UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CARLOS HUMBERTO RODRIGUEZ RODRIGUEZ,

PETITIONER

v.

MICHAEL NESSINGER Superintendent, Wyatt R Wyatt Detention Facility
PATRICIA HYDE, Field Office Director,
TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement, and
KRISTI NOEM, U.S. Secretary of Homeland Security,

RESPONDENTS.

C.A. No. 25-cv-505-MSM-AEM

ABBREVIATED RESPONSE TO AMENDED HABEAS PETITION AND REQUEST TO PROCEED WITHOUT ADDITIONAL BRIEFING OR ARGUMENT

The legal issues presented in this Amended Petition for Writ of Habeas Corpus ("Petition") concern the statutory authority for U.S. Immigration and Customs Enforcement's ("ICE") detention of Petitioner, whether Petitioner is entitled to a bond hearing, and if so, whether Petitioner must first exhaust his administrative remedies. While reserving all rights, including the right to appeal, Respondents submit this abbreviated response in lieu of an exhaustive responsive memorandum to preserve the legal issues and to conserve judicial and party resources.[1]

On October 3, 2025, Petitioner filed an Amended Motion for Writ of Habeas

[1] In addition to the arguments raised in this Abbreviated Response, Respondents also move for all Respondents other than Respondent Nessinger to be dismissed from this action as they are not Petitioner's custodian. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004) (noting that for habeas petitions challenging detention, "the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official").

Corpus. The Petition claimed, *inter alia*, that Petitioner's detention violates 8 U.S.C. § 1226(a) and associated regulations, as well as procedural and substantive due process claims. ECF. No 3. The Respondents' position is that Petitioner is lawfully detained pursuant 8 U.S.C. § 1225(b)(2), and as such is subject to mandatory detention.

Respondents acknowledge that several district courts in the District of Massachusetts issued prior rulings concerning similar challenges to the government policy or practice at issue in this case, and the common question of law between this case and those rulings would control the result in this case should this Court adhere to the legal reasoning in those prior decisions. *See e.g., Doe v. Moniz*, No. 25-cv-12094-IT, _____F. Supp. 3d __, 2025 WL 2576819 (D. Mass. Sept. 5, 2025), *Escobar v. Hyde*, No. 25-cv- 12620-IT, 2025 WL 2823324 (D. Mass. Oct. 3, 2025) and *Romero v. Hyde*, No. 25-11631-BEM __F.Supp.3d__ 2025WL 2403827 (D.Mass. August 19, 2025), While Respondents respectfully disagree with those decisions, in the interest of judicial economy, and to expedite the Court's consideration of this matter, Respondents hereby rely upon the legal arguments it presented in *Doe* and *Escobar* and submit that the Court can decide this matter without further briefing and without oral argument. Should the Court decide that Petitioner is subject to detention under 8 U.S.C. § 1226, the appropriate remedy is to order a bond hearing before an immigration judge, and not to immediately release Petitioner.

Should the Court prefer to receive a more exhaustive and fulsome opposition brief, Respondents respectfully request leave to file such a brief and will do so upon the Court's request.

Relevant Underlying Facts

Petitioner is a native and citizen of El Salvador. *See Declaration of Assistant Field Office Director*, attached as Exhibit 1, and Amended Petition, ECF

No. 3 at ¶ 2. Petitioner entered the United States at an unknown location without inspection in approximately 2005. *See Id.* and ECF No. 3, ¶ 2. On or about September 24, 2025, Petitioner was encountered by Immigration and Customs Enforcement while ICE was pursuing another target. *See Id.* and ECF No. 3, ¶ 6. This was Petitioner's first interaction with immigration officials. During the encounter, Petitioner admitted that he entered the United States at a place which was not a port of entry, or another place designated by the Attorney General. *See Id.*

After determining that Petitioner was not inspected, admitted, or paroled by an immigration officer at the time of entry and that Petitioner did not have a valid immigrant visa, reentry permit, border crossing card, or other valid entry document, ICE detained Petitioner pursuant to 8 U.S.C. § 1225. *See Id.* That same day, ICE served Petitioner with a Notice to Appear, charging him with inadmissibility pursuant to 8 U.S.C. § 1182(a)(7)(A)(i)(I) and 8 U.S.C. § 1182(a)(6)(A)(i). *See Id.* Thereafter, ICE transferred Petitioner to the Wyatt Detention Center in Central Falls, Rhode Island, where he currently remains detained. *See Id.*

On September 27, 2025, ICE filed the Notice to Appear with the Chelmsford Immigration Court. Petitioner is next scheduled to appear before the immigration court in Chelmsford, Massachusetts, for a Master Calendar Hearing on October 16, 2025. He is also scheduled for a bond redetermination hearing on that day. *See Id.*

Discussion

In his Amended Petition, Petitioner principally seeks an order from this Court directing ICE to immediately release Petitioner from ICE detention. In the

alternative, Petitioner requests that this Court order Respondents to cause the Immigration Court to schedule a bond hearing within five business (5) days of the Court's order. (ECF No. 3 at 9, Prayer for Relief, ¶ 7).

Respondents contend that Petitioner's detention is governed by INA § 235, 8 U.S.C. § 1225, because as an alien who entered without inspection or parole was and remains an applicant for admission who is treated, for constitutional purposes, as if stopped at the border. As such, he is subject to mandatory detention and not entitled to a bond hearing. Respondents further contend that Petitioner should be required to exhaust his administrative remedies as a prudential matter before bringing a habeas challenge in federal court.

Respondents further rely upon *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). There, the BIA examined the plain language of § 1225, the INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub L. No. 104- 208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission." 29 I&N Dec. at 225. This Court should rule the same.

Respondents acknowledge that questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with those at issue in *Doe* and *Escobar*. Accordingly, while preserving all rights,

Respondents incorporate by reference the legal arguments it presented in those cases. Should the Court apply the same reasoning the courts did in those cases to this one, the legal principles espoused in those cases would likely warrant the same conclusion here. Because of this, Respondents submit that further briefing and/or oral argument on the legal issues addressed in those cases would not be a good use of judicial or party resources. In its current posture, the Court can decide this matter without delay. If, however, the Court prefers to receive a formal and exhaustive opposition brief in this matter, Respondents will provide such a brief upon the Court's request.

Further, Respondents contend that should this Court determine that Petitioner's detention is subject to 8 U.S.C. § 1226, the only appropriate remedy is a bond hearing before an Immigration Judge, during which an immigration judge can properly determine in the first instance whether Petitioner is a flight risk or danger to the community. *See, e.g., Doe,* 2025 WL 2576819, at *11; *Escobar,* 2025 WL 2823324, at *3 (ordering bond hearing); No. 25-cv-011571- JEK, 2025 WL 1869299, at *8-*9 (D. Mass. July 7, 2025) (finding the proper remedy is a bond hearing); *Romero,* 2025 WL 2403827, at *13 (same). This is particularly apt in this case where Petitioner was never previously encountered by immigration officials. Thus, it is appropriate for an immigration judge to determine, in the first instance, whether Petitioner is a flight risk or a danger to the community.

Conclusion

Respondents thank the Court for its consideration of this abbreviated submission

and respectfully request that the Court to deny this Petition.

Respectfully submitted,

SARA M. BLOOM
Acting United States Attorney

/s/John P. McAdams
John P. McAdams
Assistant U.S. Attorney
United States Attorney's Office
One Financial Plaza, 17th Floor
Providence, RI 02903
john.p.mcadams@usdoj.gov