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Hon. Benda K. Sannes
(filed via ecf)

Quishpe v. Venturella, et al., 9:26-cv-1748

Dear Judge Sannes:

Please accept this letter in reply to the Government's response. Petitioner requests immediate release based on the violation of his right to due process.

Violation of Due Process Due to Lack of Individualized Determination

Petitioner entered the United States in July, 2024, and was released on parole. (See Response at 1) While he was subsequently ordered removed, that is upon appeal to the BIA, as noted by the Response, at 2.

It is submitted that there was no material change of circumstances and no individualized determination before Petitioner was targeted for arrest on September 15, 2026. Therefore, his right to due process was violated, and the Court should order release, as other Courts in this District did in *Cajilema v. Venturella,* 2026 US Dist. LEXIS 204287 (NDNY 9/10/26)(Judge Coombe); *Villasmil v. Blanche,* 2026 US Dist. LEXIS 99467 (NDNY 2026)(Judge D'Agostino); *Aldaz v. ICE Field Office Dir.,* 2026 US Dist. LEXIS 75580 (NDNY 2026)(Judge Nardacci); and *Rodriguez v. Lazarte,* 2026 US Dist. LEXIS 197273 (NDNY September 1, 2026)(Judge Brindis.)

In *Rodriguez Lazarte,* supra, Judge Brindisi recently stated:

> "All three *Matthews* factors cut in petitioner's favor. First, Petitioner's liberty interest is substantial. …
>
> Second, the procedures employed created a substantial risk of erroneous deprivation. …
>
> Petitioner has been detained since August 10, 2026. 'Section 1226(a)'s implementing regulations require an individualized determination as to whether the detention of a noncitizen (1) is a "danger to property or persons" and (2) is "likely to appear for any future proceeding."' *Parra v. Ball,* 2026 WL 1960934, at *4 (NDNY

2026) (quoting *Hyppolite v. Noem,* 808 F. Supp.3d 474 (EDNY 2024)… Respondents 'have not demonstrated, or even suggested, that any individualized determination was made as to whether Petitioner posed any risk of flight or danger *before* he was detained.' *Id.*

…Accordingly, there is a high risk of erroneous deprivation of petitioner's liberty.

Third, although the Government has a substantial interest in enforcing immigration law… [h]ere that interest is slim. …Respondents… have pointed to no evidence that petitioner poses a danger to the community or a risk of flight… Under these circumstances, the Government's interest in petitioner's continued detention carries relatively little weight.

Balancing the *Matthews* factors, the Court concludes that petitioner was entitled to an individualized determination before being returned to immigration custody. Respondent's failure to provide such process violated Petitioner's Fifth Amendment right to due process.

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After considering the relevant facts and the governing law, and after reviewing the outcomes of other judicial opinions resolving similar matters in this District, the Court concludes that the appropriate remedy is petitioner's immediate release." *Rodriguez Lazarte*, supra, at *8-11, emphasis supplied.

The same reasoning applies herein– there were no changed circumstances showing danger or flight risk between when Petitioner was released on parole into the United States and when they decided to target him for arrest. And, as conceded by Respondent, there was no individualized determination before he was targeted for arrest.

It is also noted that, while Respondent claims that Petitioner's parole status puts him into a different category than someone who was released on recognizance at the border, in *Rodriguez Lazarte,* supra, in addition to other cases, Courts in this District have found that the same exact analysis applies in parole cases, and have released the petitioners, whose parole had been terminated.

Therefore, Petitioner should be released, as occurred in *Rodriguez Lazarte* and the other cases cited above.

Thank you.

Respectfully,

s/Kathy Manley
Counsel for Petitioner