U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

December 30, 2025

By ECF
The Honorable George B. Daniels
United States District Judge
Southern District of New York
500 Pearl St.
New York, New York 10007

Re: *Jose Alberto Martinez v. Joyce, et al.*, No. 25 Civ. 10376 (GBD)

Dear Judge Daniels:

This Office represents the government in the above-referenced immigration habeas corpus action, brought by Jose Alberto Martinez ("Petitioner"), an alien in removal proceedings, challenging his detention by U.S. Immigration and Customs Enforcement ("ICE"). The primary legal issue presented in this case concerns the statutory authority for Petitioner's detention—whether it is 8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b)(2)(A)—and the attendant due process issues stemming from such authority. Petitioner seeks an order from this Court directing ICE to release Petitioner from detention. ECF No. 7 ("Petition") at 14.

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 *Quinteros Moran v. Joyce*, No. 25 Civ. 9645 (GBD), 2025 WL 3632895 (S.D.N.Y. Dec. 15, 2025), as discussed below.

Relevant Underlying Facts

Petitioner is a citizen of El Salvador who unlawfully entered the United States without inspection in March 1992 near Brownsville, Texas. [redacted]. In July 1997, the former Immigration and Naturalization Service encountered Petitioner in New York and placed him in removal proceedings. In May 1997, an immigration judge ordered Petitioner from the United States. [redacted]. Petitioner appealed that decision to the Board of Immigration Appeals ("BIA"), and in June 2001, that appeal was administratively closed. [redacted]. Until the appeal is dismissed, Petitioner's order of removal is not final. *See* Pet. ¶ 42.

On December 7, 2025, ICE detained Petitioner. [redacted]. At the time the Petition was filed, Petitioner was detained in 26 Federal Plaza. *See* Pet. ¶ 43. A motion to reinstate the BIA appeal is currently pending.

Habeas Petition

Petitioner commenced this action on December 15, 2025, ECF No. 1, and filed an amended Petitioner on December 30, 2025, ECF No. 7. 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 in December 2025. Pet. ¶¶ 4, 35–40. In his first claim for relief, he argues that the application of § 1225(b)(2) unlawfully mandates his continued detention and violates the INA. *See* Pet. ¶¶ 48–50. 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. ¶¶ 51–54. 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. ¶¶ 54–57.

In his prayer for relief, Petitioner principally asks that the Court issue a writ of habeas corpus ordering his immediate release. Pet. at 14 (Prayer for Relief).

Quinteros Moran v. Joyce

On December 15, 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. *Quinteros Moran*, 2025 WL 3632895. This Court concluded that because the petitioner was previously released on bond pursuant to § 1226(a), the government "c[ould]not now turn back the clock" and detain the petitioner under § 1225(b). *Id.* at *3 (quoting *Loja v. FCI Berlin, Warden*, No. 25 Civ. 386 (JL) (TSM), 2025 WL 3079160, at *2 (D.N.H. Nov. 4, 2025)). After concluding that the petitioner's detention was governed by § 1226, this Court declined to order immediate release, but ordered the government to "ensure that [the p]etitioner receive[d] a bond hearing before an Immigration Judge pursuant 8 U.S.C. § 1226(a) within seven (7) business days." *Id.* at *4.

Discussion

Petitioner alleges that his detention can only be governed by 8 U.S.C. § 1226, and so by applying 8 U.S.C. § 1225(b)(2)(A) to him, his detention violates the INA, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, and the Due Process Clause. Pet. ¶¶ 48–57. As noted above, this Court has already resolved nearly identical claims in a prior case, holding that an alien in Petitioner's position—where an alien, even if previously held under § 1225(b), had been released from custody, upon re-detention, such alien "is currently detained under § 1226(a)." *Quinteros Moran*, 2025 WL 3632895, at *3.

While the government respectfully disagrees with the Court's decision in *Quinteros Moran*, the government acknowledges that the decision would control the result in this case if the Court adheres to its decision, as the facts of this case are materially indistinguishable from those of *Quinteros Moran* on this legal issue. 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 *Quinteros Moran*,[1] and the Court can decide this

[1] Specifically, the government incorporates by reference all arguments raised in its opposition brief in *Quinteros Moran*. *See* No. 25 Civ. 9645 (GBD), ECF No. 9. The government notes that

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 *Quinteros Moran*, the government respectfully requests that the Court deny this habeas petition.

* * *

Finally, the government notes that the Court has ordered the parties to attend a conference scheduled for January 8, 2026. ECF No. 4. The government believes the Court can resolve this matter without a conference. *See, e.g.*, *Huang v. Almodovar*, No. 25 Civ. 9346 (DEH), ECF No. 10 (granting petition and cancelling previously scheduled conference based on respondents' submission that prior holding would control the result in the case if the court adheres to it). The government has conferred with Petitioner's counsel about the conference, but counsel stated that he wishes to keep the conference. The government defers to the Court, but given this submission, respectfully submits that the matter can be resolved without a conference.

I thank the Court for its consideration of this submission.[2]

Respectfully submitted,

JAY CLAYTON
United States Attorney

By: */s/ Rachel Kroll*
Rachel Kroll
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Tel.: (212) 637-2765
E-mail: rachel.kroll@usdoj.gov
Attorney for Respondents

cc: Counsel of Record (by ECF)

Quinteros Moran concerned a different provision of § 1225(b) that is not applicable here, but the Court's reasoning in that case broadly extends to any provision of § 1225(b).

[2] 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.