MUSA-OBREGON LAW PC

ATTORNEYS AND COUNSELORS AT LAW
140 Grand Street, Suite 307
White Plains, New York 10601
TEL (718)803-1000
FAX (866)788-8061

MANHATTAN OFFICE
757 THIRD AVENUE, 20TH FL
NEW YORK, NY 10017

REPLY TO WHITE PLAINS OFFICE

S. MICHAEL MUSA-OBREGON

PETER KAPITONOV*
MARIANNY REYES
KARL J. ASHANTI
SAMI EL CHERIF
ALEIX CUADRADO
NOEL AKINSOLA
MUHAMMAD SALMAN IQBAL

MELISSA BARBOSA KOBERNITSKI
Of Counsel

*Admitted NY, NJ

By ECF

June 17, 2026
Hon. Gary R. Brown, U.S.D.J.
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Almonte v. Maldonado*, No. 2:26-cv-03633-GRB *Reply to Respondents' June 17 Letter and in Support of Habeas Relief*

Dear Judge Brown:

This case begins[1] not with a lawful warrant, not with a target packet identifying Angel Jesus Almonte, and not with an individualized custody decision. Based on video and eyewitness reporting, it begins on a Bronx street, during a chaotic ICE operation that spiraled beyond its stated target and ended with the forceful public takedown of the wrong man[2]. "The second incident, reported near Hull Avenue and E

[1] Counsel filed the habeas petition on June 16th petition quickly before conducting full interviews to preserve jurisdiction and prevent transfer from this district; as such, these facts were not known then. These statements are based upon information provided by others, the review of limited materials and therefore are made upon information and belief. Because of limited time constants, I am awaiting to interview the Petitioner.

[2] See Rep. Ritchie Torres Demands Federal Investigation into Violent ICE Incidents in the Bronx /https://ritchietorres.house.gov/posts/rep-ritchie-torres-demands-federal-investigation-into-violent-ice-incidents-in-the-bronx "BRONX, NY — Today, Congressman Ritchie Torres (NY-15) sent a letter to Department of Homeland Security Inspector General Joseph Cuffari urging his office to open a formal investigation into two deeply troubling videos documenting violent actions by ICE agents in the Norwood section of the Bronx. The videos show the brutal detention of Jeury Concepcion, an American citizen, and a second incident in which ICE agents forcefully detained another individual as he attempted to enter a building. Both incidents have sent shockwaves through the Norwood community and raised urgent questions about the conduct and accountability of federal immigration enforcement agents.
The first video depicts multiple ICE officers following Concepcion and his friends as they walked to get a haircut in the Bronx. The footage shows an ICE agent drawing his firearm and pointing it at the group while they had their backs turned. Concepcion was then tackled to the ground by three ICE agents and detained on the sidewalk. After being placed in handcuffs, Concepcion was visibly injured, with scratches and a gash on the right side of his head that later required stitches. The incident is believed to be a case of mistaken identity, raising serious concerns about whether ICE agents had any lawful basis to pursue, confront, and use force against Concepcion and his companions in the first place.
The second incident, reported near Hull Avenue and E Gun Hill Road, involved multiple ICE agents grabbing, tackling, and

Gun Hill Road, involved multiple ICE agents grabbing, tackling, and detaining a man who appeared to be attempting to enter a building, all captured on video. The footage raises similar questions about the proportionality and justification of the force used by federal agents against individuals in a residential neighborhood." *U.S. House of Representatives Ritchie Torres Statement.* Ex. A. https://ritchietorres.house.gov/posts/rep-ritchie-torres-demands-federal-investigation-into-violent-ice-incidents-in-the-bronx. That second involved Angel Jesus Almonte. Martinez Decl. For other footage, See also https://www.norwoodnews.org/update-feds-release-detained-bronx-man-three-days-after-ice-crackdown-in-norwood/ For the Concepcion and Almonte arrests, see https://bronx.news12.com/2026/05/08/ice-investigation-in-norwood-ends-in-2-arrests-one-man-claims-mistaken-identity/3tEjPD7fxF0DOBhWxNlOVA

The government corroborates this: On May 6, 2026, ICE agents were in the Norwood section of the Bronx looking for someone else. Mr. Almonte was not the target. The Government admits that. It says only that he resembled the "likeness and build" of the person ICE was looking for. Then the operation moved from surveillance to street pursuit. Agents approached. Mr. Almonte allegedly ran. ICE agents chased him, grabbed him, tackled him, got on top of him, and detained him as he tried to enter a building. ICE cannot legally fault him for running; it does not claim it was searching for him or that it had probable cause to chase him. ICE admits it was looking for another. The propriety of his reaction would certainly depend on his perception and the ICE agent's physical behavior and the legality of the their conduct[3].

