

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

KAUR KAWALJEET,

Petitioner,

v.

No. 2:26-cv-00285-KG-KK

Warden, Otero County Processing Center,
Chaparral, New Mexico;

Director, Enforcement and Removal
Operations, El Paso, Texas ICE Field
Office;

Todd M. LYONS, Director, Immigration
and Customs Enforcement, U.S.

Department of Homeland Security;
Daren K. Margolin, Director, Executive

Office for Immigration Review;

Kristi NOEM, Secretary, U.S. Department
of Homeland Security;

Pam BONDI, Attorney General of the
United States;

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

On or about February 5, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. *See* Doc. 2. On February 6, 2026, the Court entered an order to answer within 10 business days of service of the petition. *See* Doc. 5.

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)¹, whether Petitioner is entitled to a bond hearing, and whether Petitioner must first exhaust her 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 she 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 her 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,

¹ As Petitioner originally entered the United States without inspection, the fundamental detention authority now at issue, is whether 8 U.S.C. § 1225 or 1226 applies to continued detention.

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,

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

/s/ Kristin Guin
KRISTIN GUIN
Assistant United States Attorney
201 Third Street NW, Suite 900
Albuquerque, New Mexico 87102
(505) 537-3534; Fax (505) 346-7205
Kristin.guin@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 17, 2026, I filed the foregoing pleading electronically through the CM/ECF system, which caused the following pro se party to be served by first-class postal mail as more fully reflected on the Notice of Electronic Filing:

Kaur Kawaljeet 
c/o Jonathan C.
Law Offices of Jonathan C. Navarro
765 The City Drive South, Suite 360
Orange, CA 92868
Tel.: (714) 647-9361
Fax: (714) 647-9362
Email: jnavarro@navarro-law.com

/s/ Kristin Guin
KRISTIN GUIN
Assistant United States Attorney