

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARIA H. CHALUISA ENRIQUEZ,



PETITIONERS,

V.

KRISTI NOEM, ET AL.,

RESPONDENTS.

CIVIL ACTION NO. 5:26-CV-0216-JKP

ABBREVIATED RESPONSE TO HABEAS PETITION AND REQUEST TO PROCEED
WITHOUT ORAL ARGUMENT

Federal Respondents provide the following timely response to Petitioners' habeas petition.¹ Any allegations that are not specifically admitted herein are denied. Petitioners are not entitled to the relief sought, including attorney's fees under the Equal Access to Justice Act ("EAJA").² The legal issues presented in this Petition for Writ of Habeas Corpus ("Petition") concern the statutory authority for U.S. Immigration and Customs Enforcement's ("ICE") detention of Petitioners, whether Petitioners are entitled to a bond hearing. While reserving all rights, including the right to appeal, Respondents submit this abbreviated response to preserve the legal issues and to conserve judicial and party resources.

Respondents acknowledge that this Court's prior rulings concerning similar challenges to the government policy or practice at issue in this case, and the common question of law between this case and those rulings, would control the result in this case should this Court follow its legal

¹ The Department of Justice represents only federal employees in this action.

² *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

reasoning in its prior decisions. *See e.g., Diaz Perez v. Thompson*, No. 5:25-CV-1664-JKP, 2025 WL 3654333 (W.D. Tex. Dec. 15, 2025); *Davila Mercado v. Lyons*, No. 5:25-CV-1623-JKP, 2025 WL 3654268 (W.D. Tex. Dec. 11, 2025); *Orellana v. U.S. Dep't of Homeland Sec.*, No. 5:25-CV-1028-JKP, 2025 WL 3471569 (W.D. Tex. Nov. 24, 2025); *Gonzalez v. Ortega*, No. 5:25-CV-1156-JKP, 2025 WL 3471571 (W.D. Tex. Nov. 24, 2025); *Trujillo v. Noem*, No. 5:25-CV-1266-JKP, 2025 WL 3471572 (W.D. Tex. Nov. 24, 2025); *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025). While Respondents respectfully disagree with those decisions, the factual and legal issues presented in the instant habeas petition do not differ in any material fashion from those presented in *Diaz Perez v. Thompson*, *Davila Mercado v. Lyons*, *Orellana v. U.S. Dep't of Homeland Sec.*, *Gonzalez v. Ortega*, *Trujillo v. Noem*, *Granados v. Noem*, and *Tinoco Pineda v. Noem*.

Namely, both the instant petition and the cases cited primarily concern whether an alien who is present in the United States without admission is properly subject to mandatory detention (*i.e.*, detention without the prospect of release on bond) during the pendency of her administrative removal proceedings pursuant to 8 U.S.C. § 1225(b). This Court should incorporate the filings in *Diaz Perez v. Thompson*, *Davila Mercado v. Lyons*, *Orellana v. U.S. Dep't of Homeland Sec.*, *Gonzalez v. Ortega*, *Trujillo v. Noem*, *Granados v. Noem*, and *Tinoco Pineda v. Noem* into the record of this habeas action. Should the Court prefer to receive a more exhaustive opposition brief, Respondents respectfully request leave to file such a brief upon the Court's request.

Discussion

Petitioners principally seek an order from this Court directing ICE to immediately release Petitioners from ICE detention. Petitioners argue that Petitioners' detention is governed by INA

§ 236, 8 U.S.C. § 1226, that Petitioners are being unlawfully detained and deprived of a bond hearing, and that the detention violates the Fifth Amendment to the United States Constitution, 8 U.S.C. § 1226, and the Administrative Procedures Act (“APA”)³.

Respondents contend that Petitioners’ detention is governed by INA § 235, 8 U.S.C. § 1225, because as an alien who entered without inspection or parole was and remains an applicant for admission. As such, Petitioners are subject to mandatory detention and not entitled to a bond hearing before the immigration judge. Respondents further contend Petitioners should be required to exhaust their administrative remedies before bringing a habeas challenge in federal court.

Respondents further rely upon *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). There, the BIA examined the plain language of § 1225, the INA’s statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub L. No. 104-208, and the DHS’s prior practices. After doing so, the BIA held that “under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission.” 29 I&N Dec. at 225. Respondents contend this Court should rule the same.