"The first video depicts multiple ICE officers following Concepcion, [a U.S. citizen] and his friends as they walked to get a haircut in the Bronx. The footage shows an ICE agent drawing his firearm and

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detaining a man who appeared to be attempting to enter a building, all captured on video. The footage raises similar questions about the proportionality and justification of the force used by federal agents against individuals in a residential neighborhood. These incidents follow White House Border Czar Tom Homan's public threat to flood New York's streets with ICE agents. Within 24 hours of Homan's remarks, these two violent episodes unfolded, directly undermining his claim that a surge in ICE presence would make New York safer. Far from improving public safety, the reckless escalation of ICE enforcement has made everyday life more dangerous for the residents of the Bronx, including American citizens going about their daily lives. The full letter reads: "I write and urge you to open an investigation into two deeply chilling videos demonstrating grotesque actions taken by ICE agents in the Norwood section of the Bronx, which I represent in Congress. One video shows Jeury Concepcion, an American citizen, being tackled, bloodied and detained by ICE agents in the Norwood section of the Bronx, while the second exhibits ICE agents forcefully detaining another individual as he tries to enter a building. "The first video show multiple ICE officers were following Jeury and his friends who were on their way for a haircut in the Bronx. It also displays one of the ICE agents begin to chase the group and even pull out his firearm and point it at the group while the group had their backs towards the ICE officer. The video continues to show Jeury on the ground with three ICE agents on top of him detaining him on the sidewalk. Once in handcuffs, it is clear that Jeury suffered injuries from the encounter including scratches, and a gash on the right side of his head. In an interview with a local news station, you can see that Jeury required stitches to close the gash on his head. "It has also been reported that on Hull Avenue near E Gun Hill Road, there was another incident where multiple ICE agents detained an individual who, based on a video, was trying to enter a building. In the video, ICE agents are seen grabbing the man, tackling him to the ground, getting on top of him and eventually detaining him. "ICE agents chasing people with firearms drawn without being harassed or attacked is extremely dangerous. These two incidents exemplify the callous tactics used by this Administration against American citizens and exposes the deep rot that has consumed the agency.

[3] See *Curimilma Quille v. Blanche*, No. 26-cv-2818-HG, slip op. (E.D.N.Y. May 22, 2026), a factually and legally indistinguishable case involving an ICE operation targeting another person where a noncitizen allegedly tried to run from ICE and the Court ordered habeas release. It involved a "deficient record" of a surveillance operation targeting someone other than Petitioner with a "report … prepared by an officer who" "was not involved in the arrest and was assigned to process the arrest." Accordingly, there is a dearth of personal knowledge as to Petitioner's specific actions, what Petitioner heard or understood, whether he knew the individuals who surrounded him were law enforcement officers, or any other specific details. This dearth of personal knowledge suggests a significant risk of erroneous deprivation in its own right. " That risk is even more pronounced given that Petitioner states, unequivocally," that he did not attempt to flee… and did not feel "safe" …" during a confusing and coercive enforcement encounter."

pointing it at the group while they had their backs turned. Concepcion was then tackled to the ground by three ICE agents and detained on the sidewalk. After being placed in handcuffs, Concepcion was visibly injured, with scratches and a gash on the right side of his head that later required stitches. The incident is believed to be a case of mistaken identity, raising serious concerns about whether ICE agents had any lawful basis to pursue, confront, and use force against Concepcion and his companions in the first place." Ex. A.

This Was Not a Routine Immigration Arrest. It Was a Rogue ICE Street Operation in the Bronx.

That is not counsel's speculation. Leslie Martinez, Mr. Almonte's partner, identifies Mr. Almonte as the man in the second incident described in Congressman Ritchie Torres's public May 8, 2026 demand for a federal investigation into violent ICE conduct in the Norwood section of the Bronx. Ex. A; Martinez Decl. ¶¶ __.

The Government's letter tries to reduce this episode to a sterile phrase: "Petitioner immediately began to flee on foot." But that phrase strips the event of its actual context. This was a violent public street encounter in a residential Bronx neighborhood. It was significant enough that a Member of Congress demanded a DHS Inspector General investigation into ICE's conduct. It was recorded on video. It was part of the same series of incidents that Congressman Torres described as "grotesque," "deeply chilling," and dangerous to ordinary Bronx residents. Ex. A.

The Court should not decide release based on a sanitized lawyer's letter while the real evidence remains in the Government's possession. Respondents have not produced the video. They have not produced the target packet. They have not produced the target photograph. They have not produced the operational plan. They have not produced the I-213. They have not produced officer declarations. They have not produced radio transmissions. They have not produced use-of-force records. They have not produced the documents showing what ICE knew before the chase began, before Mr. Almonte was tackled, and before his liberty was restrained.

Instead, Respondents ask the Court to accept the Government's conclusion that a man who ran during a violent wrong-person ICE operation is therefore a "flight risk." That is not individualized process. That is circular reasoning. ICE cannot create fear and disorder on the street, tackle the wrong person, generate paperwork afterward, and then cite the person's reaction to the encounter as the reason to keep him imprisoned at MDC Brooklyn.

Respondents Have Not Satisfied the Court's Order to Show Cause

Petitioner respectfully submits this reply to Respondents' June 17, 2026 letter and in further support of the Petition for a Writ of Habeas Corpus and emergency release. Respondents have not satisfied the Court's Order to Show Cause. Judge Brown's Order did not ask the Government to recite a detention label, cite § 1226(e), or repeat that ICE checked the "detained" box on Form I-286. The Order required the Government to identify any "particularized reason" to believe that Mr. Almonte presents a danger to the community, a flight risk, or should otherwise remain detained because of narcotics, violence, criminal history, firearms, gang affiliation, or comparable facts. Respondents identify none.

