



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

November 14, 2025

By ECF

The Honorable Dale E. Ho
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Huang v. Almodovar, et al.*, No. 25 Civ. 9346 (DEH)

Dear Judge Ho:

This Office represents the government in the above-referenced immigration habeas corpus action, brought by petitioner Fangzeng Huang (“Petitioner”), an alien in removal proceedings, challenging his detention by U.S. Immigration and Customs Enforcement (“ICE”). The legal issues presented concern whether Petitioner’s detention violates his due process protections, the statutory authority for ICE’s detention of Petitioner, and whether Petitioner is entitled to a bond hearing. Petitioner principally seeks an order from this Court directing ICE to immediately release him from detention. While reserving all rights, including the right to appeal, the government submits this letter in lieu of a formal responsive memorandum of law to conserve judicial and party resources, and to expedite the Court’s consideration of this case, in light of this Court’s decision on the principal legal issues in *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (“*Lopez Benitez*”) and similarly in *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025), as discussed below.

Relevant Underlying Facts

In October 2023, Petitioner, a native and citizen of China, unlawfully entered the United States at or near the San Diego California Border Patrol Sector Area, and when encountered by Border Patrol, Petitioner admitted that he was a native and citizen of China. *See* Decl. of Mincheol So dated Nov. 13, 2025, ¶¶ 3–4. He was served with a Notice to Appear (“NTA”), charging him with removability pursuant to Immigration and Nationality Act (“INA”) § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.* ¶ 5 & Ex. A. The NTA informed Petitioner that he was scheduled to appear before an immigration judge on July 16, 2024 at 26 Federal Plaza, New York, New York (“26 Federal Plaza”). *Id.* Border Patrol served Petitioner with a Form I-200 warrant for his arrest under section 236 of the INA, 8 U.S.C. § 1226. *Id.* ¶ 6 & Ex. B (Oct. 29, 2023, Warrant). Petitioner was released on his own recognizance by CBP pursuant to 8 U.S.C. § 1226. *Id.* ¶ 6 & Ex. C (Order of Release on Recognizance). Petitioner has a pending Form I-589, Application for Asylum and for Withholding of Removal, which he filed prior to his detention. *Id.* ¶ 11.

On November 8, 2025, Petitioner reported to ICE for an appointment at 26 Federal Plaza, at which time ICE canceled his Order of Release on Recognizance and took him into custody given that bedspace was now available. *Id.* ¶ 12. ICE served Petitioner with a new Form I-200 arrest warrant. *Id.* ¶ 13 & Ex. D (Nov. 8, 2025, Warrant). After processing, Petitioner was initially transported to Delaney Hall Detention Facility in Newark, New Jersey, and then moved to the Metropolitan Detention Center (“MDC”) in Brooklyn, New York, where he is currently being detained. *Id.* ¶¶ 14–15. ICE intends to keep Petitioner detained at MDC during the pendency of his habeas proceedings. *Id.* ¶ 15.

Habeas Petition

Petitioner commenced this action on November 8, 2025. ECF No. 1. He argues that the mandatory detention provision of 8 U.S.C. § 1225(b)(2)(A) does not apply to him because he had already entered and had been residing in the United States at the time he was arrested by ICE; he also asserts that he is not a flight risk or a danger to the community. Pet. ¶¶ 39, 43. In his first claim for relief, he argues that the application of § 1225(b)(2)(A) unlawfully mandates his continued detention and violates the INA. *See* Pet. ¶¶ 49–51. In his second claim for relief, he argues that the application of § 1225(b)(2) violates the bond regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19. *See* Pet. ¶¶ 52–55. Finally, in his third claim for relief, Petitioner alleges that his detention without a bond hearing to determine whether he is a flight risk or danger violates his right to due process. *See* Pet. ¶¶ 56–59.

In his prayer for relief, Petitioner asks that the Court enjoin ICE from transferring him outside of New York pending these proceedings,¹ declare his detention unlawful, and issue a writ of habeas corpus ordering his immediate release, or in the alternative, provide Petitioner with a bond hearing pursuant to § 1226(a) within seven days. Pet. at 12 (Prayer for Relief).

Lopez Benitez v. Francis

On August 13, 2025, this Court issued a decision on the principal legal question presented in this action in a similar habeas case challenging an alien’s re-detention after prior release on an order of recognizance. The Court concluded that the petitioner, who was initially detained at the border in 2023, served with an arrest warrant referencing 8 U.S.C. § 1226, and released on an order of recognizance that also referenced § 1226, and who was arrested again in July 2025 following an immigration court hearing and again served a copy of an arrest warrant referencing § 1226, was detained pursuant to § 1226 and not, as ICE contends, § 1225 as an applicant for admission.² *Lopez Benitez*, 2025 WL 2371588, at *9. The Court relied on the contemporaneous documentation as well as two decisions from Massachusetts, *Gomes v. Hyde*, No. 25 Civ. 11571, 2025 WL 1869299 (D. Mass. July 7, 2025), and *Martinez v. Hyde*, __ F. Supp. 3d __, 2025 WL 2084238 (D. Mass. July 24, 2025). *Id.* at 4–5.