³ Petitioners did not pay the filing fee for non-habeas claims. See *Ndudzi v. Castro*, No. SA-20-CV-0492-JKP, 2020 WL 3317107 at *2 (W.D. Tex. June 18, 2020) (citing 28 U.S.C. § 1914(a)). “When a filing contains both habeas and non-habeas claims, ‘the district court should separate the claims and decide the [non-habeas] claims’ separately from the habeas ones given the differences between the two types of claims. *Id.* (collecting cases and further noting the “vast procedural differences between the two types of actions”). Given the differences, the Court should either sever the non-habeas claims or dismiss them altogether without prejudice if severance is not warranted. *Id.* at *3.

Respondents acknowledge that questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with those at issue in the litigation cited above. Accordingly, while preserving all rights, Respondents incorporate by reference the legal arguments it presented in those cases. Should the Court apply the same reasoning it did in those cases to this one, the legal principles espoused in those cases would likely result in the same outcome here. Because of this, Respondents submit that further briefing on the issues addressed in those cases is not a good use of judicial or party resources. In its current posture and based upon the Court's prior rulings, the Court can decide this matter without delay. If, however, the Court prefers a full opposition brief in this matter, Respondents will provide a brief upon the Court's request.

Should this Court order release of Petitioners, Respondents request that the release order specify a date for release expressed by a calendar day instead of hours. Respondents further request that a time for release not be set. Releases from detention facilities carry unique security considerations for each person being released. It requires coordination within the detention facility and with the Petitioners, their family and/or their counsel. Setting an exact time for release beyond the calendar date can unduly burden the already complicated process.

Lastly, Petitioners' Motion for Temporary Restraining Order [ECF No. 2] should be denied. Respondents additionally oppose this requested relief as part of their general response in opposition to the petition and show herein that Petitioners are unlikely to succeed on the merits of their claims. As argued *supra*, Petitioners do not overcome the jurisdictional bar to review ICE's initial decision to commence removal proceedings, and any remaining challenges must first be raised to the immigration judge and channeled through to the circuit court. On its face § 1225(b) comports with due process, and Petitioners do not raise a colorable as-applied challenge.

A preliminary injunction is an “extraordinary and drastic remedy.” *Canal Auth. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974). As such, it is “not to be granted routinely, but only when the movant, by a clear showing, carries [the] burden of persuasion.” *Black Fire Fighters Ass’n v. City of Dallas*, 905 F.2d 63, 65 (5th Cir. 1990) (quoting *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985)). Importantly, temporary restraining orders are ordinarily aimed at temporarily preserving the status quo. *Foreman v. Dallas Cty.*, 193 F.3d 314, 323 (5th Cir. 1999), *abrogated on other grounds by Davis v. Abbott*, 781 F.3d 207 (5th Cir. 2015). “The four prerequisites are as follows: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest.” *Canal Auth.*, 489 F.2d at 572. A preliminary injunction should be granted only if the movant has “clearly” carried the burden of persuasion on all four of these prerequisites. *Id.* at 573.

With respect to the balancing of the equities and public interest, it cannot be disputed that (1) Petitioners are in removal proceedings, which entitles the government to detain them, either on a mandatory basis under § 1225(b) or in the exercise of discretion; and (2) both the government and the public at large have a strong interest in the enforcement of the immigration laws. Moreover, Petitioners have provided no basis for this Court to determine that their continued detention pending the conclusion of their removal proceedings will cause them irreparable harm. Indeed, Petitioners can apply for relief before an immigration judge, and because of their detention, their removal proceedings will advance more quickly than they would on the non-detained docket. The annual cap that would normally limit the type of relief that Petitioners can

claim to seek in immigration court do not apply to those on the detained docket, meaning that they are much more likely to obtain relief more quickly on the detained docket than the non-detained docket, assuming their claim has any merit. The Court should therefore deny the requests for injunctive relief and dismiss this case in its entirety.

Conclusion

Respondents appreciate the Court's consideration of this abbreviated response and respectfully request that the Court deny this Petition.

Dated: January 23, 2026

Respectfully submitted,

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Certificate of Service

I certify that on January 23, 2026, I mailed a copy of Federal Respondents' Response to Petition for Writ of Habeas Corpus to Petitioners (*pro se*) at the following address:

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