

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

_____)	
ANGEL SERVILIO TORRES PINEDA,)	
)	
Petitioner,)	
)	CV. NO. 26-150 KWR/JHR
v.)	
)	
Todd LYONS, in his capacity as Acting)	
Director, Immigration and Customs)	
Enforcement; Kristi NOEM, Secretary, U.S.)	
Department of Homeland Security; Pamela)	
BONDI, U.S. Attorney General;)	
EXECUTIVE OFFICE FOR)	
IMMIGRATION REVIEW; WARDEN,)	
Cibola County Correctional Center, Milan)	
New Mexico,)	
)	
Respondents.)	
_____)	

**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

On January 25, 2026, Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Doc. 1. On January 28, 2026, the Court ordered Respondents to show cause why the petition should not be granted, with a response due within twenty-one days of service of the Petition. Doc. 3. As discussed below, the United States submits that the petition should be denied as detention is mandatory pursuant to 8 U.S.C. § 1225(b)(2)(A). Even if the Court disagrees that detention is mandatory, the relief should be a bond hearing rather than immediate release.

I. BACKGROUND

The relevant facts for resolution of the petition are uncontested. Petitioner admits that he is a citizen of Ecuador who entered the United States without inspection. *See* Doc. 1, ¶ 17. While Petitioner claims that he may be entitled to a T visa, he does not presently claim any

lawful immigration status in the United States. *See id.*, ¶ 45. As such, the sole issue before this Court is whether Petitioner is subject to mandatory detention or eligible to receive a bond hearing.

II. ARGUMENT

Respondents have carefully reviewed this petition and determined that the legal issues presented concern the statutory authority for ICE's detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), whether Petitioner is entitled to a bond hearing, and whether Petitioner must first exhaust his administrative remedies before applying to this Court. Respondents disagree with Petitioner's arguments and assert that Petitioner's detention is governed by 8 U.S.C. § 1225(b)(2)(A) and he is not entitled to a bond hearing. Without waiving any rights, including the right to appeal, Respondents respectfully submit this abbreviated response in lieu of a formal responsive memorandum of law. Respondents submit this abbreviated response to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter. If the Court determines it requires additional briefing on the issues raised in the Petition, Respondents are prepared to submit additional briefing upon request.

It is Respondents' position that Petitioner is subject to mandatory detention under § 1225(b)(2)(A) because he was present in the United States without being admitted or paroled. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025); *see also Singh v. Noem*, 25cv1110 JB/KK, 2026 WL 146005 (D.N.M. January 20, 2026). However, Respondents acknowledge that this Court reached the opposite conclusion in *Munoz Teran v. Bondi*, 25cv1218 KWR/SCY, 2026 WL 161527 (D.N.M. January 21, 2026).¹

¹ After this Court issued the *Munoz Teran* decision, the Fifth Circuit addressed the same issue in which it held that individuals like Petitioner are subject to mandatory detention under § 1225(b)(2)(A). *See Buenrostro-Mendez v. Bondi et al.*, --- F.4th---, 2026 WL 323330 (5th Cir.

In *Munoz Teran*, the petitioner was a citizen of Mexico who had resided in the United States for over 30 years. The *Munoz Teran* petitioner was arrested in Albuquerque, New Mexico and detained at the Otero County processing center. An immigration judge denied the *Munoz Teran* petitioner's request to be released on bond due to a lack of jurisdiction or authority. Thereafter, the petitioner filed a petition for writ of habeas corpus.

In a decision issued January 21, 2026, this Court followed the rationale of other courts addressing this issue, including New Mexico district courts. This Court concluded while the petitioner met the definition of applicant for admission, the petitioner was not "seeking admission" as required by Section 1225(b)(2)(A). *Munoz Teran* 2026 WL 161572 at *4 (holding that "Section 1225's provisions generally deal with noncitizens arriving in the United States, not those already present for years or decades"). This Court further found its interpretation of § 1225(b)(A)(2) was consistent with decisions of multiple courts. *Id.* at *5 ([t]his Court's interpretation of §1225(b)(2)(A) is consistent with the decisions of multiple courts, which have found that under its ordinary meaning, a person who has been present in the United States is not 'seeking admission' and therefore not subject to mandatory detention under §1225(b)(2)(A)').

This Court ruled that a bond hearing was the appropriate remedy as "ordering an immediate release would result in the Court taking away Respondent's discretionary decision" under § 1226(a). *Id.* at *6. Respondents were ordered to provide a bond hearing within five (5) days of the *Munoz Teran* order being entered. *Id.* Finally, this Court ruled that the opinion did not address detention pursuant to § 1231, if that provision were to be applicable to the petitioner. *Id.*

2026). While Respondents recognize that the Fifth Circuit's holding is not binding on this Court, they nonetheless alert the Court to this decision as persuasive authority that may influence the Court to reconsider its position on this issue.

Respondents acknowledge that this Court’s decision in *Munoz Teran*² would control the outcome of the legal issue of which statute governs Petitioner’s detention in this case, whether it is 8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b)(2)(A). The facts presented in this matter are not materially distinguishable from the facts presented in *Munoz Teran* for the purposes of the Court’s decision on the legal issue of which statutory provisions govern Petitioner’s detention.

Respondents do not consent to issuance of the writ and reserve all rights, including the right to appeal. However, to conserve judicial and party resources while expediting the Court’s consideration of this case, Respondents hereby rely upon and incorporate by reference the legal arguments it presented in *Munoz Teran*.³ Respondents respectfully request that this Court decide the issue presented in the Petition without further briefing.⁴

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² Respondents further recognize that this Court has made a similar ruling in another habeas corpus petition. *See e.g. Lamas Aguilar v. Bondi et al*, 25cv996 KWR/KK (D.N.M. Jan. 12, 2026).

³ Specifically, Respondents incorporate by reference all arguments raised in its opposition brief in *Munoz Teran*. A copy of that brief is attached as Exhibit A.

⁴ Petitioner also challenges his detention based on alleged violations of the Due Process Clause of the Fifth Amendment. Should the Court grant the Petition, it should decline to address these additional arguments. *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (‘As a general rule, courts and agencies are not required to make findings on issues the decisions of which is unnecessary to the results they reach.’). Additionally, the Court should decline Petitioner’s request to enjoin the Department of Homeland Security (DHS) from invoking the “auto-stay provision found at 8 C.F.R. § 1003.19(i)(2) during the pendency of any bond appeal,” Doc. 1 at 16, as the issue is not yet ripe.

Finally, Respondents respectfully request that this Court determines its ruling without a hearing. If, however, the Court determines that a hearing would be helpful, Respondents will attend.

Respectfully submitted,

TODD BLANCHE
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RYAN ELLISON
First Assistant United States Attorney

/s/ Holland S. Kastrin filed on 2/17/2026
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17, 2026, I filed the foregoing pleading electronically through the CM/ECF system, which caused all parties and counsel of record to be served, as more fully reflected on the Notice of Electronic Filing.

/s/ Holland S. Kastrin filed on 2/17/2026
Holland S. Kastrin
Assistant United States Attorney