**UNITED STATES DISTRICT COURT**
**MIDDLE DISTRICT OF FLORIDA**
**FT. MYERS DIVISION**

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| ANTONIO DEJES MARTINEZ CHAVEZ,<br><br>Petitioners,<br><br>v.<br><br>GARRETT RIPA, ET AL.,<br><br>Respondents. | Case No. 2:25-CV-1088-KCD-DNF |

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

Petitioner Antonio Dejes Martinez Chavez ("Petitioner") seeks the grant of a petition for writ of habeas corpus ("Petition") pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by Immigration and Customs Enforcement ("ICE") and seeking his immediate release from custody.[1] Petitioner also brings challenges pursuant to the Fifth Amendment to the United States Constitution, the Immigration and Nationality Act ("INA"), and bond regulations. His petition must be denied.

The Court must deny the petition as Petitioner has failed to exhaust

[1] In the alternative, Petitioner seeks an order compelling that a bond hearing be completed within seven days *See* ECF No. 1, Prayer for Relief.

administrative remedies, namely his ability to seek review of ICE's bond determination before an Immigration Judge ("IJ") as he has not requested such review. Additionally, Petitioner is currently detained under 8 U.S.C. § 1225(b)(2) and is therefore ineligible for release under 8 U.S.C. § 1226(a). He seeks to circumvent the detention statute under which he is rightfully detained to secure a custody redetermination hearing that he is not entitled to. Petitioner argues that—contrary to the plain language of 8 U.S.C. § 1225(b)(2)—the authority for his detention is better understood to arise under 8 U.S.C. § 1226(a), a detention statute that allows for release on bond or conditional parole. That argument fails to square with the fact that he falls neatly and precisely within the statutory definition of aliens subject to detention pursuant to 8 U.S.C. § 1225(b)(2).

## BACKGROUND

Petitioner is an alien "applicant for admission." He is a citizen of Mexico who unlawfully entered the United States at an unknown location on or about December 2000. Petition, ¶¶ 28, 55. On October 28, 2025, Petitioner was taken into custody by federal immigration enforcement and he remains detained at this time. Petition, ¶¶ 1, 8, 28, 56. On November 24, 2025, Petitioner filed the instant action in the U.S. District Court seeking habeas relief pursuant to the INA, the Fifth Amendment Due Process Clause of the U.S. Constitution, and pursuant to bond regulations. *Id.*, ¶¶ 62-72. On November 25, 2025, the Court issued an order instructing Respondents to respond to Petitioner's habeas petition and show cause why the petition should not be granted.

ECF No. 3. Respondents have until December 16, 2025 to comply. *Id.* On December 4, 2025, the Court ordered supplemental briefing no later than December 9, 20205 on the impact of a recent California District Court decision certifying a class of similarly situated individuals. ECF No. 7. Respondents timely complied. ECF No. 9.

In response to this Court's order, ECF No. 3, and for the reasons set forth below, Federal Respondents respectfully request that this Court deny Petitioner's Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

## ARGUMENT

### I. Respondents Ripa, Bondi, and Noem Are Improper Parties in This Habeas Action.

The only appropriate respondent to a habeas case is the official with physical custody of petitioner. 28 U.S.C. § 2243 ("The writ, or order to show cause shall be directed to the person having custody of the person detained."); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004) ("[T]he 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."). Accordingly, all named Respondents with the exception of Respondent Mordant are improper parties in this case.

### II. The Court Lacks Also Jurisdiction Over Petitioner's Claims.

Respondents acknowledge that this Court's prior rulings concerning jurisdiction pursuant to 8 U.S.C. §§ 1252(b)(9) and 1252(g) as well as those related to exhaustion in similar challenges to the government policy or practice at issue in this

case would control the result in this case should the Court adhere to its legal reasoning in those prior decisions and find the facts sufficiently common. *See Hernandez-Lopez v. Hardin, et al.*, No. 2:25-cv-830-KCD-NPM, 2025 WL 302245 (M.D. Fla. Oct. 29, 2025), and *Garcia v. Noem, et al.*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025). While Respondents respectfully disagree with those decisions, in the interest of judicial economy, and to expedite the Court's consideration of this matter, Respondents hereby rely upon and incorporate by reference the legal arguments regarding jurisdiction under Sections 1252(b)(9) and 1252(g) and exhaustion as presented in *Hernandez-Lopez* and *Garcia*.[2] *See Hernandez-Lopez v. Hardin, et al.*, No. 2:25-cv-830-KCD-NPM, ECF No. 19; *see also Garcia v. Noem, et al.*, No. 2:25-cv-879-SPC-NPM, ECF No. 14.[3] Should the Court prefer to receive a more exhaustive and fulsome opposition brief on these issues, Respondents respectfully request leave to file such a brief and will do so upon the Court's request.

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[2] Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of judicial economy, Respondents respectfully request the Court to suspend application of the rule. *See* Local Rule 1.01(a) and 1.01(b).

[3] It should be noted, however, that several courts have recently ruled in Respondents' favor on similar issues. *See e.g., Montoya Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331, at *3–7 (S.D. Tex. Nov. 13, 2025); *Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 3131942, at *2–5 (E.D. Mo. Nov. 10, 2025); *Silva Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972, at *2–7 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926, *2–7 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, at *2–10 (E.D. Wis. Oct. 30, 2025); *Kum v. Ross*, No. 6:25-CV-00451, 2025 WL 3113646, at *1–2 (W.D. La. Oct. 22, 2025*), report and recommendation adopted by* 2025 WL 3113644 (W.D. La. Nov. 6, 2025); *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351, at *7–10 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250-CAB-SBC, 2025 WL 2730228 at *4–5 (S.D. Cal. Sept. 24, 2025). *Cf. Garibay-Robledo v. Noem*, No. 1:25-cv-00177-H, (Doc. 9), (N.D. Tex. Oct. 24, 2025).

