



U.S. Department of Justice

United States Attorney
District of New Jersey
Civil Division

ALINA HABBA
ACTING UNITED STATES ATTORNEY

Alex Silagi
Assistant United States Attorney
Deputy Chief, Civil Division

970 Broad Street, Suite 700
Newark, NJ 07102
alex.silagi@usdoj.gov

main: (973) 645-2700
direct: (973) 353-6001
fax: (973) 297-2010

November 12, 2025

BY ECF

Honorable Jamel K. Semper, U.S.D.J.
U.S. District Court for the District of New Jersey
50 Walnut Street
Newark, NJ 07102

**Re: *Villacorta Perlera v. Doe*, No. 25-17122
Answer to § 2241 Petition**

Dear Judge Semper:

This Office represents Respondents in this habeas matter filed by a noncitizen challenging the legality of his detention by U.S. Immigration and Customs Enforcement (“ICE”) pursuant to 8 U.S.C. § 1225(b)(2). We write in response to the petition, ECF No. 1, which the Court should dismiss or deny for the reasons below.

This matter raises many of the same issues the Court recently decided in *Maldonado v. Cabezas*, No. 25-13004 (JKS), 2025 WL 2985256, at *4 (D.N.J. Oct. 23, 2025). ICE detained Petitioner on October 30, 2025. Pet. ¶ 2. He entered the United States at some point in 2007 and is a citizen of El Salvador. Pet. ¶ 18. Petitioner is accordingly in ICE detention without bond pursuant to ICE’s interpretation of “applicants for admission” under § 1225(b)(2) and the Board of Immigration Appeals’ (“BIA”) recent decision *Matter of Yajure Hurtado*, 29 I&N Dec. 215 (BIA 2025). *Id.* ¶ 3. Petitioner argues his detention is unlawful, and he seeks immediate release or a bond hearing by the immigration court under § 1226(a). *Id.*, Prayer for Relief.¹

ICE contends, as the agency did in *Maldonado*, that the Petitioner’s detention is governed by 8 U.S.C. § 1225(b)(2) because he is a noncitizen who entered without inspection or parole. As such, he is an “applicant for admission” who is not entitled to a bond hearing. Respondents also contend that the only remedy, if the Court finds § 1225 does not apply, is a bond hearing under § 1226(a), not immediate release.

¹ Petitioner also argues that there is no basis for his detention because ICE has not begun removal proceedings against him. See ECF No. 6. ICE’s process was delayed, but ICE informs this Office that it lodged a Notice to Appear with the immigration court. This Office will file a copy of the Notice to Appear shortly.

In *Maldonado*, the Court ruled that detention was improper under § 1225(b)(2). 2025 WL 2985256, at *4. The Court sided with the many courts around the country that have concluded that § 1225(b)(2) applied exclusively to encounters at the border leading to expedited removal, while 1226(a) applies to noncitizens, like Petitioner, who were already present in the country, albeit unlawfully, at the time of their encounter with immigration authorities. *See id.*² Respondents, however, respectfully asserts that ICE's detention of Petitioner is lawful while acknowledging that many federal district courts, including this one, have rejected ICE's interpretation of § 1225(b). *See, e.g., Rivera Zumba v. Bondi*, No. 25-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025). The Board of Immigration Appeals, the highest administrative body that interprets immigration law in the immigration courts, has held that § 1225(b)(2) does apply to noncitizens like the Petitioner. ICE and the immigration judges accordingly must follow that decision in litigation relating to a noncitizen's detention in immigration proceedings. ICE continues to respectfully assert that position before this Court in the absence of precedential authority to the contrary from the Third Circuit.

We thank the Court for its attention to this matter.

Respectfully submitted,

TODD BLANCHE
U.S. Deputy Attorney General

ALINA HABBA
Acting United States Attorney
Special Attorney

By: s/ John T. Stinson
JOHN T. STINSON
Assistant United States Attorney
Deputy Chief, Civil Division
Attorneys for Respondents

cc: Counsel of record (by ECF)

² In at least two other cases, where a court in this District had decided the § 1225(b)(2) issue in a prior habeas matter, the court granted the petition before Respondents submitted a written answer because Respondents confirmed the detention authority was § 1225(b)(2) and that they intended to assert the same arguments as in the prior habeas matter. *See Vicens-Marquez v. Soto*, No. 25-16906 (KSH), ECF No. 15, Memorandum & Order granting writ; *Chiquito Barzola v. Warden*, 25-17326 (MEF), ECF No. 10, Order granting writ. Consistent with that procedure, Respondents remain available to discuss the merits of this or any future petition raising similar issues at a conference at the Court's convenience.