

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

FRANKLIN EZEQUIEL SALGADO
BUSTOS,

Case No. 25-cv-13202

Petitioner,

Hon. Nancy G. Edmunds
Magistrate Judge Kimberly G. Altman

Kevin RAYCRAFT, Field Office
Director of Enforcement and Removal
Operations, Detroit Field Office,
IMMIGRATION AND CUSTOMS
ENFORCEMENT; Kristi NOEM,
Secretary, U.S. Department of
Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S.
Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION
REVIEW.

Respondents.

**REPLY BRIEF IN SUPPORT OF PETITION FOR HABEAS CORPUS BY
PETITIONER FRANKLIN EZEQUIEL SALGADO BUSTOS**

INTRODUCTION

Respondents' mandatory detention of Mr. Salgado contravenes the INA and its accompanying regulations, Respondents' own internal directives, and violates a nationwide stay issued by the D.C. Circuit Court on August 1, 2025¹. Moreover, federal district courts across the country have held that an individual who has been paroled without first having been placed in expedited removal, cannot later be designated for expedited removal. *See* Exhibit D (List of Cases). At the time of his arrest and detention, Mr. Salgado had been paroled in by Respondents, had lived continuously in the U.S. for over two years, was not at a port of entry or seeking admission into the U.S., and had not been previously issued an expedited removal order. This Court should reject Respondents' unlawful application of the INA's expedited removal provision to Mr. Salgado and order Respondents to immediately release Mr. Salgado.

¹ *Coal. For Humane Immigrant Rights v. Noem*, 2025 U.S. Dist. LEXIS 148615, 2025 WL 2192986 (D.D.C. Aug. 1, 2025) (granting a stay "to the extent the Challenged Actions subject to expedited removal individuals who have been, at any time, paroled into the United States at a point of entry."). *See also*, *Coal. for Humane Immigrant Rights v. Noem*, No. 25-cv-872 (JMC), 2025 U.S. Dist. LEXIS 156745, at *3 (D.D.C. Aug. 13, 2025) (denying government's request for a stay of D.D.C.'s August 1, 2025 order); *Coal. for Humane Immigrant Rts. v. Noem*, No. 25-5289, 2025 U.S. App. LEXIS 23767, at *2 (D.C. Cir. Sep. 12, 2025) (denying government's emergency motion for stay of D.D.C.'s August 13, 2025 order).

I. Relevant Facts

Respondents admit, and Petitioner does not dispute, that Salgado is a Nicaraguan citizen who entered the U.S. on or about November 20, 2022, was detained by CBP, expressed a credible fear of returning to Nicaragua, and Respondents paroled him into the U.S. on November 20, 2022. *Walker Decl.*, ¶¶ 4-6, ECF No. 5-2, PageID.57; ECF No. 5-3, PageID.63. *See also*, Exhibit A, Declaration of Franklin Ezequiel Salgado Bustos (hereinafter *Salgado Decl.*), ¶¶ 2-4. In November 2022, Respondents did not place Salgado in expedited removal and did not issue him a Notice to Appear (“NTA”). *Salgado Decl.*, ¶ 5. *See also*, Exhibit B, Declaration of Maria Eugenia Daniel (hereinafter *Daniel Decl.*), ¶¶ 11-16. Instead, Respondents issued Salgado a Form I-385, Notice to Report. *See* Exhibit A-1, *Salgado Decl.*, ¶¶ 4-5. Salgado complied with Respondents’ Notice to Report by reporting to an ICE Detroit office on January 20, 2023. *Salgado Decl.*, ¶¶ 8-9.

At the January 20, 2023, ICE check in, Respondents did not issue him an NTA or an order of expedited removal. *Salgado Decl.*, ¶¶ 9-10. Instead, Respondents issued Salgado a DHS Form G-56, Call-in Letter. *See* Exhibit A-2, *Salgado Decl.*, ¶ 9. The January 20, 2023 Call-in Letter specified that Salgado was to present himself for a March 26, 2025 appointment “for processing and issue NTA.”). *See* Exhibit A-2.

