

1 ERIC GRANT
United States Attorney
2 LYNN TRINKA ERNCE
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Email: lynn.trinka.ernce@usdoj.gov
Telephone: (916) 554-2700
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6 Attorneys for Respondents
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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 SUKHJOT SINGH SEKHON,

12 Petitioner,

13 v.

14 WARDEN OF THE GOLDEN STATE
ANNEX DETENTION FACILITY, *et al.*,

15 Respondents.
16

No. 1:25-cv-01692-DC-JDP

**MOTION TO DISMISS PETITION FOR
WRIT OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 Petitioner is a citizen and national of India who entered the United States illegally. He is an
2 “applicant for admission” within the meaning of 8 U.S.C. § 1225(a) and subject to mandatory detention
3 by Immigration and Customs Enforcement under 8 U.S.C. § 1225(b)(2)(A) during the pendency of his
4 removal proceedings. *See, e.g., Cortes Alonzo v. Noem et al.*, No. 1:25-cv-01519-WBS-SCR (E.D. Cal.
5 Nov. 17, 2025) (Docket No. 14).

6 Petitioner’s prior release in the discretion of DHS, even if the release document cited 8 U.S.C.
7 § 1226, does not have the effect of having converted petitioner’s presence in the United States into an
8 “admission.” “[A]n alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not
9 been admitted,’ is treated as ‘an applicant for admission.’” *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

10 As an applicant for admission, petitioner is subject to mandatory detention and thus ineligible for
11 a bond hearing. Therefore, the Petitioner’s petition for writ of habeas corpus and request for declaratory
12 and injunctive relief should be denied.

13 Several district courts within the Ninth Circuit have recently denied motions for temporary
14 restraining orders and preliminary injunctions for individuals, like the petitioner, who have been
15 detained under section 1225(b)(2) following release on conditional parole. *See Altamirano Ramos v.*
16 *Lyons*, No. 25-cv-09785, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025) (acknowledging that the
17 court had previously rejected the government’s interpretation of § 1225(b)(2), but “after additional
18 research and analysis, the court has concluded that Petitioner is subject to mandatory detention under
19 § 1225(b)(2)(a), and that Petitioner is not eligible for a bond hearing under 8 U.S.C. § 1226(a)”; *Sixtos*
20 *Chavez v. Noem*, No. 25-cv-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), *appeal docketed*,
21 No. 25-7077 (9th Cir. Nov. 7, 2025); *Valencia v. Chestnut*, No. 25-cv-01550, 2025 WL 3205133 (E.D.
22 Cal. Nov. 17, 2025); *Alonzo v. Noem*, No. 25-cv-01519, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025).

23 Respondents further rely upon *In re Matter of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025).
24 There, the BIA examined the plain language of § 1225, the INA’s statutory scheme, Supreme Court and
25 BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant
26 Responsibility Act of 1996, Pub L. No. 104-208, and DHS’s prior practices. After doing so, the BIA
27 held that “under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A),
28 Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent,

1 who are present in the United States without admission.” 29 I & N Dec. at 225. This Court should rule
2 the same.

3 Counsel for the government has reviewed section 1225(b)(2) cases decided by this Court that are
4 in the same procedural posture as this case, and the pending Ninth Circuit appeal in *Rodriguez v.*
5 *Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025), Ninth Circuit Docket No. 25-6842. The government
6 wishes to bring to the Court’s attention that, in *Rodriguez*, the Ninth Circuit likely will address the
7 application of section 1225(b)(2), the case is being considered for the March 2026 oral argument
8 calendar (*Id.*, Dkt. 13) and is likely to be dispositive of the issues in this case.

9 Additionally, counsel became aware today of the December 18, 2025 final judgment entered in
10 the Central District of California in *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, in
11 which the court declared, among other things, that “Bond Eligible Class members are detained under
12 8 U.S.C. §1226(a) and are not subject to mandatory detention under § 1225(b)(2).” *Maldonado Bautista*,
13 Dkt. 94. “Bond Eligible Class” is defined as

14 **Bond Eligible Class:** All noncitizens in the United States without lawful
15 status who (1) have entered or will enter the United States without
16 inspection; (2) were not or will not be apprehended upon arrival; and (3) are
17 not or will not be subject to detention under 8 U.S.C. § 1226(c),
§1225(b)(1), or §1231 at the time the Department of Homeland Security
makes an initial custody determination.

18 *Id.*, Dkt. 93 at 4, 51. It appears that petitioner is not a member of the Bond Eligible Class because
19 petitioner was apprehended upon arrival. Amended Habeas Petition, Dkt. 12, ¶ 15 (“DHS detained MR.
20 SEKHON upon entry”); *Id.*, Dkt. 12-1, ¶ 2 (petitioner states that he “came into immigration custody
21 immediately after crossing the border into the United States”).

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23 Dated: December 19, 2025

Respectfully submitted,

24 ERIC GRANT
25 United States Attorney

26 By: /s/ Lynn Trinka Ernce
27 LYNN TRINKA ERNCE
Assistant United States Attorney

28 Attorneys for Respondents