The Government's submission confirms the absence of any particularized basis for detention. Respondents do not allege narcotics, violence, firearms, gang affiliation, criminal history, danger to persons, danger to property, failure to appear, violation of supervision, use of false documents, absconding from immigration court, or disregard of any lawful court order. To the contrary, the

Government expressly states that ICE "did not determine that Petitioner posed a danger to persons or property." Respondents therefore fail the test set by this Court's standing order.

Respondents instead rely on four insufficient points: alleged flight from ICE officers who were looking for someone else; a conclusory I-286 generated hours after the street seizure; a nonfinal immigration order; and a bond redetermination request withdrawn without prejudice. None justifies continued civil imprisonment at MDC Brooklyn.

The Street Facts Now Matter More Than the Paperwork Labels

The newly confirmed facts show why immediate release is necessary. Mr. Almonte was not the target of the operation. ICE did not approach him with a judicial warrant. ICE did not approach him with a preexisting administrative warrant naming him. ICE did not approach him because it had individualized evidence that he was removable. ICE approached him because agents claim he looked like someone else.

Then, after the chase and takedown, the paperwork followed. The Government admits that only after apprehending Mr. Almonte did ICE conduct a field interview, obtain identification, confirm that he was not the original target, run database queries, and issue the Form I-200. The I-286 was completed later, at approximately 9:28 p.m. It contains no explanation of why Mr. Almonte was supposedly a future flight risk. It does not discuss his family. It does not discuss his partner. It does not discuss his employment. It does not discuss his community ties. It does not discuss his lack of criminal history. It does not discuss less restrictive alternatives.

That is the heart of the case. This was not a lawful process followed by detention. It was an aggressive, illegal detention followed by paperwork.

I. ICE Seized First and Papered Later

The Government's own chronology defeats its position. Respondents admit that ICE was conducting surveillance for a "targeted individual," not Mr. Almonte. ICE observed Mr. Almonte, claimed he resembled the "likeness and build" of the target, approached him, and then pursued and apprehended him when he ran. Only after apprehending him did ICE conduct a field interview, obtain identification, confirm that he was not the original target, run database queries, and issue the Form I-200. That chronology matters. It shows that ICE seized first and papered later.

Judge Brown has repeatedly rejected that practice. In *Garcia Lanza v. Noem*, No. 26-cv-00029-GRB, 2026 WL 585130 (E.D.N.Y. Mar. 3, 2026), this Court held that ICE may not apprehend the wrong person and then create "bureaucratic cover" through a post-arrest administrative warrant and NTA. The Court explained that a post-arrest administrative warrant is "plainly invalid" where ICE had already seized the person and had not shown the statutory "likely to escape" requirement. Id. at *5. The same defect appears here. The I-200 is not proof of pre-arrest authority; it is proof that ICE generated paperwork after the encounter it now seeks to defend.

II. The I-286 Is a Label, Not an Individualized Custody Determination

The Government's "flight risk" assertion is a label, not a custody determination. The I-286 says only that DHS decided to detain Mr. Almonte under INA § 236. It contains no factual explanation, no danger finding, no individualized analysis of future appearance, no assessment of community ties, no evaluation

of release conditions, and no explanation why recognizance or bond would be insufficient. The form is especially inadequate because it was completed at approximately 9:28 p.m., three and a half hours after the street encounter and after ICE had already restrained Mr. Almonte's liberty by throwing him to the ground.

That violates § 1226(a), the implementing regulations, and due process. Section 1226(a) is discretionary. Before the Government may exercise that discretion to detain a person, ICE must make a real individualized custody determination addressing whether the person presents a danger to property or persons and whether the person is likely to appear for future proceedings. 8 C.F.R. § 1236.1(c)(8). That determination must occur before or contemporaneously with the deprivation of liberty, not hours later after ICE has already chased, seized, processed, and transported the person.

Judge Bulsara's decision in *Gopie v. Lyons*, No. 25-cv-05229-SJB, 2025 WL 3167130 (E.D.N.Y. Nov. 13, 2025), is directly on point. The court held that "due process required ICE make a custody determination at the time, or before, it arrested Gopie," and that a post-arrest custody determination was invalid because it was not made before or contemporaneously with the arrest. Id. at *2–4. The court also rejected the Government's argument that later bond proceedings cured the defect, explaining that a bond redetermination assumes that ICE made a valid custody determination in the first instance. Id.

Judge Bulsara reaffirmed the same principle in *Inestroza Carbajal v. Frazier*, No. 26-cv-2778-SJB, 2026 WL 1309265 (E.D.N.Y. May 12, 2026). There, the Government initially detained the petitioner under § 1225(b)(2), then attempted to switch to § 1226(a) after the Second Circuit rejected the § 1225 theory in *Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026). Judge Bulsara rejected that maneuver as "revisionist fiction," explaining that due process does not permit the Government to convert an illegal detention into a lawful one by inventing a new authority later. *Inestroza Carbajal*, 2026 WL 1309265, at *1–3. The court emphasized that § 1226(a) includes procedural protections that the Government cannot evade and then retrospectively supply after liberty has already been taken. Id. at *4–7.

