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VIA ELECTRONIC COURT FILING

The Honorable Ann M. Donnelly
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Bravo Arizmendi v. Noem, et al.*, No. 25-cv-07056 (AMD)

Dear Judge Donnelly:

We represent Petitioner Jonathan Bravo Arizmendi and write in response to Respondents' letter in lieu of a formal response submitted on January 7, 2026 (Dkt. 14, the "Response"). In short, Petitioner agrees that this Court's ruling in *Ye v. Maldonado*, No. 25-cv-6417 (AMD), 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025) ("*Ye*") controls this case. Accordingly, both the Petition for Writ of Habeas Corpus (Dkt. 1) and Petitioner's Motion for a Preliminary Injunction (Dkt. 2) should be granted.

Petitioner agrees with Respondents that *Ye* involved the same principal legal issues as this case and, if adhered to, would control the result here. Contrary to Respondents, Petitioner agrees with the Court's decision in *Ye*, which comports with the overwhelming majority of decisions in this district and across the country that have considered Respondents' arguments.[1]

Respondents identify three decisions by two district court judges in the Second Circuit adopting their interpretation of the Immigration and Nationality Act ("INA"). *See Chen v. Almodovar*, No. 25-cv-8350 (MKV), 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, No. 25-cv-867 (JLS), 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025); *Liang v. Almodovar*, No. 25-cv-9322 (MKV), 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025). The Court addressed *Chen* and *Candido* in *Ye* and, consistent every other court in this Circuit to have considered their reasoning, found them unpersuasive. *See Ye*, 2025 WL 3521298, at *4 n.10 ("The Court respectfully disagrees with the conclusions in those cases[.]"); *see also Goorakani v. Lyons*, No. 25-cv-9456 (DEH), 2025 WL 3632896, at *8-12 (S.D.N.Y. Dec. 15, 2025) (analyzing and

[1] Respondents incorporate by reference the arguments raised in their opposition brief in *Ye*. *See* Response at 5 n.5. However, Petitioner does not have access to the opposition brief in *Ye*. Should the Court request additional briefing from Respondents, Petitioner in turn requests leave to file a formal reply.

disagreeing with *Chen*); *Yao v. Almodovar*, No. 25-cv-9982 (PAE), 2025 WL 3653433, at *8-10 (S.D.N.Y. Dec. 17, 2025) (same).

Although Respondents identify "important distinctions" between this case and *Ye*, they do not argue that those distinctions are dispositive or should lead to a different outcome. Specifically, Respondents allege that Mr. Bravo Arizmendi (1) "unlawfully entered the country on at least three occasions" and "was never detained by the Government until October 6, 2025," unlike the petitioner in *Ye*, who was "released on his own recognizance under §1226"; (2) "has been consistently treated under the rubric of §1225"; and (3) has been working "without legal authorization." Response at 5.

These alleged distinctions make no difference under *Ye*'s reasoning. As numerous courts have now held, Section 1225 applies to noncitizens who are "seeking admission *into the country*" at the border or a port of entry, while Section 1226 applies to noncitizens who are "*already in the country*." *Ye*, 2025 WL 3521298, at *5 (quoting *Sarmiento Guerrero v. Noem*, No. 25-cv-5881 (EK), 2025 WL 3214787, at *5 (E.D.N.Y. Nov. 18, 2025)) (emphasis in original); *see also O.F.B. v. Maldonado*, No. 25-cv-6336 (HG), 2025 WL 3277677, at *5 (E.D.N.Y. Nov. 25, 2025) ("Section 1225 does not apply to a noncitizen like Petitioner, who has been living in the United States for years"). Respondents do not dispute that Mr. Bravo Arizmendi was "already in the country" at the time of his arrest, meaning he is subject to Section 1226, not Section 1225.

Accordingly, the Court's sound reasoning in *Ye* applies equally to the present case. The contrary decisions and alleged distinctions Respondents identify do not lead to a different outcome. Petitioner therefore respectfully requests that the Court enter a preliminary injunction and grant the Petition, holding that Mr. Bravo Arizmendi is not subject to mandatory detention pursuant to Section 1225 and cannot be re-detained without notice and an opportunity to be heard at a pre-deprivation bond hearing before a neutral decisionmaker, where the government will have the burden of showing that his detention is authorized under Section 1226.[2]

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[2] Although it does not alter the essential facts necessary to grant the Petition, Petitioner does not concede the accuracy of the Declaration of Deportation Officer Anthony Delano, Dkt. 14-1 ("Delano Decl."). In particular, Petitioner denies that he "voluntarily admitted he had no status in the United States." Delano Decl. ¶ 10. Mr. Delano does not contend that he was one of the officers present for Mr. Bravo Arizmendi's arrest, nor does he identify to whom Mr. Bravo Arizmendi allegedly made any such statement. Of additional concern is Mr. Delano's statement that "there was a high likelihood of flight" by Mr. Bravo Arizmendi, a determination allegedly made by unidentified "ICE officers" solely based on alleged "nonobservance of United States immigration law." *Id.* That Respondents would allegedly make such a determination based on a circumstance common to *any* noncitizen in *any* removal proceedings emphasizes the need for a neutral decisionmaker who will place the burden on Respondents prior to any future re-detention.

Petitioner agrees with Respondents that the Court need not consider the effect of the orders in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-1873 (SSS) (BFM) (C.D. Cal.), because the reasoning in *Ye* is dispositive. Nevertheless, Petitioner disputes Respondents' arguments that *Maldonado Bautista* is void or non-preclusive and specifically reserves the argument that Mr. Bravo Arizmendi's detention is unlawful for the independent reason that it violates *Maldonado Bautista*.

Finally, Mr. Bravo Arizmendi disagrees that his due process claim is moot because he has been released from custody pursuant to the Court's temporary restraining order. *See Xiu Qing You v. Nielsen*, No. 18-cv-5392 (GBD) (SN), 2020 WL 2837022, at *5 (S.D.N.Y. June 1, 2020) (release pursuant to temporary or preliminary order does not render claims moot); *Basank v. Decker*, 613 F. Supp. 3d 776, 784 (S.D.N.Y. 2020) ("a live case or controversy continues to exist as the Court considers whether to convert its TRO [ordering release] into a preliminary injunction"). To the extent the Court finds that Mr. Bravo Arizmendi is subject to detention under Section 1225, Petitioner maintains that such detention would still be unlawful because it violates his right to due process.

We thank the Court for its time and consideration.

Sincerely,

/s/ Stephen M. Baldini
Stephen M. Baldini