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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 JOSE OSVALDO FERREIRA JUNIOR

11 *Petitioner,*

12 v.

13 Timothy S. ROBBINS, Field Office Director of the
14 Los Angeles Field Office of U.S. Immigration and
15 Customs enforcement; Todd M. LYONS, Acting
16 Director of U.S. Immigration and Customs
17 Enforcement; U.S. IMMIGRATION AND
18 CUSTOMS ENFORCEMENT, Kristi NOEM,
19 Secretary of the U.S. Department of Homeland
20 Security, Christopher CHESTNUT, Warden,
21 California City Corrections Center, and Pamela
22 BONDI, Attorney General of the United States

23 *Respondents,*

Case No. 1:25-CV-01671-DC-DMC

**PETITIONER'S REPLY TO
OPPOSITION TO PETITION FOR WRIT
OF HABEAS CORPUS**

REPLY

In its opposition to the Petition for a writ of habeas corpus, Respondents are adopting the arguments made in their Opposition to Petitioner's Motion for Temporary Restraining Order. (Doc. 13.) In their opposition, Respondents claim that Petitioner's Motion for a Temporary Restraining Order and the Petition for writ of habeas corpus should be denied because under 8 U.S.C. § 1225(b)(2)(A), Petitioner must remain detained pending the outcome of his removal proceedings, which may take months or even years to be concluded. (Doc. 13 at 7-8.) In addition, Respondents also argue that in regards to an alien who was subject to section 1225(b)(2) when apprehended, DHS has the absolute authority to re-detain him without any the need for any procedural safeguards which would protect her Fifth Amendment Rights under the United States Constitution. (Id.) Respondents basically contend that immigration official's release of petitioner pursuant to him being granted parole was based on the government's prior incorrect interpretation of that statute, and that the government has since determined that §1225(b) applies. (Id.)

However, Respondents' argument that this Court should adopt their interpretation of section 1225 as the applicable immigration detention authority for all inadmissible non-citizens has been rejected numerous times by this Court. (See *Ayala Cajina v. Wofford* (No. 1:25-cv-01566-DAD-AC (HC), 2025 WL 3251083 *E.D. Cal, Noc. 21, 2025), *Elmer Joel M. C. v. Wofford*, No. 1:25-CV-01622-KES-CDB (HC), 2025 WL 3501200 (E.D. Cal. Dec. 6, 2025); *Clene C.D. v. Robbins*, No. 1:25-CV-01463-KES-SKO (HC), 2026 WL 84302 (E.D. Cal. Jan. 12, 2026); *Bilal A. v. Wofford*, No. 1:25-CV-01715-KES-HBK (HC), 2025 WL 3648366 (E.D. Cal. Dec. 16, 2025); *W.V.S.M. v. Wofford*, No. 1:25-CV-01489-KES-HBK (HC), 2025 WL 3236521 (E.D. Cal. Nov. 19, 2025); *Labrador-Prato*, 2025 WL 3458802, at *10; *Singh v. Andrews*, No. 1:25-CV-01543-DCJ-SCR, 2025 WL 3523057, at *4-5 (E.D. Cal. Dec. 9, 2025); *Selis Tinoco v. Noem*, 1:25-cv-01762-DC-JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025); *D.L.C. v. Wofford*, 1:25-cv-01996-DC-JDP, 2026 WL 25511 (E.D. Cal. Jan. 5, 2026).)

The fact remains that even if the government was correct that §1225, by its terms, could apply to Petitioner, the evidence presented shows that Respondents paroled him pursuant to 8 U.S.C. § 1182(d)(5). Federal Courts found that this fact creates "an implicit promise" that one's release would

