

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

Mauricio Martinez Ortiz,

Petitioner,

v.

Case 1:26-cv-00287 KG-JFR

KRISTI NOEM, ET. AL.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

On February 5, 2026, Petitioner filed a petition for habeas corpus under 28 U.S.C. § 2241. *See* Doc. 1. The Court order the United States to file a response on or before February 19, 2026.

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. 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,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 19, 2026, I filed the foregoing pleading electronically through the CM/ECF system, and service was made by ECF on counsel of record.

/s/ Michael Pahl

Michael R. Pahl
Assistant United States Attorney