

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LUIS MARTINEZ JIMENEZ,

Petitioner,

v.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; ROBERT LYNCH, Field Office Director, Immigration and Customs Enforcement; PAMELA BONDI, U.S. Attorney General,

Respondents.

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Case No. 1:25-cv-01385

Hon. Robert J. Jonker  
U.S. District Judge

Hon. Maarten Vermaat  
U.S. Magistrate Judge

**RESPONDENTS' ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS**

Respondents, Kristi Noem, Secretary, U.S. Department of Homeland Security (DHS) and Robert Lynch<sup>1</sup>, Field Office Director, Detroit Field Office, Immigration and Customs Enforcement (ICE), and Pamela Bondi, U.S. Attorney General, by and through their attorneys, answer the Petition for Writ of Habeas Corpus of Petitioner Luis Martinez Jimenez as follows:

**INTRODUCTION**

- Petitioner LUIS MARTINEZ JIMENEZ in the physical custody of Respondents at the North Lake Correctional Facility, 1805 West 32nd St., Baldwin, Michigan. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive

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<sup>1</sup> Petitioner named Robert Lynch as a Respondent, as Field Office Director for ICE's Detroit Field Office in his official capacity. Mr. Lynch no longer occupies that position and the current Field Office Director, Kevin Raycraft, should automatically be substituted as the Field Office Director Respondent under Fed. R. Civ. P. 25(d).

Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

**ANSWER: Respondents admit that Petitioner is currently detained at North Lake Correctional Facility in Baldwin, Michigan. Respondents deny the remaining allegations in this paragraph.**

- Petitioner is charged with, *inter alia*, having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

**ANSWER: Respondents admit the allegations in this paragraph.**

- Based on this allegation in Petitioner’s removal proceeding, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

**ANSWER: Respondents admit that Petitioner has been detained but deny that he lacks the opportunity to seek a request for bond redetermination. Respondents deny Petitioner’s attempt to summarize a government policy and defer to the text of the policy itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response to Habeas Petition (“Response”), filed concurrently with this Answer.**

- Petitioner seeks a bond redetermination hearing before an Immigration Judge of the Executive Office for Immigration Review. However, following *Matter of Yajure Hurtado*, 29

I&N Dec. 216 (BIA 2025), EOIR now declines jurisdiction to consider bond for individuals deemed “applicants for admission” under § 1225(b)(2)(A). As a result, despite Petitioner’s twenty seven years of continuous residence in the United States, deep family ties, and lack of danger or flight risk, he remains mandatorily detained without any opportunity for individualized review. This categorical denial of bond authority results in indefinite detention without administrative recourse, raising serious constitutional concerns that warrant this Court’s intervention under 28 U.S.C. § 2241.

**ANSWER: Respondents admit that Petitioner seeks a bond hearing. The remaining allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the remaining allegations of this paragraph.**

- Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

**ANSWER: The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph.**

- Respondents’ new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

**ANSWER:** The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph.

- Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within fourteen (14) days.

**ANSWER:** This paragraph contains a prayer for relief to which no response is required. To the extent this paragraph is deemed to allege facts to which a response is required, Respondents deny the allegations as untrue.

#### JURISDICTION

- The Petitioner is a resident of Illinois, in the physical custody of Respondents. Petitioner is detained at the North Lake Correctional Facility, at 1805 West 32nd St., Baldwin, Michigan 49304.

**ANSWER:** Respondents admit the allegations in this paragraph.

- This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

**ANSWER:** The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny that the Court has jurisdiction over this case and deny the remaining allegations of this paragraph. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

- This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny that the Court has jurisdiction over this case and deny the remaining allegations of this paragraph. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

#### VENUE

- Venue lies in the United States District Court for the Western District of Michigan, the judicial district in which the Petitioner is currently detained as of the moment of filing the instant petition. 28 U.S.C. §1391(e).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents do not contest venue in this case.**

- Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Michigan.

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents do not contest venue in this case.**

**REQUIREMENTS OF 28 U.S.C. § 2243**


- The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

**ANSWER: The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny that Petitioner is entitled to the relief requested.**

- Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

**ANSWER: The allegations in this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny that Petitioner is entitled to habeas relief.**

**PARTIES**

- Petitioner LUIS MARTINEZ JIMENEZ, born  is a citizen of MEXICO who has been in immigration detention since October 30, 2025. After arresting Petitioner in Illinois, ICE did not set bond; to date, an Immigration Judge has not set bond

because he was deemed an “applicant for admission.” Petitioner has resided in the United States since he arrived in or around February of 1998.

**ANSWER: Respondents admit that Petitioner is a citizen of Mexico. Respondents also admit that ICE detained Petitioner on October 30, 2025, that it did not set bond, and an immigration judge has not set bond, deny that Petitioner lacks the opportunity to seek a request for bond redetermination. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

**ANSWER: Respondents admit that Secretary Noem is the Secretary of DHS. The remaining allegations in this paragraph states legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner’s attempt to summarize Secretary Noem’s responsibilities. Respondents also deny that she is a proper respondent. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Respondent, JAMES JACOBS, is the Michigan Field Office Director for Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

**ANSWER:** Respondents deny that DHS maintains a Michigan Field Office or that James Jacob is the director, as alleged in this paragraph. The Field Office Director for ICE is Kevin Raycraft. The remaining allegations in this paragraph states legal conclusions to which no response is required. To the extent a response is required, Respondents admit that the Field Office Director is charged with the detention and removal of aliens which fall under the jurisdiction of the Detroit Field Office. Respondents deny the remaining allegations of this paragraph.

- Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

**ANSWER:** Respondents admit that Attorney General Bondi is the Attorney General of the United States. The remaining allegations in this paragraph states legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to summarize Attorney General Bondi's responsibilities. Respondents also deny that she is a proper respondent. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

#### LEGAL FRAMEWORK

- The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

**ANSWER:** The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents also deny

**Petitioner's attempt to characterize a statute and defer to the text of the statute itself.**

**Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering,**

**Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Lastly, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep.

No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and congressional reports, and defer to the text of the statute, reports, and decision themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

**ANSWER: Respondents deny Petitioner’s attempt to summarize a government policy and defer to the text of the policy itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

**ANSWER: Respondents deny Petitioner’s attempt to summarize an ICE Interim Guidance document and defer to the text of the document itself. Further answering,**

**Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- In a May 22, 2025, unpublished decision from the Board of Immigration Appeals (BIA), EOIR adopts this same position. That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a BIA decision and defer to the text of the decision itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).

**ANSWER:** The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize federal court decisions and statutes and defer to the text of the decisions and statutes themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

- DHS’s and DOJ’s interpretation defies the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

**ANSWER:** The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a federal court decision and statute and defer to the text of the decision and statute themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

- Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

**ANSWER:** The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and defer to the text of the statute itself. Further answering,

**Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at \*12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize federal court decisions and a statute and defer to the text of the decisions and statute themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and defer to the text of the statute itself. Further answering,**

**Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C.

§ 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a federal court decision and statute and defer to the text of the decision and statute themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize a statute and defer to the text of the statute itself. Further answering,**

**Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

#### **FACTS**

- Petitioner has resided in the United States for over 27 years and lives in Wheeling, Illinois with his girlfriend and two U.S. citizen children.

**ANSWER: Respondents admit that Petitioner has been in the United States for approximately 27 years. Respondents lack knowledge or information sufficient to form a belief as to the remaining allegations of this paragraph.**

- On or about October 30, 2025, the Petitioner was unlawfully detained in Wheeling, Illinois while he was helping a friend jump start his car. He is currently being processed at the ICE North Lake Correctional Facility, 1805 West 32nd St., Balwin, Michigan.

**ANSWER: Respondents admit that Petitioner was detained near Wheeling, Illinois, and he is currently detained at North Lake Correctional Facility. Respondents lack knowledge or information sufficient to form a belief as to the remaining allegations of this paragraph.**

- ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

**ANSWER: Admitted.**

- Petitioner is the father of two U.S. citizen children, one of them a minor with autism that depends on him for emotional and financial support. He last entered the United States in February of 1998, and has lived continuously in this country for over 27 years. During that time,

he has built a stable family and meaningful ties within his community. Petitioner has maintained consistent employment, paid taxes, and contributed positively to his community and his child's medical and school activities. He has no criminal history, has complied with all prior immigration requirements to the best of his ability, and poses neither a flight risk nor any danger to the community.

**ANSWER: Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.**

- ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

**ANSWER: Denied.**

- Petitioner has not had any bond redetermination hearing before an IJ and there is no court proceedings attached to his A-number in the EOIR system.

**ANSWER: Respondents admit that Petitioner has not had a bond redetermination hearing, but deny that Petitioner lacks the opportunity to request a bond hearing. Respondents deny the remaining allegation of this paragraph.**

- As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

**ANSWER: Respondents admit that Petitioner is currently detained at North Lake Correctional Facility. Respondents deny that Petitioner lacks the opportunity to**

**request a bond hearing. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.**

- Any appeal to the BIA is futile. DHS’s new policy was issued “in coordination with DOJ,” which oversees the immigration courts. Further, as noted, the most recent unpublished BIA decision on this issue held that persons like Petitioner are subject to mandatory detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot.to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner’s attempt to summarize a BIA decision, federal court decisions, and a statute, and defer to the text of the decisions and statute themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

#### **CLAIMS FOR RELIEF**

##### **COUNT I**

##### **Violation of the INA**

- Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

**ANSWER: Respondents adopt by reference their responses to all prior paragraphs as though fully incorporated herein.**

- The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

**ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize statutes and defer to the text of the statutes themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.**

- The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates the INA.

**ANSWER: Denied.**

**COUNT II**  
**Violation of Due Process**

- Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

**ANSWER: Respondents adopt by reference their responses to all prior paragraphs as though fully incorporated herein.**

- The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

**ANSWER:** The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize the Constitution and defer to the text of the Constitution itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

- Petitioner has a fundamental interest in liberty and being free from official restraint.

**ANSWER:** The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner’s attempt to characterize the Constitution and defer to the text of the Constitution itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

- The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

**ANSWER:** Denied.

The remainder of the Petition is a Prayer for Relief to which no response is required. To the extent that the Prayer for Relief is deemed to allege facts to which a response is required, Respondents deny the allegations.

Any allegation in the Petition that has not been expressly admitted is hereby denied.

Respectfully submitted,

TIMOTHY VERHEY  
United States Attorney

Dated: December 3, 2025

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