

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

JOSE ESTEVAN BARRERA  
RODRIGUEZ,

PETITIONER

v.

Patricia HYDE, Field Office Director  
of Enforcement and Removal  
Operations, Boston  
Field Office, Immigration and  
Customs Enforcement; Kristi  
NOEM, Secretary, U.S. Department  
of Homeland Security; U.S.  
DEPARTMENT OF HOMELAND  
SECURITY; Pamela BONDI, U.S.  
Attorney General; EXECUTIVE  
OFFICE FOR IMMIGRATION  
REVIEW; MICHAEL NESSINGER,  
Warden of Wyatt Detention Facility,

RESPONDENTS.

Case No. 1:25-cv-000607-JJM-PAS

**ABBREVIATED RESPONSE TO HABEAS PETITION AND REQUEST TO  
PROCEED WITHOUT ADDITIONAL BRIEFING OR ARGUMENT**

Pursuant to the Court's November 19, 2025 Order, the United States, on behalf of Defendants Patricia HYDE, Kristi NOEM, U.S. DEPARTMENT OF HOMELAND SECURITY, Pamela BONDI, and EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, respectfully submits this Abbreviated Response to Petitioner's Petition for Writ of Habeas Corpus.<sup>1</sup> On November 19, 2025, Petitioner filed his Petition which claimed, *inter alia*, that Petitioner's detention violates 8 U.S.C. § 1226(a) and associated regulations, and alleged procedural and substantive due process claims.

---

<sup>1</sup> The U.S. Attorney's Office does not represent MICHAEL NESSINGER, Warden of Wyatt Detention Facility.

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, 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.<sup>2</sup>

The Respondents’ position is that Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2), and as such is subject to mandatory detention.

#### Relevant Underlying Facts

Petitioner is a native and citizen of Honduras. ECF No. 1-2 at 1. Petitioner entered the United States at or near Tecate, California on or about March 25, 2024. *Id.* On or about March 27, 2025, Petitioner was encountered by the Department of Homeland Security. *Id.* That same day, Petitioner was served with a Notice to Appear (NTA), charging him with being subject to removal under 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] of the Immigration and Nationality Act, as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

---

<sup>2</sup> In addition to the arguments raised in this Abbreviated Response, Respondents also move for all Respondents other than Respondent Nessinger to be dismissed from this action as they are not Petitioner’s custodian. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (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”).

On November 6, 2025, a warrant issued for Petitioner's arrest based upon, *inter alia*, "the pendency of ongoing removal proceedings against the subject" and "biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law." ECF No. 1-4 at 1. Upon arrest, ICE transferred Petitioner to the Wyatt Detention Center in Central Falls, Rhode Island, where he currently remains detained. ECF No. 1, ¶ 35.

The instant Petition was filed on November 19, 2025.

#### Discussion

Respondents contend that Petitioner's detention is governed by INA § 235, 8 U.S.C. § 1225(b)(2), not 8 U.S.C. § 1226 as Petitioner argues, because he is an alien who entered without inspection or parole and remains an applicant for admission who is treated, for constitutional purposes, as if he had been stopped at the border. As such, he is subject to mandatory detention and 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-cv-551-JJM-AEM (D.R.I. Oct. 30, 2025); *Elias v. Hyde, et al.*, No. 25-cv-540-JJM-AEM (D.R.I. Oct. 27, 2025); *Rodriguez v. Nessinger*, No. 25-cv-505-MSM-AEM (D.R.I. Oct. 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. Aug. 19, 2025). See also *Desgazons v. Nessinger, et al.*, No. 25-cv-459-MRD-PAS (D.R.I. Oct. 22, 2025) (addressing 8 U.S.C. §§ 1225 and 1226 in the context of an alien who was previously 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 are 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. Hyde*, Respondents further rely upon *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A.

2025). There, the Board of Immigration Appeals (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); *Gomes v. Hyde*, 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).

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).

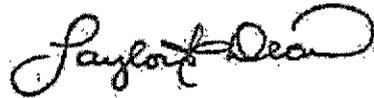
Administrative exhaustion “gives an agency ‘an opportunity to correct its own mistakes with respect to the programs it administers before it is haled into federal court,’ and it discourages ‘disregard of [the agency’s] procedures.’” *Woodford*, 548 U.S. at 89. Exhaustion in this context also “improves 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,

SARA M. BLOOM  
Acting United States Attorney



---

TAYLOR A. DEAN  
Assistant U.S. Attorney  
United States Attorney's Office  
One Financial Plaza, 17th Floor  
Providence, RI 02903  
[taylor.dean@usdoj.gov](mailto:taylor.dean@usdoj.gov)

CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2025, I caused the foregoing document to be electronically filed with the United States Court for the District of Rhode Island using the CM/ECF System, and it is available for viewing and downloading from the ECF system, and that the participants in the case that are registered CM/ECF users will be served electronically by the CM/ECF system.



---

TAYLOR A. DEAN  
Assistant U.S. Attorney  
United States Attorney's Office  
One Financial Plaza, 17th Floor  
Providence, RI 02903  
[taylor.dean@usdoj.gov](mailto:taylor.dean@usdoj.gov)