UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

VANILDA BERNARDO-RODRIGUES, Petitioner, v. PATRICIA H. HYDE, Acting Field Office Director of Enforcement and Removal Operations, BOSTON Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and TIMOTHY KORTES, Jail Administrator of CUMBERLAND COUNTY JAIL, Respondents.	No. 2:25-cv-00553-LEW

RETURN AND RESPONSE TO ORDER TO SHOW CAUSE
IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Federal Respondents, by and through undersigned counsel, oppose the Verified Petition for Writ of Habeas Corpus filed by Petitioner Vanilda Bernardo-Rodrigues under 28 U.S.C. § 2241. Dkt. #1, Nov. 4, 2025 (the "Petition" or "Pet."). Petitioner's detention was initiated by U.S. Immigration and Customs Enforcement ("ICE") on October 20, 2025, in Lowell, Massachusetts. Pet. ¶¶ 17, 51. Petitioner was subsequently transported to the Cumberland County Jail, in Portland, Maine. *Id.* ¶¶ 10, 17, 23, 48, 51. Government counsel has confirmed that Petitioner remains in ICE custody at the Cumberland County Jail. She will not be removed from the District of Maine pending further order from this Court.

ICE maintains that the true cause of Petitioner's detention is pursuant to 8 U.S.C.

§ 1225(b)(2). *See* 28 U.S.C. § 2243. The Government acknowledges, as it must, the recent caselaw from this Court uniformly sustaining challenges to DHS's interpretation of § 1225. *See, e.g., Chogllo Chafla v. Scott*, 2:25-cv-00437-SDN, 2025 WL 2688541 (D. Me. Sept. 22, 2025); *Bermeo Sicha v. Bernal*, 25-cv-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025). The position of ICE nonetheless remains that Petitioner must be detained pending the outcome of her removal proceedings, with the agency following the precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025), to which it must adhere. The Government adopts by reference its prior arguments made to this Court in that regard. Indeed, on October 30, 2025, bond was denied by the Immigration Court in Massachusetts, which cited a lack of jurisdiction under *Matter of Yajure Hurtado*. *See* Ex. 1, Bond Denial (Oct. 30, 2025); *see also* Pet. ¶ 55.

The present matter is substantively distinguishable from the law and facts at issue in the *Chogllo Chafla* and *Bermeo Sicha* line of cases in only two respects.

First, the record demonstrates[1] that Petitioner was issued an I-200 administrative warrant in 2021. *Cf. Chogllo Chafla*, 2025 WL 2688541, at *11 (no administrative warrant issued for arrest); *Bermeo Sicha*, 2025 WL 2494530, at *6 (no record evidence or reference to administrative warrant); *Chiliquinga Yumbillo v. Stamper*, 25-cv-00479, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025) (no administrative warrant issued for arrest). As this Court has previously stated, the "[i]ssuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a)." *See Chogllo Chafla*, 2025 WL 2688541, at *11 ("absent a warrant

[1] *See* Ex. 2, I-200 Arrest Warrant (Aug. 30, 2021); *see also* Ex. 3, I-862 Notice to Appear (Aug. 30, 2021) & Ex. 4, I-286 Notice of Custody Determination (Aug. 30, 2021).

a noncitizen may *not* be arrested and detained under section 1226(a)") (emphasis original).

It does not appear that a subsequent I-200 arrest warrant issued to Petitioner in October of this year. However, as alleged by Petitioner, *see* Pet. ¶¶ 8, 41, 46-47, she had earlier been issued a Form I-220A, Order of Release on Recognizance ("Order of Recognizance"). The Order of Recognizance ordinarily is maintained in the A-File, which in this case is a paper file stored at an off-site facility, and therefore could not be obtained by the deadline applicable in this case. ICE's standard Order of Recognizance provides: "[y]ou must not violate any local, state or Federal laws or ordinances." *See* https://www.ice.gov/doclib/detention/checkin/I_220A_OREC.pdf. It thus appears that ICE apprehended Petitioner based on her alleged violation of state laws, as permitted by the standard terms of the Order of Recognizance, rather than issue a new I-200 arrest warrant.

Second, with respect to remedies, there are recent criminal contacts and an earlier instance of non-appearance which, the Government submits, support Petitioner's continuing detention until a bond hearing is held (if a bond hearing is to be ordered). ICE reports that Petitioner was arrested for assault and battery on October 20, 2025, by the Lowell Police Department in Massachusetts, in connection with her physical abuse of a minor.[2] Government counsel, however, has been unable to obtain any further information in this regard. Additionally, Petitioner failed to appear for an Immigration Court hearing in the past, which resulted in an in-absentia order of removal. Ex. 5, In Absentia Proceeding (Oct. 12, 2023). Those proceedings were later reopened, however,

[2] This criminal conduct would not appear to meet the prerequisites for mandatory detention under the Laken Riley Act, owing to an apparent absence of "serious bodily injury" to the victim, as 8 U.S.C. § 1226(c)(1)(E)(ii) requires.

based on her motion. *Id.*

WHEREFORE, ICE submits that Petitioner is not entitled to a writ of habeas corpus. The Government respectfully submits that the court should dispose of and dismiss the matter as law and justice require. 28 U.S.C. § 2243. The Government will be prepared for and attend any hearings set in this matter.

Dated: November 7, 2025
Bangor, Maine

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2025, I caused the foregoing to be electronically filed with Clerk of Court using the CM/ECF system, which sent such notice to any individuals and entities who have entered appearances in this case to date, pursuant to the Court's ECF system.

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