III. Alleged Flight During a Violent Wrong-Person Street Encounter Does Not Establish Future Flight Risk

Alleged flight during this encounter is not a particularized basis for continued habeas detention. Respondents do not allege that Mr. Almonte fled removal proceedings, missed an immigration-court date, violated release conditions, ignored an ICE check-in, used false identification, failed to provide an address, or ever disobeyed any judicial command. The Government alleges only that he ran when ICE officers approached him while looking for someone else. But that is not future flight risk. That is a reaction during a street operation that the Government has not yet justified.

A person's instinctive reaction to being pursued by ICE agents in a violent, public, mistaken-target operation does not establish that the person will fail to appear in court if released under judicial conditions. The Government cannot transform a chaotic street reaction into a predictive finding that Mr. Almonte will abscond from federal court or immigration court. Nor can alleged flight retroactively create reasonable suspicion, probable cause, statutory arrest authority, or a lawful custody determination. The legality of the seizure turns on what ICE knew before it restrained liberty, not on what it learned or labeled afterward. *Beck v. Ohio*, 379 U.S. 89, 96 (1964); *Henry v. United States*, 361 U.S. 98, 103 (1959); *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 21, 24 (2020).

IV. The "Resembled the Target" Explanation Requires Evidence, Not a Lawyer's Letter

The Government's "resembled the target" explanation should not be credited without evidence. In *Sanchez Alfaro v. Almodovar*, No. 26-cv-0766-GRB, 2026 WL 734348 (E.D.N.Y. Mar. 16, 2026), Judge Brown warned that ICE's assertion that a petitioner resembled a target has become so common in these enforcement cases that such testimony "must be examined carefully." Id. at *2 n.6. In *Flores v. Mullin*, No. 26-cv-1855-GRB, 2026 WL 948298 (E.D.N.Y. Apr. 8, 2026), Judge Brown again noted that ICE claimed the petitioner was not the target but "matched the description of the targeted individual," and the Court emphasized that no showing had been made regarding the "likely to escape" requirement under § 1357. Id. at *2–4.

Here, Respondents provide no target packet, no photograph of the target, no description of the target, no sworn declaration from any arresting officer, no body-camera footage, no surveillance video, no operational plan, no radio communications, no database chronology, no use-of-force records, and no I-213. A lawyer's letter asserting resemblance is not enough to justify civil incarceration. It is especially insufficient where Mr. Almonte is the man in the second violent Norwood ICE incident described by Rep. Torres in his demand for a DHS Inspector General investigation.

V. The Warrantless Arrest Violated § 1357(a)(2) and DHS Regulations

The arrest was unlawful under 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8. A warrantless civil immigration arrest requires both reason to believe that the person is removable and reason to believe that the person is likely to escape before a warrant can be obtained. 8 U.S.C. § 1357(a)(2). DHS regulations likewise provide that a warrant shall be obtained unless the person is likely to escape before a warrant can be obtained. 8 C.F.R. § 287.8(c)(2)(ii).

Respondents have not shown either statutory requirement. They admit ICE did not know Mr. Almonte was the person they sought. They admit he was not the original target. They admit the I-200 was issued only after the field encounter. The document itself raises more questions than it answers. The I-200 states that it was served in the Bronx, New York, but it appears to have been signed by an SDDO[4]—a Supervisory Detention and Deportation Officer—who presumably worked from ICE's Manhattan office at 26 Federal Plaza. Respondents have not submitted a declaration from that SDDO. They have not shown that he was physically present on the Bronx street when the chase and takedown occurred. They have not shown when the warrant was actually signed. They have not shown where it was signed. They have not shown when, how, or whether it was actually served before Mr. Almonte was restrained.

Those omissions matter. If ICE was never looking for Mr. Almonte, and if ICE only identified him after he had already been chased, tackled, and detained, the most reasonable inference is that the I-200 was papered later to create administrative cover for an arrest that had already happened without individualized suspicion, probable cause, or statutory authority. The video does not show anything resembling the orderly service of a warrant. It shows a street takedown. The Government cannot convert that takedown into a lawful arrest by producing paperwork generated after the fact.

The same problem exists with the Notice to Appear. On its face, the I-862 indicates that it was issued in "New York, NY," which ordinarily refers to 26 Federal Plaza, not the Bronx street where Mr. Almonte was chased and detained. That means the NTA was issued only after the arrest, after Mr. Almonte had

[4] SDDO stands for Supervisory Detention and Deportation Officer. An SDDO is a supervisory official who oversees Detention and Deportation Officers and other personnel involved in immigration enforcement, detention, and removal operations, and is responsible for managing casework, approving enforcement actions, coordinating with other agencies, and ensuring compliance with ICE policies and federal immigration laws. SDDOs generally serve as first-line supervisors within ERO, reporting to higher-level managers such as Assistant Field Office Directors and Field Office Directors.

already been taken into custody, and after ICE transported him from the Bronx to Manhattan for processing. The NTA contains no reliable timestamp showing that it preceded the seizure. And the custody paperwork was not completed until approximately 9:28 p.m., hours after the street encounter. The sequence is therefore backwards: seizure first, paperwork later.

