**U.S. Department of Justice**

*United States Attorney*
*Eastern District of New York*

*610 Federal Plaza*
*Central Islip, New York 11722*

May 27, 2026

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

Re: *Juan Carlos Martinez Canales v. Mullin, et al.*,
No. 26-cv-3118 (Bulsara, J.)

Dear Judge Bulsara:

This Office represents Respondents in the above-captioned action in which Petitioner Juan Carlos Martinez Canales ("Petitioner") filed a Petition for a writ of habeas corpus on May 22, 2026 challenging his detention by Immigration and Customs Enforcement ("ICE"). *See* Docket Entry ("DE") # 1. Respondents respectfully submit this letter pursuant to Your Honor's Order entered on May 26, 2026 requiring Respondents to "inform the Court of Petitioner's current location, and [ ] 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, including "any basis to distinguish Petitioner's application from this Court's decision in *Inestroza Carbajal v. Frazier*, No. 26-CV-2778, 2026 WL 1309265 (E.D.N.Y. May 12, 2026)", by May 27, 2026 at 9 a.m.

ICE has advised that Petitioner was initially detained on March 3, 2026 pursuant to § 235(b)(2)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b)(2)(A). On that day, ICE transported Petitioner to the Nassau County ICE Intake for post-arrest processing and transferred him from the Nassau County ICE Intake to Nassau County Correctional Center ("NCCC") in East Meadow, New York. On March 6, 2026, Petitioner was transferred from NCCC to the Metropolitan Detention Center in Brooklyn, New York, where he currently remains detained.

On April 28, 2026, the United States Court of Appeals for the Second Circuit issued its decision in *da Cunha v. Freden*, --- F.4th ----, 2026 WL 1146044 (2d Cir. Apr. 28, 2026)[1]. The Second Circuit held that § 1225(b)(2)(A) does not apply to aliens who are present in the United States after entering the country without inspection and admission, and who were not apprehended at or near the border at the time of entry. *Id.* at *2. Rather, the Second Circuit held that § 236(a) of the INA, 8 U.S.C. § 1226(a) would apply in those circumstances. *Id.*

[1] The Government is still evaluating next steps in *da Cunha*. For purposes of a potential future appeal, in the event *Cunha* is vacated, stayed, or overruled, Respondents respectfully preserve their arguments that 8 U.S.C. § 1225(b)(2)(A) applies.

Because *da Cunha* controls in the factual circumstances that apply to Petitioner, Respondents respectfully submit that Petitioner's detention, which was at the time he was detained on March 3 under § 1225(b)(2)(A), is now pursuant to § 1226(a). While reserving all rights, including the right to appeal, Respondents 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, in light of this Court's recent decision on the principal legal issues herein in *Inestroza Carbajal v. Frazier*, No. 26-CV-2778, 2026 WL 1309265 (E.D.N.Y. May 12, 2026).

While Respondents respectfully disagree with the Court's decision in *Inestroza Carbajal*, Respondents acknowledge that the *Inestroza Carbajal* decision would control the result in this case if the Court adheres to that decision, as the facts of this case are similar insofar as Petitioner is a citizen of another country who entered the United States without inspection, who has not been admitted, and who was initially detained pursuant to 8 U.S.C. § 1225(b)(2)(A) prior to *da Cunha* and is currently being detained pursuant to §1226(a).

Respondents thank the Court for consideration of this submission.

Respectfully submitted,

JOSEPH NOCELLA, JR.
United States Attorney

By: /s/ Megan Freismuth
Megan Freismuth
Assistant U.S. Attorney

Cc: Counsel of record by ECF