

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

David Jonatan Garcia Aguirre,

*

Petitioner,

*

Case No. 1:26-cv-00815-LKG

v.

*

Pamela Bondi et al.,

*

Respondents.

*

* * * * *

NOTICE

Respondents¹, 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. TDC-25-cv-3860, 2026 WL 92860 (D. Md. Jan. 13, 2026) and *Leal-Hernandez v. Noem*, No. JRR-25-cv-02428, 2025 WL 2430025 (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

¹ Petitioner does not joint this Notice. While the parties agree on most terms as discussed in this Notice, the Parties do not agree as to where the Bond Hearing should be held. Petitioner would like the bond hearing to occur in Maryland. Respondents would like for the Bond Hearing to occur where the petitioner is currently located, which is in Louisiana.

proceedings, or instead, detained under 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 held in *Buenrostro-Mendez v. Bondi*, that the Department of Homeland Security can charge individuals they initially encounter as inadmissible under 8 U.S.C. § 1225(b)(2) no matter how long they have been in the United States. 166 F.4th 494, 502-08 (5th Cir. Feb. 6, 2026). The Respondents 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* decisions, at 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025) and 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). Respondents do not believe that the Central District of California's decisions are binding on this Court. Nevertheless, several Judges in this District have found that even if not binding or controlling, they may adopt and incorporate the reasoning in those cases, in deciding the merits of claims like those made by the Petitioner here.

Given the opinions from this District referenced above and the holdings 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 further briefing or a hearing.

Therefore, should the Court conclude that it will order a bond hearing under 8 U.S.C. § 1226, the Respondents 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), with a meaningful consideration of the applicable, relevant factors by the

Immigration Judge; such hearing shall be held within 10 days of the Petitioner's filing of a motion with the Immigration Court;

3. Consistent with 8 C.F.R. § 1003.19, the bond hearing may be conducted by any Immigration Judge having jurisdiction over the Petitioner's detention or having administrative control over Petitioner's immigration case or removal proceeding and need not take place in Maryland;
4. The Petitioner shall file a status report with the Court if a bond hearing *is not held* by an Immigration Judge within 10 days of the filing of a motion for a bond hearing by Petitioner;
5. If a bond hearing *is held*, the parties shall file a status report with the Court within 7 days of the bond hearing, reporting the results;
6. Petitioner's request for attorney's fees and costs is denied.

WHEREFORE, the Respondents 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: March 3, 2026

Respectfully submitted,

Kelly O. Hayes
United States Attorney

By: /s/ Beatrice C. Thomas
Beatrice C. Thomas
Assistant United States Attorney
Kristy A. Burkhardt
Special Assistant U.S. Attorney
USAO, District of Maryland
36 S. Charles Street, Suite 400
Baltimore, Maryland 21201
(410) 209-4800
Kristy.Burkhardt@usdoj.gov
Beatrice.Thomas@usdoj.gov
Counsel for Respondents