Salgado complied with Respondents' Call-in Letter and reported to a Detroit ICE officer on March 26, 2025. *Salgado Decl.*, ¶¶ 13-14. By March 2025, Salgado had been living continuously in Ann Arbor, Michigan for over two years, had a pending asylum application with USCIS, and had a work permit issued by USCIS. *Salgado Decl.*, ¶¶ 6-12; Exhibits B-2, B-3, *Daniel Decl.*, ¶¶ 13-14.

At the March 26, 2025, ICE check in, Respondents did not issue Salgado an NTA or an order of expedited removal. *Salgado Decl.*, ¶ 14. Instead, Respondents told Salgado to return on September 28, 2025, and bring his documents. *Id.* Salgado complied with Respondents request and appeared at a Detroit ICE office on September 29, 2025. *Salgado Decl.*, ¶¶ 15-16.

At the September 29, 2025, ICE check in, Respondents asked Salgado to show his documents. *Salgado Decl.*, ¶ 17. Salgado showed an ICE officer his asylum application documents, a photo of his work permit, and his passport. *Id.* The ICE officer told him that he was not in immigration court and had to arrest him and that even though he had parole before it could be taken away. *Id.*, ¶ 18. Salgado expressed a fear of being returned to Nicaragua and the ICE officer told him he would have to "fight" for asylum while in detention. *Id.* Salgado requested release via a bond hearing and was told no. *Id.*, ¶ 19. Respondents took Salgado's personal belongings, including all the documentation he brought with him and handcuffed him. *Id.*, ¶¶ 20, 23.

After he was arrested, Respondents had Salgado sign a document he did not understand. *Salgado Decl.*, ¶ 21. Respondents represented to Salgado that the document he signed was so he could “fight” his case while in detention. *Id.* Respondents did not explain that the document he signed was an expedited removal order. *Id.* A copy of the document was not provided to Salgado. *Id.* Respondents admit, and Petitioner does not contest, that the document Respondents had Salgado sign on September 29, 2025, was a notice and order of expedited removal. ECF No. 5-4, PageID.65 (hereinafter “2025 Expedited Removal Order”). Respondents’ 2025 Expedited Removal Order did not include the fact that Mr. Salgado had been living continuously in the U.S. for over two years. *Id.*

While Salgado has been in immigration detention, Respondents have moved quickly to execute their 2025 Expedited Removal Order. Respondents claim they conducted a credible fear interview (“CFI”) on October 8, 2025. *Walker Decl.*, ¶12, ECF No. 5-2, PageID.59. Yet, Salgado’s CFI interview was conducted telephonically on October 14, 2025. *Daniel Decl.* ¶¶ 5-9. Salgado’s immigration attorney only received four days’ notice prior to Salgado’s CFI interview. *See* Exhibit B-1, *Daniel Decl.* ¶ 4. Without any notice to Salgado or his attorneys, on October 14, 2025, Respondents administratively closed Salgado’s asylum application. *Walker Decl.*, ¶7, ECF No. 5-2, PageID.58. *See also*, Exhibit C,

Declaration of Diana Eloina Marin (hereinafter *Marin Decl.*, ¶¶ 4-5². On October 17, 2025, Respondents informed Mr. Salgado that he had not passed his CFI. *Marin Decl.*, ¶ 3. To date, neither Salgado nor his attorneys have received notification of his failed CFI. *Id.* ¶¶ 7-8. On October 21, 2025, Respondents docketed Salgado's request for an immigration judge's review of Respondents' CFI determination, and he is scheduled to appear before an immigration judge on October 24, 2025, at 8:30 am. *See* Exhibit C-1, *Marin Decl.* ¶¶ 9-10.

