

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

LEDGAR RAMSES DELGADO REYES,

Petitioner,

v.

No. 2:26-CV-00237-WJ-DLM

**WARDEN, Otero County Processing
Center; MARY DE ANDA-YBARRA,
Field Office Director of Enforcement and
Removal Operations, El Paso Field
Office, Immigration and Customs
Enforcement; KRISTI NOEM, Secretary,
U.S. Department of Homeland Security;
PAMELA BONDI, U.S. Attorney
General, in their official capacities,**

Respondents.

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

On or about February 3, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. *See* Doc. 1. On February 5, 2026, the Court entered an order to show cause within 10 business days. *See* Doc. 3. The Government submits this response within the allotted time period.

ARGUMENT

Respondents have carefully reviewed this Petition and determined 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. 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 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).¹ However, Respondents acknowledge this Court recently reached the opposite conclusion on facts substantially like those currently before the Court. *See, e.g., Cortez-Gonzales v. Noem*, No. 2:25-cv-00985, 2025 WL 3485771, at *3-5 (D.N.M. Dec. 4, 2025); *Diaz-Cruz v. Dedos*, No. 1:25-cv-01117, 2025 WL 3628517, at *2 (D.N.M. Dec. 12, 2025); *Gonzales Ramos v. Dedos*, No. 1:25-cv-00975, 2025 WL 3653928, at *3-4 (D.N.M. Dec. 17, 2025).² 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.

On the legal issue of which statute governs Petitioner's detention here—whether it is 8 U.S.C. § 1226(a) or § 1225(b)—Respondents acknowledge this Court's prior decisions would control the result here if the Court adheres to that position, as the facts are not materially distinguishable for purposes of this 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 *Cortez-Gonzales v. Noem*, No. 2:25-cv-00985, 2025 WL 3485771

¹ This Interim Decision is available on the Department of Justice's website at <https://www.justice.gov/eoir/media/1413311/dl?inline> (last accessed Feb. 17, 2026).

² This Court cited these cases in its Order to Show Cause. (Doc. 4, p. 2).

(D.N.M. Dec. 4, 2025), and the Court can decide this issue without further briefing.

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

Respectfully submitted,

TODD BLANCHE
Deputy Attorney General
RYAN ELLISON
First Assistant United States Attorney

/s/ Amy Mondragon
AMY MONDRAGON
Assistant United States Attorney
201 Third Street NW, Suite 900
Albuquerque, New Mexico 87102
(505) 346-7274; Fax (505) 346-7205
Amy.mondragon@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 19, 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/ Amy Mondragon
AMY MONDRAGON
Assistant United States Attorney