



**U.S. Department of Justice**

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District of New Jersey  
*Civil Division*

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January 12, 2026

**Via Electronic Filing**

Hon. Edward S. Kiel, U.S.D.J.  
United States District Court  
Mitchell H. Cohen Building  
& U.S. Courthouse  
4<sup>th</sup> & Cooper Streets  
Camden, NJ 08101

**Re: *Silva Lucena v. Soto*, No. 26-cv-143 (ESK)  
Expedited Answer to § 2241 Petition**

Dear Judge Kiel:

This Office represents Respondents in the above-referenced habeas matter filed by an alien challenging the legality of his detention by U.S. Immigration and Customs Enforcement ("ICE") pursuant to 8 U.S.C. § 1225(b)(2). We respectfully submit this letter response to the Petition (ECF No. 1) in light of the many recent decisions in this District in § 1225(b)(2) cases.<sup>1</sup>

According to ICE records, Petitioner, a native and citizen of Venezuela, entered the United States at or near El Paso, Texas, on or about December 30, 2021. Ex. 1 at 1 (Dec. 5, 2025 Notice to Appear); *see also* Pet ¶ 1; TRO Mot. at 5. On November 10, 2025, ICE arrested Petitioner. Ex. 2 at 3 (Dec. 8, 2025 Form I-213); *see also* Pet. ¶ 2;

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<sup>1</sup> *See, e.g.,* *Marca Lemu v. Soto*, No. 25-cv-17098 (RMB), 2025 WL 3470298 (D.N.J. Dec. 3, 2025); *Perez v. Lyons*, No. 25-cv-17186 (ESK), 2025 WL 3238540 (D.N.J. Nov. 19, 2025); *Ayala Amaya v. Bondi*, No. 25-cv-16428-ESK, 2025 WL 3033880 (D.N.J. Oct. 30, 2025); *Patel v. Almodovar*, No. 25-cv-15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025); *Lomeu v. Soto*, No. 25-cv-16589 (EP), 2025 WL 2981296 (D.N.J. Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-cv-13004 (JKS), 2025 WL 2985256 (D.N.J. Oct. 23, 2025); *Bethancourt Soto v. Soto*, No. 25-cv-16200 (CPO), 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Mugliza Castillo v. Lyons*, No. 25-cv-16219 (MEF), 2025 WL 2940990 (D.N.J. Oct. 10, 2025); *Rivera Zumba v. Bondi*, No. 25-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025), *appeal filed sub nom. Rivera Zumba v. U.S. Attorney Gen.*, No. 25-3328 (3d Cir. Dec. 2, 2025).

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TRO Mot. at 4. Since then, ICE has detained Petitioner without bond under 8 U.S.C. § 1225(b)(2) and the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Petitioner argues that his detention is unlawful. *See generally* Pet.<sup>2</sup>

Respondents respectfully contend, as they have in all prior § 1225(b)(2) matters in this District, that Petitioner's detention is governed by § 1225(b)(2) because he is an alien who entered without inspection or parole who was initially detained by immigration authorities in the interior of the country without having been lawfully admitted. Accordingly, Petitioner is an "applicant for admission" who is not entitled to a bond hearing. *See, e.g., De Fatima Lomeu v. Soto*, No. 25-cv-16589 (EP), Resp'ts' Br at 8-18 (ECF No. 7). Respondents also contend that the only remedy, if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a) and not immediate release. *See id.* at 18 n.5. Respondents continue to respectfully assert this position before this Court in the absence of precedential authority to the contrary from the Third Circuit Court of Appeals. *See Rivera Zumba v. U.S. Attorney Gen.*, No. 25-3328 (3d Cir. Dec. 2, 2025) (appeal filed).

Here, Respondents acknowledge that their answer to this Petition relies on the same statutory-interpretation arguments made in the prior § 1225(b)(2) matters in this District, and this Petition asserts relevant facts substantially similar to those prior matters. Accordingly, Respondents submit this expedited answer given the similar issues, as well as the importance of resolving the Petition expeditiously and preserving the Court's and the parties' resources.<sup>3</sup>

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<sup>2</sup> On January 9, 2026, Petitioner moved for "a Temporary Restraining Order preventing Petitioner's transfer pending adjudication of the habeas petition." Pet'r's TRO Mot., ECF No. 3 at 4-5. On January 12, 2026, the Court issued a Text Order prohibiting Respondents from transferring Petitioner outside of the District of New Jersey pending further order of the Court. Text Order, ECF No. 4.

<sup>3</sup> In at least two recent habeas actions before courts in this District that had previously decided the § 1225(b)(2) issue, the courts granted the petitions before respondents submitted a written answer because respondents confirmed that the relevant detention authority was § 1225(b)(2) and that ICE intended to assert the same arguments it had asserted in the prior habeas actions. *See Vicens-Marquez v. Soto*, No. 25-cv-16906 (KSH) (D.N.J. Nov. 6, 2025), ECF No. 15 (Mem. & Order); *Chiquito Barzola v. Warden*, No. 25-cv-17326 (MEF) (D.N.J. Nov. 12, 2025), ECF No. 10 (Order). Consistent with that procedure, Respondents remain available to discuss

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Should Your Honor have any questions or concerns, please do not hesitate to contact this Office. Thank you very much for your consideration of this matter.

Respectfully submitted,

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U.S. Deputy Attorney General

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Chief of Staff & Associate Deputy  
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Special Attorney

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Assistant United States Attorney  
*Attorneys for Respondents*

cc: All counsel of record (*via ECF*)

Encls.

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the merits of this or any future habeas petition raising similar issues at a conference at the Court's convenience.