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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Hugo Arturo REYES ORTIZ  
and Cleiber NIEVE PANO,

Petitioners,

v.

John MATTOS, Warden, Nevada Southern  
Detention Center; Brian HENKE, Las  
Vegas/Salt Lake City Regional Field Office  
Director, Enforcement and Removal  
Operations, United States Immigration and  
Customs Enforcement (ICE/ERO); Kristi  
NOEM, Secretary, United States Department  
of Homeland Security, Pamela BONDI  
Attorney General of the United States, Daren  
K. MARGOLIN, Director Executive Office  
for Immigration Review,

Respondents.

Case No. 2:26-cv-00304-RFB-EJY

**Federal Respondents' Response to  
Petitioners' Petition For Writ of  
Habeas Corpus (ECF No. 1)**

**NO ORAL ARGUMENT  
REQUESTED**

Federal Respondents Brian Henke, Kristi Noem, Pamela Bondi, and Daren K.  
Margolin hereby file their Response to Petitioners Hugo Arturo Reyes Ortiz' and Cleiber  
Nieve Pano's Petition for Writ of Habeas Corpus. (ECF No. 1). Pursuant to the Order to  
Show Cause, Federal Respondents do not request oral argument or an evidentiary hearing  
on the Petition and request the Court rule on the papers. ECF No. 4.

**I. Factual Background**

Petitioner Hugo Arturo Reyes Ortiz ("Reyes Ortiz") who is a citizen of Mexico entered the United States on or about November 1, 2019 at or near El Paso, Texas without inspection by U.S. Immigration Officers. See I-213 Form of Petitioner Hugo Arturo Reyes Ortiz attached hereto as Exhibit A. On June 4, 2023, Reyes Ortiz was arrested by the Clinton Police Department for aggravated assault producing loss of consciousness, which is a felony. See Exhibit A. On March 5, 2024, Reyes Ortiz was convicted by the Castle Dale 7th District Court in Utah of assault with substantial bodily injury and domestic violence in the presence of a child. See Minutes Sentence, Judgment, Commitment from State of Utah Court attached hereto as Exhibit B. On November 18, 2025 Reyes Ortiz was encountered at the Weber County Jail and indicated that he is not in possession of valid immigration documents allowing him to be or remain in the United States legally. See Exhibit A. On November 18, 2025, Reyes Ortiz was issued a Notice to Appear and charged under INA 212(a)(6)(A)(i) that he is an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. See Notice to Appear of Reyes Ortiz attached hereto as Exhibit C.

Petitioner Cleiber Nieve Pano ("Nieve Pano") who is a citizen of Mexico entered the United States on or about May 1, 2000 near Nogales, Arizona without inspection by the U.S. Immigration Officers. On January 11, 2026 Nieve Pano was arrested for Driving Under the Influence of Alcohol ("DUI"). See I-213 Form of Petitioner Nieve Pano attached hereto as Exhibit D. On January 13, 2026, Nieve Pano was taken into ICE custody, when it was determined that he was not in possession of valid immigration documents allowing him to be or remain in the United States legally and charged under INA 212(a)(6)(A)(i) and 212 (a)(7)(A)(i)(I). The DUI offense was later dismissed because Utah State Prosecutor was expecting that Nieve Pano would be deported from the United States. See DUI Record of Nieve Pano dismissing the case attached hereto as Exhibit E.

Both Petitioners never sought a request for a bond hearing. Petitioners are currently in removal proceedings and are detained under 8 U.S.C. § 1225(b)(2)(A).

## II. Legal Argument

### A. Incorporation By Reference of the United States' Prior Responses

Federal Respondents hereby incorporate by reference the Federal Respondents' Response in *Jacobo Ramirez v. Noem*, Case No. 2:25-cv-02136-RFB-MDC (D. Nev. Oct. 30, 2025) (attached herein as Exhibit F). The *Jacobo Ramirez* Response addresses substantially the same questions at issue in the case at bar regarding DHS's authority to detain individuals under § 1225(b)(2) who are not yet admitted and whose cases remain in pending removal proceedings.

