IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DANIEL CHACON ZAMORA, Petitioner, v. JACOB WELSH, Warden, Chase County Detention Center; CHRISTOPHER CHAMBERLAIN, Assistant Director, ICE Field Office; PAMELA BONDI, Attorney General; and MARKWAYNE MULLIN, DHS Secretary, Respondents.	)	Case No. 26-3077-JWL

RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

Respondents hereby respond to Petitioner's habeas petition brought pursuant to 28 U.S.C. § 2241 and the Court's Order to Show Cause (Doc. 2). Petitioner Daniel Chacon Zamora ("Petitioner") challenges his detention by U.S. Immigration and Customs Enforcement ("ICE"). On March 31, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. The Court has ordered the government to show cause why the petition should not be granted.

The government has carefully reviewed this 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) and whether Petitioner is entitled to a bond hearing. While reserving all rights, including the right to appeal, the government respectfully submits this abbreviated response to the Court's Order to Show Cause 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, the government will submit one upon request.

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b), because Petitioner was present in the United States without being admitted or paroled. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025); *see also Avila v. Bondi*, --- F.4th ----, 2026 WL 819258, at *4 (8th Cir. Mar. 25, 2026); *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502 (5th Cir. 2026). The government acknowledges, however, that the Court has reached the opposite conclusion. *See, e.g.*, *Galdamez Orellana v. Welsh*, No. 26-3019-JWL, 2026 WL 710121 (D. Kan. Mar. 13, 2026) (concluding "that the text of Section 1225(b)(2)(A) imposes a separate requirement that the alien be 'seeking admission' that is not satisfied in the case of an already-present alien"); *Solaya Clavero v. Welsh*, No. 25-3278-JWL, 2026 WL 717958 (D. Kan. Mar. 16, 2026) (following *Galdamez Orellana* and ordering a bond hearing under Section 1226(a)).

In *Mendoza Gutierrez v. Baltasar*, No. 25-1460 (10th Cir.), the government is appealing to the Tenth Circuit the judgment that 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b), governs detention under the facts presented in the cases above. Until the foregoing appeal is resolved, however, the government acknowledges that this Court's recent decision in *Galdamez Orellana v. Welsh*, No. 26-3019-JWL, 2026 WL 710121 (D. Kan. Mar. 13, 2026) would control the result here if the Court adheres to that decision, as the facts are not materially distinguishable for purposes of the Court's decision on the legal issue of which statutory provision authorizes Petitioner's detention.

Thus, while the government does not consent to issuance of the writ and reserves all rights, including the right to appeal, in order to conserve judicial and party resources while expediting the Court's consideration of this case, the government hereby relies upon, and incorporates by reference, the legal arguments it presented in *Vences v. Welsh*, No. 26-3029-JWL.[1] The

[1] Specifically, the government incorporates by reference all arguments raised in its opposition brief in *Vences v. Welsh*, No. 26-3029-JWL, Doc. 5. A copy of that brief is attached as Exhibit A hereto.

government further suggests that the Court may decide this issue without further briefing. As noted above, however, should the Court prefer to receive a formal opposition brief in this matter, the government will file such a brief upon the Court's request.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2026, the foregoing document was electronically filed by using the CM/ECF System, which will send notification of such filing to the following ECF registrants:

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