

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

MARTIR ANDRES CALLEJAS,
Petitioner,

v.

PATRICIA HYDE, Field Office
Director, MICHAEL KROL, HSI
New England Special Agent in
Charge, and TODD LYONS, Acting
Director U.S. Immigration and
Customs Enforcement, and
Kristi NOEM, Secretary, U.S.
Department of Homeland Security,
Respondents.

C.A. No. 25-cv-00564-MRD-PAS

ABBREVIATED RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS
AND
REQUEST TO PROCEED WITHOUT ADDITIONAL BRIEFING OR
ARGUMENT

On October 28, 2025, Petitioner filed a Petition for Writ of Habeas Corpus. The Petition claimed, inter alia, that Petitioner's detention is unlawful and in violation of procedural and substantive due process claims; that he is not subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1) or (b)(2) or 8 U.S.C. § 1226(c), and that he is eligible for a custody redetermination hearing ("bond hearing) under 8 U.S.C. § 1226(a). ECF No 1.

The legal issues presented in this 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, before which court, and finally, 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 As set forth below, Respondents' position is that Petitioner is lawfully detained pursuant 8 U.S.C. § 1225(b)(2), and as such is subject to mandatory detention.

RELEVANT FACTS²

Petitioner, a native and citizen of El Salvador, entered the United States at an unknown location and at an unknown time. *See* ECF No. 1, ¶ 1. On or about August 27, 2025, Petitioner was first encountered by Immigration and Customs Enforcement (ICE) during a traffic stop. *Id.* at ¶ 2. Petitioner admitted that he was present in the United States without proper documentation, and he was taken into custody. *Id.* Following this encounter, Petitioner was detained pursuant to 8 U.S.C. § 1225(b)(2).

On August 27, 2025, Petitioner was served with a Notice to Appear (NTA),³ charging him being an alien subject to removal on two ground: the Immigration and Nationality Act (INA) § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)],

¹ In addition to the arguments raised in this Response, Respondents also move for all Respondents 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").

² Respondents present facts set forth herein that are not in the Petition, they are based "on information and belief" following conversations with ICE representatives and Respondents submit these facts are not materially disputed.

³ The NTA was filed with the Executive Office of Immigration Review (EOIR) on September 10, 2025.

as an alien present in the United States, without being admitted or paroled, and who arrived in the United States at any time or place other than as designated by the Attorney General, and pursuant to INA § 212(a)(7)(A)(i)(I) [8 U.S.C. § 1182(a)(7)(A)(i)(I), as an alien who was, at the time of admission, not in possession of valid entry documents. ECF No. 1-3.

On August 27, 2025, a Warrant issued for Petitioner's arrest finding that he was removable from the United States based on, *inter alia*, "the execution of a charging document to initiate removal proceedings against [him] and "statements made voluntarily by the [Petitioner] to an immigration officer and/or other reliable evidence that affirmatively indicate the [Petitioner] either lacks immigration status or notwithstanding such status is removable under U.S. immigration law." Petition, ECF No. 1-1. Thereafter, ICE transferred Petitioner to the Wyatt Detention Center in Central Falls, Rhode Island, where he currently remains detained. ECF No. 1¶ 2.

The instant Petition was filed on October 28, 2025.⁴

⁴ In his Petition, Petitioner alleges that he is eligible for Cancellation of Removal, pursuant to 8 U.S.C. § 1229b(b). Specifically, on September 25, 2025, the Petitioner filed an EOIR-42B, an Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Aliens (42B Cancellation Application). Petitioner is scheduled to adjudicate that application for relief from removal on November 14, 2025. However, the Respondents note that whether Petitioner is eligible for relief from removal or not, is irrelevant to the issue of his detention and custody status because removal proceedings and bond/custody proceedings are separate. *See* 8 CFR 1003.19(d) ("Consideration by the Immigration Judge of an application or request of a respondent regarding custody or bond under this section shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding.")

