



U.S. Department of Justice

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Via ECF

Honorable Julien Xavier Neals
United States District Judge
Martin Luther King Jr. United States Courthouse
50 Walnut Street
Newark, New Jersey 07102

**Re: *Benitez Castro v. Bondi*, No. 25-17598
Answer to § 2241 Petition**

Dear Judge Neals:

This Office represents Respondents in the above habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement (“ICE”) pursuant to 8 U.S.C. § 1225(b)(2). We respectfully submit this letter response in light of the Court’s recent decisions concerning § 1225(b)(2).¹ Moreover, this Office has submitted briefing on the § 1225(b)(2) issue to Your Honor in *Fuentes Velasquez v. Noem*, No. 25-16797 (JXN), ECF 5, Resps.’ Ans. (D.N.J. Nov. 12, 2025), which is currently pending. Respondents’ legal position on the § 1225(b)(2) issue in this matter is identical to their position in the earlier-filed *Fuentes Velasquez* matter. Respondents accordingly incorporate it by reference.

Here, Petitioner is a native of Honduras. Pet., Introduction ¶ 1. Petitioner did not encounter U.S. Customs and Border Protection officers upon his entry into the

¹ See, e.g., *Ayala Amaya v. Bondi*, No. 25-16427 (ESK), 2025 WL 3033880 (D.N.J. Oct. 30, 2025); *Smit Patel v. Almodovar*, No. 25-15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025); *Lomeu v. Lyons*, No. 25-16589 (EP), 2025 WL 2981296 (D.N.J. Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-13004 (JKS), 2025 WL 2985256, at *2 (D.N.J. Oct. 23, 2025); *Soto v. Soto*, No. 25-16200 (CPO), 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Castillo v. Lyons*, No. 25-16219 (MEF), 2025 WL 2940990 (D.N.J. Oct. 10, 2025); *Rivera Zumba v. Bondi*, No. 25-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025).

United States and entered without inspection on or about April 2004. *Id.* ¶¶ 2, 3. On October 16, 2025, ICE officers detained Petitioner while he was attending a scheduled appointment with Nassau County Probation in Mineola, New York. Pet., Introduction ¶¶ 1, 5; Pet. Ex. B, I-213 at 2. ICE has detained Petitioner since October 16, 2025. Pet., Introduction ¶ 5, 6. Petitioner is in ICE detention without bond pursuant to the U.S. Department of Homeland Security’s interpretation of “applicants for admission” under § 1225(b)(2)² and the Board of Immigration Appeals’ (“BIA”) recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *Id.* ¶¶ 7, 8. Petitioner argues his detention without bond under § 1225(b)(2) is unlawful, and he seeks immediate release or a bond hearing under § 1226(a). *Id.*, Prayer for Relief ¶ 71, 72. Petitioner was detained in New Jersey when he filed the Petition. *Id.*, Introduction ¶ 1.

Respondents contend, as they have in all other cases involving § 1225(b)(2) detention in this District, that the Petitioner’s detention is governed by § 1225(b)(2) because he is an alien who entered without inspection or parole and was detained by immigration authorities in the interior of the country without having been lawfully admitted. Accordingly, Petitioner is an “applicant for admission,” who is not entitled to a bond hearing. *See Fuentes Velasquez v. Noem*, No. 25-16797 (JXN), ECF 5, Resps.’ Ans. (D.N.J. Nov. 12, 2025). Respondents further contend that the only remedy, if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a) not immediate release. *See id.*

In *Rivera Zumba*, the Court ruled that the detention was improper under § 1225(b)(2) and ordered immediate release of petitioner. The Court agreed with the many courts around the country that § 1225(b)(2) applied exclusively to encounters at the border, while § 1226(a) applies to aliens, like Petitioner, who were already present in the country, albeit unlawfully, at the time of their encounter with immigration authorities. After *Rivera Zumba*, most Courts in this District have ordered a bond hearing under § 1226(a) rather than immediate release. *See, e.g., Vicens-Marquez v. Soto*, No. 25-16906 (KSH), ECF 15 (D.N.J.).

Here, Respondents acknowledge that their answer to this Petition relies on the same statutory arguments made in *Rivera Zumba* and reiterated to Your Honor in *Fuentes Velasquez*, and this Petition asserts the same relevant facts as in those petitions. Given the similar issues, the importance of efficient resolution of this habeas petition, and the preservation of the Court’s and the parties’ resources, Respondents incorporate by reference their position in *Fuentes Velasquez v. Noem*, No. 25-16797 (JXN), ECF 5, Resps.’ Ans. (D.N.J. Nov. 12, 2025).³

² Petitioner occasionally cites to “1226(b)(2)” instead of “1225(b)(2).” This appears to be a scrivener’s error.

³ In recent matters, the Court has summarily adjudicated § 1225(b)(2) habeas matters without requiring a formal answer because Respondents stipulated to material facts and legal issues. *See Ortega Alvarez v. Bondi*, No. 25-17401 (MEF),

We thank the Court for its attention to this matter.

Respectfully submitted,

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cc: Counsel of record (ECF)

ECF 4 (D.N.J. Nov. 14, 2025) (ordering relief without answer); *Moreira Da Silva v. LaForge*, No. 25-17095 (EP), ECF 6 (D.N.J. Nov. 13, 2025) (ordering bond hearing without answer); *Vicens-Marquez v. Soto*, No. 25-16906 (KSH), ECF 15 (same).