United States Department of Justice

United States Attorney
Northern District of New York

100 South Clinton Street, P.O. Box 7198
James M. Hanley Federal Building
Syracuse, New York 13261-7198

Tel.: (315) 448-0672
Fax: (315) 448-0646

April 6, 2026

VIA CM/ECF
Hon. Anthony J. Brindisi
Alexander Pirnie Federal Building
10 Broad Street
Utica, New York 13501

Re: ***Hernandez De Castaneda ex rel. Castaneda Cifuentes v. Superintendent et al.***
Case No.: 9:26-cv-00450 (AJB)

Dear Judge Brindisi:

This office represents the Respondent, U.S. Immigration and Customs Enforcement, in this matter. Petitioner, as next friend[1] of Angel Eduardo Castaneda Cifuentes, challenges Cifuentes' detention by U.S. Immigration and Customs Enforcement ("ICE"). Petitioner filed a Petition for a Writ of Habeas Corpus, along with a motion to stop Cifuentes' transfer, on March 23, 2026. Dkt. # 1. Later that day, this Court ordered Respondents to respond to the Petition, set a response deadline for April 6, 2026, and set a reply deadline for April 13, 2026. Dkt. # 2.

The government has carefully reviewed the Petition and determined that the legal issues presented concern the statutory authority for ICE's detention of Cifuentes under 8 U.S.C. § 1225(b)(2) or 1226(a), and whether Cifuentes is entitled to a bond hearing or immediate release. Dkt. # 5 at 2. Because this Court has already rejected the government's position as to its detention authority under Section 1225(b)(2), Respondent respectfully submits this abbreviated letter response in lieu of a formal responsive memorandum of law to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter. In

[1] Aside from alleging that she is the detainee's wife, Petitioner provides no basis on which to proceed as a next friend. Notably, she has not established why the detainee is "unable . . . to seek relief" such as, for example, "because of mental incompetence or inaccessibility." *Whitmore v. Arkansas*, 495 U.S. 149, 162 (1990). Petitioner bears this burden, and failure to carry it can result in dismissal. *Id.*; *see also Tarver v. Superintendent*, No. 9:20-CV-0108 (GTS), 2020 WL 586797, at *2 (N.D.N.Y. Feb. 6, 2020) (requiring "concrete evidence," including "documentary proof," of inmate's inability to advocate for himself in habeas proceedings). Two recent decisions in this district have addressed next friend status in this context. *Olivares Prieto ex rel. Aguiar Olivares v. Broome Cty. Corr. Facility*, Case No. 9:26-cv-00203-AMN, at Dkt. # 18 (Mar. 11, 2026); *Lojano Villa ex rel. Lojano Villa v. Warden*, Case No. 9:26-cv-00397-BKS, Dkt. # 10 (April 6, 2026).

doing so, the government reserves all rights, including the right to appeal. If the Court prefers to receive a formal memorandum of law, the government will be happy to submit one upon request.

While acknowledging that many courts, including this one, have held otherwise, it is the government's position that Petitioner is subject to mandatory detention under § 1225(b), because he was present in the United States without being admitted or paroled. However, Respondent acknowledges this Court recently reached the opposite conclusion in *Euriza Alvarez v. Philips*, Case No. 9:26-cv-00058-AJB, Dkt. # 11 (Feb. 17, 2026).

Respondent also acknowledges the *Alvarez* decision followed the rationale of the other decisions that have addressed this issue in this district, and other decisions in this district since *Alvarez* have likewise followed similar rationales. *See Hassan v. Bondi*, 9:26-cv-00319-BKS, Dkt. # 10, at 5–8 (April 1, 2026); *Morales Mendez v. Field Office Director*, Case No. 9:26-cv-00337-ECC, Dkt. # 11, at 5 (Mar. 16, 2026); *Olivares Prieto ex rel. Aguiar Olivares v. Broome Cty. Corr. Facility*, Case No. 9:26-cv-00203-AMN, at Dkt. # 18 (Mar. 11, 2026); *Perdomo Perez v. Akshar*, Case No. 9:26-cv-00120-ECC, Dkt. # 19, at 3–5 (Mar. 5, 2026), *Gaspar v. Akshar*, Case No. 9:26-cv-00118-BKS, Dkt. # 13, at 15 (Feb. 17, 2026); *Noguez v. Brophy*, Case No. 9:26-cv-00030-MAD, Dkt. # 14, at 6 (Feb. 13, 2016); *Bravo Perez v. Bondi*, Case No. 9:26-cv-00205-ECC, Dkt. # 10, at 2 (Feb. 20, 2026) (Order; Memorandum-Decision and Order forthcoming); *cf. Martins v. Akshar*, Case No. 9:26-cv-00095-MAD, Dkt. # 16, at 10 (Feb. 3, 2026) ("The Court need not decide whether § 1225(b)(1)(B)(ii) or § 1226 applies, because Petitioner retains certain due process rights. . . . [E]ven if a bond hearing is not statutorily guaranteed, one may still be warranted.").

