

1 ERIC GRANT
United States Attorney
2 NICHOLAS M. FOGG
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700
5 Attorneys for Respondents
6
7

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 CLAUDIA PATRICIA MORENO VERGEL,
12 Petitioner,
13 v.
14 KRISTI NOEM, *et al.*,
15 Respondents.
16
17
18
19
20
21
22
23
24
25
26
27
28

No. 1:25-cv-001931-EPG HC

**MOTION TO DISMISS PETITION FOR WRIT
OF HABEAS CORPUS UNDER 28 U.S.C.
§ 2254 AND RULE 4; RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS; OPPOSITION TO PRELIMINARY
INJUNCTION; OPPOSITION TO
TEMPORARY RESTRAINING ORDER**

Petitioner is a citizen and national of Colombia who entered the United States illegally. She is then an “applicant for admission” who is subject to mandatory detention by ICE under 8 U.S.C. § 1225(b)(2)(A). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).

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

As an applicant for admission, petitioner is subject to mandatory detention and thus ineligible for a bond hearing. Therefore, the Petitioner’s petition for writ of habeas corpus and motion for a temporary restraining order should be denied.¹

Respondents² have reviewed the Court’s prior decisions on the application of Title 8, United States Code, sections 1225 and 1226 and acknowledge that this case presents substantially the same issue as those decisions. *See, e.g., Castillo v. Wofford*, 2025 WL 3466064, *8 (E.D.Cal. Dec. 2, 2025); *Polo v. Chestnut*, 2025 WL 2959346, *6 (Oct. 17, 2025); *J.S.H.M. v. Wofford*, 2025 WL 2938808, *10 (E.D.Cal. Oct. 16, 2025); *Ortiz Donis v. Chestnut*, 2025 WL 2879514, *7 (E.D.Cal. Oct. 9, 2025). The same issue is currently pending before the Ninth Circuit in *Rodriguez v. Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025), Ninth Circuit docket no. 25-6842. Further, respondents do not cite specific changed

[remainder of page intentionally blank]

¹ Respondents do not request a hearing and do not object to converting a TRO to a preliminary injunction if a TRO is granted.

² Petitioner appears to have improperly named Core Civic, Inc. in this lawsuit instead of the warden of the California City facility, Christopher Chestnut. Other courts faced with this situation have *sua sponte* joined the proper respondent per Federal Rule of Civil Procedure 19. *See C.Q. v. Core Civic, Inc.*, 1:25-cv-1900-KES-SKO, Dkt. 10 at 1, fn. 1 (E.D.Cal. December 19, 2025).

1 circumstances as justification for detention (*see* ECF No. 6; *Chavarria v. Chestnut*, 2025 WL 3533606,
2 *4 (E.D.Cal. Dec. 9, 2025) but instead rely on the mandatory-detention authority provided in section
3 1225(b)(2)(A).
4

5 Dated: December 29, 2025

Respectfully submitted,

6 ERIC GRANT
7 United States Attorney

8 By: /s/ Nicholas M. Fogg
9 NICHOLAS M. FOGG
Assistant United States Attorney

10 Attorneys for Respondents
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28