II. This Court Has Jurisdiction Over Petitioner's Habeas Petition

Petitioner is challenging Respondents' detention of him based on its unlawful application of 8 U.S.C. § 1225(b)(1). In other words, Petitioner challenges Respondents' as applied implementation of expedited removal under the INA, not its wholesale constitutionality. *See Habeas Petition*, ¶¶9-11, ECF No. 1, PageID.3-4. Furthermore, Petitioner is asking this Court to determine the threshold issue of whether Respondents issued him an expedited removal order prior to September 29, 2025. *Id.*, ¶¶88-92, ECF No. 1, PageID.22. The factual record clearly supports that Respondents did not issue Salgado an expedited removal order prior to September 29, 2025. As such, 8 U.S.C. § 1252(e) does not strip this Court's power to review Petitioner's narrow claims or grant his requested

² Respondents' lack of notice also gives rise to additional due process violations. *See E-C-R- v. Noem*, No. 25-cv-1230-SI (D. Or.); *M.T., et al. v. Edlow*, No. 8:25-cv-2431 (D. Md.); *Aviles-Mena v. Kaiser*, No. 25-cv-06783 (N.D. Cal.).

relief. *See, Am-Arab AntiDiscrimination Comm.*, 272 F. Supp. 2d at 663 (recognizing “jurisdiction on habeas review to determine whether the expedited removal statute was lawfully applied to petitioners in the first place”); *Smith v. CBP*, 741 F.3d 1016, 1022 (9th Cir. 2014) (rejecting a claim that an individual was not “ordered removed under 8 U.S.C. § 1225(b)(1)” on the merits); *Agarwhal v. Lynch*, 610 F. Supp. 3d 990 (E.D. Mich. 2022) (denying motion to dismiss a habeas petition challenging whether the individual was ordered removed under 8 U.S.C. § 1225(b)(1) on the basis that the expedited removal order had not been reviewed, approved, and issued according to the relevant statute and regulations). *See also, E.V. v. Raycraft*, No. 4:25-cv-2069, 2025 U.S. Dist. LEXIS 204373, *15-*17 (N.D. Ohio Oct. 16, 2025) (finding jurisdiction to challenge Petitioner’s detention claim); *N.A. v. LaRose*, No. 25-cv-2384-RSH-BLM, 2025 U.S. Dist. LEXIS 198688, *6, 2025 WL 2841989 (S.D. Cal. October 7, 2025) (finding jurisdiction to challenge Petitioner’s placement in expedited removal proceedings despite the “various provisions of 8 U.S.C. § 1252”).

Thuraissigiam does not prohibit this Court from hearing Petitioner’s due process claim, for two reasons. First, Petitioner challenges his detention, not his deportability. Second, Petitioner was detained after years of presence in the United States, rather than on the threshold of initial entry. *Jennings* also does not support Respondents’ jurisdictional arguments. In *Jennings*, the Supreme Court held that

section 1226(e) shields only the Attorney General's discretionary detention decisions, it “‘does not preclude’ challenges to the statutory framework that permits the alien’s detention without bail.” *Jennings*, 583 U.S. at 295.

Lastly, the Court has jurisdiction under 28 U.S.C. § 1331 to review agency action—including DHS action—under the Administrative Procedure Act (“APA”). *See Jama v. Dep’t of Homeland Security*, 760 F.3d 490, 494 (6th Cir. 2014).

III. Petitioner’s Claims are Ripe and Require No Exhaustion

Under the INA exhaustion of administrative remedies is only required for appeals on final orders of removal. *See* 8 U.S.C. § 1252(d)(1). *See also, Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, *13-16, ___ F.Supp.3d ___, 2025 WL 2691828 (W.D. Tex. Sep. 21, 2025) (holding that 1225(e) does not preclude federal courts from reviewing a noncitizens detention insofar as that detention presents constitutional issues) (citing to *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007)). Here, Salgado is not contesting any final order of removal or his removability. Salgado is contesting his detention in immigration custody, which squarely falls within the purview of federal district courts. *See, Johnson v. Arteaga-Martinez*, 596 U.S. 573, 583, 142 S. Ct. 1827, 1835 (2022) (leaving for district courts first instance review of constitutional claims by immigrant petitioners seeking relief from immigration detention).

