

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GAGANDEEP SINGH,

Petitioner,

v.

Case No. 26-cv-168-JB/JFR

DORA CASTRO, et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

This matter proceeds on Petitioner's Petition for habeas corpus pursuant to 28 U.S.C. § 2241 filed on January 27, 2026. *See* Doc. 2. On January 23, 2026, the Court entered an Order requiring Respondents to respond within five days of receipt of service. Doc.5. On February 9, 2026, the Court entered a second Order, requiring Respondents to respond within five days of the entry of that order. Doc. 11. Respondents hereby submit this Response to Petitioner's Petition (Doc. 2).

Respondents have carefully reviewed the Amended Petition and determined that the legal issues presented concern the statutory authority for ICE's detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), whether Petitioner is entitled to a bond hearing, and whether Petitioner must first exhaust his administrative remedies before applying to this Court. While reserving all rights, including the right to appeal, Respondents respectfully submit this abbreviated response in lieu of a formal responsive memorandum of law to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter. If the Court prefers to receive a formal memorandum of law, Respondents will submit one upon request.

It is Respondents' position that Petitioner is subject to mandatory detention under Section 1225(b)(2) because he was present in the United States without being admitted or paroled. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025). This Court recently reached a similar conclusion in *Singh v. Noem*, No. CIV 25-1110 JB/KK, 2026 WL 146005 (D.N.M. Jan. 20, 2026) on legally operative facts relatively similar in nature to those currently before the Court. In *Singh*, this Court concluded that the petitioner, who had entered the United States without inspection almost two years before his current detention and had filed an asylum application, was "seeking admission" under Section 1225(b)(2)(A) and therefore properly detained under that statute.

While Respondents do not consent to issuance of the writ and reserve all rights, including the right to appeal, and to conserve judicial and party resources while expediting the Court's consideration of this case, Respondents hereby rely upon, and incorporate by reference, the legal arguments presented in *Singh v. Noem*,¹ and the Court can decide this issue without further briefing.

Finally, Respondents believe that this matter can be decided without a hearing. If, however, the Court determines that a hearing would be helpful, counsel for Respondents will attend and present Respondents' position.

The Court should deny the Petition for Writ of Habeas Corpus (Doc. 2) as Petitioner is appropriately classified under Section 1225(b)(2) pursuant to BIA guidance in *Hurtado*. For this reason, the Court should deny or dismiss the petition (Doc. 2).

¹ Specifically, Respondents incorporate by reference all arguments raised in its response brief in *Singh v. Noem*, No. CIV 25-1110 JB/KK, 2026 WL 146005 (D.N.M. Jan. 20, 2026). Respondents also believe that the recent Fifth Circuit decision in *Buenrostro-Mendez v. Bondi* is relevant to this Court's further evaluation of the topic. *See Buenrostro-Mendez v. Bondi*, Case 25-20496, available at <https://www.ca5.uscourts.gov/opinions/pub/25/25-20496-CV0.pdf> (5th Cir. Feb. 6, 2026).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 14, 2026, I filed the foregoing pleading electronically through the CM/ECF system, which caused all parties and counsel of record to be served, as more fully reflected on the Notice of Electronic Filing.

/s/Allison Shokes
ALLISON SHOKES
Assistant United States Attorney