

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JUANA TOMAS MATEO,	)	CASE NO.: 3:26-CV-00245
	)	
Petitioner,	)	JUDGE BENITA Y. PEARSON
	)	
v.	)	
	)	
WILLIAM J. CUNNINGHAM, Seneca	)	<u>RESPONSE TO PETITION</u>
County Jail Administrator, et al.	)	
	)	
Respondents.	)	

Undersigned counsel represents federal respondents (the “government”)¹ in this habeas corpus action, in which petitioner Juana Tomas Mateo (“Petitioner”) challenges her detention by U.S. Immigration and Customs Enforcement (“ICE”). On January 29, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. On February 6, 2026, the Court ordered the government to show cause why the petition should not be granted, with a response due by February 10, 2026. ECF #5.

The government has 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 if so, whether Petitioner must first exhaust her administrative remedies. While reserving all rights, including the right to appeal, the government respectfully submits this abbreviated response in lieu of a

¹ A writ of habeas corpus may only be issued by the person having custody of the detainee. In the ICE habeas context, that person is the Field Office Director for ICE. *Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). Therefore, Warden Cunningham, Secretary Noem, and Attorney General Bondi are not proper respondents. *Mendoza v. Raycraft, et al.*, No. 4:25cv2183, 2025 WL 3157796, *8 (N.D. Ohio Nov. 12, 2025).

formal responsive memorandum of law to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter. If the Court prefers to receive a formal memorandum of law, particularly in light of the Fifth Circuit opinion in favor of the government on this question, undersigned counsel will be happy to submit one upon request. *See Buenrostro-Mendez v. Bondi, et al.*, __ F.4th __, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b), because she was present in the United States without being admitted or paroled. *Id.* *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025); *see also Higareda-Cano v. Noem*, No. 1:25-CV0225-H, 2026 WL 274495, *1 (N.D. Tex. Jan. 30, 2026); *Lopez v. Dir. Of Enforcement and Removal Operations*, __ F. Supp. 3d __, 2026 WL 261938, *1 (M.D. Fla. Jan. 26, 2026); *Phurtskhvanidze v. Field Off. Dir. of Enf't and Removal Operations*, No. 1:25-cv-827, 2026 WL 160833 (S.D. Ohio Jan. 21, 2026); *Yinxiao Chen v. Almodovar*, 25-CV09670, 2026 WL 100761, at *6–13 (S.D.N.Y. Jan. 14, 2026); *Lucero v. Field Office Dir. Of Enforcement and Removal Op., et al.*, Case No. 1:25-cv-823, 2025 WL 3718730, at *4 (S.D. Ohio Dec. 23, 2025); *Coronado v. Sec., Dept. of Homeland Sec., et al.*, Case No. 1:25-cv-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *Xiaoquan Chen v. Almodovar*, 2025 WL 3484855, at *3–8 (S.D.N.Y. Dec. 4, 2025).

However, the government acknowledges that this Court recently reached the opposite conclusion in *Lopez v. Raycraft, et al.*, No. 4:25CV2449, 2025 WL 3280344 (N.D. Ohio Nov. 25, 2025). In that case, the petitioner entered the United States in 1998 without admission or parole and without inspection by an immigration officer. *Id.* at *1. Petitioner was detained by ICE in June 2025 and was not given a bond hearing. *Id.* In a decision issued on November 25, 2025, this Court, following the rationale of other courts that have addressed the issue, including

others in this District, concluded that the petitioner's detention was not governed by § 1225, and that his detention was instead pursuant to § 1226, and that the petitioner was not required to exhaust his administrative remedies. The Court thus stated that "§ 1225(b)(2) does not apply to Petitioner[.]" and that the petitioner was not seeking to enter the United States. The Court therefore ordered a bond hearing under § 1226 take place within ten days of entry of the Order.²

On the legal issue of which statute governs Petitioner's detention here—whether it is 8 U.S.C. § 1226(a), or 8 U.S.C. § 1225(b)—the government acknowledges that this Court's decision in *Lopez* would control the result here if the Court adheres to that decision, since the facts are not materially distinguishable for purposes of the Court's decision on the legal issue of which statutory provision authorizes Petitioner's detention.

Thus, while the government does not consent to issuance of the writ and reserves all rights, including the right to appeal, and to conserve judicial and party resources while expediting the Court's consideration of this case, the government hereby relies upon, and incorporates by reference, the legal arguments it presented in *Lopez*,³ and the Court can decide this issue without further briefing.⁴

² The government further acknowledges that this Court entered a ruling in another case involving similar legal issues on January 14, 2026. See *Echavarria Morales v. Noem*, No. 3:25CV2691, 2026 WL 100583 (N.D. Ohio Jan. 14, 2026).

³ Specifically, the government incorporates by reference all arguments raised in its opposition brief in *Lopez*. A copy of that brief is attached as Exhibit A hereto.

⁴ Petitioner also challenges her detention citing violations of Due Process and the *Accardi* Doctrine. 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 decision of which is unnecessary to the results they reach.").

Finally, the government believes that this matter can be decided without a hearing. If, however, the Court determines that a hearing would be helpful, the government will attend and present Respondent's position.

Respectfully submitted,

DAVID M. TOEPFER
United States Attorney

By: /s/ Patricia M. Fitzgerald
Patricia M. Fitzgerald (PA: 308973)
Assistant United States Attorney
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3779
(216) 522-2404 (facsimile)
Patricia.Fitzgerald2@usdoj.gov