UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-01044-SRB-DLM

Yensi Carmen Malara Gutierrez,

Petitioner,

v.

Kristi Noem, *et al.*,

Respondents.

FEDERAL RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed this petition for a writ of habeas corpus to secure release or a bond hearing in connection with Petitioner's detention by U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is currently detained by ICE pursuant to 8 U.S.C. § 1225(b)(2)(A), as Petitioner falls under the statutory definition of an "applicant for admission," *see* 8 U.S.C. § 1225(b)(1), and an examining immigration officer has determined that Petitioner is "not clearly and without a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Under that provision, Petitioner is ineligible for release or bond. *See id.*

This petition raises legal and factual issues similar to those in prior habeas petitions this Court has decided. Those issues are currently before the Eighth Circuit on expedited review in *Avila v. Bondi*, No. 25-3248 (8th Cir. docketed Nov. 10, 2025), and the Fifth Circuit recently agreed with the government's position in *Buenrostro-Mendez v. Bondi*, -- F.4th --, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Rather than belabor these proceedings by rearguing points the Court has considered and rejected, Federal Respondents assert all arguments raised by the government in *Avila* and endorsed by *Buenorostro-Mendez* and

respectfully request that the Court preserve those arguments for any appeal in this case. *Cf. Mauro Johnny P.P. v. Lyons*, Case No. 26-cv-204 (LMP/DJF), Order, ECF No. 5 at 2 n.1 (calling abbreviated response "a model example" in the circumstances, as it "preserves the Government's arguments for appeal while avoiding the effort of filing the same recycled template that this Court has already rejected").

Dated: February 9, 2026

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