U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

February 6, 2026

Honorable Nusrat J. Choudhury
United States District Court Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *Castellon v. Almodovar, et al.*, 26-cv-0647 (NJC)

Dear Judge Choudhury:

This Office represents the Respondents in the above-captioned case in which Petitioner Felipe Donald Aguinaga Castellon ("Petitioner") filed a petition for a writ of habeas corpus on February 5, 2026 challenging his detention by Immigration and Customs Enforcement ("ICE). *See* Docket Entry No. 1. The legal issues presented concern whether Petitioner's detention violates his due process protections, and the statutory authority for ICE's detention of Petitioner. Petitioner principally seeks an order from this Court directing ICE to release him from detention. *Id.* Prayer for Relief ¶ 3. 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 *Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065, 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025) ("*Acurio*"), as discussed below, and other matters such as *Covelli-Chaparro v. Bondi, et al.*, No. 26-cv-0118, at Docket Entry dated January 15, 2026 ("*Covelli-Chaparro*") *Acevedo v. Nassau Correctional Center, et al.*, No. 26-cv-0250, at Docket Entry dated January 28, 2026 ("*Acevedo*") and *Caraguay v. Larocco*, No. 26-cv-0569, at Docket Entry 15 ("*Caraguay*").

Attached to this letter is a declaration from ICE Deportation Officer Mincheol So, dated February 6, 2026 attaching documents material to Respondents' basis for detaining Petitioner.

Discussion

The statutory basis for detaining Petitioner is 8 U.S.C. § 1225(b)(2)(A). In sum and substance, Petitioner alleges that his detention violates his due process rights and his detention violates the INA because he is subject to 8 U.S.C. § 1226, not 8 U.S.C. § 1225. As noted, this Court has already resolved nearly identical claims in prior cases.

While the government respectfully disagrees with the Court's decisions in *Rodriguez-Acurio*, *Covelli-Chaparro*, *Acevedo* and *Caraguay*, the government acknowledges that the 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 in *Rodriguez-Acurio*. 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 *Rodriguez-Acurio* and respectfully submits that the Court can decide this matter without further briefing. However, should the Court prefer to receive a memorandum of law in this matter, the government will file such a brief upon the Court's request. Notwithstanding its submission of this letter in lieu of a formal brief, the government reserves all rights, including the right to appeal.[1]

The government notes that a number of decisions in this Circuit, including from three different judges on the United States District Court for the Southern District of New York, have now endorsed the government's interpretation of the relevant statutory provisions. In *Chen v. Almodovar, et al.*, No. 25-cv-8350, 2025 WL 3484855, at *7 (S.D.N.Y. Dec. 4, 2025), *notice of appeal filed* Dec. 16, 2025, the petitioner had entered the United States without having been admitted, was detained, and was released on his own recognizance due to lack of bed space; he was recently re-detained pursuant to 8 U.S.C. § 1225(b)(2)(A). The Honorable Mary Kay Vyskocil dismissed the habeas petition, holding that "under the plain language" of § 1225(b)(2)(A), which by its terms requires mandatory detention for "applicant[s] for admission," the petitioner -- an applicant for admission -- was subject to mandatory detention. *Chen*, 2025 WL 3484855 at *4. In particular, the court cited the statutory definition of "applicant for admission" in Section 1225(a), which "is specifically defined to include an 'alien *present in* the United States who has not been admitted.'" *Id.* (emphasis in *Chen*) (citing Section 1255(a)). Moreover, the court noted that the terms "'admitted' and 'admission' are specifically defined in terms of '*lawful*' entry," not mere physical entry. *Id.* (emphasis in *Chen*) (citing 8 U.S.C. § 1101(a)(13)(A)); *accord Candido v. Bondi, et al.*, No. 25-cv-867, 2025 WL 3484932, at *1-2 (W.D.N.Y. Dec. 4, 2025) (finding detention under 8 U.S.C. § 1225(b)(2)(A) was proper for alien present in United States unlawfully without having been admitted based on a "a straightforward and fair reading of the governing statute," noting that "[t]he fact that more district courts . . . have decided this issue differently from this [c]ourt is neither binding nor persuasive"), *notice of appeal filed* Dec. 16, 2025. *Chen* also rejected the proposition that Congress would not have needed to pass the Laken Riley Act ("LRA")-- which provides for mandatory detention for "inadmissible" aliens charged with, arrested for, convicted of, or who admit to, certain crimes – if Section 1225 already provided for mandatory detention. *Chen*, 2025 WL 3484855, at *6-7. The court explained, *inter alia*, that the LRA mandates detention in additional circumstances – for example, for aliens who fraudulently

[1] Notices of appeal were recently filed in two similar cases, *Da Cunha v. Moniz*, 25-cv-00867 (W.D.N.Y.) and *Chen v. Almodovar*, 25-8350 (S.D.N.Y.) In addition to the pending appeals by petitioners regarding the denials of habeas petitions as noted above, the Government has affirmatively appealed the grant of a habeas petition in *Cunha v. Moniz*, 25-cv-6532 (W.D.N.Y. Nov. 25, 2025) (concluding, *inter alia*, that Section 1226(a), not Section 1225(b)(2)(A), applied), *notice of appeal* filed Dec. 11, 2025, No. 25-3141 (2d Cir.) The *Cunha* appeal is proceeding on an expedited track and will be fully briefed March 3, 2026.

procure visas – not covered by Section 1225. *Id.* On December 15, 2025, Judge Vyskocil issued another decision concluding that the Government's interpretation is correct. *See Liang v. Almodovar*, No. 25-cv-9322, at *4-11 (S.D.N.Y. Dec. 15, 2025) (holding that petitioner who entered the United States without being admitted was properly subject to detention under the plain language of Section 1225, notwithstanding prior release on his own recognizance under Section 1226, and further concluding that petitioner was not entitled to any process beyond that set forth in the statute).

Similarly, earlier this year, in *Chen v. Almodovar*, 25-cv-9670, 2026 WL 100761, at *8-9 (S.D.N.Y. Jan. 14, 2026) (Cronan, J.), the Court held that a petitioner detained pursuant to § 1225, even though ICE had previously released him under § 1226, was subject to the former provision, as "aliens present in the United States who ha[ve] not been admitted" are "by default, [ ] seeking admission" and, thus, subject to mandatory detention under § 1225). Similarly, another district judge in this Circuit adopted the same reasoning and denied petitioner's habeas petition. *Weng v. Genalo et al.*, No. 25-cv-09595, 2026 WL 184627, at *1 (S.D.N.Y. Jan. 23, 2026) (Rearden, J.) ("Having considered the statutory text and other relevant authorities, the undisputed facts of this case, and the parties' submissions and oral arguments, the Court concludes that Petitioner's detention is governed by Section 1225.").

Notwithstanding its submission of this letter in lieu of a formal brief, the Government reserves all rights, including the right to appeal. For the reasons set forth in the government's brief in *Rodriguez-Acurio*, *see* No. CV-25-6065, Docket Entry No. 21, the government respectfully requests that the Court deny this habeas petition.

As referenced by Petitioner's counsel in his February 6, 2026 letter to the Court, Docket Entry No. 6, the government has no objection to the Court deciding the petition on the papers in lieu of a hearing.

Respectfully Submitted,

JOSEPH NOCELLA, JR.
UNITED STATES ATTORNEY

By: /s/ Robert W. Schumacher
Robert W. Schumacher
Assistant U.S. Attorney
(631) 715-7871

cc: Michael Z. Goldman, Esq.