On the legal issue of which statute governs Petitioner's detention here—whether it is 8 U.S.C. § 1226(a), or 8 U.S.C. § 1225(b)—Respondent acknowledges that this Court's decision in *Alvarez* would control the result here if the Court adheres to that decision, as the facts are not materially distinguishable for purposes of the Court's decision on the legal issue of which statutory provision authorizes the detention.

Likewise, on the legal issue of whether Petitioner's detention violated his due process rights, Respondent likewise acknowledges this Court's decision in *Alvarez* would control the result here if the Court adheres to that decision, as the facts are not materially distinguishable for purposes of the Court's decision on this issue, either. *See also Hassan*, Dkt. # 10, at 8–12; *Morales Mendez*, Dkt. # 11, at 9; *Olivares*, Dkt. # 18; *Perdomo Perez*, Dkt. # 19, at 7; *Gaspar*, Dkt. # 13, at 18; *Noguez*, Dkt. # 14, at 9; *cf. Martins*, Dkt. # 16, at 11 ("While the Court acknowledges Respondents' argument that Petitioner's limited due process rights do not *require* a bond hearing, the Court is satisfied that it may still choose to order one."); *Bravo Perez*, Dkt. # 10, at 2.

Decisions in this district have split as to whether the appropriate remedy in similar circumstances is a bond hearing or immediate release. *Compare Olivares*, Dkt. # 18, at 12 (immediate release); *Perdomo Perez*, Dkt. # 19, at 8 (same); *Alvarez*, Dkt. # 11, at 8 (same); *Gaspar*, Dkt. # 13, at 18 (same); *Morales Mendez*, Dkt. # 11, at 9 (same) *with Martins*, Dkt. # 16, at 16 (bond hearing); *Bravo Perez*, Dkt. # 10, at 2 (same); *Noguez*, Dkt. # 14, at 9 (conditional release absent bond hearing); *Hassan*, Dkt. # 10, at 13 (bond hearing; burden of proof on government).

Here, while Petitioner seeks immediate release, it is unclear whether Petitioner alternatively seeks a bond hearing. However, if a due process remedy is ordered here, Respondent respectfully submits a bond hearing as opposed to immediate release would be appropriate, with Petitioner bearing the burden of proof under normal administrative procedures. As in *Bravo Perez*, and unlike in *Alvarez*, the encounter here constituted Cifuentes' first encounter with ICE since he most recently entered the United States without inspection and admission or parole at an unknown date and time. Exh. **"A"** (explaining apprehension); Exh. **"B"** (commencing removal proceedings). While Respondent does not concede that immediate release is the appropriate remedy in re-detention cases, this fact distinguishes this case from *Alvarez* on the remedies issue, insofar as there, unlike here, Petitioner had previously been encountered and released and then re-detained. Also, Petitioner was apprehended here with a warrant present, similar to *Bravo Perez*, where a bond hearing was ordered rather than release. Exh. **"C"**.[2] Finally, immediate release is not required because Petitioner's five-month detention falls within the six-month presumptively reasonable time period for detention in the immigration context. *See Zadvydas v. Davis*, 533 U.S. 678 (2001), *Velasco Lopez v. Decker*, 978 F.3d 842, 855 n.13 (2d Cir. 2020) (noting *Zadvydas*), *and Black v. Decker*, 103 F.4th 133, 150 (2d Cir. 2024) (noting *Zadvydas* as "instructive").

However, if this Court nevertheless orders Petitioner's release, Respondent respectfully requests that it be provided a minimum of 24 hours to effectuate Petitioner's release and to certify compliance via a status report. This time is needed to account for operational and safety concerns surrounding release.

Thus, while Respondent does not consent to issuance of the writ and reserves all rights, including the right to appeal, and to conserve judicial and party resources while expediting the Court's consideration of this case, Respondent relies upon, and incorporates by reference, the legal arguments as to the statutory and due process issues presented here it presented in the opposition brief filed in *Euriza Alvarez v. Philips*, Case No. 9:26-cv-00058-AJB, Dkt. # 8, which is attached as Exhibit **"D"**. Respondent respectfully submits the Court can decide this issue without further briefing and without a hearing, unless the Court orders otherwise.

---

[2] Exhibits **"A"**, **"B"**, and **"C"** have been provided to me by counsel for ICE.

I thank the Court for its consideration of this submission.

TODD BLANCHE
Deputy Attorney General

JOHN A. SARCONE III
First Assistant United States Attorney

By: /s/David M. Katz
David M. Katz
Assistant United States Attorney
Bar Roll No. 700065

CC: Petitioner (via overnight mail)
Next Friend (via overnight mail)