



U.S. Department of Justice

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December 19, 2025

Via ECF

Honorable Christine P. O'Hearn, U.S.D.J.
United States District Court
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets
Camden, NJ 08101

**Re: *Morales Penazola v. Bondi*, No. 25-18686
Expedited Answer to § 2241 Petition**

Dear Judge O'Hearn:

This Office represents Respondents in the above habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement ("ICE") pursuant to 8 U.S.C. § 1225(b)(1). We respectfully submit this expedited letter answer in light of the Court's recent decision in *Rodriguez v. Rokosky*, No. 25-17419 (CPO), 2025 WL 3485628, at *1 (D.N.J. Dec. 3, 2025) (granting petition in § 1225(b)(1) matter; collecting cases). *See also Perez Silva v. Soto*, No. 25-16577 (JKS), 2025 WL 3485658, at *4 (D.N.J. Dec. 4, 2025). Respondents acknowledge that this Petition involves the same statutory arguments and similar salient facts as those in *Rodriguez*. Respondents accordingly submit this expedited answer given the similar issues, the importance of efficient resolution of this habeas petition, and the preservation of the Court's and the parties' resources.

The Court's December 17, 2025, Order, ECF No. 4, directs Respondents to justify the detention and support the justification with certified records. *Id.* ¶¶ (1)-(8). Upon receipt of the Court's Order, this Office promptly notified ICE of the requested information, and ICE has informed this Office that they were working diligently to gather responsive documents. While ICE has provided this Office with several documents, all discussed below, Respondents recognize that the attachments do not satisfy the Court's Order in full and that the Order expressly gave Respondents notice that the failure to comply with the Order "shall result in an Order of immediate release without further notice or an opportunity to be heard." Respondents accordingly will be prepared to promptly release Petitioner upon order of the Court.

Nevertheless, Respondents respectfully offer the following explanation regarding Petitioner's detention and the attached documents in response to the Court's order. Petitioner has been in ICE custody since his December 8, 2025, arrest pursuant to an administrative arrest warrant. Ans. Ex. A (2025 Form I-213) at 2; Ans. Ex. B (Arrest Warrant).¹ Petitioner has not received a bond hearing since his arrest. Respondents have instead detained Petitioner without bond under 8 U.S.C. § 1225(b)(1)(B)(ii), because, according to ICE records, Petitioner was (i) apprehended at a port of entry or near the border, (ii) placed into expedited removal proceedings, and (iii) passed a credible-fear screener interview for an asylum claim. See Pet. ¶¶ 52–53; Ans. Ex. A (2025 Form I-213); Ans. Ex. C (2017 Form I-213); Ans. Ex. D (Expedited Removal Order). Respondents therefore submit that Petitioner falls under the mandatory detention requirements of § 1225(b)(1). See *Castro v. United States Dep't of Homeland Sec.*, 835 F.3d 422, 425 (3d Cir. 2016) (quoting Designating Aliens for Expedited Removal, 69 Fed Reg. 48877-01 (Aug. 11, 2004)); *Matter of M-S*, 27 I&N Dec. 509, 511 (2019) (discussing the subset class of aliens described in Designating Aliens for Expedited Removal, 69 Fed Reg. 48877-01 (Aug. 11, 2004)).

Because Petitioner received a finding of credible fear of persecution, an asylum officer properly placed Petitioner into full removal proceedings under § 1229a. See Ans. Ex. E (Notice to Appear). Those proceedings remain ongoing, with a hearing scheduled for December 29, 2025 before an Immigration Judge. Ans. Ex. F (Hearing Notice). Any applications for relief in that proceeding, including the asylum application alleged in the Petition, remain pending as well. There is no final order of removal against Petitioner.

Respondents contend, as they have in all other § 1225(b)(1) matters in this District,² that the Petitioner's detention is governed by § 1225(b)(1)(B)(ii), which states that, with a positive credible fear determination, the alien "shall be detained" throughout the removal proceedings. See *Matter of M-S*, 27 I&N Dec. at 512 (stating § 1225(b)(1) "mandates detention throughout the completion of removal proceedings unless the alien is paroled") (internal quotation marks and alterations omitted) (quoting *Jennings*, 138 S. Ct. at 844-45); *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 224 (BIA 2025) ("[U]nder a plain language reading of section 235(b)(1) . . .

¹ ICE has advised this Office that despite its diligent efforts, it was unable to provide a certification for this response. We are respectfully providing the Court with copies of all relevant documents this Office has received from ICE.

² The same § 1225(b)(1) issue has been briefed before most judges in this District. See, e.g., *Polat v. Soto*, No. 25-cv-16893 (JKS); *Akoujdad v. Soto*, No. 25-18033 (ES); *Fabian Delgado v. Bondi*, No. 25-18478 (GC); *Frias-Ortega v. Soto*, No. 25-17848 (RK); *Lopez Salas v. Soto*, No. 25-17339 (MAS); *Monorov v. Noem*, No. 25-16732 (JKS); *Huertas Falcon v. Bondi*, 25-17164 (KMW); *Villa Morocho v. Bondi*, 25-17603 (BRM); *Mejia Rivera v. Florentino*, No. 25-18063 (SDW); *Jalali Rad v. Bondi*, 25-17279 (RMB).

Immigration Judges do not have authority to hold a bond hearing for arriving aliens and applicants for admission.”); *Matter of Q. Li*, 29 I&N Dec. at 69 (“[W]e hold that an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).”). Respondents further submit that while Petitioner was released after being first apprehended and later re-detained, this does not change detention from § 1225(b)(1) to §1226(a). See *Pipa-Aquise v. Bondi*, No. 25-1094, 2025 WL 2490657, at *1 (E.D. Va. Aug. 5, 2025) (collecting cases).

Respondents acknowledge that their Answer to this Petition makes the same statutory arguments made in *Rodriguez v. Rokosky*, No. 25-17419, 2025 WL 3485628, and that this Petition asserts materially similar facts to that case. Respondents accordingly submit this expedited answer given the similar issues, the importance of efficient resolution of this habeas petition, and the preservation of the Court’s and the parties’ resources.

We thank the Court for its time and attention to this matter.

Respectfully submitted,

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