**III. Petitioner is an "Applicant for Admission" and Subject to Section 1225(b)'s Detention Standards.**

In his Petition, Petitioner argues that his detention should be governed by 8 U.S.C. § 1226 and that he is being unlawfully detained in violation of the Fifth Amendment to the United States Constitution and the INA. *See generally* Petition. Respondents contend that Petitioner's detention is governed by 8 U.S.C. § 1225, because he is an alien who entered without inspection or parole, was—and remains—an applicant for admission, and is treated, for constitutional purposes, as if stopped at the border. As such, he is subject to mandatory detention and not entitled to a bond hearing. *See* 8 U.S.C. § 1225(b)(1)(B)(ii).

In *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the Board of Immigration Appeals ("BIA") examined the plain language of Section 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.

"As with any question of statutory interpretation, [the] analysis begins with the

plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Section 1225(a)(1) defines an "applicant for admission" as an "alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .) . . . ." 8 U.S.C. § 1225(a)(1); *see Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) ("[R]egardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission."). Accordingly, by its very definition, the term "applicant for admission" includes two categories of aliens: (1) arriving aliens, and (2) aliens present without admission. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'" (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) ("Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . ."); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that "the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted" (citing 8 U.S.C. § 1225(a)(1))). An arriving alien is defined, in pertinent part, as "an applicant for admission coming or attempting to come into the United States at a port-of-entry [("POE")] . . . ." 8 C.F.R. §§ 1.2, 1001.1(q).

All aliens who are applicants for admission "shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) ("Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection . . . ."). An applicant for admission seeking admission at a United States POE "must present whatever documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is entitled, under all of the applicable provisions of the immigration laws . . . to enter the United States." 8 C.F.R. § 235.1(f)(1); *see* 8 U.S.C. § 1229a(c)(2)(A) (describing the related burden of an applicant for admission in removal proceedings). "An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated [POE] . . . is subject to the provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a]." 8 C.F.R. § 235.1(f)(2).

Here, Petitioner did not present himself at a POE but instead alleges to have entered the United States in December 2000 without having been admitted after inspection by an immigration officer. Petition, ¶ 55. Petitioner alleges that he is the beneficiary of an approved relative petition. Petition, Exhibit A, ECF No. 1-1. Petitioner is, therefore, an alien present without admission and an applicant for admission.

**IV. Any Relief Ordered Should Take Into Consideration Respondents' Differing Roles In Custody Redetermination Hearings.**

Should the Court ultimately find that Respondents are proper parties and that Petitioner's custody is more appropriately considered under Section 1226, Respondents flag the administrative predicament created when a bond hearing is ordered because bond hearings are scheduled and conducted by the Executive Office for Immigration Review ("EOIR"). *See, e.g.*, *Garcia*, No. 2:25-cv-879. When ICE makes a detention determination—under either Section 1225 or 1226 of the INA—the alien may seek a bond redetermination hearing before an immigration judge ("IJ") challenging ICE's decision. 8 C.F.R. § 1003.19(a). IJs are employed by EOIR and they conduct those bond hearings—not the Warden of the detention facility, ICE, DHS, or the Attorney General. EOIR endeavors to schedule bond redetermination hearings for the earliest possible date and time after receiving an alien's oral or written request. *See* 8 C.F.R. § 1003.19(b); EOIR Immigration Court Practice Manual, Ch. 9.3(c)-(d).[4]

EOIR is not a proper party to this action under *Padilla v. Rumsfeld* and the remaining Respondents—even were they proper respondents in a habeas action—have no power to direct how a separate federal agency manages its docket. If a bond hearing is ordered, Respondent ICE can promptly redetermine bond—as ordered—

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[4] Available at https://www.justice.gov/eoir/reference-materials/ic/chapter-9/3 (last accessed Dec. 11, 2025).

and forward that documentation to EOIR upon Petitioner's request for a redetermination hearing before an IJ. However, the action that follows—scheduling the requested bond redetermination hearing—is wholly within EOIR's realm of responsibility and again, EOIR is a separate entity from the remaining named Respondents here.

Given these realities, if the Court were to grant relief, that relief should be limited to actions and deadlines within Respondents' control (i.e. an order compelling ICE to conduct a new bond determination under the appropriate statutory scheme within a specified period of time and compelling that any resulting request for redetermination of that decision be submitted to EOIR within a specific, reasonable time period). This would allow Respondents to promptly comply with Court orders in a manner consistent with their actual authority while also ensuring that scheduling of any subsequent hearing or release occurs promptly. It would also avoid any future disputes about compliance with an order that is ultimately attributable to an entity not a party to the litigation.

## CONCLUSION

The petition should be denied. Respondents are not proper parties in this habeas action. They have shown that Petitioner's detention pursuant to Section 1225 is lawful because the INA mandates his detention. Even so, this Court lacks jurisdiction to act on Petitioner's claims and he has failed to exhaust otherwise available administrative remedies.

DATED: December 11, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on December 11, 2025, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice to all counsel of record.

Dated: December 11, 2025

Signed:

*/s/ Amanda Saylor*
Amanda Saylor
Assistant United States Attorney