

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

GUSATVO ELADIO GAVILANEZ
ESPINOZA,

Petitioner,

v.

KEVIN JOYCE, Sheriff of Cumberland
County; KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; and
PAMELA BONDI, Attorney General of the
United States,

Respondents.

No. 2:25-cv-00624-SDN

**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 Gustavo Eladio Gavilanez Espinoza under 28 U.S.C. § 2241. Dkt. #1, Dec. 16, 2025 (the “Petition” or “Pet.”). Petitioner’s arrest and detention was initiated by U.S. Immigration and Customs Enforcement (“ICE”) on about November 29, 2025, in Massachusetts. Pet. ¶ 2. Petitioner was subsequently transported to the Cumberland County Jail, in Portland, Maine. *Id.* ¶¶ 1, 23. Government counsel has confirmed that Petitioner remains in ICE custody at the Cumberland County Jail. He will not be removed from the District of Maine pending further order from this Court. Order to Show Cause, Dkt. #5 at 2, Dec. 16, 2025.

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

recent caselaw from this Court uniformly sustaining challenges to DHS's interpretation of § 1225. *See, e.g., Chang Barrios v. Shepley*, 1:25-cv-00406-JAW, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Chogllo Chafra 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. This matter is not substantively distinguishable from those prior cases.

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: December 16, 2025
Bangor, Maine

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 16, 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.

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