But the problems do not stop there. The NTA lists Mr. Almonte's address as "110 Wells Farms Ln, Fasmsd Rd, Goshen, NY," which appears to be the Orange County Jail, approximately two hours north of Lower Manhattan. Mr. Almonte had never been there. Indeed, under the Government's own account, he had not yet been formally processed for detention when ICE claims the warrant was served in the Bronx. The warrant says it was served in the Bronx. Yet the later NTA already lists an Orange County detention address. That raises an obvious question: how could ICE know, while supposedly serving a completed warrant on the streets of the Bronx, that Mr. Almonte would later be detained in Orange County? The more reasonable inference is that these decisions were made hours later, after the street takedown, after transport, and when ICE was preparing to move him to Orange County—not when he was first seized in the Bronx. The Orange County address on the NTA is therefore another strong indication that the paperwork was created or completed after the arrest to fit a detention decision already made.

Under *Gopie*, *Inestroza Carbajal*, *Parada Cruz*, and now *Curimilma Quille*, that sequence is fatal. Those cases hold that ICE cannot arrest first, issue an administrative warrant or NTA afterward, and then ask a federal court to treat the later paperwork as though it supplied authority that did not exist when liberty was first restrained. The fact that the I-200 predated or was disconnected from a valid NTA only deepens the defect. Under 8 C.F.R. § 1236.1, the NTA begins the removal process, and the I-200 arrest authority follows at the time of issuance of the NTA or thereafter. There is no lawful room for ICE to reverse that order, seize a person first, and then build the file afterward.

ICE identifies no pre-arrest individualized fact showing removability. ICE identifies no pre-arrest reason to believe Mr. Almonte was likely to escape before a warrant could be obtained. ICE identifies no lawful basis for treating a person's reaction to a violent street operation as proof that he would later fail to appear in court. At most, Respondents show that Mr. Almonte reacted to agents in the street during a mistaken-target operation. That is not enough under § 1357(a)(2), 8 C.F.R. § 287.8, the Fourth Amendment, or due process.

VI. *Curimilma Quille* Confirms That the Same Defects Require Release Here

The newly filed *Curimilma Quille* decision. litigated by the undersigned, confirms that these defects require release. In *Curimilma Quille v. Blanche*, No. 26-cv-2818-HG, slip op. (E.D.N.Y. May 22, 2026), Judge Gonzalez granted habeas relief to a petitioner who, like Mr. Almonte, had entered without inspection, lived in New York, was arrested in the interior, and was swept into custody while ICE was seeking another person. There, ICE was looking for another individual, officers stopped a vehicle connected to their target, and the petitioner was surrounded, questioned about identification, national origin, and birthplace, and arrested without a warrant. The court held that the detention violated due process because ICE's § 1226(a) custody determination was inadequate and because ICE failed to satisfy § 1357(a)(2)'s warrantless-arrest requirements. *Curimilma Quille*, slip op. at 5–14.

The same reasoning applies here with even greater force. In *Curimilma Quille*, the Government claimed it had made a § 1226(a) custody determination, but Judge Gonzalez looked past the label and examined whether the required procedures were actually applied. The court held that § 1226(e) did not bar review because the court was not reviewing the discretionary substance of custody, but instead whether the

correct procedures were applied at all. Id. at 6–7. That is exactly this case. Mr. Almonte does not ask this Court to reweigh a discretionary bond decision; he challenges whether DHS had lawful arrest authority, whether DHS made a valid initial custody decision under § 1226(a), and whether a conclusory post-seizure I-286 can satisfy due process. It cannot.

Curimilma Quille is also directly relevant because the court found a due-process violation where the initial custody determination occurred after the arrest rather than before or contemporaneously with it. Id. at 7. Here, Respondents admit that ICE apprehended Mr. Almonte, conducted the field interview, confirmed he was not the target, issued the I-200, transported him for processing, and only then completed the I-286 at approximately 9:28 p.m. That sequence is constitutionally backwards. Under *Curimilma Quille*, *Gopie*, *Pastrana-Beltran*, *Lopez Benitez*, and *Inestroza Carbajal*, that alone renders the detention unlawful.

Curimilma Quille also refutes the Government's attempt to rely on conclusory "flight risk" language. Judge Gonzalez rejected a purported custody determination where the stated reasons were generic, inaccurate, or inconsistent with the record, explaining that due process requires a real opportunity to demonstrate that the person is neither dangerous nor a flight risk. Id. at 7–10. Here, the problem is even more basic: the Government's I-286 supplies no reasons at all. It does not identify missed court dates, criminal conduct, false documents, lack of address, lack of family, prior absconding, or any individualized fact showing likely nonappearance. It merely records detention. A blank conclusion is weaker than the flawed reasons rejected in *Curimilma Quille*.

Finally, *Curimilma Quille* rejects Respondents' § 1357(a)(2) argument. Judge Gonzalez held that ICE's limited warrantless-arrest authority requires proof that the person is removable and likely to escape before a warrant can be obtained, and that the Government's evidence failed where it rested on a deficient record and internally inconsistent claims about alleged flight. Id. at 11–13. Here, the Government's record is similarly deficient. It provides no arresting-officer declaration, no target packet, no video, no description of what Mr. Almonte heard or understood, no explanation of whether he knew the individuals approaching him were law enforcement officers, and no evidence that he was likely to escape before a warrant could be obtained. As in *Curimilma Quille*, the Government has not carried its burden to justify a warrantless civil immigration arrest.