1 “be revoked only if [he] fail[ed] to live up to the [release] conditions,” as in *Morrissey v. Brewer*, 408
 2 U.S. 471, 482 (1972) and *Johnson v. Willford*, 682 F.2d 868, 873 & n.3 (9th Cir. 1982) (holding that it
 3 would be “inconsistent with fundamental principles of liberty and justice” to re-incarcerate a mistakenly
 4 released prisoner who had readjusted to society and complied with the terms of release.) Thus, the
 5 argument that a “mistakenly released [person] does not have a legitimate claim of entitlement to
 6 freedom [under the Due Process Clause] cannot be squared with established law.” (*Hurd v. Dist. Of*
 7 *Columbia, Gov’t*, 864 F.3d 671, 682 (D.C. Cir. 2017). Even if §1225(b) did apply, Petitioner has a
 8 protected liberty interest based on the government’s prior release of him pursuant to 8 U.S.C. §
 9 1182(d)(5). (See *Vilela v. Robbins*, No. 1:25-cv-01393-KES-HBK (HC), 2025 U.S. Dist. LEXIS
 10 219172, 2025 LX 474205 at 11); also see *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL
 11 2419263, at *4 (N.D. Cal. Aug. 21, 2025) (once the government “elect[s] to proceed...under §1226,
 12 cannot [] reverse course and institute §1225... proceedings”).) “The liberty interest that arises upon
 13 release from immigration detention is inherent in the Due Process Clause” (See *Guillermo M.r. v.*
 14 *Kaiser*, No. 25-CV-054360RFL, 2025 WL 1983677, at *4 (N.D. Cal. July 17, 2025); *Ortega v. Kaiser*
 15 (No. 25-CV-052590JST, 2025 WL 1771438, at *3 (N.D. Cal. June 26, 2025) (collecting cases finding
 16 that noncitizens who have been released have a strong liberty interest.)

17 Furthermore, Respondents argument that Petitioner does not have a liberty interest because 8 U.S.C.
 18 §1225 mandates that he be detained should be rejected because the government treated him as subject to
 19 8 U.S.C. § 1182(d)(5), which does not mandate detention after it released him. The evidence shows that
 20 Petitioner was released on his own recognizance and placed on an Alternative to Detention program.
 21 This means that he was released pursuant to 8 U.S.C. § 1182(d)(5). (See *Ortega-Cervantes v. Gonzales*,
 22 501 F.3d 1111, 1115 (9th Cir. 2007) (It is apparent that the INS used the phrase ‘release on
 23 recognizance’ as another name for ‘conditional parole’ under §1226(a)).)

24 Respondents also seeks for this court follow the reasoning in the decision in *Buenrostro-Mendez v.*
 25 *Bondi* and side with their argument, which is that Petitioner is an “applicant for admission” and
 26 therefore, he has no due process rights and that his rights are limited to those provided by statute. (Doc.
 27 18, at 1.) However, Respondents fail to appreciate the distinction between persons already located
 28

inside the United States after being released by immigration authorities—like Petitioner— and persons attempting to enter the United States. Here, Petitioner challenges his re-detention without a hearing, he does not challenge in this habeas action any determination regarding his admissibility. (See *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1170-72 (W.D. Wash. 2023) (Explaining the distinction between a challenge to admission and a challenge to detention); also see *Hernandes v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“[T]he government’s discretion to [detain] non-citizens is always constrained by the requirements of due process.”) In the end, this Court should find that case law and the Due Process clause of the Constitution provides that Petitioner has a protected liberty interest in his release. In fact, *Buenrostro-Mendez* is not applicable in this matter, as it deals with people being detained by ICE for the very first time after entering the United States, contrary to here, where Petitioner was released by ICE pursuant to Parole after entering the United States, just to be re-detained years later. (See *Florian v. Raycraft*, No. 1:26-cv-252, 2026 WL 416783, at *4, 7 (fn 1) (W.D. Mich. Feb. 13, 2026).)

In the end, this Court should find that case law and the Due Process clause of the Constitution provides that Petitioner has a protected liberty interest in his release.

CONCLUSION

In view of the arguments and case law included in Petitioner’s motion and both Replies, Petitioner respectfully asks for this Court to grant the Petition for a writ of habeas corpus.

Respectfully submitted,

DATE: 02/27/2026

/S/ Jose F. Vergara

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