

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CARLOS HUMBERTO RODRIGUEZ RODRIGUEZ)

Petitioner,)

Case No. 25-cv-505-MSM-AEM

v.)

MICHAEL NESSINGER)

Superintendent, Wyatt R Wyatt)

Detention Facility)

PATRICIA HYDE, Field Office Director,)

TODD LYONS, Acting Director U.S.)

Immigrations and Customs Enforcement,)

and KRISTI NOEM, U.S. Secretary)
of Homeland Security,)

Respondents.)
_____)

EMERGENCY REPLY TO RESPONSE TO AMENDED PETITION FOR WRIT OF
HABEAS CORPUS

Petitioner, Carlos Humberto Rodriguez Rodriguez submits this response to Respondent's Abbreviated Reply. **Petitioner initially wishes to advise the Court that that Immigration Judge in this matter has held Petitioner case until 3:30 P.M. to give this Court a chance to rule on his Petition, in the event it is granted, the IJ is ready to proceed to an immediate bond hearing.**

Further, Petitioner agrees with Respondent that the identical legal issue has already been addressed by various District Courts in Massachusetts. The issue has also been addressed by District Courts throughout the country. The decisions have overwhelmingly favored Petitioner's position.

See, e.g. *BDVS v. Forestal*, No. 25-1968 (S.D. In. Oct. 8, 2025) (Evans Barker, J.); *Eliseo v. Olson*, No. 25-3381, Oct. 8, 2025) (Blackwell, J.); *Buenrostro-Mendez v. Bondi*, No. 25-3726, (S.D. Tx. Oct. 7, 2025) (Rosenthal, J.); *Echevarria v. Bondi*, No. 25-3252, 2025 LX 492534 (D. Ariz. Oct. 3, 2025); *Belsai D.S. v. Bondi*, No. 25-3682 (D. Mn. Oct. 1, 2025) (Menendez, J.); *Santiago Santiago v. Noem*, No. 25-361 (W.D. Tx. Oct. 1, 2025) (Cardone, J.); *Quispe-Ardiles v. Noem*, No. 25-1382, 2025 WL 2783799 (E.D. Va. Sept. 30, 2025) (Nachmanoff, J.); *Rodriguez Vazquez v. Bostock*, No. 25-5240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (Cartwright, J.); *Da Silva v. ICE*, No. 25-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025) (McCafferty, J.); *Quispe v. Crawford*, No. 25-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025) (Trennga, J.); *Inlago Tocagon v. Moniz*, No. 25-12453, 2025 WL 2778023 (D. Mass. Sept. 29, 2025) (Joun, J.); *Barrios v. Shepley*, No. 25-406, 2025 WL 2772579 (D. Maine Sept. 29, 2025) (Woodcock, Jr.); *J.U. v. Maldonado*, No. 25-4836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025) (Merchant, J.); *Savane v. Francis*, No. 25-6666, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025) (Woods, J.); *Zumba v. Bondi*, No. 25-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025) (Hayden, J.); *Villanueva Herrera v. Tate*, No. 25-3364 (S.D. Tx. Sept 26, 2025) (Hittner, J.); *Gamez Lira v. Noem*, No. 25-855 (D.N.M. 25-855) (Johnson, J.); *Singh v. Lewis*, No. 25-96, 2025 LX 400065 (W.D. Ky. Sept. 22, 2025) (Jennings, J.); *Chafla v. Scott*, No. 25-437, 2025 LX 422663 (D. Maine Sept. 21, 2025) (Neumann, J.); *Hasan v. Crawford*, No. 25-1408, 2025 LX 499354 (E.D. Va. Sept. 19, 2025) (Brinkema, J.); *Barrera v. Tindall*, No. 25-451, 2025 LX 435572 (W.D. Ky. Sept. 19, 2025) (Jenning, J.); *Salazar v. Dedos*, No. 25-835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025) (Urias, J.); *Garcia Cortes v. Noem*, No. 25-2677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025) (Sweeney, J.); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (White, J.); *Sampiao v. Hyde*, No. 25-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (Kobick,

J.); *Jimenez v. FCI Berlin*, No. 25-326, 2025 LX 360066 (D.N.H. Sept. 8, 2025) (McCafferty, J.); *Doe v. Moniz*, No. 25-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025) (Talwani, J.); *Lopez Benitez v. Francis*, No. 25-cv-5937 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (Ho, J.) *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (McMillion, J.); *Diaz v. Mattivelo*, No. 25-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025) (Kobick, J.); *Jose J.O.E. v. Bondi*, No. 25-3051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) (Tostrud, J.); *Leal-Hernandez v. Noem*, No. 25-2428, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (Rubin, J.); *Romero v. Hyde*, No. 25-11631, ___ F.Supp.3d ___, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (Murphy, J.); *Samb v. Joyce*, No. 25-6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025) (Ho, J.); *dos Santos v. Noem*, No. 25-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (Kobick, J.); *Diaz Martinez v. Hyde*, No. 25-11613, ___ F.Supp.3d ___, 2025 WL 2084238 (D. Mass. July 24, 2025) (Murphy, J.); *Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299 (D. Mass. July 7, 2025) (Kobick, J.)(decisions rejecting the government's position outright)

