U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

June 24, 2026

Honorable Gary R. Brown
United State District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Angel Jesus Almonte v. Genalo, et al.*, 26-cv-3633 (Brown, J.)

Dear Judge Brown:

This Office represents Respondents in connection with the above captioned habeas petition and motion for a temporary restraining order filed by Petitioner Angel Jesus Almonte ("Petitioner") on June 17, 2026 (Docket Entry ("DE") ##1, 2). This letter is respectfully submitted pursuant to Your Honor's Order dated June 22, 2026 directing "Respondents to provide petitioner's counsel and the Court with any videos of the arrest in its possession, the description and/or photograph of the target of the operation available to agents at that time, and any other documents that may be pertinent to the issues before the Court." Respondents respectfully submit the following supplemental information and submit that an evidentiary hearing should not be conducted in this case because the circumstances of Petitioner's arrest did not occur as outlined in the petition.

As an initial matter, Petitioner's counsel submitted a letter (DE ##8, 9) in response to Respondents' letter submitted pursuant to the Court's Order to Show Cause ("OTSC") dated June 17, 2026 (DE #5) that centers around an arrest of an individual named Jeury Concepcion, who is not the Petitioner in this case. By counsel's own account, when he submitted that letter (DE ##8, 9), he had not spoken with the Petitioner to ascertain the circumstances of his arrest. *See* Plaintiff's Letter DE## 8, 9 p. 1 at fn 1. The letter incorrectly refers to Petitioner's arrest as being "[b]ased on video and eyewitness reporting . . ." and provides video footage links regarding *Mr. Concepcion's* encounter with ICE officers and not the Petitioner. Petitioner's counsel quotes news articles that focuses on *Mr. Concepcion's* arrest, in addition to various political statements made in an article that is copied and pasted in footnote 2.

Respondents submit that Mr. Concepcion's encounter with ICE officers was completely unrelated to the custody and detention of the Petitioner. Mr. Concepcion's encounter occurred after the arrest of the Petitioner at a different location and involved a different target. Upon information and belief and after speaking with New York City Enforcement and Removal Operations ("ERO") Fugitive Operations team leader Officer Katepodis, ERO was conducting surveillance for a targeted investigation at the primary address of [redacted] Bronx, New York 10467 for two targets with the surname of [redacted] After Petitioner was observed leaving the target

address, ERO attempted to approach the Petitioner, when he fled and, thereafter, unsuccessfully attempted to enter a building located at [redacted], Bronx NY, 10467 before being apprehended. None of the officers involved in this arrest had body-worn cameras and Respondents are not in possession of any video footage. However, an unidentified bystander filmed Petitioner's apprehension after he fled and was apprehended, available at: https://youtu.be/3EQUDyHHX0I?si=lHVB0LafqMch27JZ. At the time of the apprehension demonstrated in this video, ERO officers believed Petitioner was one of the targeted individuals. Respondents' initial filing was in response to the Court's OTSC which requires limited information and accordingly, did not contain information regarding the arrest. Respondents are able to submit a declaration attesting to these circumstances of the arrest in lieu of an evidentiary hearing. In light of the misinformation provided by Petitioner's counsel with regard to the circumstances of Petitioner's arrest, an evidentiary hearing is not warranted in this case.

Here, Respondents concede that the NTA was issued during processing of Petitioner after the I-200, Warrant for Arrest was effectuated. *See* DE ##7 and 7-2, Exhibit B. Respondents are aware of this Court's decision in a similar matter where Your Honor granted a habeas petition where an NTA was issued after the issuance of an I-200 administrative warrant because "an I-200 cannot be used to effectuate an arrest before an NTA has been issued." *B.P.S. v. Genalo et al.*, No. 2:26-cv-2923 (GRB) (E.D.N.Y. May 19, 2026) (citing *Yeleshev v. LaRocco*, No. 26-CV-2294 (SJB), 2026 WL 1353806, at *2 (E.D.N.Y. May 14, 2026)). Respondents respectfully disagree with the Court's assessment and aver that the requirements of 8 C.F.R. § 1236.1(b)(1) may be met so long as an NTA is issued within a reasonable time after an arrest pursuant to an I-200 administrative warrant. In a recent decision, Judge Gonzalez found that the NTA served on Petitioner at the time he was processed in connection with the I-200 was not a defect and was "procedurally proper under the applicable regulations." *See Ramos Ramirez v. Genalo, et al.,* No. 26-cv-3229, DE #11 at pp. 7-8 (E.D.N.Y. June 24, 2026). Here, Petitioner received all the process due within a reasonable time after his arrest (*i.e.*, within hours and on the same day), including an initial custody determination. *See* attached *Velesaca* worksheet. Furthermore, Petitioner received even more process when he appeared before an Immigration Judge on May 27, 2026 and was ordered removed, which becomes final after June 26, 2026, in the event Petitioner does not appeal, and on June 3, 2026 when Petitioner voluntarily withdrew his application for the immigration judge to reconsider his custody determination. *See* DE##7, 7-4, 7-5. As of the date of filing this letter, Petitioner has not appealed the order of removal to the Board of Immigration Appeals. Notwithstanding, 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, Respondents submit that the Court can decide this matter without further hearing and allow Respondents to submit formal briefing and declarations, in the alternative.