This Court may also waive any purported exhaustion requirement, when the “legal question is fit for resolution and delay means hardship.” *See Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13, 120 S. Ct. 1084, 146 L. Ed. 2d 1 (2000). *See also, Singh v. Lewis*, Civil Action No. 4:25-cv-96-RGJ, 2025 U.S. Dist. LEXIS 185696, at *4-6 (W.D. Ky. Sep. 22, 2025) (holding that prudential exhaustion of administrative remedies is not required where the issue is a purely legal question of statutory interpretation). The Court in *Singh* noted that the Sixth Circuit has held that due process challenges generally do not require exhaustion because BIA cannot review constitutional challenges. *Id.* (citing to *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006)). Respondents have made their position clear that Section 1225 is being applied to all individuals who have been paroled irrespective of how long they have maintained continued presence in the U.S. Therefore, it is unlikely that any administrative review would lead to Respondents changing their position and precluding judicial review.

As discussed below, Respondents should not have issued the 2025 expedited removal order against Salgado because he was paroled in 2022, had been continuously present for over two years, and had a pending asylum application with USCIS. Requiring Petitioner to exhaust the administrative process in this context would be inappropriate because it would exacerbate his constitutional injury of being unlawfully detained pursuant to 8 U.S.C. 1225(b)(1).

IV. INA Expedited Removal Provisions Do Not Apply to Petitioner

It is undisputed that Salgado was paroled into the U.S. on November 22, 2022. *Walker Decl.*, ¶6, ECF No. 5-2, PageID.58. Respondents did not issue Salgado an expedited removal order at any point prior to September 29, 2025. Respondents' 2025 Expedited Removal Order states that it is issued pursuant to 8 U.S.C. § 1225(b)(1). A faithful reading of § 1225(b)(1) confirms that noncitizens here in the United States after being inspected and paroled are categorically ineligible for expedited removal, because they are not "arriving in the United States," as required by 8 U.S.C. § 1225(b)(1)(A)(i), and are exempted from 8 U.S.C. § 1225(b)(1)(A)(iii)(II), which only applies to people who have "not been... paroled."

8 U.S.C. § 1225(b)(1)(A)(iii)(II), in relevant part, authorizes the Attorney General (now delegated to the DHS Secretary) to designate as eligible for expedited removal any alien ". . . who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph." (hereinafter the "Designation Clause"). Therefore, under a plain reading of the Designation Provision, Respondents should not have issued Salgado an expedited removal

order after he was paroled because he was living in the U.S. for over two years and had a pending asylum application.

Respondents now ask this Court to ignore the plain reading of 8 U.S.C. § 1225(b)(1)(A) and the overall structure of the statute and instead adopt Respondents' interpretation, which would in multiple ways effectively strike the limiting language in 8 U.S.C. § 1225(b)(1)(A)(iii)(II) specifying that expedited removal can only be applied to individuals who have "*not* been admitted or paroled." (emphasis added).

Moreover, "section 1182(d)(5)(A) does not, as Defendants insist, say that parolees return, upon the termination or expiration of their parole, to 'the position of an applicant for admission standing at the threshold of entry.'" *Coal. for Humane Immigrant Rights*, 2025 U.S. Dist. LEXIS 148615 at *73. Doing so, would render the meaning of parole under INA regulations "*void ab initio*." For example, 8 C.F.R. § 245.1(b) allows noncitizens who are generally ineligible to apply for adjustment of status if the noncitizen "was not admitted or paroled following inspection by an immigration officer." *Id.* at *70-71. "If the noncitizen was paroled into the country but that parole later expired or was terminated (as all parole does, since parole under 8 U.S.C. § 1182(d)(5) must be temporary), the regulation does not indicate that the noncitizen is therefore ineligible for adjustment of status. To the contrary, because the noncitizen 'was . . . paroled,'

they would remain eligible under that requirement. See 8 C.F.R. § 245.1(b)(3). Thus, for at least some purposes, parole has ongoing legal effect even after it expires or is terminated.” *Id.* at *71.

