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Hon. Elizabeth C. Coombe
(filed via ecf)

Medina Seraquiva v. Lyons, et al., 9:26-cv-1522 (ECC)

Dear Judge Coombe:

Please accept this letter in reply to the Government's response, which noted that Petitioner was not targeted for arrest, but happened to be encountered while the agents were searching for a different person[1].

Petitioner requests immediate release based on the violation of his right to due process, and because the arrest was unlawful in that the I-200 was issued *after* the arrest.

Violation of Due Process Due to Lack of Individualized Determination

Petitioner entered the United States in February, 2024, and was released on recognizance. (See Respondents' Exhibits A-D and the Response, at 1) He then filed for asylum on March 3, 2025, and also filed for Special Immigrant Juvenile Status (SIJS) on June 16, 2025. As noted by Page 2 of Respondents' I-213 (their Exhibit E) this SIJS application is still pending[2]. It is submitted that Petitioner's right to due process was violated, and as a result the Court should order release, as this Court did in *Arce v. Blanche*, 2026 US Dist. LEXIS 112541 (NDNY May 21, 2026) and *Mendez v. Field Office,* 2026 US Dist. LEXIS 53260 (NDNY March 16, 2026.)

In *Mendez*, supra, this Court stated, with regard to the *Matthews v. Eldridge* factors:

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[1] On Page 2 of the I-213 attached as Exhibit E to the Response, it was stated, "On August 10, 2026, ICE ERO officers were conducting surveillance at… the last known address of ANDRADE GUALAN LUIS FERNANDO…who is [sic] a final order of removal. …Officers observed multiple male subjects matching the overall description of the target… The male subjects in the vehicle willingly engaged with ICE ERO officers…

[2] According to Petitioner's immigration attorney, James Milstein, *it is typically required that a decision be issued within six months of the filing of a SIJS Petition* to USCIS. Instead one year later, a request for evidence was issued requesting his physical residence. That information was supplied on July 16, 2026 to USCIS.

"…[T]here is nothing in the record indicating that (1) there were changed circumstances between when she was released on her own recognizance into the United States and when she was arrested that support the change in detention status, (2) Petitioner is currently a risk of flight or a danger to the community, or (3) anyone considered whether, given her specific situation, Mendez was a risk of flight or a danger to the community. As a result, there is a high risk of erroneous deprivation of Petitioner's liberty. …

…[The Government's] interest is low given that there is no evidence that Petitioner is a danger to the community or a flight risk. …

The Court therefore finds that Petitioner's detention violates her rights under the Due Process Clause of the Fifth Amendment

The appropriate remedy is release." *Mendez*, at 9-11.

The same reasoning applies completely herein – there were no changed circumstances between when Petitioner was released on his own recognizance into the United States and when he was arrested; and there is no evidence that he poses any risk of flight or danger to the community. Clearly, given that he was not targeted for arrest, there is absolutely no indication that anyone made any claim of flight risk or dangerousness.

Therefore, Petitioner should be released, as occurred in *Mendez* and *Arce*.

Warrantless Arrest

Section 1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General." The limited warrantless-arrest authority in 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2) requires an individualized reason to believe both that the person is present in violation of immigration law and that the person is likely to escape before a warrant can be obtained. Respondents offer no declaration that the arresting officer made the second finding.

Given that ICE was seeking someone else and happened to encounter Petitioner on the morning of August 10, it seems quite clear that there was *no warrant for Petitioner prior to his arrest.*

In *Rea v. Ball*, 2026 US Dist. LEXIS 150026 (NDNY 7/2/26) and *Vergel Gonzalez v. Rhoney*, No. 9:26-cv-1436-MAD (NDNY 8/12/26) Dct. No. 9, Courts in this District recently held that ICE's arrest without the required warrant and escape finding violated due process, and ordered the petitioners released.

In *Vergel Gonzalez*, the Court very recently stated:

" 'ICE must obtain a warrant before arresting a noncitizen unless the officer "has reason to believe that the [noncitizen] is in the United States in violation of any such law or regulation *and* is likely to escape before a warrant can be obtained for his arrest."' *Rea v. Ball*…at *2…(quoting *Curumilma Quille v. Blanche*, … 2026 WL 1453889, *5 (EDNY 2026)…

…Section 1226(a) expressly states that 'an alien' may be arrested on a warrant issued by the Attorney General…' 8 USC 1226(a)… Here, no Petitioner appears to have

been arrested on a warrant because *the warrants were created and served after the arrests*.

Respondents argue they had authority to arrest Petitioners under 1225(b)(2)(A), which does not carry the same warrant requirement. …

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…Under the circumstances presented, Petitioners' interests in remaining free weighs heavily on the Court's decision to order immediate release." *Vergel Gonzalez,* at 18-19, some emphasis supplied.

Because it is clear there was *no warrant at the time of the arrest herein*, *Vergel Gonzales and Rea v. Ball* support immediate release.

Therefore, because the warrantless detention herein occurred in violation of due process, this Court should order immediate release.

Thank you.

Respectfully,

s/Kathy Manley
Counsel for Petitioner