UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

MAYRA CHAVEZ RODRIGUEZ Petitioner, v. SUPERINTENDENT, STRAFFORD COUNTY DEPARTMENT OF CORRECTIONS; DIRECTOR, BOSTON FIELD OFFICE, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, *et al.*, Respondents.	)	No. 1:26-cv-00224-PB-TSM

RESPONSE TO ORDER TO SHOW CAUSE

On March 25, 2026, Petitioner Mayra Chavez Rodriguez, an immigration detainee currently housed at Strafford County House of Corrections, filed the above-captioned petition for writ of habeas corpus, seeking a bond hearing. ECF No. 1. The following day, this Court issued an Order directing Federal Respondents "to show cause why the Court should not issue an order granting the Petition to the extent of ordering Respondents to afford Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within seven days of that order's issuance, based on Petitioner's apparent membership in the *Guerrero Orellana* class and similarity to the petitioner in *Destino*." ECF No. 2 at 1-2.

Federal Respondents respectfully submit that they cannot currently rule out Petitioner's membership in the class certified in *Guerrero Orellana v. Moniz*, No. 25-cv-12664-PBS, 2025 WL 3687757, at *10-11 (D. Mass. Dec. 19, 2025), *appeal docketed*, No. 26-1094 (1st Cir. Jan. 26, 2026). However, should this Court follow the reasoning outlined in *Destino v. FCI Berlin, Warden*, No. 1:25-cv-374, 2025 U.S. Dist. LEXIS 269322, *34 (D.N.H. Dec. 24, 2025), they

cannot show cause why the Petition should not be granted to the extent of ordering Petitioner to receive a bond hearing before an Immigration Judge ("IJ").

I. Background.

According to Petitioner, she entered the United States without inspection on or around 1999, at age 10. Pet. ¶ 9 (ECF No. 1). At some point after her entry, she obtained Deferred Action for Childhood Arrivals ("DACA"). *Id.* ¶ 10.

Immigration and Customs Enforcement ("ICE") arrested Petitioner on March 23, 2026, after her release from Lynn (MA) District Court on a pending charge of Assault and Battery on a Household Member. *Id.* ¶ 11. That charge remains pending. Petitioner has remained in ICE custody since her arrest and is detained in Strafford County Department of Corrections. *Id.* ¶ 12.

II. Petitioner is entitled to relief under Destino.

Federal Respondents respectfully maintain that *Destino* was wrongfully decided and, to preserve their objection for appeal, incorporate by reference the legal arguments they presented in opposition to that petition. No. 25-cv-374 (D.N.H.), ECF Nos. 3, 8. However, Federal Respondents acknowledge that if this Court applies the reasoning in *Destino* to the facts here, Petitioner will be entitled to the same relief ordered there – provision of a constitutionally adequate bond hearing before an IJ.

The *Destino* court found that the petitioner's prolonged presence in the United States during the pendency of his removal proceedings gave rise to an accrued liberty interest on due process grounds "regardless of statutory allowances;" rather, this interest derived from both the connections the petitioner developed to this country through living here, and an expectancy interest that, having been released into the country for an extended period, he would only be re-

detained if he violated the conditions of his release. *Destino*, No. 25-cv-374, ECF No. 9, at 13, 23.

Here, Petitioner has developed connections with the United States similar to those identified in *Destino*. She has a more prolonged presence in the United States than did the petitioner in *Destino*, having lived here since 1999. She also has a United States citizen child. Pet. ¶ 10. Nothing else in her Petition alters the remainder of *Destino*'s analysis under Mathews v. Eldridge, 424 U.S. 319, 335 (1976). Therefore, Respondents acknowledge that under the reasoning in *Destino*, Petitioner is entitled to a bond hearing before an IJ.

III. Petitioner's membership in the Guerrero Orellana class is uncertain and should be determined by the IJ in the first instance.

Federal Respondents respectfully maintain that Petitioner is not entitled to relief under *Guerrero Orellana* because that case was wrongly decided, and as an applicant for admission, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502 (5th Cir. 2026) (noncitizens present in the United States without being admitted are necessarily both applicants for admission and seeking admission, and therefore fall under 8 U.S.C. § 1225); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258, at *3-4 (8th Cir. Mar. 25, 2026) (same); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

However, even if *Guerrero Orellana* were correctly decided, Petitioner cannot be determined at this time to be a member of that class. The *Guerrero Orellana* court certified a class including only persons who "do[]not meet the criteria for mandatory detention pursuant to 8 U.S.C. § 1226(c)." 2025 WL 3687757 at *10. That section of the statute requires mandatory detention for any person, among others, who is "inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a) of this title; and . . . is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements

of . . . any crime that results in . . . serious bodily injury to another person." 8 U.S.C. § 1226(c)(1)(E). Petitioner is charged with Assault and Battery on a Household Member, and Federal Respondents do not yet have enough information to determine whether Petitioner caused seriously bodily injury to another person. Further, Federal Respondents submit that this determination is best addressed by the Immigration Judge in the first instance. Thus, they respectfully reserve the right to argue at a bond hearing that Petitioner is mandatorily detained under 8 U.S.C. § 1226(c)(1)(E).

However, because Federal Respondents concede that under *Destino*, Petitioner is entitled to a bond hearing before an IJ, they submit that the Court need not reach the issue of her membership in the *Guerrero Orellana* class to provide her relief.

IV. Conclusion.

Federal Respondents further submit that the interests of judicial economy and expeditious resolution weigh against additional briefing or argument, and therefore they ask the Court to accept this abbreviated briefing and rule on the pleadings. Should the Court grant relief, Federal Respondents also submit that the only relief allowed under either Destino or Guerrero Orellana is a bond hearing before an IJ.

Respectfully submitted,

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