UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

SELVIN ISAIAS SITUJ GARCIA, Petitioner, v. DERRICK STAMPER, Chief Patrol Agent of Houlton Sector, U.S. Border Patrol; MATTHEW HLADIK, Port Director of Area, Port of Portland, Maine, U.S. Customs and Border Protection; RODNEY SCOTT, Commissioner of U.S. Customs and Border Protection; DAVID WESLING, Acting Director of U.S. Immigration and Customs Enforcement, Boston Field Office; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Homeland Security; and PAMELA BONDI, U.S. Attorney General, Respondents.	No. 2:26-cv-00025-JAW

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

Respondents, by and through undersigned counsel, oppose the Verified Petition for Writ of Habeas Corpus filed by Petitioner Selvin Isaias Situj Garcia under 28 U.S.C. § 2241. Dkt. #1, Jan. 18, 2026 (the "Petition" or "Pet.").

Petitioner's detention was initiated by U.S. Customs and Border Protection ("CBP") on January 15, 2026, in and around Bethel, Maine. Pet. ¶¶ 3, 30-31. At approximately 12:00 PM on January 18, 2025, Petitioner departed the state of Maine on a U.S. Immigration and Customs Enforcement ("ICE") flight, roughly two hours before the Court's issuance of the Emergency Order Concerning Stay of Transfer or Removal. Dkt. #4, Jan. 18, 2026. Government counsel has confirmed that Petitioner is detained in

ICE custody at the Jackson Parish Correctional Center in Jonesboro, Louisianna.

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 caselaw from this Court uniformly sustaining challenges to DHS's interpretation of § 1225. *See, e.g., Chang Barrios v. Shepley*, 1:25-cv-00406-JAW, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Choglo 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 his 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. This matter is not substantively distinguishable from those prior cases.

This matter, with the Government's agreement, is proceeding on an expedited basis. *See* Order to Show Cause, Dkt. #7, Jan. 21, 2026 (setting the Government's return deadline for today, and Petitioner's traverse in reply due 24 hours later). As a matter of practicality, the Court should not order Petitioner returned to Maine because the accelerated briefing schedule here may result in a merits determination before ICE is able to arrange flights and/or ground transportation for Petitioner from Louisiana to Maine. To the extent a writ of habeas corpus is granted, for example, ICE would no longer be authorized to retain custody of Petitioner for the purpose of such a return transfer. The recent issuance by this Court of its Order on Motion for Temporary Restraining Order also ensures that Petitioner will receive access to counsel and prevents his removal from the United States pending further Court order. *See* Dkt. #8 at

6, Jan. 21, 2026. The status quo is therefore preserved. Finally, and perhaps most importantly, "Respondents acknowledge[] that as [Petitioner] was in the District of Maine when he filed his habeas corpus petition, the Court ha[s] not lost jurisdiction upon [his] removal from the District." *See* Dkt. #8 at 4. Because Petitioner filed his habeas application with the Court while initially detained in the District of Maine, the jurisdictional district-of-confinement prerequisite has been met. *See generally Coj Chingo v. Stamper*, 2:25-cv-00590-JAW, 2025 WL 3513833, at *2 (D. Me. Dec. 8, 2025) (collecting cases).

Consequently, the underlying concerns cited in the Court's Emergency Order Concerning Stay of Transfer or Removal have been addressed in Petitioner's favor, obviating any need for Petitioner to be physically present in Maine pending the resolution of this case. There remains here "a fair opportunity for [this Court] to review the merits of the petition and to rule on any contested issues of jurisdiction" while Petitioner is detained in Louisianna. Dkt. #4 at 1.

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 Petition as law and justice require. 28 U.S.C. § 2243.

Dated: January 21, 2026
Bangor, Maine

Respectfully submitted,

ANDREW B. BENSON
United States Attorney

/s/ ANDREW K. LIZOTTE
Andrew K. Lizotte
Civil Chief
United States Attorney's Office
202 Harlow Street
Bangor, Maine 04401
(207) 262-4636
Andrew.Lizotte@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2026, 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.

ANDREW B. BENSON
United States Attorney

/s/ ANDREW K. LIZOTTE
Andrew K. Lizotte
Civil Chief
United States Attorney's Office
202 Harlow Street
Bangor, Maine 04401
(207) 262-4636
Andrew.Lizotte@usdoj.gov