U.S. Department of Justice

United States Attorney
Eastern District of New York

610 Federal Plaza
Central Islip, New York 11722

February 11, 2026

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

Re: *Bonilla v. Noem, et al.*, 26-cv-0757 (NJC)

Dear Judge Choudhury:

This Office represents the Respondents in the above-captioned case in which Petitioner Jose Amado Bonilla ("Petitioner") filed a petition for a writ of habeas corpus on February 10, 2026 challenging his detention by Immigration and Customs Enforcement ("ICE"). *See* Docket Entry No. 1. Petitioner is a native or El Salvador and has been assigned A number [redacted]. The undersigned has conferred with agency counsel for ICE who has informed this Office that Petitioner was detained by ICE on January 24, 2026 and, at present, is detained at MDC Brooklyn. Petitioner has not been detained at the Central Islip federal courthouse and, as of the filing of this letter, there is no indication that he will be detained there. ICE has been made aware of the Court's order prohibiting transfer of Petitioner to a facility outside of this district, the Southern District of New York or the District of New Jersey and has advised that he will not be transferred outside thereof prior to the Court's scheduled hearing at 2 p.m. on February 13, 2026. While Petitioner is detained at MDC Brooklyn, Petitioner's counsel may contact Deportation Officer Micheol Sol at Mincheol.N.So@ice.dhs.gov or Supervisory Detention and Deportation Officer Khristopher Dawson at Khristopher.Dawson@ice.dhs.gov.

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.* ¶ 10. 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 as Ex. 1 is a declaration from ICE Supervisory Detention and Deportation Officer Jason V. Langlois, dated February 11, 2026, attaching documents material to Respondents' basis for detaining Petitioner.[1]

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.

On February 6, 2026, the Court of Appeals for the Fifth Circuit issued an opinion that, while not binding on this Court, held that the government's interpretation of 8 U.S.C. § 1225 was correct. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Moreover, earlier today in *Saamishvili v. Flanagan, et al.*, No. 25-cv-6178, (E.D.N.Y. Feb. 11, 2026), the Honorable Brian M. Cogan issued the attached decision (Ex. 2) concurring with the Respondents' statutory construction. *See* Mem. Op. at 6 ("Since his unlawful entry, petitioner has been, and continues to be, subject to the mandatory detention requirement of Section 1225(b)(2)(A).").

The government also notes that a number of decisions in this Circuit, including from 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

[1] While Petitioner executed a Form I-210 Voluntary Departure and Verification of Departure, *see* Langlois Decl. [redacted], Respondents are mindful of U.S. Supreme Court precedent allowing for the withdrawal a voluntary departure request to pursue other relief. *See Dada v. Mukasey*, 554 U.S. 1, 21 (2008).

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 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.").[2]

[2] 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.

As to Petitioner's INA and APA claims, these statutes are not the proper vehicle for claims arising out of Petitioner's detention, which drives this suit. In *Trump v. J.G.G.*, 604 U.S. 670 (2025), in which claims including due process claims were brought under the APA, the INA and various habeas provisions, the Supreme Court held that where the claims for relief, as here, "necessarily imply the invalidity of their confinement," regardless of whether he requests release from confinement, those claims "fall within the 'core' of the writ of habeas corpus and must be brought in habeas." *See J.G.G.*, 604 U.S. at 672 (cleaned up). The Supreme Court's holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to immigration statutes. Id. (citing *Heikkila v. Barber*, 345 U.S. 229, 234-35 (1953)). All the claims in this suit constitute a core habeas claim — though they fail for the reasons discussed above—and are not cognizable under the INA or the APA. Further, by the APA's terms, it is available only for agency action "for which there is no other adequate remedy in a court." 5 U.S.C. § 704. Thus, Petitioner's APA claims are independently barred by this limitation. As noted by Justice Kavanaugh's concurrence in *J.G.G.*, "given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here." J.G.G., 604 U.S.at 674 (Kavanaugh, J. concurring). Here, as in *J.G.G.*, habeas is an "adequate remedy" through which Petitioner can challenge his detention.

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.

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: Carolyn Corrado, Esq.

EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOSE AMADO BONILLA,

Petitioner,

v.

PAM BONDI, *et al.*,

Respondents.

No. 26-cv-757 (Choudhury, J.)

DECLARATION OF JASON V. LANGLOIS

Pursuant to 28 U.S.C. § 1746, I, Jason V. Langlois, hereby declare under penalty of perjury that the following is true and correct:

1. I am a Supervisory Detention and Deportation Officer ("SDDO") at U.S. Immigration and Customs Enforcement ("ICE") within the U.S. Department of Homeland Security ("DHS"). I have served in this capacity since July 2021 and have been employed by DHS since March 2008. As an SDDO, I am familiar with certain DHS procedures relating to the processing, removal, detention, and parole of aliens. The following representations are based on my review of DHS records and databases maintained in the ordinary course of business, including my review of DHS records for petitioner Jose Amado Bonilla ("Petitioner"), a citizen and national of El Salvador, who has been assigned Alien Number [redacted], consultation with my colleagues, and my personal knowledge.