For efficiency and consistency, Federal Respondents adopt the *Jacobo Ramirez* Response in full. As the response demonstrates, Petitioners' lawful detention under § 1225(b)(2)(A) is mandatory by statute. Further, as the response demonstrates, the Court lacks jurisdiction to adjudicate this matter.

### B. A Growing Body of Well-Reasoned and Persuasive Authority Supports the Federal Respondents' Legal Positions Including the Recent Fifth Circuit Court of Appeals Decision in *Buenrostro-Mendez v. Bondi*, 2026 U.S. App. LEXIS 3899 (5th Cir. 2026)

In the recent decision on February 6, 2026, from the Fifth Circuit Court of Appeals, *Buenrostro-Mendez v. Bondi*, 2026 U.S. App. LEXIS 3899 (5th Cir. 2026) the Court ruled, "unadmitted aliens apprehended anywhere in the United States are ineligible for release on bond, regardless of how long they have resided inside the United States." *Id.* at 9 (quoting *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216). See attached *Buenrostro-Mendez v. Bondi*, 2026 U.S. App. LEXIS 3899 (5th Cir. 2026) attached hereto as Exhibit G. In *Buenrostro-Mendez* the court stated, "The Supreme Court has said, Section 1225(b)(2) operates as a "catchall provision that applies to all applicants for admission not covered by [subsection (b)(1)]." *Jennings v. Rodriguez*, 583 U.S. 281, 287, 138 S. Ct. 830, 837 (2018). Section 1225(b)(2) does not include any exception that permits the government to release detained aliens on bond." *Id.* at 7. In *Buenrostro-Mendez* the court explained, "unlike § 1225(b), §

1 1226(a)(2)(A) permits, but does not require, the Attorney General to release detained aliens  
2 on "bond of at least \$1,500 with security approved by, and containing conditions prescribed  
3 by, the Attorney General." *See also* 8 C.F.R. §§ 236.1(c)(8), (d), 1236.1(d)(1), 1003.19.  
4 Because § 1226 is not limited to applicants for admission, it also covers numerous grounds  
5 of deportability, including for admitted aliens who overstay or violate the terms of their  
6 visas, engage in conduct that renders them removable, or were improperly admitted. Not  
7 all aliens detained under § 1226(a) are eligible for release on bond. If an alien has  
8 committed one of the criminal offenses enumerated in § 1226(c), he loses his bond  
9 eligibility. 8 U.S.C. § 1226(c)(1)(A)-(E). The Laken Riley Act, enacted in 2025, expanded §  
10 1226(c) by adding new bases for ineligibility for bond. *See* 8 U.S.C. § 1226(c)(1)(E). Aside  
11 from being ineligible for bond, aliens covered by § 1226(c) also may not be granted parole  
12 under 8 U.S.C. § 1182(d)(5)(A)." *Id.* at 8. In *Buenrostro-Mendez*, the court emphasized that 8  
13 U.S.C. § 1225(b)(2)(A) requires detention without eligibility for bond of individuals like  
14 Petitioners who entered the U.S. without being admitted and stated "The statute  
15 unambiguously provides for mandatory detention. *See* 8 U.S.C. § 1225(b)(2)(A) (providing  
16 that aliens "shall be detained") (emphasis added); *see also Jennings*, 583 U.S. at 302, 138 S.  
17 Ct. at 845 ("§§1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion  
18 of applicable proceedings and not just until the moment those proceedings begin.")  
19 (emphasis added). And "neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever  
20 about bond hearings." *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. *Id.* at 11-12.

21 In *Buenrostro-Mendez* the court explained how 8 U.S.C. § 1225(b)(2)(A) and 8  
22 U.S.C. § 1226(a) operate and overlap by stating, "It is true that § 1226 applies to aliens in  
23 the United States. That it does so, however, does not preclude § 1225 from also applying to  
24 such aliens. As the government acknowledges, the two provisions overlap. Accordingly, for  
25 petitioners to find support in *Jennings*, they must overread the Supreme Court's language. In  
26 particular, they seem to infer that when the Supreme Court specified that § 1226 applies to  
27 aliens inside the United States, it implied that § 1225 does not apply to such aliens. But this  
28 is the exact sort of language-parsing inquiry that the Supreme Court has cautioned lower

