

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

ROSELANDE MOISE,

Petitioner,

v.

KEVIN JOYCE, Sheriff of Cumberland
County; PATRICIA HYDE, Field Office
Director, Boston Field Office, U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; and
PAMELA BONDI, Attorney General of the
United States,

Respondents.

No. 2:25-cv-00578-JAW

**RETURN AND RESPONSE TO ORDER TO SHOW CAUSE
IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS**

Federal Respondents, by and through undersigned counsel, oppose the Verified Petition for Writ of Habeas Corpus filed by Petitioner Roselande Moise under 28 U.S.C. § 2241. Dkt. #1, November 19, 2025 (the “Petition” or “Pet.”). Petitioner’s arrest and detention was initiated by U.S. Immigration and Customs Enforcement (“ICE”) on November 5, 2025, in Massachusetts. Pet. ¶¶ 5, 22.¹ Petitioner was subsequently transported to the Cumberland County Jail, in Portland, Maine. *Id.* ¶¶ 4, 22.

ICE maintains that the true cause of Petitioner’s detention is pursuant to 8 U.S.C. § 1225(b)(2). *See* 28 U.S.C. § 2243. The Government acknowledges, as it must, the

¹ Although not relevant to Petitioner’s claims, some uncertainty exists as to the exact date of Petitioner’s arrest and detention. Petitioner alleges that she was detained at her home by law enforcement on November 4, 2025, and transferred to ICE custody on November 5, 2025. However, law enforcement records indicate that the Worcester Police Department responded to a report of domestic violence at approximately 2:00am on November 5, 2025, arresting Petitioner. *See* Exhibit A, p. 1. Petitioner was arraigned in Worcester District Court at 8:55am on November 5, 2025. *See id.*, pp. 3-5. Petitioner’s Warrant for Arrest of Alien is dated November 5, 2025.

recent caselaw from this Court uniformly sustaining challenges to DHS's interpretation of § 1225. *See, e.g., Chogllo Chafla v. Scott*, 2:25-cv-00437-SDN, 2025 WL 2688541 (D. Me. Sept. 22, 2025); *Bermeo Sicha v. Bernal*, 25-cv-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025). The position of ICE nonetheless remains that Petitioner must be detained pending the outcome of her removal proceedings, with the agency following the precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025), to which it must adhere. The Government adopts by reference its prior arguments made to this Court in that regard.

The present matter is only substantively distinguishable from the law and facts at issue in the *Chogllo Chafla* and *Bermeo Sicha* line of cases in two respects.

First, Petitioner was issued an I-200 administrative warrant on the date of her arrest. *See Exhibit B*, dated November 5, 2025. *Cf. Chogllo Chafla*, 2025 WL 2688541, at *11 (no administrative warrant issued for arrest); *Bermeo Sicha*, 2025 WL 2494530, at *6 (no record evidence or reference to administrative warrant); *Chiliquinga Yumbillo v. Stamper*, 25-cv-00479, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025) (no administrative warrant issued for arrest). As this Court has previously stated, the “[i]ssuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a).” *See Chogllo Chafla*, 2025 WL 2688541, at *11 (“absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a)”) (emphasis original).

Second, Petitioner was arrested not pursuant to a traffic stop but in response to a report of domestic violence. *See Exhibit A*, p. 1. She was charged under Massachusetts General Law Ch. 265, Section 13M with assault and battery on a family/household member. *See id.* At her arraignment, Petitioner pleaded not guilty, *see Ex. A*, p. 4, and

Government counsel has been unable to obtain any information beyond that contained in the Worcester Police Department's incident report. That said, the criminal conduct does not appear to meet the prerequisites for mandatory detention under the Laken Riley Act, owing to an apparent absence of "serious bodily injury" to the victim, as 8 U.S.C. § 1226(c)(1)(E)(ii) requires. *See also id.* § 1226(c)(2) (defining "serious bodily injury" to have the same meaning "given such term[] in the jurisdiction in which the acts occurred"); M.G.L. CH. 265, § 13A (2002) (defining "serious bodily injury" to mean "bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.").

Finally, Petitioner alleges that her detention violates her Fourth Amendment right to protection from unreasonable searches and seizures. Pet. ¶¶ 62-63. Her brief argument relies only on *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975), which merely states that, in the context of vehicular border crossings, "when an officer's observations lead him reasonably to suspect that a particular vehicle may contain aliens who are illegally in the country, he may stop the car briefly and investigate the circumstances that provoke suspicion ... but any further detention or search must be based on consent or probable cause." *Id.* 881-82. Petitioner's argument fails, for two obvious reasons.

First, Petitioner does not in fact allege the absence of probable cause for her arrest and detention. *See generally* Pet. §§ 17-22, 62-63. Petitioner was properly arrested and detained by ICE with probable cause as demonstrated by the I-200 warrant with which she was served. *See* Ex. B. Similarly, her initial arrest by the Worcester Police Department also was based on probable cause. *See* Ex. A, p. 1. Petitioner lacks any factual ground to allege the absence of probable cause for her arrest and detention.

Second, recent caselaw from this Court makes clear that, even if Petitioner's arrest was unlawful, which it clearly was not, her detention pending removal does not violate the Fourth Amendment. In *Rodrigues De Oliveira v. Joyce*, the Court stated:

As the Government points out, "[t]he 'body' or identity of a defendant or respondent in a criminal or civil proceeding is never itself suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest ... occurred." *I.N.S. v. Lopez-Mendoza*, 468 U.S. 1032, 1039 (1984). Put differently, "[t]he mere fact of an illegal arrest has no bearing on a subsequent deportation proceeding." *Id.* (quoting *In re Lopez-Mendoza*, No. A22452208 (BIA, Sept. 19, 1979)). Thus, even if Petitioner's initial arrest was unlawful, her detention pending removal may stand.

2:25-cv-00291-LEW, 2025 WL 1826118, at *5, (D. Me. July 2, 2025).

Accordingly, Petitioner has neither factual nor legal basis for a Fourth Amendment claim.

WHEREFORE, ICE submits that Petitioner is not entitled to a writ of habeas corpus. The Government respectfully submits that the court should dispose of and dismiss the matter as law and justice require. 28 U.S.C. § 2243.

Dated: November 24, 2025
Portland, Maine

Respectfully submitted,

ANDREW B. BENSON
United States Attorney

/s/ JOHN G. OSBORN
John G. Osborn
Assistant United States Attorney
United States Attorney's Office
100 Middle Street, East Tower
Portland, Maine 04101
John.Osborn2@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2025, I caused the foregoing to be electronically filed with Clerk of Court using the CM/ECF system, which sent such notice to any individuals and entities who have entered appearances in this case to date, pursuant to the Court's ECF system.

ANDREW B. BENSON
United States Attorney

/s/ JOHN G. OSBORN
John G. Osborn
Assistant United States Attorney
United States Attorney's Office
100 Middle Street, East Tower
Portland, Maine 04101
John.Osborn2@usdoj.gov