Alternatively, Respondents do not oppose the Court conducting a bond hearing for Petitioner, but note that the Court is jurisdictionally barred from reviewing ICE's individualized custody determination pursuant to 8 U.S.C. § 1226(e) ("[ICE]'s discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by [ICE] under this section regarding the detention of any [noncitizen] or the revocation or denial of bond or parole." 8 U.S.C. § 1226(e).). Thus, "[a] district court has no authority to review ICE's discretionary determinations made under [Section 1226] or otherwise question their propriety." *Fontanelli, as Next Friend of Bernal Garcia v. Francis*, No. 25-cv-07715, 2025 WL

2773234, at *4 (S.D.N.Y. Sept. 29, 2025)(citing 8 U.S.C. § 1226(e)). Further, should Petitioner fail to appeal the removal order by June 26, 2026, that order will become final and the Court will no longer have jurisdiction. *See* 8 U.S.C. §§ 1231(a), 1252(a)(5), (b)(9) and (g).

Thank You for Your Honor's consideration of this submission.

Respectfully submitted,

JOSEPH NOCELLA, JR.
United States Attorney

By: *Alina Austin*
Alina Austin
Special Assistant U.S. Attorney
(631) 715-7834

ERO NEW YORK CITY FIELD OFFICE

INA § 236(a) Initial Custody Determination

Name Angel Jesus Almonte A-Number [redacted] Arrest Date & Time 5/6/2026 19:00

☒ Individual is subject to § 236(a)—(Fill Out Below)
☐ Individual is NOT subject to § 236(a)—(Skip to Bottom and Sign)

Instructions: Pursuant to a settlement reached in *Velesaca v. Decker*, No. 20-cv-1803 (SDNY), ERO Officers at the New York City Field Office must utilize this form as part of the initial individualized custody determination under INA § 236(a). Detention under INA § 236(a) is discretionary, and ERO officers must make individualized determinations in each case.

Pursuant to federal regulation 8 C.F.R. § 236.1(c)(8), in making an initial custody determination under INA § 236(a), ERO may release a noncitizen who establishes to the satisfaction of the immigration officer that (1) the noncitizen does not pose a danger to persons or property, and (2) the noncitizen is likely to appear at all future proceedings.

When conducting an individualized initial custody determination, the officer must first consider whether the noncitizen has demonstrated that he or she is not a danger to property or persons. Only if the noncitizen has satisfied the immigration officer that he or she is not a danger to property or persons should the officer proceed to a flight risk analysis.

Danger to the Persons or Property:
In assessing whether an individual currently presents a "danger to persons or property," officers may consider any relevant factors, including, but not limited to: the extensiveness and seriousness of any criminal arrest or conviction; the length of time that has passed since any such arrest or conviction; the sentences imposed; criminal history not known to the immigration officer but disclosed by the noncitizen; statements from the noncitizen regarding dangerous or illegal conduct; evidence of rehabilitation; compliance with sentences; employment history and ties to the community. This list is non-exhaustive and does not preclude officers from considering other aggravating or mitigating factors relevant to determining whether the individual currently presents a "danger to persons or property."

Has the individual established that he/she does not pose a danger to persons or property?
☒ Yes ☐ No

Discussion (if more space is needed, please attach additional page(s)):

Please see back of form

ERO NEW YORK CITY FIELD OFFICE

Flight Risk:
Factors to consider for flight risk may include, but are not limited to: whether the individual has a fixed address in the U.S.; the length of residence in the U.S.; family ties in the U.S.; employment history; record of appearance in court; criminal history (including how recent and serious); identified disabilities or medical conditions; history of immigration violations; manner of entry into the U.S.; attempts to flee prosecution; and whether an individual has upcoming court dates in state or local courts.

Has the individual established that he/she does not pose a flight risk? ☐ Yes ☒ No

If the noncitizen does pose a flight risk, have you determined that no forms of release on conditions can mitigate the risk of flight? ☒ Yes ☐ No

Discussion (if more space is needed, please attach additional page(s)):

Subject is residing illegally in the US; Subject has no ties to the community; Subject failed to register as required by the Alien Registration Act; Subject fled law enforcement during his arrest

Special Vulnerabilities:
The officer should consider whether the noncitizen has any identified special vulnerabilities, such as physical illness; mental illness; disability; elderly; pregnant; nursing; primary caretaking responsibility; sexual orientation/gender identity; or other special circumstance that warrants consideration. No one factor is determinative.

Have you asked and considered whether the individual has any special vulnerabilities?
☒ Yes ☐ No

Have you identified a special vulnerability? ☐ Yes ☐ No

Please ensure your determination is consistent with current statutory and regulatory authority and applicable agency guidance.

INITIAL CUSTODY DETERMINATION

☐ Bond is set at _____
☐ Release to ATD or other conditions

☐ Release on Recognizance
☒ Detain

Supervisory Detention and Deportation Officer: BRENDEN C CUNI Digitally signed by BRENDEN C CUNI Date: 2026.05.06 21:35:11 -04'00'

Date: 5/6/2026 Time Completed*: 21:35
(* if not e-signed)