

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Jiandong Wu,

Petitioner,

v.

JUDITH ALMODOVAR, *in her official capacity as Field Office Director of Enforcement and Removal Operations, New York City, Immigration and Customs Enforcement*; KRISTI NOEM, *in her official capacity as Secretary of the U.S. Department of Homeland Security*; PAMELA BONDI, *in her official capacity as Attorney General of the United States*; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 1:25-cv-8968 (GHW)

**PETITIONER'S REPLY TO
RESPONDENTS' RETURN TO
AMENDED HABEAS PETITION**

Petitioner submits this reply in response to the Respondents' November 13, 2025, response letter, filed in lieu of a formal memorandum of law, and in response to the petition for a writ of habeas corpus.

PRELIMINARY STATEMENT

1. As a threshold matter, Respondents' letter, while reserving all rights, acknowledges that the principle legal issues in this matter have previously been adjudicated by this court in two prior cases, *Savane v. Francis*, No. 1:25 CIV. 06666, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025) ("Savane"). *See* Respondent Opposition at 1. In doing so, Respondent seeks "to conserve judicial and party resources, and to expedite the Court's consideration of this case." *Id.*

2. Petitioner agrees. The claims in this matter are, "materially indistinguishable from those of *Savane*." *Id.* at 3. Therefore, Petitioner respectfully requests that this Court decide this matter without further briefing, and in accordance with its decisions in *Savane*, grant this petition and order Petitioner released from custody.

RELEVANT FACTS

3. Petitioner was encountered near Tecate, California on or about September 21, 2023. *See* Exhibit A of Respondents' Return.

4. DHS-ICE issued Form I-200 Warrant grounded in the authority found in 8 U.S.C. § 1226 and subsequently released Petitioner on his own recognizance pursuant to the same authority. *See* Exhibits C-D of Respondents' Return.

5. During the next two years, Petitioner complied with all requirements of DHS-ICE and the Immigration Courts, lawfully pursuing his application for asylum. *See* Exhibits A-D of Petition for Writ of Habeas Corpus.

6. DHS-ICE instructed Petitioner to report on October 29, 2025, and Petitioner fully complied. *See* Exhibit E of Respondents' Return.

7. When Petitioner reported, he was arrested and detained without any notice, explanation, or due process, including any individualized assessment of his danger to the community or flight risk. At that time, DHS-ICE issued a warrant grounded in the authority found in 8 U.S.C. § 1226. *Id.*

ARGUMENT

8. Respondents identify no factual or legal basis for this Court to deviate from its own, previously determined precedent. To the contrary, they have conceded that the claims in this matter are “materially indistinguishable” from *Savane*. *See* Respondents' Return at 3. In *Savane*, this Court determined that DHS violated due process where it re-detained without any pre-deprivation notice or individualized custody determination. The conduct at issue here is materially indistinguishable from the conduct found unconstitutional in *Savane*, and the same remedy is warranted.

9. This Court in *Savane* discussed the difference between detention under 8 U.S.C. § 1225(b) and detention under 8 U.S.C. § 1226(a) but ultimately declined to resolve this statutory interpretation issue. However, it is Petitioner's position that an individual who had been previously released under § 1226(a) cannot be retroactively reclassified as a § 1225(b) mandatory detainee. The administrative record likewise demonstrates that Respondents' statutory theory of Petitioner's detention collapses under scrutiny. For decades, the immigration courts and DHS-ICE have

adhered to the same statutory interpretation posited by the Petitioner. Respondents' own documentation, including his re-arrest on October 29, 2025, cites 8 U.S.C. § 1226. That post-hoc reclassification contradicts not only DHS's own paperwork but also contradicts decades of administrative practice.

10. In sum, Respondents' statutory pivot—from § 1226(a) to § 1225(b)—is unsupported by the administrative record and insufficient as a matter of constitutional law. Every contemporaneous DHS document invokes § 1226(a); none invokes § 1225(b). The Government's position is therefore not merely unpersuasive—it is legally untenable.

11. Additionally, post-deprivation immigration-court review cannot remedy DHS's failure to perform the required individualized custody assessment. The Constitution demands that the Government exercise discretion *before* depriving a person of liberty, and the regulations do not authorize immigration judges to manufacture an initial custody determination where DHS made none. Here, there is no evidence that DHS conducted any individualized assessment under § 1226(a) before taking Petitioner into custody. Similarly to *Savane*, Respondents here identified no change in circumstances and no discretionary findings supporting re-detention. That complete absence of pre-deprivation process renders the detention unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Declare that Petitioner's arrest and detention on October 29, 2025, were unlawful because they were executed without statutory authority, without notice, and in violation of the Due Process Clause of the Fifth Amendment;
2. Order Petitioner's immediate release from ICE custody;

3. Enjoin Respondents from re-detaining Petitioner based on the same underlying allegations without first providing the constitutionally required process, including advance written notice and individualized reasons for any proposed revocation of release; and,
4. Grant such other and further relief as the Court deems just and proper.

Dated: November 19, 2025,

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