



**U.S. Department of Justice**

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January 9, 2026

**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: *Aslan v. Noem, et al.*, No. 26-85 (CPO)  
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 Morales Penaloza v. Bondi*, No. 25-18686 (CPO), ECF No. 8 (D.N.J. Dec. 19, 2025); *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*, and we appreciate the importance of efficient resolution of this habeas petition, and the preservation of the Court's and the parties' resources.

The Court's January 7, 2026, Order, ECF No. 3, directs Respondents to serve an expedited answer which "shall respond to the Petition paragraph by paragraph," along with a "legal memoranda, or letter brief," justifying Petitioner's detention and supporting the justification with certified records. *See id.* ¶¶ (1)-(8). The Order also set a hearing for January 9, 2026, at which "Respondents shall produce at least one witness with personal knowledge and/or institutional knowledge sufficient to testify competently regarding Petitioner's immigration proceedings and history thereof, as well as his detention history, the basis for his re-detention, and Respondents' efforts to effectuate removal." *Id.* at 2.

Upon receipt of the Order, this Office promptly notified ICE of the required information, and ICE informed this Office that they were working diligently to gather responsive documents. ICE has provided this Office with responsive documents under its custody or control, all of which are discussed below, and while ICE was able to identify a witness to appear in this instance, Respondents recognize that they have not satisfied the Court's Order in full, including by failing to provide a certification for this response. Respondents further recognize 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. In addition, in accordance with the Court's Order, ECF No. 3 at 2, Respondents affix an Answer to the end of this letter brief which responds to the specific allegations, paragraph by paragraph, in the Petition. *See* Ex. A (Answer)

Petitioner has been in ICE custody since his January 5, 2026, arrest pursuant to an administrative arrest warrant. Ans. Ex. B (2026 Form I-213) at 2; Ans. Ex. C (I-200).<sup>1</sup> Petitioner has not received a bond hearing since his arrest. Respondents have 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* Ans. Ex. B (2026 Form I-213), at 2; Ans. Ex. D (NTA); Ans. Ex. E (Notice to Alien Ordered Removed); Ans. Ex. F (Notice of Order of Expedited Removal); Ans. Ex. G (2024 I-213). Respondents therefore respectfully 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. B (2026 Form I-213). Those proceedings remain ongoing. Any applications for relief in that proceeding, including the asylum application, remain pending as well. There is no final order of removal against Petitioner.

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<sup>1</sup> With respect to the Form I-213 attached as Exhibit A to this response, ICE has confirmed that the date of the encounter at issue is January 5, 2026, and that reference to November of 2025 was a typographical error.

Respondents contend, as they have in all other § 1225(b)(1) matters in this District, that 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” (quotations omitted)); *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 224 (BIA 2025) (“[U]nder a plain language reading of section 235(b)(1) . . . 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); *see also* Ans. Ex. H (Parole Documents); *but see Rodriguez*, 2025 WL 3485628, at \*2 (rejecting argument “that revocation of parole somehow returns Petitioner to his pre-parole status”); *Polat*, No. 25-16893 (JKS) (reaching similar conclusion and ordering release); *A.J.R. v. Bondi*, No. 25-17279 (RMB) (D.N.J. Dec. 23, 2025) (agreeing with *Rivas Rogriguez* and ordering bond hearing).

Respondents acknowledge that their Answer to this Petition makes the same statutory arguments made in *Rodriguez v. Rokosky*, No. 25-17419, 2025 WL 3485628, as well as in *Morales Penaloza v. Bondi*, No. 25-18686 (CPO), ECF Nos. 7-8, and that this Petition asserts materially similar facts to those cases. 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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