UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Helen Katerin Guedez-Anez, Petitioner, v. Todd Lyons, *et al.*, Respondents.	Civil Action No. 5:26-CV-00230-FB

ABBREVIATED RESPONSE TO HABEAS PETITION AND REQUEST TO PROCEED WITHOUT ORAL ARGUMENT

Federal Respondents provide the following timely response to Petitioner's habeas petition.[1] Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief sought, including attorney's fees under the Equal Access to Justice Act ("EAJA").[2] The legal issues presented in this Petition for Writ of Habeas Corpus ("Petition") concern the statutory authority for U.S. Immigration and Customs Enforcement's ("ICE") detention of Petitioner, and whether Petitioner is entitled to a bond hearing. While reserving all rights, including the right to appeal, Respondents submit this abbreviated response to preserve the legal issues and to conserve judicial and party resources. Pursuant to the Court's Order, Respondents advise that there are no material differences between this case and those cited in the Court's Order. *See* ECF No. 2.

Respondents acknowledge that this Court's prior rulings concerning similar challenges to the government policy or practice at issue in this case, and the common question of law between

---

1 The Department of Justice represents only federal employees in this action.

2 *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

this case and those rulings, would control the result in this case should this Court follow its legal reasoning in its prior decisions. *See id. at 2; see also, e.g., Navarro v. Bondi et. al,* No. 5:25CV1468-FB (W.D. Tex. Dec. 2, 2025); *Moradi v. Thompson et al*, No.5:25CV1470-OLG (W.D. Tex. Dec. 18, 2025); *Reyes v. Thomspon et al*, No.5:25CV1590-XR (W.D. Tex. Dec. 12, 2025); *Acosta-Balderas v. Bondi et al*, No.5:25CV1629-JKP (W.D. Tex. Dec. 11, 2025); *Tisighe v. De Anda-Ybarra et al*, 3:25CR593-KC (W.D. Tex. Dec. 5, 2025); *Chauhan v. Noem et al*, 3:25CV574-DB (W.D. Tex. Dec. 8, 2025); *Gvedashvili v. Mooneyham et al*, 6:25CV552-ADA-DTG (W.D. Tex. Dec. 22, 2025).

Petitioner here, however, is in a different procedural posture than the aliens in the above-mentioned cases[3]: an immigration judge has denied Petitioner all substantive relief from removal, a decision which Petitioner may appeal to the BIA. *See* https://acis.eoir.justice.gov/en/caseInformation (last accessed Feb. 2, 2026). Any appeal of that decision is due by February 23, 2026. *Id.* Because Petitioner's removal order is within the appellate review window, there is no final order of removal, but even under 8 U.S.C. § 1226(a), a **preliminary removal order by an immigration judge weighs heavily against discretionary release on bond**, as it calls into question the alien's likelihood of compliance with any removal order once it becomes final. *See, e.g., Johnson v. Guzman Chavez*, 594 U.S. 523, 544 (2021) (finding that aliens "who have not been ordered removed are less likely to abscond" but those who have been ordered removed pose a higher flight risk).

[3] None of the aliens in these cited cases had been ordered removed by an immigration judge when Federal Respondents responded to their habeas petitions.

Nonetheless, the instant petition and the cases cited above concern 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. This Court should incorporate the filings in *Navarro v. Bondi, Moradi v. Thompson, Reyes v. Thomspon, Acosta-Balderas v. Bondi et al, Tisighe v. De Anda-Ybarra et al, Chauhan v. Noem et al* and *Gvedashvili v. Mooneyham et al* into the record of this habeas action.

Should the Court prefer to receive a more exhaustive opposition brief, Respondents respectfully request leave to file such a brief upon the Court's request.

Discussion

Petitioner principally seeks an order from this Court directing ICE to immediately release Petitioner from ICE detention. Petitioner argues that her detention is governed by INA § 236, 8 U.S.C. § 1226, that Petitioner is being unlawfully detained and deprived of a bond hearing, and that the detention violates the Fifth Amendment to the United States Constitution, 8 U.S.C. § 1226, the corresponding regulations, and the Administrative Procedures Act ("APA").[4] ECF No. 1 ¶¶ 19–33.