1 courts against. *See Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 373-74, 143 S. Ct. 1142,  
2 1155 (2023) ("[T]he language of an opinion is not always to be parsed [like the] language of  
3 a statute." (quoting *Reiter v. Sonotone Corp.*, 442 U.S. 330, 341, 99 S. Ct. 2326, 2332 (1979))).  
4 Moreover, even if this court should conduct a granular analysis of the language in *Jennings*,  
5 doing so supports the government's interpretation. In claiming that the Supreme Court's  
6 pronouncement that § 1225(b) applies to aliens who are seeking admission supports their  
7 interpretation, the petitioners inexplicably assume that the Supreme Court understood  
8 "seeking admission" in the same way that petitioners do. It demonstrably did not.  
9 Elsewhere in *Jennings*, the Supreme Court explained that "§ 1225(b) applies to aliens  
10 seeking entry into the United States ('applicants for admission' in the language of the  
11 statute)." *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. That language supports the  
12 government's contention that "applicants for admission" are according to the statute  
13 seeking entry or admission. And it suggests that when the Supreme Court described § 1225  
14 as applying to aliens "seeking admission," it understood that to mean aliens who, like the  
15 petitioners here, are present in the United States without admission." *Id.* at 20-22. In  
16 *Buenrostro-Mendez*, the court addressed the issue of government's longstanding practice  
17 which allowed illegal resident aliens who are present without being admitted, to seek  
18 release on bond under § 1226(a) instead of detaining them pursuant to § 1225(b)(2)(A) and  
19 explained, "While that is true, the government's past practice has little to do with the  
20 statute's text. The text says what it says, regardless of the decisions of prior  
21 Administrations. Years of consistent practice cannot vindicate an interpretation that is  
22 inconsistent with a statute's plain text. *See, e.g., Pereira v. Sessions*, 585 U.S. 198, 204, 138 S.  
23 Ct. 2105, 2111 (2018). In *Pereira*, the court considered whether notices to appear for  
24 removal proceedings under 1229(a) had to specify the time and place of removal  
25 proceedings. *Id.* at 202, 138 S. Ct. at 2110. Despite 21 years during which the government  
26 consistently served notices to appear that omitted time and place information, the court  
27 rejected the government's practice based on the text of § 1229(a). *Id.* at 205, 209, 138 S. Ct.  
28 at 2111, 2114. The same approach is appropriate here. Regardless of the government's past

1 practice and regardless of Congress's silence on § 1225(b)(2)(A), the text controls.” Id. at  
2 22.

3 *Buenrostro-Mendez* applies to this case, since Petitioner entered the U.S. without  
4 inspection and is an applicant for admission who is lawfully mandatorily detained under §  
5 1225(b)(2)(A) and is not subject to discretionary detention under 8 U.S.C. § 1226(a).  
6 Although *Buenrostro-Mendez* is not a case from the Ninth Circuit Court of Appeals, it is a  
7 very recent Circuit Court of Appeals decision, which is cited as persuasive authority that  
8 squarely addresses the issues involving 8 U.S.C. § 1225(b)(2)(A) and 8 U.S.C. § 1226(a)  
9 and supports the Federal Respondents’ position.

10 In addition, the United States notes the following recent decisions, each of which  
11 concludes that, when properly interpreted and applied, the governing statutes support the  
12 Federal Respondents’ position in this case: *Chavez v. Noem*, No. 25-02325, 2025 WL  
13 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351  
14 (D. Neb. Sept. 30, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at \*1  
15 (E.D. Wis. Oct. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-01467, 2025 WL 3048926  
16 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463, 2025 WL 3095972  
17 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942 (E.D.  
18 Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, 1:25-cv-00177 (N.D. Tex. 2025); *Montoya*  
19 *Cabanas v. Bondi*, 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Altamiro*  
20 *Ramos v. Lyons*, 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Cortes Alonzo*  
21 *v. Noem*, No. 1:25-cv-01519, 2025 WL 3208284, at \*1 (E.D. Cal. Nov. 17, 2025).

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**III. Conclusion**

For the foregoing reasons, Federal Respondents respectfully request that the Court deny Petitioners' Petition for Writ of Habeas Corpus.

Respectfully submitted this 13th day of February 2026.

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