IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

HECTOR ARREGUIN MENDIETA,

Petitioner,

v. Case No. 2:26-cv-00187-KWR-JHR

MARY DE ANDA-YBARRA, *Acting Field Office Director*, *El Paso, U.S. Immigrations and Customs Enforcement, Enforcement and Removal Operations,* DAREN K. MARGOLIN, *Director for the Executive Office of Immigration Review*, TODD LYONS, *Acting Director of Immigration and Customs Enforcement*, *and* KRISTI NOEM, *Secretary of the U.S. Department of Homeland Security*,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

On January 28, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. Doc. 1. The same day the Court ordered a response within 21 days, which would be February 18, 2026. Doc. 2. Respondents hereby file its response requesting the Court deny Petitioner's requested relief.

Response To Petition

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 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 submits 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).

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.*

Respondents acknowledge that this Court's decision in *Munoz Teran*[1] 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*[2] for the purposes of the Court's decision on the legal issue of which statutory provisions govern Petitioner's detention.

Petitioner should not be awarded fees and costs under the EAJA because the Government's position to mandatorily detain Petitioner is substantially justified. The Government does not need to establish that it was "justified to a high degree;" instead, it must show that it was '"justified in substance or in the main'—that is, justified to a degree that could satisfy a reasonable person." *Pierce v. Underwood*, 487 U.S. 552, 565 (1988) ("[A] position can be justified even though it is

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[1] 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).

[2] After this Court issued the *Munoz Teran* decision, the Fifth Circuit addressed the same issue in which it held that individuals like the 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. 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.

not correct, and we believe it can be substantially (i.e., for the most part) justified if a reasonable person could think it correct, that is, if it has a reasonable basis in law and fact."). A "genuine dispute" or "if reasonable people could differ" about the appropriateness of the government's positions satisfies this standard. *Id.* at 566 n.2; *Dvorkin v. Gonzales*, 173 F. App'x 420, 424 (6th Cir. 2006) (stating that objective indicia, including "the stage in which the proceedings were resolved and the legal merits of the government's position[,] may be relevant in assessing a district court's determination of reasonableness") (quotation omitted). Here, the Government's position has a reasonable basis in law and fact—arguing that Petitioner's detention is governed by Section 1225(b)(2)(A) is supported by the BIA's precedential decision in the *Matter of Yajure Hurtado*, other district courts that have adopted this view, and the recent Fifth Circuit decision in *Buenrostro-Mendez v. Bondi et al.*, --- F.4th---, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

Respondents do not consent to issuance of the writ and reserves 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].

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.

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[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 E.

[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.").

Conclusion

WHEREFORE, Respondents respectfully request that this Court deny the Petition for Writ of Habeas Corpus and deny the Request for Declaratory and Injunctive Relief.

Respectfully submitted,

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/s/ Nicholas J. Marshall 2/13/226

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 13, 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/ Nicholas J. Marshall 2/13/2026
Nicholas J. Marshall
Assistant United States Attorney