[4] Petitioner raises additional arguments under the Administrative Procedure Act (APA), none of which are cognizable in habeas, and none of which are covered under the $5 habeas filing fee. As such, those claims should be dismissed. *See Ndudzi v. Castro*, No. SA–20–CV–0492–JKP, 2020 WL 3317107 at *2 (W.D. Tex. June 18, 2020) (citing 28 U.S.C. § 1914(a)). "When a filing contains both habeas and on-habeas claims, 'the district court should separate the claims and decide the [non-habeas] claims' separately from the habeas ones given the differences between the two types of claims. *Id* (collecting cases and further noting the "vast procedural differences between the two types of actions"). Given the differences, the Court should either sever the non-habeas claims or dismiss them altogether without prejudice if severance is not warranted. *Id.* at *3; *see also Montoya v. Noem*, SA–CV–1410–FB (W.D. Tex. Jan. 26, 2026) (dismissing all non-habeas claims without prejudice under Rules 12(b)(1) and (6)).

Respondents contend that Petitioner's detention is governed by INA § 235, 8 U.S.C. § 1225, because as an alien who entered without inspection or parole was and remains an applicant for admission. As such, Petitioner is subject to mandatory detention and not entitled to a bond hearing before the immigration judge. Respondents further contend Petitioner should be required to exhaust administrative remedies before bringing a habeas challenge in federal court.

Respondents further rely upon *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). There, the BIA examined the plain language of § 1225, the INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub L. No. 104-208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission." 29 I&N Dec. at 225. Respondents contend this Court should rule the same, and many courts within this Circuit agree.[5]

---

[5] *See e.g., Garabay-Robledo*, 2026 WL 81679 at *4; *Calderon Lopez v. Lyons*, No. 1:25–CV–226–H, -- F.Supp.3d --, 2026 WL 44683 (N.D. Tex. Jan. 7, 2026) (Hendrix, J.); *De Leon Lopez, et al, v. Ladwig, et al*, No. 6:25–CV–01884, 2026 WL 19095, W.D. La. Jan. 2, 2026) (Joseph, J.); *Naranjo v. Uhls*, No. 4:25-CV-05756, 2025 WL 3771447 (S.D. Tex. Dec. 31, 2025); *Zuniga v. Lyons*, No. 1:25-CV-221-H, 2025 WL 3755126 (N.D. Tex. Dec. 29, 2025) (Hendrix, J.); *Rivera Hernandez v. Noem*, No. 9:25-CV-00326, 2025 WL 3754434 (E.D. Tex. Dec. 19, 2025) (Truncale, J.); *P. B. v. Bergami*, No. 3:25-CV-02978-O, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025) (O'Connor, J.); *Delgado v. Noem*, No. 9:25-CV-00329, 2025 WL 3639439 (E.D. Tex. Dec. 12, 2025) (Truncale, J.); *Rodriguez v. Noem*, No. 9:25-CV-00320, 2025 WL 3639440 (E.D. Tex. Dec. 10, 2025) (Truncale, J.); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025) (Doughty, J.); *Jimenez v. Thompson*, No. 4:25-CV-05026, 2025 WL 3265493 (S.D. Tex. Nov. 24, 2025) (Eskridge, J.); *Andrade v. Patterson*, No. 6:25-cv-01695, 2025 WL 3252707 (W.D. La. Nov. 21, 2025) (Joseph, J.); *Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025) (Eskridge, J.); *Kum v. Ross*, No. 6:25-CV-00451, 2025 WL 3113646 (W.D. La. Oct. 22, 2025), (Whitehurst, M.J.), *report and recommendation adopted*, 2025 WL 3113644

In its current posture and based upon the Court's prior rulings, the Court can decide this matter without delay. If, however, the Court prefers a full opposition brief in this matter, Respondents will provide a brief upon the Court's request. If the Court believes any additional claims are material to the resolution of this petition beyond the issues decided in the previous cases, Respondents request an opportunity to respond to those by order of the Court.

Should this Court order release of Petitioner, Respondents request that the release order specify a date for release expressed by a calendar day instead of hours. Respondents further request that a time for release not be set. Each release from a detention facility carries unique security considerations. It requires coordination within the detention facility and with the Petitioner, their family, and/or their counsel. Setting an exact time for release beyond the calendar date can unduly burden the already complicated process.

Conclusion

Respondents appreciate the Court's consideration of this abbreviated response and respectfully request that the Court deny this Petition.

(W.D. La. Nov. 6, 2025) (Joseph, J.); *Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025) (Joseph, J.); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (Joseph, J.).

Dated: February 2, 2026

Respectfully submitted,

Justin R. Simmons
United States Attorney

By: */s/ Lacy L. McAndrew*

Lacy L. McAndrew
Assistant United States Attorney
Florida Bar No. 45507
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216
(210) 384-7325 (phone)
(210) 384-7312 (fax)
lacy.mcandrew@usdoj.gov

Attorneys for Federal Respondents