¹ The Court already ordered this and ICE is complying with the order. ECF No. 3; So Decl. ¶ 15.

² ICE contends that the petitioner’s detention was governed by 8 U.S.C. § 1225 because, as an alien who entered without inspection or parole, and was initially detained soon after crossing the border, he was an applicant for admission who is treated, for constitutional purposes, as if stopped at the border. As such, he would not be entitled to release or a bond hearing. *See Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), ECF No. 8, at 6–12 (gov’t brief).

Having concluded that the petitioner's detention was governed by § 1226, the Court conducted the three-part due process analysis under *Mathews v. Eldridge*, 424 U.S. 319 (1976), and concluded that the petitioner was "entitled to more process than he received." *Id.* at 12. Finally, the Court considered whether the petitioner should be required, as the government contends would be appropriate in a § 1226(a) case,³ to exhaust administrative remedies as a prudential matter by requesting a bond hearing before an immigration judge. The Court held that "post-deprivation review by an immigration judge is inadequate" to address the due process violation it had found, and thus exhaustion was not required. *Id.* at 14.

The Court directed the government to transport the petitioner, who had been transferred out of the district for bedspace reasons, "back to the Southern District of New York," and "immediately upon effectuating his transfer, to release [petitioner] from custody." *Id.* at 15.

Discussion

In Counts One and Two, Petitioner alleges that his detention violates the INA and 8 C.F.R. §§ 236.1, 1236.1, and 1003.19. Pet. ¶¶ 51, 55. As noted, this Court has already resolved nearly identical claims in a prior case, holding that an alien in Petitioner's position is "not subject to mandatory detention as a noncitizen 'seeking admission' to the country under 8 U.S.C. § 1225, but rather may be subject to detention only on a discretionary basis under § 1226." *Samb*, 2025 WL 2398831, at *3. In Count Three, Petitioner alleges that his detention violates his due process rights. In *Lopez Benitez* and *Samb*, this Court held that an alien in Petitioner's position is detained pursuant to § 1226, and that such a Petitioner need not exhaust administrative remedies.

While the government respectfully disagrees with the Court's decisions in *Lopez Benitez* and *Samb*, including the Court's determination that exhaustion should be excused, the government acknowledges that those decisions would control the result in this case if the Court adheres to those decisions, as the facts of this case are materially indistinguishable from those of *Lopez Benitez* and *Samb*. Thus, to conserve judicial resources and to expedite the Court's consideration of this case, the government hereby relies upon, and incorporates by reference, the legal arguments it presented in *Lopez Benitez*,⁴ and the Court can decide this matter without further briefing. However, should the Court prefer to receive a formal opposition brief in this matter, we will file such a brief upon the Court's request.

Further, notwithstanding its submission of this letter in lieu of a formal brief, the government reserves all rights, including the right to appeal. Accordingly, for the reasons set forth in the government's brief in *Lopez Benitez*, the government respectfully requests that the Court deny this habeas petition.

* * *

³ Because aliens who are detained pursuant to 8 U.S.C. § 1226(a) may request a custody redetermination hearing (i.e., bond hearing) before an immigration judge, the petitioner should be required to exhaust his administrative remedies—which may lead to release from detention—before bringing a challenge in federal court. See *Lopez Benitez* gov't brief, at 12–18.

⁴ Specifically, the government incorporates by reference all arguments raised in its opposition brief in *Lopez Benitez*. See *Lopez Benitez v. Francis*, No. 25-cv-5937 (DEH), ECF No. 8.

I thank the Court for its consideration of this submission.⁵

Respectfully submitted,

JAY CLAYTON
United States Attorney for the
Southern District of New York

By: s/ Mallika Balachandran
MALLIKA BALACHANDRAN
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Telephone: (212) 637-2781
E-mail: mallika.balachandran@usdoj.gov

cc: Counsel of Record (by ECF)

⁵ The government has proceeded in this manner in other cases where the presiding judge had already decided the principal legal issue in an immigration habeas corpus matter and where the facts are materially indistinguishable. *See, e.g., Martinez Roman v. Decker*, No. 20 Civ. 6752 (AJN), ECF No. 7; *Hernandez-Aviles v. Decker*, No. 20 Civ. 7636 (ER), ECF No. 5; *see also Samb*, No. 25 Civ. 6373 (DEH), ECF No. 8.