2. I submit this declaration in support of Respondents' response to the Order to Show Cause dated February 10, 2026.

3. Petitioner entered the United States without inspection at an undetermined place and time.

4. On January 24, 2026, at approximately 7:35 a.m., ICE officers encountered Petitioner in the vicinity of Clinton Street and Fulton Avenue, in Hempstead, New York, during which Petitioner agreed to voluntarily answer questions. Petitioner admitted to the ICE officers that he is a citizen and national of El Salvador, provided his El Salvadorian identification bearing his name and date of birth, and admitted he entered the United States illegally by crossing the United States/Mexico border in 2003.

5. Based upon this admission, a Warrant for Arrest of Alien ("Form I-200") was issued. A true and correct copy of the Form I-200 is attached hereto as Ex. A. Petitioner was placed under arrest and detained.

6. On January 24, 2026, at approximately 8:10 a.m., Petitioner was brought to ICE processing offices at Nassau County Correctional Center ("NCCC"), 100 Carman Avenue, East Meadow, New York. During processing, Petitioner agreed to voluntarily depart the United States and executed a Form I-210 Voluntary Departure and Verification of Departure, ("Form I-210"). A true and correct copy of the Form I-201 (in Spanish executed by Petitioner and in English to aid the Court) is attached hereto as Ex. B. In light of Petitioner's agreement to voluntarily depart, no Notice to Appear was issued.

7. On the same day, at approximately 3:00 p.m., Petitioner was transferred from NCCC to Delaney Hall Detention Facility ("Delaney Hall") in Newark, New Jersey at arrived at approximately 4:45 p.m.

8. On January 27, 2026, at approximately 11:00 a.m. Petitioner was transferred out of Delaney Hall and booked into Brooklyn Metropolitan Detention Center, in Brooklyn, New York the same day at approximately 3:00 p.m., where he is currently detained.

9. Petitioner has never been admitted to the United States.

I hereby declare under the penalty of perjury that the above statements are true and correct.

Executed at New York, New York
this 11th day of February, 2026.

JASON V LANGLOIS Digitally signed by JASON V LANGLOIS Date: 2026.02.11 13:57:34 -05'00'

Jason V. Langlois
Supervisory Detention and Deportation Officer
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

EXHIBIT A

EXHIBIT 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ZURAB SAAMISHVILI, Petitioner, - against - BRYAN FLANAGAN, *Acting Field Office Director, U.S. Immigration and Customs Enforcement*; JUDITH ALMODOVAR, *Acting Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement*; KRISTI NOEM, *Secretary of the U.S. Department of Homeland Security*; and PAMELA BONDI, *U.S. Attorney General*, Respondents.	**MEMORANDUM DECISION AND ORDER** 25-cv-6178 (BMC)

COGAN, District Judge.

Petitioner, a native and citizen of the country of Georgia, seeks a writ of habeas corpus ordering his release from Immigration and Customs Enforcement ("ICE") detention under 22 U.S.C. § 2241. Petitioner unlawfully crossed the Arizona-Mexico border in 2021, and ICE apprehended him the same day. ICE did not keep him in physical custody. Instead, it issued a Notice to Appear ("NTA") for removal proceedings, and let him go.

Since then, petitioner was required to periodically check in with ICE, sometimes in person, and sometimes over the phone or email. If petitioner had failed to contact immigration officials when he was required to, he could been returned to physical custody. See 8 C.F.R. § 241.4(l)(1) ("Any alien . . . who violates the conditions of release may be returned to custody.").

A few years later, under a new administration, at his last in-person check-in, ICE took him back into custody and fast-tracked his removal proceedings, and he has since been ordered removed. This petition followed. For the reasons below, the Court denies the petition.

LEGAL STANDARD

Habeas corpus "stands as a safeguard against imprisonment of those held in violation of the law." Harrington v. Richter, 562 U.S. 86, 91 (2011); see also Ozturk v. Hyde, 136 F.4th 382, 393 (2d Cir. 2025). The Court may issue a writ under Section 2241 "whenever a petitioner is 'in custody in violation of the Constitution or law or treaties of the United States.'" Wang v. Ashcroft, 320 F.3d 130, 140 (2d Cir. 2003) (quoting 28 U.S.C. § 2241(c)). "Federal courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the constitutionality of their detention." Lopez v. Sessions, No. 18-cv-4189, 2018 WL 2932726, at *6 (S.D.N.Y. June 12, 2018) (citing Demore v. Kim, 538 U.S. 510, 516-17 (2003)).

