



U.S. Department of Justice

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November 28, 2025

**By ECF**

Hon. Renée Marie Bumb, C.U.S.D.J.  
U.S. District Court for the District of New Jersey  
Mitchell H. Cohen Building & U.S. Courthouse  
4th & Cooper Streets  
Camden, NJ 08101

**Re: *Gu v. Almodovar*, No. 25-cv-17746  
Answer to § 2241 Petition**

Dear Chief Judge Bumb:

This Office represents Respondents in this habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement (“ICE”) under 8 U.S.C. § 1225(b)(2). We respectfully submit this letter response in light of the recent decisions from this District in *Ayala Amaya v. Bondi*, No. 25-16427 (ESK), 2025 WL 3033880 (D.N.J. Oct. 30, 2025); *Perez v. Lyons*, No. 25-17186-ESK, 2025 WL 3238540, at \*3 (D.N.J. Nov. 19, 2025) (“Respondents are ordered to treat petitioner as detained under § 1226(a) and provide him with an individualized bond hearing.”); and other similar matters. As discussed below, these same issues are briefed before the Court in full in *Marca Lima v. Soto*, 25-cv-17098 RMB (D.N.J.).

Respondents stipulate to the following facts asserted in the Petition for purposes of this answer. Petitioner is a citizen and national of China. Pet. ¶ 15. He entered the United States in September 2023 without inspection and was issued a Notice to Appear by Immigration Officers. Pet. at Ex. B. On November 4, 2025, ICE officers arrested Petitioner in New York City. *Id.* ¶ 41. ICE has detained him since then. *Id.* Petitioner is in ICE detention because ICE considers him an “applicant for admission” under § 1225(b)(2). *See also Matter of Yajure Hurtado*, 29 I&N Dec. 215 (BIA 2025). Pet. ¶ 3. Petitioner argues his detention without bond under § 1225(b)(2) is unlawful and he seeks either immediate release or a bond hearing under § 1226(a). *Id.* ¶ 5.

Respondents contend, as they did in *Marca Lima* and the other matters cited above, that the Petitioner's detention is governed by § 1225(b)(2) because he is an alien who unlawfully entered without inspection or parole and was initially detained by immigration authorities near the border in September 2023. As such, he remains an "applicant for admission" who is not entitled to a bond hearing. *See Marca Lima v. Soto*, 25-cv-17098 RMB (D.N.J.), ECF No. 7, Answer at 7-13 (citing *Matter of Yajure Hurtado*). Respondents also contend that the only remedy, if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a) at which Petitioner bears the burden—and not immediate release. *See id.* Other courts in this District have disagreed with *Matter of Yajure Hurtado*. *See, e.g., Ayala Amaya*, 2025 WL 3033880 at \*2-3; *Perez*, 2025 WL 3238540 at \*2-3. Instead, those courts sided with the vast majority of courts around the country that have concluded that § 1225(b)(2) applies 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 most recent encounter with immigration authorities.

Here, Respondents acknowledge that their answer to this Petition relies on the same statutory arguments made in *Marca Lima*, and this Petition asserts similar relevant facts as those in *Marca Lima*. 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 positions in *Marca Lima v. Soto*, 25-cv-17098-RMB (D.N.J.), ECF No. 7, Answer.<sup>1</sup>

We thank the Court for its attention to this matter.

Respectfully submitted,

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<sup>1</sup> In recent matters, other courts in this district have summarily adjudicated § 1225(b)(2) habeas matters in lieu of a formal answer based on stipulated facts and identical legal issues. *See Moreira Da Silva v. LaForge*, No. 25-17095 (EP), ECF No. 6 (D.N.J. Nov. 13, 2025) (ordering bond hearing following status conference); *Vicens-Marquez v. Soto*, No. 25-16906 (KSH), ECF No. 15 (same).

cc: Counsel of Record