See, also, Domingo v. Castro et al, No. 25-979 (D. N.M. Oct 15, 2025) (Urias, J.) ; *Alejandro v. Olson et al*, No. 25-02027 (S.D. Ind Oct 11, 2025) (Hanlon, J.); *Flores v. Noem*, No. 25-2490, 2025 LX 444718 (C.D. Cal. Sept. 29, 2025) (Birotte, J.); *Roa v. Albarran*, No. 25-7802, 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025) (Seeborg, J.); *Lopez v. Hardin*, No. 25-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025) (Dudek, J.); *Guerrero Lepe v. Andrews*, No. 1:25-cv-01163 (E.D. Ca Sept. 23, 2025) (Sherriff, J.); *Aceros v. Kaiser*, No. 25-06924, 2025 LX 330524 (N.D. Cal. Sept. 12, 2025) (Chen, J.); *Guzman v. Andrews*, No. 25-01015, 2025 LX 354551 (E.D. Cal. Sept. 9, 2025) (Sherriff, J.); *Mosqueda v. Noem*, No. 25-2304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025) (Snyder, J.); *Nieves v. Kaiser*, No. 25-6921, 2025 LX 320701 (N.D. Cal. Sept. 3, 2025) (Beeler, J.); *Garcia v. Noem*, No. 25-2180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025)

(Sabraw, J.); *Garcia v. Kaiser*, No. 25-06916, 2025 LX 322337 (N.D. Cal. Aug. 29, 2025) (Gonzalez Rogers, J.); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (Edwards, J.); *Benitez v. Noem*, No. 25-02190, 2025 LX 322897 (C.D. Cal. Aug. 26, 2025) (Klausner, J.); *Ramirez Clayijo v. Kaiser*, No. 25-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025) (Freeman, J.); *Arrazola-Gonzalez v. Noem*, No. 25-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025) (Wright, J.); *Maldonado v. Olson*, No. 25-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (Nelson, J.); *Maldonado Bautista v. Santacruz*, No. 25-01873, 2025 LX 341363 (C.D. Cal. July 28, 2025); *Vazquez v. Bostock*, No. 25-05240, 779 F. Supp. 3d 1239 (W.D. Wash. April 24, 2025) (Cartwright, J.). (Decisions finding petitioner likely to prevail on the merits

But see Sixtos Chavez v. Noem, No. 3:25-cv-02325-CAB-SBC (S.D. Cal. Sep. 24, 2025) (denying temporary restraining order).

While Petitioner is ready to proceed with a bond hearing before the Immigration Judge, he also respectfully notes that various decisions including *Domingo v. Castro et al*, No. 25-979 (D. N.M. Oct 15, 2025) (Urias, J.); *Alejandro v. Olson et al*, No. 25-02027 (S.D. Ind Oct 11, 2025) (Hanlon, J.) and *Lopez Benitez v. Francis*, No. 25-cv-5937 2025 WL 2371588, at *2 (S.D.N.Y. Aug. 13, 2025) (Ho, J.) have ordered immediate release prior to a bond hearing. The *Lopez* Court based this decision largely on grounds that both due process and immigration regulations require an individualized determination by the Department of Homeland Security prior to detention, which may then be reconsidered by an Immigration Judge in the Department of Justice through a custody redetermination hearing. *Id.* *10-*12. Here, the record indicates that Mr. Rodriguez was detained by happenstance in the course of a search for another individual. ECF 6-1, at ¶ 7. Further, given Respondent's current policy that all persons present in the United States without admission are

subject to mandatory detention, there is no evidence or reason to believe that an individualized determination was conducted prior to Mr. Rodriguez's detention and deprivation of liberty. *Id.*

As such, Petitioner respectfully requests that the Court order the Immigration Judge to conduct a bond hearing forthwith or order Petitioners' immediate release with an opportunity for Respondent's to conduct a custody hearing in 10 days. Petitioner also submits a true and complete copy of his bond request with this reply.

Respectfully submitted,

/s/Carl Hurvich/s/
Carl Hurvich, Esq.
Brooks Law Firm
10 High Street, Ste. 3
Medford, MA 02155
(617) 245-8090
Carl@BrooksLawFirm.com
RI Bar # 9740

Counsel for Petitioner

Dated: October 16th, 2025.

CERTIFICATE OF SERVICE

I, Carl H. Hurvich, certify that on October 16th 2025, this Reply was filed through the Court's CM/ECF system, which will send notice to all counsel of record.

/s/ Carl H. Hurvich