"How much process someone is due depends on circumstance, and immigration law is one sphere where that amount is minimal." Singh v. Quarantillo, No. 25-cv-6392, 2026 WL 32759, at *3 n.3 (E.D.N.Y. Jan. 6, 2026). "Parties claiming denial of due process in immigration cases must, in order to prevail, 'allege some cognizable prejudice fairly attributable to the challenged process.'" Garcia-Villeda v. Mukasey, 531 F.3d 141, 149 (2d Cir. 2008) (quoting Lattab v. Ashcroft, 384 F.3d 8, 19 (1st Cir. 2004)).

DISCUSSION

Petitioner challenges his ongoing custody without a bond hearing. The Government contends his custody is proper under 8 U.S.C. § 1225(b)(2)(A). It is undisputed that aliens subject to Section 1225(b)(2)(A) are not entitled to a bond hearing. The only question therefore is whether petitioner is covered by that statute.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, Div. C, 110 Stat. 3009, 3009-546, redefined the immigration code in many respects. Relevant here, it did away with the distinction between "exclusion" and "deportation" proceedings. Generally speaking, exclusion proceedings applied to aliens encountered at the border and deportation proceedings applied to aliens later encountered within the border. See Ibragimov v. Gonzales, 476 F.3d 125, 130 n.11 (2d Cir. 2007) ("'Deportation' proceedings were provided to aliens who had formally 'entered' the United States, while 'exclusion' proceedings were provided to aliens who were seeking entry to the United States and therefore were constructively deemed to be at the border.'").

Deportation proceedings afforded aliens "a number of substantive rights not available to the alien who is denied admission in an exclusion proceeding." Landon v. Plasencia, 459 U.S. 21, 26 (1982). The idea behind removing the exclusion-deportation distinction is somewhat intuitive: an alien that enters unlawfully and evades apprehension for a long period of time should not be in a more favorable position than an alien that enters unlawfully but is apprehended immediately. Post-IIRIRA, "both aliens arriving at the border and aliens already present in the United States without inspection are deemed 'applicants for admission,' . . . who must 'be inspected by immigration officers' to determine their admissibility." Cruz-Miguel v. Holder, 650 F.3d 189, 197 (2d Cir. 2011).

The statute at issue states, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [removal] proceeding[s]." 8 U.S.C. § 1225(b)(2)(A). As the Government puts it, "§ 1225(b)(2)'s mandatory detention regime applies to all aliens who entered the United States without inspection." See Matter of

Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025) ("[A]liens who enter the United States without inspection or admission are 'applicants for admission' under [] 8 U.S.C. § 1225(a)(1), and subject to the inspection, detention, and removal procedures of [] 8 U.S.C. § 1225(b).").[1]

The Court agrees, and notes that this is a natural reading, consistent with IIRIRA's purpose of removing the exclusion-deportation distinction. See Buenrostro-Mendez v. Bondi, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). When petitioner first crossed the Arizona border, he was certainly an "applicant for admission" covered by Section 1225(b)(2)(A). And indeed, ICE took him into custody, as was mandatory. But that does not end the inquiry because what matters is whether petitioner was still covered by Section 1225(b)(2)(A) at the time ICE took him back into physical custody in 2025.

The phrase "shall be detained" is quite clear, evoking a Congressional intent to strip the Executive of any discretion to enforce the statute's mandate. See Jennings v. Rodriguez, 583 U.S. 281, 297 (2018). The question in Jennings was whether there was an implicit six-month time limit for physical custody under Section 1225(b)(2), after which the alien had to be afforded a bond hearing under Section 1226(a). In finding that the statute unambiguously did not, Jennings read "detention" under Section 1225(b)(2)(A) to mean physical custody. See id. at 307 ("'Detained' does not mean 'released on bond'").

The problem is that "DHS has never had 'sufficient detention capacity to maintain in custody every single person described in section 1225.'" See Biden v. Texas, 597 U.S. 785, 792 (2022). Thus, if Jennings is read to hold that "detention" under Section 1225(b)(2)(A)

[1] The Government refers to Yajure Hurtado as a "precedential decision." Ostensibly, the Government is referring to the binding effect of BIA decisions on ICE as an agency, see 8 C.F.R. § 1003.1(g), and not this Court. "While the BIA decision might provide helpful guidance, this Court is not bound by it." Kulwinder Singh v. Maldonado, No. 26-cv-00019, 2026 WL 233216, at *8 (E.D.N.Y. Jan. 29, 2026) (citing Loper Bright Enters. v. Raimondo, 603 U.S. 369, 385-86, 400-01 (2024)).

necessarily means physical custody, the Executive is seemingly faced with an impossible choice between inhumanely overcrowding DHS facilities,[2] or ignoring Congress.

