U.S. Department of Justice

United States Attorney
Eastern District of New York

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Brooklyn, New York 11201

March 16, 2026

By ECF

Honorable Orelia E. Merchant
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Erick Milton Jimenez Carrillo v. Kristi Noem, et al.,*
Civil Action No. 26-cv-01259 (OEM)

Dear Judge Merchant:

This letter is respectfully submitted on behalf of Respondents Kristi Noem, Secretary of Homeland Security, Pamela Bondi, United States Attorney General, Todd Lyons, Acting Director, Immigration and Customs Enforcement ("ICE"), William Joyce, Acting Field Office Director, New York, ICE, and Warden of the Metropolitan Detention Center – Brooklyn ("MDC"), in response to the Order to Show Cause dated March 12, 2026 (ECF Doc. No. 5).

Petitioner Erick Milton Jimenez Carrillo ("Petitioner") seeks release from immigration detention. Petitioner illegally entered the United States without inspection at unknown time and location. *See* Declaration of Detention Officer Mayra Pardo-Figueroa dated March 16, 2026 ("Pardo-Figueroa Decl") ¶ 3.[1] On February 27, 2026, ICE encountered Petitioner in Flushing, New York. *Id.* ¶ 4. After ascertaining that Petitioner was not legally in the United States, ICE arrested him pursuant to a warrant and transported him to 26 Federal Plaza in Manhattan for processing. *Id.* ¶ 4. Charging Petitioner as an alien present in the United States without being admitted or paroled, ICE served him with a Notice to Appear. *Id.* ¶ 5. Petitioner was placed in removal proceedings. *Id.* ¶¶ 5-6; *see also id.* ¶¶ 9-12. Petitioner has been detained since his arrest. *See id.* ¶¶ 7-8. Currently, he is at the MDC. *Id.* ¶ 8.

Petitioner is being detained pursuant to Section 235(b)(2)(A) of the Immigration and Naturalization Act ("INA"), 8 U.S.C. § 1225(b)(2)(A) ("Section 1225(b)(2)(A)"). *See* Padro-Figueroa Decl. ¶¶ 7, 13. Respondents' position is that Petitioner has never been "admitted" to the United States, that ICE has properly detained him pursuant to Section 1225(b)(2)A), and that such detention is mandatory. Nevertheless, Respondents acknowledge that Your Honor has previously

[1] Petitioner alleges that he has been in the United States since September 2017. *See* Amended Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Dkt. No. 4) ¶ 1.

held that the discretionary detention provision of 8 U.S.C. § 1226, and not the mandatory detention provision of Section 1225 applies to an alien who was detained after having lived in the United States (as opposed to being detained upon entry), and has ordered the release of the alien. *See Vasquez-Lopez v. Bondi*, No. 26-CV-1369 (OEM), 2026 WL 710088, at *2 (E.D.N.Y. Mar. 13, 2026) (collecting cases).

Respondents respectfully disagree with Your Honor's decision in *Valdez-Lopez*. However, in light of that decision, and in order to conserve judicial resources, Respondents will not restate the statutory interpretation argument that Your Honor rejected in *Valdez-Lopez* in this case at this time. However, Respondents respectfully reserve all rights, including the right to appeal. [2]

Finally, Respondents note that the original petition, which was filed on March 4, 2026, alleged several times that Petitioner was being detained at the Delaney Hall Detention Facility in Newark, New Jersey. Dkt. No. 1 ¶¶ 2, 6, 13, 15. By Order dated March 4 ("the Transfer Order"), Your Honor *sua sponte* transferred the case to the District of New Jersey, where the petition alleged he was being detained. On March 10, Petitioner moved for reconsideration of the Transfer Order. ECF Doc. No. 3. The motion stated "At the time of the Court's Transfer Order, Petitioner was detained at Delaney Hall Detention Facility in Newark, New Jersey. Based on that information, the Court determined that venue was proper in the District of New Jersey. However, Petitioner has since been transferred to [the MDC]." *Id.* at 2. In other words, the motion stated that Petitioner was not at the MDC at the time the petition was filed, only at the time of the filing of the motion. Respondents did not have an opportunity to respond to Petitioner's motion before Your Honor vacated the Transfer Order on March 10. But, as the Second Circuit has held, the only district court with jurisdiction over a habeas petition is the district court for the district in which the petitioner was detained at the time the petition is filed. *Ozturk v. Hyde*, 136 F.4th 382, 390-91 (2d Cir. 2025). *See also Trump v. J.G.G.* 604 U.S. 670, 672 (2025) ("For 'core habeas petitions,' 'jurisdiction lies only in one district: the district of confinement.'" (quoting *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004)). Thus, based on Petitioner's own representations, this action could proceed only in the District of New Jersey and the Transfer Order should not have been vacated.

Nevertheless, ICE has advised this Office that Petitioner was in fact confined at the MDC at the time the Petition was filed – despite the repeated allegations to the contrary in the Petition

[2] The government's appeal of another court's decision holding that Section 1226(a) applies to persons who entered the United States without inspection (as opposed to Section 1225(b)) is scheduled for oral argument before the Second Circuit on April 6, 2026, *Barbosa da Cunha v. Freden*, No. 25-3141; *see* 2025 WL 3280575 (W.D.N.Y. Nov. 25, 2025)). Respondents also note that six district judges in New York have ruled in favor of the government finding that Section 1225(b) applied. *Saamishvili v. Flanagan*, No. 25-cv-6178, 2026 WL 377574 (E.D.N.Y. Feb. 11, 2026) (Cogan, J.), *notice of appeal filed* Feb. 17, 2026; *Arana v. Arteta*, No. 26 Civ. 240, 2026 WL 279786 (S.D.N.Y. Feb. 3, 2026) (Woods, J.); *Lopez v. Noem*, No. 26 Civ. 00345, 2026 WL 266597 (S.D.N.Y. Feb. 2, 2026) (Rearden, J.); *Chen v. Almodovar*, No. 25 Civ. 9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026) (Cronan, J.); *Chen v. Almodovar*, No. 25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) (Vyskocil, J.), *notice of appeal filed* Dec. 18, 2025; *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025) (Sinatra, J.), *notice of appeal filed* Dec. 16, 2025. The only court of appeals to issue a merits decision in a case of this type ruled in favor of the government. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 501-08 (5th Cir. 2026).

and motion for reconsideration that Petitioner was detained in New Jersey at the time the petition was filed. Consequently, Respondents do not contest that this Court has jurisdiction over this action.

Thank you for Your Honor's consideration of this submission.

Respectfully submitted,

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