Respondents’ own directives contravene Respondents actions and newly articulated statutory interpretation and demonstrate that they unlawfully detained Salgado and placed him in expedited removal. See Office of the Secretary, Department of Homeland Security, Designating Aliens for Expedited Removal, 90 FR 8139, 8139-8140, 90 FR 8139 (January 24, 2025) (rescinding March 21, 2022 Notice, Rescission of the Notice of July 23, 2019, Designation for Expedited Removal); February 2025 ICE Directive, available at <https://perma.cc/S3LJ-AFJM>³); March 25, 2025 CHNV Termination Notice, at 13619 (terminating parole for hundreds of thousands of individuals and subjecting them to expedited removal when they otherwise would not be).

Petitioner does not contest these agency actions or policies. Petitioner highlights them to the Court because they directly contravene what Respondents did to Petitioner and their untenable position that they properly placed Salgado in expedited removal. For example, DHS’ January 24, 2025, Designating Aliens for Expedited Removal, specifically states:

³ See also, Ted Hesson & Kristina Cooke, Trump Weighs Revoking Legal Status of Ukrainians as US Steps Up Deportations, Reuters (March 6, 2025), <https://perma.cc/MT7S-MR4Y> (citing “internal ICE email”).

“I designate for expedited removal the following categories of aliens not currently designated: (1) Aliens who did not arrive by sea, who are apprehended anywhere in the United States more than 100 air miles from a U.S. international land border, **and who have been continuously present in the United States for less than two years**; and (2) aliens who did not arrive by sea, who are apprehended within 100 air miles from a U.S. international land border, and who have been continuously present in the United States for at least 14 days but for less than two years.” 90 FR 8139 (emphasis added). Under DHS’ January 24, 2025 directive, ICE officers should not have placed Salgado in expedited removal proceedings because he was continuously present in the U.S. for more than two years.

In addition, the February ICE Directive, specifically states that ICE officers should consider for expedited removal noncitizens previously released by CBP “who have not affirmatively filed an application for asylum.” *See* <https://perma.cc/S3LJ-AFJM> (last accessed October 21, 2025). At the time of his arrest, Mr. Salgado had a pending asylum application with USCIS. Yet, Respondents did not take that into consideration prior to processing him for expedited removal. Respondents only administratively closed Salgado’s asylum application on October 14, 2025, without any notice to Salgado or his attorneys,

and over fifteen days after Respondents arrested and detained Salgado and issued him an expedited removal order.

The ICE Directive also states the ICE officers may process for expedited removal an “arriving alien (i.e., encountered at a port of entry). *See* <https://perma.cc/S3LJ-AFJM> (last accessed October 21, 2025). At the time of his arrest and issuance of expedited removal, Salgado was not an “arriving alien” as he was not at a port of entry and instead was at an ICE office in Detroit, Michigan.

Similarly, on March 25, 2025, Respondents issued a notice “Termination of Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans,” 90 Fed. Reg. 13611, 13612 (Mar. 25, 2025) (hereinafter CHNV Termination Notice). The CHNV Termination Notice, stated that “[e]xpedited removal is available only when an alien has not been continuously present in the United States for at least the two years preceding the date of the inadmissibility determination.” (citing to 8 U.S.C. § 1225(b)(1)(A)(iii)(II); 8 CFR § 235.3). *See*, 90 FR 13611, 13619.

