

United States District Court
Western District of Texas
El Paso Division

Willian Roberto Guaman Pallo,
Petitioner,
v.

Mary de Anda-Ybarra, *et al*,
Respondents.

Case No. 26-CV-0172-DB

Response to Petition for Writ of Habeas Corpus

Federal¹ Respondents provide the following abbreviated timely response to Petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief he seeks, and this Court should deny this habeas petition without the need for an evidentiary hearing. 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.

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 this case and those rulings, would control the result in this case should this Court follow its legal reasoning in its prior decisions. *See* ECF No. 3 at 1–2. Specifically, the pertinent facts related to Petitioner's entry into the United States in this case do not materially differ from those in *Vieira*

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

v. De Anda-Ybarra, No. EP-25-CV-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025). *See id.*

Both the instant petition and *Vieira* 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 his administrative removal proceedings. *See* ECF No. 1 ¶ 1. Petitioner in this case, like the alien in *Vieira*, was apprehended near the border contemporaneously with an unlawful entry and subsequently released into the interior for several years after having been processed for removal proceedings. *Id.* ¶ 47. Federal Respondents incorporate by reference their arguments in *Vieira* and other similarly situated cases. Should the Court prefer to receive a more exhaustive opposition brief, Respondents respectfully request leave (up to 20 days) to file such a brief upon the Court's request.

Discussion

Petitioner principally seeks an order from this Court directing ICE to immediately release him from ICE detention or order a bond hearing on his terms. Petitioner argues that Petitioner's 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 statutes, regulations, and the Fifth Amendment to the United States Constitution.

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) to support their position. There, the BIA examined the plain statutory language of the INA, including the legislative history, in conjunction with Supreme Court and BIA precedent and related government practice. *Id.* 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 district courts within this Circuit agree.²

Further briefing on these issues is not a good use of judicial or party resources. *See* ECF No. 3 at 2. 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.

² *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 (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.).

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. Releases from detention facilities carry unique security considerations for each person being released. 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.

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