VII. The Stop, Pursuit, and Seizure Raise Serious Fourth and Fifth Amendment Concerns

The stop, pursuit, and seizure raise serious Fourth and Fifth Amendment concerns. The Fourth Amendment applies to civil immigration seizures inside the United States. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1043 (1984). Immigration agents may not stop a person based solely on perceived race, ethnicity, national origin, Hispanic/Latino appearance, or presence in an immigrant community. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884–87 (1975). The Second Circuit recognizes that race-based immigration stops may constitute egregious constitutional violations. *Almeida-Amaral v. Gonzales*, 461 F.3d 231, 235–36 (2d Cir. 2006).

Here, Respondents do not provide any nonracial, nonethnic, individualized basis for approaching and pursuing Mr. Almonte, other than an unsubstantiated resemblance assertion. That is precisely why the complete target packet, photographs, video, field notes, radio transmissions, and agent declarations are necessary if the Court does not order immediate release.

VIII. Section 1226(e) Does Not Bar Habeas Review of Threshold Statutory and Constitutional Defects

Respondents' reliance on § 1226(e) is misplaced. Petitioner does not ask this Court to review the amount of bond, substitute its discretion for an immigration judge's bond decision, or second-guess a discretionary bond denial. He challenges the threshold legality of the arrest and detention: the wrong-person stop, the post-arrest I-200, the lack of a valid pre-deprivation § 1226(a) custody decision, the absence of individualized danger or flight-risk facts, the use of a conclusory I-286, and the constitutional defects in the seizure.

Section 1226(e) does not bar habeas review of constitutional and statutory challenges to detention authority. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Velasco Lopez v. Decker*, 978 F.3d 842, 849–52 (2d Cir. 2020). Judge Brown's decision in *Flores* relied on *Öztürk v. Hyde*, 136 F.4th 382 (2d Cir. 2025), for the proposition that a habeas challenge to arrest and detention is not barred merely because removal proceedings exist. And *Parada Cruz v. Mullin*, No. 26-cv-1110-SJB, 2026 WL 1027441 (E.D.N.Y. Apr. 16, 2026), makes clear that habeas permits factual inquiry into the basis for detention because § 2243 requires the Court to "hear and determine the facts" and dispose of the matter as law and justice require.

IX. The Nonfinal Immigration-Court Order Does Not Cure the May 6 Arrest or Initial Custody Defect

The May 27 immigration-court order does not justify continued detention at this stage and does not cure the unlawful arrest. Respondents admit that the order "becomes final after June 26, 2026." The order itself reflects an appeal deadline of June 26, 2026. Thus, on the Government's own submission, § 1231 does not presently govern detention. Until a removal order becomes administratively final, detention is governed, if at all, by § 1226. 8 U.S.C. § 1231(a)(1)(B); 8 C.F.R. § 1241.1; *Johnson v. Guzman Chavez*, 594 U.S. 523, 527–29, 535–36 (2021). In any event, a future final order cannot retroactively validate an unlawful May 6 street seizure, a post-arrest I-200, or a deficient § 1226(a) custody decision.

X. The Bond Withdrawal Was Without Prejudice and Was Not a Bond Denial or Waiver of Habeas Rights

The June 3 bond-withdrawal order does not help Respondents. It states only that Mr. Almonte withdrew a bond redetermination request without prejudice and that the Immigration Judge granted that withdrawal. It is not a bond denial. It is not a danger finding. It is not a flight-risk finding. It is not a waiver of habeas rights. It is not an adjudication that the May 6 arrest was lawful. It is not a finding that the I-286 was adequate. It does not cure the absence of a valid initial custody decision. And it does not deprive this Court of jurisdiction over a habeas petition challenging unlawful executive detention. As *Gopie*, *Inestroza Carbajal*, *Ahmadi*, and *Han* explain, a later bond process cannot retrospectively cure the failure to make the required custody determination at the outset.

XI. Any § 1225 Theory Is Unavailable After *Barbosa da Cunha*

To the extent Respondents previously relied on § 1225 or any no-bond mandatory-detention theory, that theory is unavailable in this Circuit. The Second Circuit held in *Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026), that § 1225(b)(2)(A) does not apply to noncitizens who entered without inspection, were not apprehended at or near the border, and were later arrested after residing in the interior. Those persons are governed, if at all, by § 1226(a). Mr. Almonte's NTA alleges entry near Texas on or about November 1, 2022, and he was arrested in the Bronx on May 6, 2026—more than three years later. Any earlier § 1225 position therefore would be unlawful under *Barbosa da Cunha*.

Nor may Respondents shift theories after the fact. In *Inestroza Carbajal*, Judge Bulsara rejected the Government's attempt to convert an unlawful § 1225 detention into a § 1226(a) detention after *Barbosa da Cunha*, calling the Government's position "revisionist fiction" and explaining that due process does not tolerate agencies inventing new reasons after liberty has already been taken. *Inestroza Carbajal*, 2026 WL 1309265, at *1–3. The same principle applies here. Respondents cannot seize Mr. Almonte first, confirm later that he was not the target, generate an I-200 after the fact, issue an NTA later at 26 Federal Plaza, complete a conclusory I-286 hours later, and then ask this Court to defer to a "flight risk" label unsupported by the underlying paperwork.

XII. The Court Should Not Fix the Government's Defective Detention Theory After the Fact

Respondents may suggest that whether ICE would have conducted a proper § 1226(a) custody determination under pre-*Barbosa da Cunha* practice is speculative or irrelevant. It is neither. It explains the defect this Court is reviewing. The relevant question is not whether ICE now knows what label to use in federal court. The question is whether, when ICE restrained Mr. Almonte's liberty, it complied with the statutory and constitutional process required by the detention authority that actually governs him. It did not.

