026.

Accordingly, the Federal Respondents adopt and incorporate the arguments in the Government's Memorandum of Law in *Saamishvili* (Dkt. # 14). Additionally, Federal Respondents respectfully note that 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). Further, 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). Federal Respondents further note that, in addition to *Saamishvili*, 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 Alvarado Quezada v. Francis,* No. 26-cv-387, 2026 WL 380711, at *4 (S.D.N.Y. Feb. 11, 2026) (Cronan, J.)*; Arana v. Arteta*, 26-cv-240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, 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 scheduled for oral argument on April 6, 2026.

Petitioner's APA Claim

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, for the reasons set forth above, Respondents respectfully submit that the Court deny this habeas petition.

Respectfully submitted,

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