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May 6, 2026

By ECF
Honorable Gary R. Brown
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722-9014.

Re: *Jiang v. Genalo, et al., 26-cv-2692 (Brown, J.)*

Dear Judge Brown:

Counsel for Petitioner respectfully submits this letter in response to the Court's Order, dated May 6, 2026, requesting a response forthwith to Respondents' letter.

In their response to the Court's Standing Order, dated March 7, 2026, Respondents state that Petitioner was arrested on two separate occasions, and argue that he should not be released on his own recognizance. However, Petitioner contends that neither arrest demonstrates that he presents a danger to the community, flight risk, or should otherwise be detained.

The first arrest, on June 6, 2023, resulted in a conditional discharge and 50 hours of community service that were completed by Petitioner.[1] The second arrest, on April 22, 2026, resulted in the Petitioner being transferred to the custody of ICE by the Nassau County Police. By Respondents' own admission, approximately two weeks after this arrest, no criminal charges have been filed against him in connection with this arrest, and there is no reason to believe that such charges are forthcoming. Respondents are essentially arguing Petitioner is a flight risk or danger to the community based on allegations of criminal charges never filed against him, which is a due process concern on top of the ones already at the heart of this matter.

Earlier today, Petitioner attended a Master Calendar Hearing and was represented by the undersigned's office. His case was adjourned until May 13, 2026 for attorney preparation time. As relief from removal, Petitioner filed Form I-589 application for asylum on May 14, 2024. This application is based on persecution suffered as a Christian in China, and he continues to attend church regularly here in the United States. *See* Exhibit A Form I-589 Cover Sheet.

In sum, the record does not establish that he is a danger to the community or a flight risk. His first arrest resulted in a conditional discharge, and no criminal charges have been filed in connection with his second criminal arrest. Upon information and belief, he has complied with

[1] This assertion is based on Respondents' version of events. The undersigned is seeking to obtain a Certificate of Disposition from the Nassau County Court.

all requirements of his original ROR by ICE and is currently attending his immigration hearings and has a pending application for relief. Based on the Second Circuit's recent decision in *Cunha v. Freden*, No. 25-3141 (2d Cir. Apr. 28, 2026), which holds that INA § 1226, not § 1225, governs the detention of noncitizens such as himself, there is a likelihood that Petitioner will prevail in this matter, and thus he has every reason to comply with the Court's release order.

Therefore, pursuant to this Court's standing order, Petitioner respectfully requests that the Court order his release under his own recognizance during the pendency of this matter per its standing order, dated March 7, 2026.

Respectfully submitted,

Dated: May 6, 2026,

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cc: Counsels of Record (via ECF)