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Hon. Anthony J. Brindisi, U.S. District Judge
US District Court
Northern District of New York
Alexander Pirnie Federal Building & U.S. Courthouse
10 Broad St.
Utica, NY 13501

Via CM/ECF; Service Upon All Parties by CM/ECF

Re: **Case No. 9:26-cv-01247**
Matavaca Gualli v. Ball, et al.

July 1, 2026,

Dear Hon. Anthony J. Brindisi:

I am writing in response to the Government's letter response to the Petition. While Petitioner was in fact granted a $5,000 bond by the immigration judge, presumably in an attempt to follow the Second Circuit's precedent in *Da Cunha v. Freden,* 175 F.4th 61 (2d Cir. 2026), the government continues to incorrectly assert that it has authority to re-detain individuals similarly situated under Section 1225. Petitioner asserts that his arbitrary and unlawful re-detention in the absence of any pre-deprivation hearing or individualized finding of flight risk or danger to the community, violates his liberty interest and necessitates his immediate release. See, e.g., *Mendez v. Field Off. Dir.*, No. 9:26-cv-337 (ECC) (March 16, 2026); *See Gaspar v. Akshar,* 9:26-cv-118 (BKS), Dkt. No. 13, at 18-19 (N.D.N.Y. Feb. 17, 2026); *Cardenas v. Almodovar*, No. 25-cv-9169, 2025 WL 3215573, at *3 (S.D.N.Y Nov. 18, 2025) (citing *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 498-99 (S.D.N.Y. 2025) (reaching that result by applying the *Matthews* test); *see also Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-6065, 2025 WL 3314420, at *32-33 (E.D.N.Y. Nov. 28, 2025) (concluding that where ICE detained the Petitioner "under the wrong statute and without any notice or opportunity to be heard, much less the procedures required under Section 1226(a)," then "a post-deprivation bond hearing before a DHS officer or even an immigration judge would provide no genuine opportunity for relief because the detention without adequate pre-deprivation procedures has already been carried out.")

While Petitioner was afforded a post-deprivation bond hearing here, his liberty interest was violated by his arbitrary re-detention and the "Petitioner's immediate release is required to return her to the *status quo ante*—'the last uncontested status which preceded the pending controversy.' *Carmen G.C.* , citing *Pinchi v. Noem,* 792 F. Supp. 3d 1025, No. 25-CV-05632-RMI (RFL), 2025 WL 1853763, at *3 (N.D. Cal. July 4, 2025) (applying the *Mathews* test and concluding that "even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody").

Respectfully submitted,

/s/ Matthew Borowski

Matthew Borowski
Counsel for Petitioner