

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

FREDDY QUIZHPI SIBRI,

Petitioner,

v.

Civil Action No. 1:25-cv-00561-JJM-AEM

PATRICIA HYDE, FIELD OFFICE  
DIRECTOR, MICHAEL NESSINGER,  
WARDEN, DONALD W. WYATT  
DETENTION FACILITY, and  
TODD M. LYONS, BOSTON FIELD  
OFFICE, ACTING DIRECTOR, U.S.  
IMMIGRATION AND CUSTOMS  
ENFORCEMENT, KRISTI NOEM,  
U.S. SECRETARY OF HOMELAND  
SECURITY,

Respondents.

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

Respondents Patricia Hyde, Todd Lyons, and Kristi Noem, in their official capacities, by and through their attorney, Sara M. Bloom, Acting United States Attorney for the District of Rhode Island, submit this opposition to Petitioner Juan Polanco's Petition for Writ of Habeas Corpus. Doc. 1.<sup>1</sup>

The legal issues presented in the 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 whether Petitioner must first

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<sup>1</sup> The U.S. Attorney's Office does not represent Defendant Warden Nessinger.

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.<sup>2</sup>

On October 23, 2025, Petitioner filed a Petition for Writ of Habeas Corpus, claiming that his detention violates 8 U.S.C. § 1226(a) and associated regulations, and that his detention and the failure to have a bond hearing violates the Due Process Clause of the Fifth Amendment. Doc. 1 at ¶¶ 38-57.

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 a Judge of this Court and several sessions in the District of Massachusetts have issued rulings concerning similar challenges to those at issue in this case. *See e.g., Elias v. Hyde, et al.*, No. 25-cv-540-JJM, \_\_\_ F. Supp. 3d \_\_\_, (D.R.I. Oct. 27, 2025); *Rodriguez v. Nessinger*, No. 25-cv-505-MSM, \_\_\_ F. Supp. 3d \_\_\_, (D.R.I. 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. Oct. 3, 2025) and *Romero v. Hyde*, No. 25-11631-BEM \_\_\_F.Supp.3d\_\_\_ 2025WL 2403827 (D. Mass. Aug. 19, 2025). While Respondents

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<sup>2</sup> In addition to the arguments raised in this 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").

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 Factual Background**

Petitioner is a native and citizen of Ecuador. Doc. 1 ¶ 18. He admits that he entered the United States in approximately 2019 without inspection. *Id.* On or about September 11, 2025, he was first encountered by ICE and was detained. *See* Exhibit A, Notice to Appear and Warrant, at 5. ICE determined 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 and Petitioner pursuant to 8 U.S.C. § 1225. *Id.* at 4. On September 12, 2025, 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.* Petitioner was transferred to and remains detained at the Wyatt Detention Center in Central Falls, Rhode Island. Undersigned counsel

has been informed by ICE that Petitioner's next hearing date is a master calendar hearing scheduled on October 30, 2025.

### **Discussion**

In his Petition, Petitioner principally seeks an order from this Court directing ICE to immediately release him from ICE detention or to conduct a bond hearing and order him released on conditions. Doc. 1, Prayer for Relief, p. 10. 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 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 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. In *Hurtado*, 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. If the Court is inclined to order a hearing to be held by an immigration judge, the petitioner should remain in custody until the time of such hearing so that an immigration judge with experience assessing the risk of flight of individuals during immigration proceedings, can make that determination in the first instance.

### **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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By its Attorney,

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CERTIFICATION OF SERVICE

On this 29 day of October, 2025 I caused this Abbreviated Response to be filed electronically and it is available for viewing and downloading from the ECF system.

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