For decades, the Government treated interior arrests of long-present noncitizens as governed by § 1226(a), not § 1225(b). District of New Jersey courts have summarized the historical rule: "For nearly 30 years, § 1225 has applied to noncitizens who are either seeking entry to the United States or have a close nexus to the border, and § 1226 has applied to those aliens arrested within the interior of the United States." *Huatuco Amaya v. Tsoukaris*, No. 26-cv-1227-BRM, slip op. at 2–3 (D.N.J. Feb. 26, 2026) (quoting *Sandhu v. Tsoukaris*, No. 25-cv-14607-BRM, 2025 WL 3240810, at *4–6 (D.N.J. Nov. 20, 2025)). DHS then changed course in the summer of 2025, treating interior noncitizens present without admission or parole as mandatory-detention "applicants for admission" under § 1225(b)(2), rather than discretionary detainees under § 1226(a). *Sandhu*, 2025 WL 3240810, at *2–6. The Second Circuit rejected that theory in *Barbosa da Cunha*, 175 F.4th 61.

Respondents operated at their own peril when they abandoned the § 1226(a) framework and adopted the unlawful § 1225 theory. **It is not this Court's job to fix the consequences of Respondents' unlawful choice.** The District of New Jersey has repeatedly held the same. In *Fajardo-Nugra v. Soto*, No. 26-cv-975-ZNQ, 2026 WL 579192, at *2 (D.N.J. Mar. 2, 2026), the court held that although the petitioner "*may be subject to detention under 8 U.S.C. § 1226(a),*" *it was "not incumbent upon the Court to fix the Government's flawed application of § 1225(b)(2) by converting Petitioner's detention into a potentially lawful alternate form under a different statute with different procedural requirements and rules*." See also *Vaquero Hernandez v. Soto*, No. 26-cv-2003-ZNQ, slip op. at 2–3 (D.N.J. Mar. 13, 2026); *Penaloza Penalosa v. Bondi*, No. 25-cv-18843-JKS, slip op. at 4–5 (D.N.J. Jan. 23, 2026). In *Ronaldino Tix Zapon v. Tsoukaris*, No. 26-cv-2486-BRM, Text Order (D.N.J. Mar. 11, 2026), Judge Martinotti likewise *refused to correct Respondents' unlawful application of § 1225(b)(2) by converting the detention into a potentially lawful alternative under a different statute with different procedural rules.*

Those cases apply here. By May 6, 2026, when ICE arrested Mr. Almonte, Respondents were already on notice that the Second Circuit had rejected the § 1225 theory. *Barbosa da Cunha* was decided on April 28, 2026. If Respondents wanted to proceed under § 1226(a), they had to comply with § 1226(a) and its regulations from the beginning. That required lawful arrest authority, a valid I-200 process, a valid NTA sequence, and a real custody determination considering danger, flight risk, family ties, community ties, employment, and less restrictive alternatives. They did not do that. Instead, ICE approached Mr. Almonte while looking for someone else, apprehended him first, confirmed only afterward that he was not the target, generated the I-200 after apprehension, issued an NTA later that same day, and then

completed a conclusory I-286 at 9:28 p.m. The Government now asks the Court to excuse that defective sequence because the paperwork eventually caught up with the seizure. Due process does not allow that.

This is precisely the "seize first and explain later" problem condemned in *Curimilma Quille*, *Gopie*, *Parada Cruz*, *Garcia Lanza*, and *Sanchez Alfaro*. It is also precisely the conversion problem rejected in *Inestroza Carbajal*, *Fajardo-Nugra*, *Huatuco Amaya*, *Sandhu*, *Vaquero Hernandez*, *Penaloza Penalosa*, and *Tix Zapon*. The Government may not avoid § 1226(a)'s procedural protections by treating interior arrests as mandatory § 1225 detentions, and it may not then ask the Court to validate a defective § 1226(a) process after the fact when the § 1225 theory collapses. The Constitution requires the process before or at the time liberty is taken, not after the Government has already decided to detain.

XIII. The Equities Overwhelmingly Favor Release

The equities overwhelmingly favor release. The equities are not close. Respondents allege no criminal history, no violence, no narcotics, no firearms, no gang affiliation, and no danger to persons or property. Mr. Almonte has deep family, household, and community support in New York. His partner, Leslie Martinez, is a working mother who cares for her [redacted] daughter, works with children and families, and has direct personal knowledge of Mr. Almonte's character and stabilizing role in the household. Martinez Decl. ¶¶ __.

Ms. Martinez's declaration establishes precisely the equities this Court's standing order is designed to test: family ties in the United States, length of residence, employment history, good moral character, community support, and hardship caused by detention. Mr. Almonte was born in the Dominican Republic and has resided continuously in the United States for approximately four years. Martinez Decl. ¶ __. During that time, he has formed significant family ties and community ties. He has two aunts, one uncle, and approximately four to five cousins in the United States, and, to Ms. Martinez's knowledge, those relatives are United States citizens or lawful permanent residents. Martinez Decl. ¶ __. These are not the equities of someone with no roots or no incentive to appear; they are the equities of a person whose life is centered here.

