

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JORGE ASTUDILLO,

PETITIONER

v.

PATRICIA HYDE, Field Office
Director of Enforcement and
Removal Operations, Boston
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; MICHAEL NESSINGER,
Warden of Wyatt Detention
Facility,

RESPONDENTS.

C.A. No. 25-cv-551

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

Pursuant to the Court's October 24, 2025 Order, the United States, on behalf of Defendants Patricia Hyde, Field Office Director of Enforcement and Removal Operations, Boston 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; and the Executive Office for Immigration Review, respectfully submits this Abbreviated Response to Petitioner's Petition (Petition) for Writ of Habeas Corpus.¹

¹ The U.S. Attorney's Office does not represent the Warden of Wyatt Detention Facility.

The legal issues presented in Petitioner's 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.²

On October 23, 2025, Petitioner filed a Petition for Writ of Habeas Corpus. The Petition claimed, *inter alia*, that Petitioner's detention violates 8 U.S.C. § 1226(a) and associated regulations, and alleged procedural and substantive due process claims. ECF No. 1. The Respondents' position is that Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2), and as such is subject to mandatory detention.

Respondents acknowledge that, in addition to a recent decision from a Judge of this Court, 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. Should this Court adhere to the legal reasoning in those prior decisions, the common question of law between this case and those rulings would control the result in this case. *See e.g., Rodriguez v. Nessinger*, No. 25-cv-505-MSM, ___ F. Supp. 3d ___, (D. RI Oct. 17, 2025), *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.

² 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, 435 (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").

Oct. 3, 2025) and *Romero v. Hyde*, No. 25-11631-BEM __F.Supp.3d__, 2025 WL 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 they 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 Ecuador. See ECF No. 1-2 at 1. Petitioner entered the United States at an unknown location and at an unknown time. *Id.* at 3. On or about August 24, 2025, Petitioner was encountered by ICE, Enforcement and Removal (ERO), Boston Field Office, Hartford, Connecticut Sub Office Fugitive Operations Team (FOT) while the FOT conducted surveillance at a location in Manchester, CT. *Id.* at 2. During the encounter, Deportation Officers (DO) and Homeland Security Investigations (HSI) Special Agents approached Petitioner, identified themselves as law enforcement, and directed him to stop. *Id.* Petitioner fled on foot and then ran into a dumpster. *Id.* As law enforcement attempted to extricate him from the dumpster, Petitioner pushed and then jumped on the back of one of the

DOs and attempted to place the DO in a bear hug hold. *Id.* at 2-3.

Petitioner eventually jumped off the dumpster, fell to the ground, and was handcuffed. *Id.* at 3. Given Petitioner's attempts to flee and assault on the DO, he was arrested and transported to the Manchester Police Department and later the Hartford ERO office. *Id.*

During the encounter, Petitioner stated that his name was Jorge Astudillo and that he entered the country illegally. *Id.* He claimed that his wife may have filed applications regarding his immigration status, but he could not provide details. *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. *Id.* at 3-4. 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). *Id.* Thereafter, ICE transferred Petitioner to the Wyatt Detention Center in Central Falls, Rhode Island, where he currently remains detained. ECF No. 1, ¶ 9.

On September 11, 2025, Petitioner appeared at Chelmsford Immigration Court, Chelmsford, MA and was denied bond. Petitioner is next scheduled to appear before the immigration court in Chelmsford, Massachusetts, for a Master Calendar Hearing on November 6, 2025.

Discussion

In his 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 seven (7) days of the Court's order. ECF No. 1 at 12, Prayer for Relief, ¶ (d).

Respondents contend that Petitioner's detention is governed by INA § 235, 8 U.S.C. § 1225 because he is an alien who entered without inspection or parole and remains an applicant for admission who is treated, for constitutional purposes, as if he had been 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. It is well-settled that an incarcerated person must exhaust his or her administrative remedies before filing a petition for habeas corpus under 28 U.S.C. § 2241. *Rogers v. United States*, 180 F.3d 349, 356-58 (1st Cir. 1999) (affirming dismissal of habeas petition where inmate did not exhaust his administrative remedies); *Nygren v. Boncher*, 578 F. Supp. 3d 146, 151-52 (D. Mass. 2021). Moreover, exhaustion must be "proper," which requires "compliance with an agency's deadlines and other critical procedural rules," as well using "all steps that the agency holds out." *Woodford v. Ngo*, 548 U.S. 81, 90 (2006) (internal quotations omitted); *see also Rodriguez-Rosa v. Spaulding*, No. 19-CV-11984, 2020 WL 2543239, at *7-11 (D. Mass. May 19, 2020).

Administrative exhaustion "gives an agency an opportunity to correct its own mistakes with respect to the programs it administers before it is haled into federal

court,' and it discourages 'disregard of [the agency's] procedures.'" *Woodford*, 548 U.S. at 89. Exhaustion in this context also "improves the quality of those prisoner suits that are eventually filed because proper exhaustion often results in the creation of an administrative record that is helpful to the court." *Id.* at 95.

Respondents further rely upon *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). There, the Board of Immigration Appeals (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.

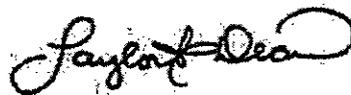
Further, Respondents contend that should this Court determine that Petitioner's detention is subject to 8 U.S.C. § 1226, the only appropriate remedy is a bond hearing before an Immigration Judge, during which an Immigration Judge can properly determine in the first instance whether Petitioner is a flight 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).

Conclusion

Respondents thank the Court for its consideration of this abbreviated submission and respectfully request that the Court to deny this Petition.

Respectfully submitted,

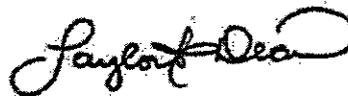
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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2025, I caused the foregoing document to be electronically filed with the United States Court for the District of Rhode Island using the CM/ECF System, and it is available for viewing and downloading from the ECF system.

A handwritten signature in black ink, appearing to read "Taylor A. Dean". The signature is written in a cursive style with a large, looped initial "T".

TAYLOR A. DEAN