

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)

DANIELA MICHELLE ZELAYA-HERNANDEZ, \*

Petitioner,

\*

Case No. 1:26-cv-00674-TDC

v.

\*

VERNON LIGGINS, *et al.*,

\*

Respondents.

\*

\* \* \* \* \*

**ANSWER TO WRIT OF HABEAS CORPUS**

Petitioner, Daniela Michelle Zelaya-Hernandez, and Respondents, United States Immigration and Customs Enforcement (“ICE”) Baltimore Field Office Acting Field Office Director Vernon Liggins, United States Department of Homeland Security Secretary Kristi Noem, and United States Attorney General Pamela Jo Bondi, by and through their undersigned counsel, submit this Answer as Ordered in the Telephone Case Management Conference on February 24, 2026, and state:

The Respondents submit that the factual and legal arguments in this case regarding the question of which statute governs Petitioner’s detention (8 U.S.C. §1225 or 8 U.S.C. § 1226), have been fully briefed by Respondents and do not differ in any material fashion from the Respondents’ arguments regarding jurisdiction and statutory construction raised in their briefs in *Velasquez v. Noem*, No. GLR-25-cv-3215, 2025 WL 3003684 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, No. 25-3084-TDC, 2025 WL 2968042 (D. Md. Oct. 21, 2025); *Villanueva Funes v. Noem*, No. 25-cv-3860-TDC, 2026 WL 92860 (D. Md. Jan. 13, 2026) and *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at \*8 (D. Md. Aug. 24,

2025).

Those cases assessed, *inter alia*., whether an alien who is present in the United States without admission is properly subject to mandatory detention (*i.e.*, detention without the prospect of release on bond) pursuant to 8 U.S.C. § 1225(b) during the pendency of administrative removal proceedings, or instead, those set forth in 8 U.S.C. § 1226(a) (discretionary detention). Respondents hereby incorporate the arguments presented in their briefs in the cases above.

Additionally, on February 6, 2026, the Fifth Circuit, in *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026), held, 2-1, that the Department of Homeland Security can charge individuals they initially encounter, no matter how long they have been in the United States, under 8 U.S.C. § 1225(b)(2), stating:

After reviewing carefully the relevant provisions and structure of the Immigration and Naturalization Act, the statutory history, and Congressional intent, we conclude that the government's position is correct. We REVERSE the district courts' orders to provide petitioners with bond hearings or release them and REMAND for further proceedings consistent with this opinion.

*Id.* at p. 3. The parties acknowledge that this Fifth Circuit case is not binding on this District Court.

In addition, several of the Judges in this district have recently asked that the parties address the application of the *Maldonado Bautista v. Noem* decision, 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). Respondents do not believe that the Central District of California's decision is binding on this Court. Nevertheless, several Judges in this District have found that even if it is not binding or controlling, they may adopt and incorporate the reasoning in that case, in deciding the merits of claims like those made by the Petitioner here.

Petitioner's immigration counsel has already filed a motion for bond redetermination which is scheduled for a hearing in Hyattsville on Friday. Pursuant to EOIR Policy Manual 3-6,

an immigration judge can conduct removal proceedings, which are administrative not criminal proceedings, “in person, by video conference or by telephone conference.” <https://www.justice.gov/eoir/policy-manual-eoir/part-II/icpm/chapter-3-6> attached as Exhibit 100. Moreover, “when hearings are conducted by video or telephone conference, the Immigration Judge, the respondent, the Department of Homeland Security attorney, and the witnesses need not necessarily be present together in the same location.” *Id.* There is no statutory or regulatory cite that a habeas Petitioner (called a Respondent in removal proceedings) must be physically present at a bond hearing that is being conducted by his or her counsel.

Telephonic or virtual hearings are reasonable ways for detained Petitioners to participate in immigration court proceedings. EOIR PM 21-03, effective November 6, 2020, regarding EOIR policies regarding the use of telephone and video teleconferencing, attached as Exhibit 101. “In short, over twenty-five years after its first use, VTC remains a reliable and effective tool for EOIR for conducting immigration hearings in an efficient manner consistent with due process. *See Matter of R-C-R-*, 28 I&N Dec. 74, 81 (BIA 2020) (“[C]ourts have generally found that [VTC] proceedings afford aliens a full and fair hearing.”). *Id.* “The INA does not place any prohibitions on the use of VTC for hearings, nor are there any substantive-law provisions of the INA that apply only to cases heard by VTC. The same substantive law applies to a case regardless of the hearing medium.” *Id.* Finally, Petitioners are unable to stay in the Baltimore Holding Room for extended periods of time given its status as a holding cell, not a detention facility.

Given the opinions from this District referenced above, the holding in *Maldonado Bautisa*, and notwithstanding the Fifth Circuit decision in *Buenrostro-Mendez*, the Respondents’ position is that no further briefing is necessary, and that the Petition can be decided without a

hearing.

Should the Court be inclined to grant relief to Petitioner in this case, the Parties request that the Court enter an Order: (1) finding that Petitioner is detained pursuant to 8 U.S.C. § 1226(a) and is entitled to a bond hearing pursuant to the regulations provided at 8 C.F.R. § 236.1(d), 8 C.F.R. § 1003.19 and 8 C.F.R. § 1236.1(d); (2) that any bond hearing occur within ten days of this order, and the bond hearing be conducted pursuant to 8 U.S.C. § 1226(a); and (3) requiring that any bond hearing for Petitioner be conducted in an Immigration Court with jurisdiction, or with administrative control, over Petitioner's detention.

Dated: February 24, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 24th day of February, 2026, a copy of the foregoing Joint Notice was served electronically on all parties and counsel receiving service via CM/ECF in this case.

/s/ Ivory Macklin  
Ivory L. Macklin  
Special Assistant United States Attorney