

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

**SALVADOR CAYAMBE SHULQUI,**

Petitioner,

vs.

**PAMELA BONDI**, Attorney General of the  
United States;

**DAREN K. MARGOLIN**, Director for  
Executive Office for Immigration Review;  
Executive Office for Immigration Review;

**KRISTI NOEM**, Secretary, U.S.  
Department of Homeland Security;  
Department of Homeland Security;

**TODD M. LYONS**, Acting Director of  
Immigration and Customs Enforcement;  
Immigration and Customs Enforcement;

**MARY DE ANDA-YBARRA**, Director, El  
Paso Field Office, Immigration and Customs  
Enforcement; and

**DEPUTY WARDEN**, Otero County  
Processing Center,

Respondents.

**Case 1:26-cv-205-KG-DLM**

**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

On or about January 29, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. *See* Doc. 1. On February 2, 2026, the Court entered an order to answer by February 13, 2026.<sup>1</sup> *See* Doc. 4.

Respondents have carefully reviewed this petition and determined that the legal issues presented concern the statutory authority for U.S. Immigration and Customs Enforcement's

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<sup>1</sup> Respondents acknowledge that this Response is not timely pursuant to the Court's original show cause order (Doc. 4). The Court may take judicial notice that the service process has recently changed on habeas matters in the District of New Mexico. On a number of recent cases, that transition has caused an unintentional delay in response. Respondents did not willfully disregard the Court's order for a response and respectfully request that this Response be considered on the merits.

(“ICE”) 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. While reserving all rights, including the right to appeal, Respondents respectfully submit this abbreviated response in lieu of a 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, Respondents will be happy to submit one upon request.

It is Respondents’ position that Petitioner is subject to mandatory detention under § 1225(b), 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). However, Respondents acknowledge that this Court recently reached the opposite conclusion in *Patel v. Noem*, No. 1:25-CV-01261-KG-GBW, 2026 WL 103163 (D.N.M. Jan. 14, 2026) on facts substantially similar to those currently before the Court. 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. *See Patel v. Noem*.

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)—Respondents acknowledge that this Court’s decision in *Patel v. Noem*, would control the result here if the Court adheres to that decision, as 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 Respondents do 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, Respondents hereby rely upon, and incorporate by reference, the legal arguments presented in *Patel v. Noem*, and the Court can decide this issue without further

briefing.

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 this 17<sup>th</sup> day of February 2026.

TODD BLANCHE  
Deputy Attorney General

RYAN ELLISON  
First Assistant United States Attorney

/s/ Maria Elena Stiteler 2/17/2026  
MARIA ELENA STITELER  
Assistant United States Attorney  
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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/ Maria Elena Stiteler 2/17/2026  
MARIA ELENA STITELER  
Assistant United States Attorney