DISCUSSION

As an initial matter, in his Petition, Petitioner incorrectly alleges, and has not provided any factual pleadings or evidence, that he was placed in Expedited Removal proceedings, and therefore subject to detention under 8 U.S.C. § 1225(b)(1). Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2), which provides that:

Subject to subparagraphs (B) and (C), [which are not applicable here], in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

8 U.S.C. § 1225(b)(2).

Detention Under 8 U.S.C. § 1225(b)(2)

Respondents contend that Petitioner's detention is governed by INA § 235, 8 U.S.C. § 1225(b)(2), not 8 U.S.C. § 1226, because as 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 is not entitled to a bond hearing. Respondents acknowledge, however, that in addition to recent decisions from Judges of this Court, several district courts in the District of Massachusetts have issued rulings addressing the applicability of 8 U.S.C. §§ 1225 and 1226 in detention and bond hearings in immigration proceedings and the government policy or practice at issue in this case. *See e.g., Astudillo v. Hyde, et al.*, No. 25-551-JJM-AEM (D.R.I. October 30, 2025); *Elias v. Hyde, et al.*, No. 25-cv-540-JJM (D.R.I. Oct. 27, 2025); *Rodriguez v. Nessinger*, No. 25-cv-505-MSM (D.R.I. October 17, 2025); *Doe v. Moniz*, No. 25-cv-12094-IT, 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, 2025 WL 2403827 (D. Mass. August 19, 2025). See also *Desgazons v. Nessinger, et al.*, No. 25-cv-459-MRD-PAS (D.R.I. October 22, 2025) (addressing 8 U.S.C. § § 1225 and 1226 in the context of an alien who had previously been paroled into the United States).

While Respondents respectfully disagree with the above decisions, in the interest of judicial economy, and to expedite the Court's consideration of this matter, while preserving all rights, Respondents hereby rely upon the legal arguments presented by the Respondents in the District of Massachusetts cases, *Doe v. Moniz*, No. 25-cv-12094-IT, and *Escobar v. Hyde*, No. 25-cv- 12620-IT. Specifically, in opposition to the instant Petition, the Respondents rely on from *Doe v. Moniz*, the Respondent's Opposition to Petitioner's Petition for Habeas Corpus Under 28 U.S.C. § 2241 (ECF No. 21) and Respondents' Reply to Petitioner's Memorandum of Law Submitted in Support of Petition for Habeas Corpus (ECF No. 37), and from *Escobar v. Hyde*, the Abbreviated Response to Habeas Petition and Request to Proceed Without Additional Briefing or Argument (ECF No. 6), which attached hereto as Exhibits 1, 2, and 3, respectively, and incorporated herein by reference. The Respondents recognize that given the common question of law in the above-cited cases and Petitioner's Writ, if the Court applies the same reasoning the courts did in the above-cited cases to this one, the legal principles espoused in those cases would likely warrant the same result in this case.

In addition to the incorporated arguments from *Doe v Moniz* and *Escobar v. v. Hyde*, 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.

Should the Court decide that Petitioner is subject to detention under 8 U.S.C. § 1226, the appropriate remedy is *not* to order the immediate release of the Petitioner, but rather to order a bond hearing before an immigration judge. At such a hearing, an immigration judge can 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). Following this procedure 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.⁵

⁵ Further, *if* this Court orders a bond hearing to be held before an Immigration Judge, and *if* an Immigration Judge grants relief, Petitioner should be required to post bond in accordance with the procedures established for bond posting by Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO), which are explained at the following link (<https://www.ice.gov/detain/detention-management/bonds>), before seeking further relief from this Court for a Petitioner’s release.

Respondents submit that the Court can decide this matter without further briefing and without oral argument. However, if the Court prefers 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.

Exhaustion

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, 90-91 (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.

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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CERTIFICATION OF SERVICE

I hereby certify that on November 3, 2025, I electronically filed the foregoing ABBREVIATED RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST TO PROCEED WITHOUT ADDITIONAL BRIEFING OR ARGUMENT and it is available for viewing and downloading from the Court's CM/ECF system, and that the participants in the case that are registered CM/ECF users will be served electronically by the CM/ECF system.

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