

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

Hu Gan,

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Petitioner,

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Case No. 8:26-cv-00795-DLB

v.

\*

Matthew Elliston et al.,

\*

Respondents.

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\* \* \* \* \*

JOINT NOTICE

Petitioner and Respondents, by and through undersigned counsel, hereby submit the following Notice to the Court regarding the Petition for Habeas Corpus in lieu of further briefing.

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); *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.

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. Petitioner agrees.

Therefore, should the Court conclude that it will order a bond hearing under 8 U.S.C. § 1226, the Parties respectfully request that such order contain the following terms:

1. Petitioner is detained under 8 U.S.C. § 1226(a) and Respondents are enjoined from detaining Petitioner under 8 U.S.C. § 1225(b);
2. Petitioner is entitled to a bond hearing consistent with 8 C.F.R. §§ 236.1(d), 1003.19 and 1236.1(d), and a bond hearing shall be held within 10 days of Petitioner's filing of a motion with the Immigration Court with a meaningful consideration by the immigration judge of the applicable, relevant factors;

3. If bond is granted and Petitioner is released, nothing in this Court's order precludes ICE from imposing reasonable conditions of release; and
4. The parties shall provide the Court with a Status Report within 14 days of this Order.

WHEREFORE, the Parties request that the Court consider the Petition fully briefed and agree that no hearing is deemed necessary, and that if relief in the form of a bond hearing under 8 U.S.C. § 1226 is ordered, they respectfully request include the terms above in the Court's Order.

Dated: February 26, 2026

Respectfully submitted,

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