



U.S. Department of Justice

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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: *Salto-Salto v. Soto, et al.*, No. 26-00612
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)(2). We respectfully submit this letter response in light of the Court's several decisions in § 1225(b)(2) cases.¹

The Court's January 21, 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 23, 2026, at which "Respondents shall produce at least one witness with personal knowledge and/or institutional knowledge sufficient to testify

¹ See, e.g., *Ayala Amaya v. Bondi*, No. 25-16427 (ESK), 2025 WL 3033880 (D.N.J. Oct. 30, 2025); *Smit Patel v. Almodovar*, No. 25-15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025); *Lomeu v. Lyons*, No. 25-16589 (EP), 2025 WL 2981296 (D.N.J. Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-13004 (JKS), 2025 WL 2985256, at *2 (D.N.J. Oct. 23, 2025); *Soto v. Soto*, No. 25-16200 (CPO), 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Castillo v. Lyons*, No. 25-16219 (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). Respondents have filed a notice of appeal in *Rivera Zumba*, which would create binding precedent concerning the § 1225(b)(2) issue in this Circuit.

competently regarding Petitioner's immigration proceedings and history thereof, as well as his detention history, the basis for his 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. 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." *Id.* at 4. Respondents will accordingly 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 9, 2026, arrest pursuant to an administrative arrest warrant. Ans. Ex. B (2026 Form I-213) at 2; Ans. Ex. C (Form I-200).² Petitioner has not received a bond hearing since his arrest. Respondents have detained Petitioner without bond under 8 U.S.C. § 1225(b)(2), because, according to ICE, Petitioner is an alien who unlawfully entered the United States on or about March 21, 2023, and who was not then admitted or paroled after inspection by an immigration officer. *See* Ans. Ex. B (2026 Form I-213), at 2; Ans. Ex. D (NTA). As such, he is an "applicant for admission" who is not entitled to a bond hearing. *See, e.g., Lomeu v. Lyons*, Civ. No. 25-16589 (EP), ECF No. 7, Respondents' Br. at 9-18 (citing *Matter of Yajure Hurtado*).

Petitioner was initially apprehended in March of 2023 by Border Patrol and processed for expedited removal. *See* Ans. Ex. B (2026 Form I-213), at 2; Ans. Ex. E (Notice to Alien Ordered Removed); Ans. Ex. F (Notice and Order of Expedited Removal); Ans. Ex. G (2023 Form I-213), at 2-3. He claimed fear of harm or persecution should he be returned to Ecuador, and he was released from custody pending his credible fear interview. *See* Ans. Ex. G (2023 Form I-213), at 2-3. Prior to having a credible fear interview, Petitioner filed an affirmative asylum application

² ICE has provided this Office unsigned version of the Exhibit B. ICE has also provided this Office a signed version of the same documents, which we attach as Exhibit H.

with U.S. Citizenship and Immigration Services (“USCIS”). *See* Pet. Ex. B. By letter dated May 29, 2025, USCIS advised Petitioner that it dismissed his asylum application because he had been apprehended by Department of Homeland Security (“DHS”) officials and placed in expedited removal proceedings. *See* Ans. Ex. I (Notice of Dismissal of Form I-589), at 1. USCIS also advised Petitioner that he could still have his claim of fear considered by an asylum officer through the credible fear screening process and advised him of the procedure for doing so. *Id.* ICE has informed this Office that Petitioner did not undergo the credible fear interview, that he was regularly checking in with ICE Enforcement and Removal Operations (“ICE-ERO”) and subject to electronic monitoring and that, in September 2025, Petitioner failed to check in with ICE-ERO.³ Petitioner was subsequently detained by ICE-ERO on January 9, 2026, and personally served with a Notice to Appear. *See* Ans. Ex. D (NTA). According to ICE, since Petitioner did not undergo the credible fear interview, he is lawfully detained under 1225(b)(2) rather than 1225(b)(1).

Contrary to the Petitioner’s allegations, Petitioner was properly served with a Notice to Appear (“NTA”) on January 9, 2026, and placed into removal proceedings. *See* Ans. Ex. D (NTA). Although the Petitioner does not currently have any pending applications for relief in immigration court or before USCIS, he may file an application for relief in immigration court as the removal proceedings remain ongoing. Petitioner is currently scheduled for a master calendar hearing before an immigration judge on February 3, 2026. *See* Ans. Ex. J (Notice of Internet-Based Hearing). There is no final order of removal against Petitioner.

Respondents contend, as they have in all prior § 1225(b)(2) matters in this District, that the Petitioner’s detention is governed by § 1225(b)(2) because Petitioner is an alien who entered without inspection or parole and was initially detained by immigration authorities in the interior of the country without having been lawfully admitted. As such, he is an “applicant for admission” who is not entitled to a bond hearing. *See, e.g., Lomeu v. Lyons*, Civ. No. 25-16589 (EP), ECF No. 7, Respondents’ Br. at 9-18 (citing *Matter of Yajure Hurtado*). Respondents also contend that the only remedy, if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a) not immediate release. *See id.*

Here, Respondents acknowledge that their answer to this Petition relies on the same statutory-interpretation arguments made in the prior § 1225(b)(2) matters, and this Petition asserts facts similar to those prior cases. Respondents accordingly submit this expedited answer given the similarity of issues, the importance of

³ ICE has indicated to this Office that, at this time, it does not have in its possession documents to corroborate the information, but we provide the information as conveyed by ICE in the interest of transparency.

efficient resolution of this habeas petition, and the preservation of the Court's and the parties' resources.⁴

We thank the Court for its time and consideration of this matter.

Respectfully submitted,

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cc: Counsel of record (via ECF)

⁴ In recent matters, the Court has summarily adjudicated § 1225(b)(2) habeas matters without requiring a formal answer because Respondents raised identical statutory-interpretation arguments and the petition raised similar material facts. *See Moreira Da Silva v. LaForge*, No. 25-17095 (EP), ECF No. 6 (D.N.J. Nov. 13, 2025) (ordering bond hearing following status conference); *Vicens-Marquez v. Soto*, No. 25-16906 (KSH), ECF No. 15 (same).