Mr. Almonte is also employed and works hard to support himself. Martinez Decl. ¶ __. He has consistently sought lawful employment and demonstrated a strong work ethic. Id. Those facts directly rebut the Government's conclusory "flight risk" label. Employment is a stabilizing factor. Work ties make a person more likely to remain connected to the community and comply with court directives, not less. ICE's I-286 does not mention his employment, work ethic, family network, or partner's household. That omission further demonstrates that the I-286 was not a meaningful custody determination.

Ms. Martinez also attests to Mr. Almonte's good moral character. She describes him as responsible, respectful, caring, honest, dependable, humble, compassionate, and trustworthy. Martinez Decl. ¶¶ __. She is not aware of any conduct suggesting that he poses a danger to the community. Id. She is not aware of him having any criminal history or any involvement with narcotics, violence, firearms, gangs, or anything dangerous. Id.

The family hardship is severe. Ms. Martinez is a single mother to an [redacted] daughter. Martinez Decl. ¶ __. Although Mr. Almonte is not the child's biological father, he has become a consistent, dependable, loving father figure. Id. The child looks up to him, trusts him, and considers him one of the most important people in her world. Id. Mr. Almonte supports the child's basketball dreams by helping her practice, encouraging her discipline, attending games whenever possible, celebrating her

accomplishments, and teaching perseverance. Id. That role is not incidental. It is the role of a stable parent figure in a child's daily life.

Mr. Almonte's support has also been essential to Ms. Martinez's ability to work, attend school, study, parent, and provide for her child. Martinez Decl. ¶ __. He helps care for her daughter, assists with transportation, encourages Ms. Martinez to continue pursuing her education, and provides emotional support during difficult moments. Id. Ms. Martinez states that she truly believes she would not have accomplished as much as she has over the past several years without his unwavering support. Id. Detention has therefore imposed not only emotional hardship, but practical hardship on a household headed by a working mother who is trying to complete her education and provide for her child.

The Government's I-286 did not consider any of this. It did not consider Ms. Martinez. It did not consider her child. It did not consider Mr. Almonte's role as a father figure. It did not consider his family ties. It did not consider his approximately four years of residence. It did not consider his employment history. It did not consider his good moral character. It did not consider whether recognizance, bond, reporting, address notification, or the Court's standing conditions would secure appearance. A custody decision that ignores the very facts central to danger and flight risk is not individualized process.

XIV. Continued Detention at MDC Is Especially Inequitable for a Civil Detainee with No Criminal-Danger Allegation

Continued detention at MDC is especially inequitable. Mr. Almonte is a civil immigration detainee. He has not been charged with or convicted of a crime. Respondents do not allege criminal danger. Judge Brown has recognized in *Flores* and *Sanchez Alfaro* that MDC Brooklyn is a facility "so notoriously plagued" by conditions arising from overcrowding and underfunding that judges have reduced or modified criminal sentences because of those conditions. If those conditions are too severe even for some convicted defendants, they are plainly inappropriate for a civil immigration detainee where the Government identifies no criminal-danger basis for custody.

XV. Judge Brown's Standing Order Already Supplies Adequate Conditions

Finally, Judge Brown's standing order already supplies adequate conditions to address appearance and public safety. Those conditions require appearance in court and immigration proceedings, prohibit criminal conduct, require notice of address or telephone changes, prohibit firearms and controlled substances, and preserve this Court's jurisdiction. The standing order also prohibits ICE from adding unauthorized conditions, including an I-220A or ATD program, absent further order. Respondents identify no fact showing those conditions would be insufficient.

Conclusion and Request for Production for Plenary Hearing

For these reasons, Petitioner respectfully requests that the Court order his immediate release on recognizance or bond under the standing order. His family is prepared to have three members post a bond with this Honorable Court. Petitioner has proven by a preponderance of the evidence that he is being detained unlawfully and that a bond hearing at the immigration court could never cure the deprivation of his liberty. This Court should grant the Great Writ.

Should the Court provisionally grant the writ, Petitioner requests an immediate plenary evidentiary hearing pursuant to 28 U.S.C. § 2243 and an order requiring Respondents to produce, before that

hearing, the complete arrest, custody, and detention record. That production should include: the video of the Norwood incident described by Congressman Torres; all other body-camera footage, surveillance video, and bystander video known to ICE or DHS; the target packet; target photograph; target description; operational plan; all I-213s; all database-query logs showing when ICE learned Mr. Almonte was not the target; the complete I-200 file; the complete NTA file; the complete I-286 and all custody-classification worksheets; all documents supporting any claimed flight-risk determination; all officer notes; all sworn declarations; all use-of-force records; all radio transmissions; dispatch records; text messages; emails; supervisory approvals; the complete A-file; the complete immigration-court audio or transcript; proof of service of the IJ order; appeal-rights advisals; any appeal waiver; any BIA or post-order filing; all documents identifying the statutory basis for custody at each stage; and all communications between DHS, ICE, ERO, CBP, HSI, the U.S. Attorney's Office, and any local law-enforcement agency concerning Mr. Almonte's May 6, 2026 arrest and detention.

Respectfully submitted,

S. Michael Musa-Obregon

S. Michael Musa-Obregon, Esq,
Counsel for Mr. Angel Jesus Almonte