These directives make clear that Respondents understand that the Designation Clause of the INA makes expedited removal available to noncitizens who have not been continuously present for two years prior to their inadmissibility determination. Respondents’ inadmissibility determination that subjected Salgado to expedited removal occurred on September 29, 2025, when he had already been continuously present for over two years. Yet, Respondents still issued an expedited

removal order to Salgado and have been holding him in immigration detention pursuant to 28 U.S.C. 1225(a)(1).

Nothing in the Designation Clause of the INA or Respondents' various Directives authorized Respondents to issue an expedited removal order on September 29, 2025, and detain Salgado based on that improperly issued expedited removal order. Therefore, this Court should reject Respondents' nonsensical reading and application of 8 U.S.C. 1225(b), hold that Respondents' detention of Salgado is unlawful both under Respondents' own directives and a plain reading of the statute, and order Salgado's immediate release.

V. Respondents' Actions Violate Petitioner's Due Process

Respondents' unreasonable re-detention of Petitioner violates Petitioner's due process rights because the government lacked a legal justification for his detention and Petitioner was entitled to an adequate pre-deprivation process under *Mathews v. Eldridge*, 424 U.S. 319 (1976). All three *Mathews* factors favor Salgado: significant liberty interest, high risk of error, and adequate alternative safeguards.

Salgado has a significant liberty interest as he is currently detained at North Lake Correctional Facility where he is not free to leave, and for all intents and purposes is in jail. In November 2022, when CBP initially released Salgado at the border and granted him parole, Respondents made a determination that Petitioner

was not a flight risk or danger. *See Singh*, 2025 WL 1918679, at *2 n.1 (E.D. Cal. July 11, 2025) (rejecting DHS’s position that the initial release did not constitute a finding of lack of flight risk and danger). When Respondents affirmatively choose to release Salgado on parole in November 2022, they also made the determination that they no longer intended to fast-track Salgado’s removal and that they would proceed with the standard removal process under 8 U.S.C. § 1229a. Respondents own documents confirm their actions. *See Ex. A-2, Call in Letter* (giving the reason for March 26, 2025, appointment was to “issue NTA.⁴”).

In the intervening two and half years since that determination, there have been no materially changed circumstances that would negatively impact Respondents’ analysis that Salgado is not a flight risk or danger or that he should be subjected to expedited removal. *See Valdez v. Joyce*, 2025 U.S. Dist. LEXIS 117131, at *7 n. 6, 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (rejecting argument that change in enforcement priorities constituted change in circumstances, nothing “[t]he law requires a change in relevant facts, not just a change in attitude.”). In fact, Salgado has further mitigated any flight risk by

⁴ A Notice to Appear (“NTA”) is the document that begins the 1229a proceedings. *See* 8 CFR 1239.1(a) (“Every removal proceeding conducted under section 240 of the Act (8 U.S.C. 1229a) to determine the deportability or inadmissibility of an alien is commenced by the filing of a notice to appear with the immigration court.”).

establishing ties to the United States and attending every ICE check in, applying for asylum, obtaining an EAD.

In addition, it is undisputed that there is a high risk of error by Respondents. See *supra*, Section IV (discussing how Respondents misapplied 8 U.S.C. 1225 (b)(1)(A) to Salgado). Prior to arresting Salgado, Respondents failed to conduct an individualized determination of the need for detention in Petitioner's case or provide any opportunity for Salgado to contest his re-detention in front of a neutral adjudicator. Had Respondents conducted an individualized assessment, they would have reviewed the extensive documentation⁵ that Petitioner brought with him to his September 29, 2025, ICE check in, which established his continuous presence in the U.S. for over two years and that he had a pending asylum application.

