



U.S. Department of Justice

Office of the Solicitor General

The Solicitor General

Washington, D.C. 20530

August 28, 2026

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington, DC 20515

Re: *Juan C.R.R. v. Bondi*, 832 F. Supp. 3d 904 (D. Minn. 2026)

Dear Mr. Speaker:

Consistent with 28 U.S.C. 530D, I write to advise you that the Department of Justice has decided not to appeal in the above-referenced case. The district court's order and the magistrate judge's report and recommendation, which the court adopted with modification, are enclosed.

The Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.*, contains various provisions authorizing the detention of aliens in connection with their removal. One of those provisions is 8 U.S.C. 1226, which empowers the government to "arrest[]" and "detain[]" "an alien" "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. 1226(a). Although the statute generally grants the government discretion to determine whether to continue to detain an alien or to release him on bond or parole, see 8 U.S.C. 1226(a), Section 1226(c) "mandate[s]" the continued detention of certain aliens "without a chance to apply for release on bond or parole," *Nielsen v. Preap*, 586 U.S. 392, 398 (2019). Among the aliens subject to mandatory detention are those who fall within Section 1226(c)(1)(E), recently added by the Laken Riley Act, Pub. L. No. 119-1, § 2(1)(C), 139 Stat. 3 (2025). An alien falls within Section 1226(c)(1)(E) if he "(i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of [8 U.S.C.] 1182(a)," and "(ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person." 8 U.S.C. 1226(c)(1)(E).

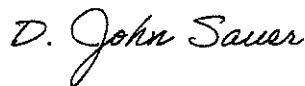
Petitioner in this habeas case is a citizen of Cuba. 832 F. Supp. 3d 904, 911. After he entered the United States in 2024, the government initiated removal proceedings against him, charging him with being inadmissible under 8 U.S.C. 1182(a)(7) as an immigrant not in possession of valid entry documents. 832 F. Supp. 3d at 911; see 8 U.S.C. 1182(a)(7)(A)(i)(I). While his removal proceedings were pending, petitioner was charged with two counts of assaulting a federal officer, in violation of 18 U.S.C. 111(a) and (b). 832 F. Supp. 3d at 911. After he was released from pretrial detention on a personal recognizance bond, the government took him into immigration custody under Section 1226(c). *Ibid*.

He filed a petition for a writ of habeas corpus under 28 U.S.C. 2241 in federal district court, challenging his immigration detention. 832 F. Supp. 3d at 912. Adopting, with modification, the report and recommendation of a magistrate judge, see *id.* at 906, 910, the district court concluded that petitioner fell within Section 1226(c)(1)(E) because he was (i) inadmissible under Section 1182(a)(7), and (ii) charged with assaulting a law enforcement officer, *id.* at 907 (discussing *id.* at 913-915). The court further concluded, however, that Section 1226(c) violates an alien's "constitutional right to procedural due process," *id.* at 907, "to the extent it mandates detention based solely on criminal accusations without convictions," *id.* at 909. The court therefore held that Section 1226(c) was unconstitutional as applied to petitioner. *Ibid.* The court then reasoned that because petitioner had already been released from criminal custody after a bond hearing, granting him another bond hearing was "not necessary," and the appropriate remedy was to order his immediate release from immigration custody. *Id.* at 909-910.

The Department of Justice does not agree with the district court's decision. In the Department's view, the court erred in holding that the application of Section 1226(c) to petitioner violated his procedural due process rights. The Department has determined, however, that the particular circumstances of this case do not merit appeal. After the court's decision in this case, the government moved to dismiss with prejudice the criminal charges against petitioner, and that motion was granted. See D. Ct. Docs. 54 and 57, *United States v. Rodriguez Romero*, No. 25-cr-497 (D. Minn. June 8 and 22, 2026). In moving to dismiss, the government stated that "the interests of justice militate[d] against proceeding with" those charges, which were what brought him within the scope of Section 1226(c)(1)(E). D. Ct. Doc. 54, at 1, *Rodriguez Romero*, *supra* (No. 25-cr-497). The Department has concluded that, under these circumstances, further litigation about the constitutionality of Section 1226(c) as applied to this particular alien is not warranted.

The Department of Justice filed a protective notice of appeal on May 18, 2026, but dismissed the appeal on July 31, 2026, before filing an opening brief. Please let me know if I can be of further assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "D. John Sauer". The signature is written in a cursive, slightly stylized font.

D. John Sauer
Solicitor General

Enclosure