But the Jennings Court's discussion as to what "detention" meant was *dicta*, intended only to showcase the infirmity of the dissent's reading of the statute. See Jennings, 583 U.S. at 311 ("[E]ven if we were to accept the dissent's interpretation and hold that 'detained' aliens in the 'custody' of the Government include aliens released on bond, that would *still* not justify the dissent's proposed resolution of this case."). In other words, Jennings left open whether "detention" under Section 1225(b)(2)(A) always requires physical custody, or if some other restriction of liberty could satisfy the purpose of the mandatory detention. See id. at 318 (Thomas, J., concurring) ("This detention . . . is meant to ensure that the Government can ultimately remove [the alien].").

Reading Section 1225(b)(2)(A) to require a certain form of detention, without the statute stating so, would run afoul of the "narrow standard of review of decisions made by [] Congress or the President in the area of immigration and naturalization." See Mathews v. Diaz, 426 U.S. 67, 82 (1976); see also Jama v. Immigr. & Customs Enf't, 543 U.S. 335, 348 (2005) ("To infer an absolute rule . . . where Congress has not clearly set it forth would run counter to our customary policy of deference to the President in matters of foreign affairs."); United States ex rel. Knauff v. Shaughnessy, 338 U.S. 537, 542 (1950) ("The exclusion of aliens is a fundamental act of sovereignty . . . inherent in the executive power to control the foreign affairs of the nation").

[2] Although overcrowding by itself is not an Eighth Amendment violation, see Rhodes v. Chapman, 452 U.S. 337, 347 (1981), it is often the breeding ground. See Darnell v. Pineiro, 849 F.3d 17, 32 (2d Cir. 2017) ("An overcrowded cell . . . may exacerbate the effect of unsanitary conditions[;] poor ventilation may be particularly harmful when combined with an overflowing toilet [and] Inadequate nutrition may be compounded by infestation.").

Analogizing to the statute governing conditions on pretrial release of federal criminal defendants, 18 U.S.C. § 3142(c)(1)(B), the dissent in Jennings postulated that "detention" under Section 1225(b)(2)(A) includes bond, travel restrictions, curfew, periodic check-ins, and returning to custody at specified hours. See id. at 345 (Breyer, J., dissenting). The dissent went wrong only by suggesting that these were necessary conditions of detention under Section 1225(b)(2)(A), rather than sufficient conditions. In other words, the Executive's obligation to detain aliens subject to Section 1225(b)(2)(A) could be satisfied by bond, check-ins, etc., but it could also be satisfied by physical custody, if the Executive chose to do so.

Since his unlawful entry, petitioner has been, and continues to be, subject to the mandatory detention requirement of Section 1225(b)(2)(A). Between his unlawful entry in 2021 and October 2025, the Executive enforced that requirement with a velvet glove; thereafter, with an iron fist.[3] The former was no doubt preferable to petitioner, but was by no means required by the Due Process Clause. See Singh, 2026 WL 32759, at *4 ("Due process is not a results-based function.").[4]

[3] In Biden, the Supreme Court left open whether "the detention requirement in [S]ection 1225(b)(2)(A) is subject to principles of law enforcement discretion." 597 U.S. at 803 n.5. That question is not implicated here because discretion to enforce (*i.e.*, to enforce or not to enforce) is distinct from discretion of how to enforce (*i.e.*, the method of enforcement).

[4] In a factually identical case, the court deemed ICE's prior release of the petitioner to constitute parole under Section 1182(d)(5)(A), and therefore ICE taking him back into physical custody, without the required parole-revocation assessment, violated the petitioner's due process rights. See Diallo v. Maldonado, No. 25-cv-5740, 2025 WL 3158295, at *5 (E.D.N.Y. Nov. 12, 2025).

This Court respectfully disagrees with Diallo. Section 1182(d)(5)(A) allows for parole "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit," which strikes the Court as a high bar. True, Section 1182(d)(5)(A) is "the sole statutory authority under which a noncitizen subject to § 1225(b)(2)(A) may be paroled," see Savane v. Francis, 801 F. Supp. 3d 483, 491 (S.D.N.Y. 2025), so deeming any release from physical custody under Section 1225(b)(2)(A) as constituting parole under Section 1182(d)(5)(A) makes some sense. But petitioner was not paroled, and neither administration's Executive evinced an intent to have done so. The Court believes it treads too far to constructively parole petitioner under Section 1182(d)(5)(A) when a more plausible, less drastic explanation for his release and return to physical custody exists.

CONCLUSION

The petition for a writ of habeas corpus is denied.

SO ORDERED.

Dated: Brooklyn, New York
February 11, 2026

Brian M. Cogan
U.S.D.J.