

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

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Erick Omar Garcia,

Petitioner

v.

Case No. 25-cv-5685-JJM-PAS

Patricia Hyde, et. al.,

Respondents

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PETITIONER’S REPLY TO GOVERNMENT’S RESPONSE.

In response to the Respondent’s Supplemental Opposition to Petition of Writ of Habeas Corpus, note:

First, Petitioner did not appeal to the BIA because doing so would have been futile given its precedential ruling in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) and current policy which strips most noncitizens with the right to bond, regardless of how long they have been residing in this country. In particular, the IJ asserted Petitioner was a flight risk without stating why. This court need only look at the decisions of other district courts in this circuit which have granted relief to habeas petitioners: Sampaio v Hyde, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); Jimenez v FC Berlin, Warden, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025), Doe v. Moniz, 2025 W:L 25676819 (D. Mass. Sept. 5, 2025); Romero v. Hyde, 2025 WL 2403827 (D. Mass. Aug. 19, 2025).

Second, the government fails to demonstrate that Petitioner is a flight risk according to the Justice Department’s published procedures. (A) The I-213 (Record of Deportable /Inadmissible Alien [Exhibit A]) alleges that Petitioner is the subject of an Interpol warrant based on a criminal investigation in Guatemala. However, ICE Directive 15006.1 “Interpol Red

Notices and Wanted Persons Diffusions” dated August 15, 2023 and effective date September 30, 2023 states the policy: “A Red Notice or Wanted Persons Diffusion is not an international arrest warrant and conveys no legal authority to arrest, detain, or remove a person. Therefore, ICE personnel will not rely exclusively on Red Notices or Wanted Persons Diffusions to justify enforcement actions or during immigration proceedings.”

(B) Guatemala has not sought Respondent’s extradition, nor has the government asserted that a treaty exists between the United States and Guatemala to enforce such warrants. 18 U.S.C. § 3184. Nor has the government asserted that it has independently found probable cause as to the conduct underpinning the Guatemalan warrant.

(C) The government has not indicated that it has activated its own extradition procedure set forth in the Justice Department Manual: §9-15.000 - International Extradition And Related Matters of the Justice Department Manual.

(D) The BIA and the First Circuit would consider the alleged Interpol warrant hearsay. Last month the First Circuit in Maurice v. Bondi, No. 21-1395 (1st Cir. Oct. 2, 2025), affirmed In re Arreguin de Rodriguez, 21 I&N Dec. 38 (BIA 1995). Maurice v Bondi found that an uncorroborated arrest was hearsay. Here, the Interpol warrant is also “hearsay” and not actionable because the conduct on which it is based lacks “corroboration.” In re Arreguin also held that an uncorroborated police report is not to be given substantial weight. Although hearsay police reports can be considered if reliable and not fundamentally unfair, the agency may not assign “substantial weight” to such reports absent corroborating evidence—and the BIA’s decision must reflect consideration of that requirement. Id. at 42. “Just as we will not go behind a record of conviction to determine the guilt or innocence of an alien, so we are hesitant to give substantial weight to an arrest report, absent a conviction or corroborating evidence of the

allegations contained therein. Here, the applicant conceded that the arrest took place but admitted to no wrongdoing. Considering that prosecution was declined and that there is no corroboration, from the applicant or otherwise, we give the apprehension report little weight.” Id.

For all Petitioner’s request for a Habeas Writ should be granted.

DATED: November 18, 2025

Petitioner by his attorneys

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CERTIFICATION

On this 18th day of November 2025, the above was filed in the ECF system and served on all parties of record.

/s/ Sonja L. Deyoe
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