

proceedings, Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates her detention. While reserving all rights, including the right to appeal, Federal Respondents submit this abbreviated response in lieu of a formal responsive memorandum to preserve the legal issues and to conserve judicial and party resources in light of this Court's prior decision in *Piedrahita-Sanchez v. Turek et al.*, No. 25-cv-875-wks, ECF No. 13.

While respectfully disagreeing with the Court's prior decision, Federal Respondents acknowledge that, should the Court adhere to its reasoning in that decision, the Court would likely reach the same outcome in this case. Thus, in the interest of judicial economy, and to expedite the Court's consideration of this matter, Federal Respondents hereby rely upon and incorporate by reference the legal arguments they presented in *Piedrahita-Sanchez* and submit that the Court can decide this matter without further briefing and without oral argument. And, as in that case, the only proper remedy, should the Court determine Petitioner's detention is governed by 8 U.S.C. § 1226(a), would be to order a bond hearing under that section; it is not to immediately release Petitioner.

Background

Petitioner is a noncitizen who entered the United States unlawfully on or around December 29, 2015. *See* Pet. ¶¶ 1, 29; Ex. A (Form I-860, Notice and Order of Expedited Removal). At the time of her entry, she was encountered by Customs and Border Protection ("CBP"), found to be inadmissible, and served with an Order of Expedited Removal. *Id.*; *see also* Ex. B (Form I-867A & B, Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act). Petitioner was subsequently released.

Petitioner later submitted a Form I-589, Application for Asylum and Withholding of Removal; however, that application was dismissed. Pet. ¶ 30; *see also* Ex. C (Notice of Lack of

Jurisdiction). Specifically, on February 14, 2019, U.S. Citizenship and Immigration Services (“USCIS”) issued a notice to Petitioner informing her that her asylum application was being dismissed because USCIS lacked jurisdiction to consider it due to the fact she was in expedited removal proceedings. Ex. C.

Petitioner was detained by ICE on or about December 2, 2025 pursuant to 8 U.S.C. § 1225(b)(1) in light of her earlier Notice and Order of Expedited Removal. On December 17, 2025, Petitioner filed a Petition for Writ of Habeas Corpus before this Court, contending that Federal Respondents have failed to provide a lawful basis for her detention. Pet. ¶ 7. On December 18, 2025, the Court granted an Emergency Motion for Temporary Restraining Order directing that Petitioner not be removed from the District of Vermont and ordering Respondents to answer or respond to the Petition no later than Monday, December 22, 2025. ECF No. 3. The Court held a status conference on December 22, 2025.

Later on December 22, 2025, notwithstanding Petitioner’s expedited removal order, ICE served on Petitioner a Notice to Appear (“NTA”) and placed her in full removal proceedings. Ex. D (Form I-862, Notice to Appear).

Discussion

Petitioner seeks an order from this Court directing her release or, in the alternative, that the immigration court provide her a bond hearing. Pet. at 16. Petitioner claims that she is subject to detention, if at all, pursuant to Section 1226(a), *id.* ¶ 42, and that she is unlawfully detained in violation of the Fifth Amendment, *id.* ¶¶ 53-78.

Federal Respondents contend that her detention is governed by 8 U.S.C. § 1225(b) because, having entered without inspection, admission, or parole, Petitioner remains an applicant for admission who is treated, for constitutional purposes, as if stopped at the border. As such, she

is subject to mandatory detention and not entitled to a bond hearing. Like all applicants for admission, Petitioner continues to seek admission into the United States until she is either admitted, denied admission and removed, or voluntarily withdraws her application for admission pursuant to 8 U.S.C. § 1225(a)(4). Therefore, Petitioner's detention is consistent with the relevant statute and does not violate the Fifth Amendment's due process clause because the Supreme Court has held that applicants for admission are entitled only to the protections set forth by statute and that "the Due Process Clause provides nothing more." *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020).

Federal Respondents acknowledge, however, that the core questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with those at issue in *Piedrahita-Sanchez*. Accordingly, while preserving all rights, Federal Respondents incorporate by reference the legal arguments it presented in that case. Should the Court apply the same reasoning it did in that case to this one, the legal principles espoused in those cases would likely result in the Court reaching the same conclusion here. Moreover, the Court would order the same relief, which is the only relief appropriate: that Federal Respondents provide Petitioner a bond hearing within 7 days of the Court's order. *See Piedrahita-Sanchez*, No. 25-cv-875-wks at ECF No. 13.

Federal Respondents submit that further briefing and/or oral argument on the legal issues addressed in those cases would not be a good use of judicial or party resources, and that the Court can decide this matter without delay. If, however, the Court prefers to receive an exhaustive opposition brief in this matter, Federal Respondents request leave to provide such a brief.

CONCLUSION

Federal Respondents respectfully request that the Court deny the Petition.

Dated: December 22, 2025

Respectfully submitted,

MICHAEL P. DRESCHER
First Assistant United States Attorney

By: *Kaitlin E. Hazard*
Kaitlin E. Hazard
Assistant United States Attorney
United States Attorney's Office
P.O. Box 570
Burlington, VT 05402
(802) 951-6725
kaitlin.hazard@usdoj.gov

Counsel for Federal Respondents