Finally, there are adequate alternative safeguards for Salgado. Unlike 8 U.S.C. 1229a, the expedited removal process does not give Salgado meaningful means to contest Respondents' actions. Relative to section 240 removal (8 U.S.C. 1229a), "[e]xpedited removal lives up to its name." *Make the Rd. New York v. Wolf*, 962 F.3d 612, 619, 447 U.S. App. D.C. 352 (D.C. Cir. 2020). In expedited removal, an immigration officer, not an immigration judge, conducts the initial fact-finding. 8 C.F.R. 235. If a noncitizen indicates fear of prosecution, the

⁵ To date, Respondents have possession of Salgado's documents, including his asylum application, his EAD approval notice, his unexpired work authorization card, his car title, his bank cards, Michigan driver's license.

inspecting officer must refer them to a “credible fear interview,” to be conducted by an asylum officer. 8 C.F.R. § 235.3(b)(4). If that asylum officer finds the noncitizen to have a credible fear of persecution, the noncitizen will be moved either to full section 240 removal proceedings or to USCIS administrative asylum proceedings. 8 C.F.R. § 208.30(f). If, however, the officer makes a negative credible fear determination, a supervisory officer will review the determination. 8 C.F.R. § 208.30(e)(8). And if the supervisor agrees, the noncitizen can request review by an immigration judge. 8 C.F.R. § 208.30(g). The immigration judge’s review “is meant to conclude within 24 hours” and is final. *Make the Rd.*, 962 F.3d at 619. With narrow exceptions, no further administrative or judicial review is available. *Id.* Respondents have moved at a fast pace and have already conducted Salgado’s credible fear interview, have advised him of a negative CFI determination, and referred him to an immigration judge for a review.

In contrast, 8 U.S.C. 1229a would provide Salgado with the opportunity to present his asylum claims before an immigration judge, who is a Department of Justice employee, licensed attorney, and responsible for developing the record in immigration cases before them. 8 U.S.C. § 1229a(a)(1), (b)(1). During the Section 240 proceedings, noncitizens have the right to retain counsel, examine and present evidence, and cross-examine witnesses. *Coalition*, 2025 U.S. Dist. LEXIS 148615, 2025 WL 2192986, at *3 (citing 8 U.S.C. § 1229a(b)(4)). Hearings are recorded

and transcripts are made available for appeals before the Board of Immigration Appeals (“BIA”). Section 240 hearings take place over multiple hearings and are subject to judicial review by a United States court of appeals. *See* 8 U.S.C. § 1252.

VI. Petitioner Properly Named Multiple Respondents

The parties agree that the ICE Field Office Director, Kevin Raycraft, is Petitioner’s “immediate custodian” and thus a proper respondent. *See Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). Yet, it does not follow that because the ICE director is a proper respondent, that it is the only proper respondent. The Department of Homeland Security (DHS) is an important and properly named respondent because it is the umbrella federal agency that comprises of USCIS, CBP, and ICE. <https://www.dhs.gov/operational-and-support-components> (last accessed October 22, 2025). The Department of Justice is also a properly named Respondent because it is the umbrella organization that includes the Executive Office of Immigration Review (EOIR). <https://www.justice.gov/agencies/chart/grid> (last accessed October 22, 2025). *See, Grewal v. Ashcroft*, 301 F. Supp. 2d 692, 697-98 (N.D. Ohio Jan. 30, 2004) (explaining how the Homeland Security Act of 2002 transferred the administrative and immigration enforcement functions from the former INS to DHS but the Executive Officer of Immigration Review remained within DOJ).

The Attorney General of the Department of Justice or the Secretary of Homeland Security are proper respondents in habeas cases, particularly when the petition challenges the imposition of policies or decisions made at higher administrative levels rather than the day-to-day custody of the petitioner. This is because these officials have ultimate authority over immigration enforcement and adjudication, and they can direct subordinates to comply with court orders. In Mr. Salgado's case, keeping all of the named Respondents will ensure that any order issued by this Court will be complied with by all the relevant agencies, including ICE, USCIS, and EOIR.

CONCLUSION

Petitioner respectfully requests that the Court grant the relief requested in his Petition, order his immediate release, and grant Petitioner's legal fees pursuant to Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

Dated: October 22, 2025,

Respectfully submitted,

/s/ Diana E. Marin

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