

TODD BLANCHE
Deputy Attorney General of the United States
SIGAL CHATTAH
First Assistant United States Attorney
District of Nevada
Nevada Bar Number 8264
VIRGINIA T. TOMOVA
Assistant United States Attorney
Nevada Bar No. 12504
TAMER B. BOTROS
Assistant United States Attorney
Nevada Bar No. 12183
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101
Phone: (702) 388-6336
Fax: (702) 388-6787
Virginia.Tomova@usdoj.gov
Tamer.Botros@usdoj.gov
Attorneys for the Federal Respondents

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PASCACIO RAMIREZ-ROSALES,

Petitioners,

v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; Thomas HOGAN, Field
Office Director of Enforcement and Removal
Operations, Las Vegas Field Office,
Immigration and Customs Enforcement;
Pamela BONDI, U.S. Attorney General; John
MATTOS, Warden of Nevada Southern
Detention Center, Todd LYONS, Acting
Director of U.S. Immigration and Customs
Enforcement; DEPARTMENT OF JUSTICE;
and Sirce OWEN, Acting Director for
Executive Office for Immigration Review,

Respondents.

Case No. 2:26-cv-00327-RFB-NJK

**Federal Respondents' Response to
Petitioner's Motion for Preliminary
Injunction (ECF No. 2)**

**NO ORAL ARGUMENT
REQUESTED**

Federal Respondents Kristi Noem, Thomas Hogan, Pamela Bondi, Todd Lyons,
Department of Justice and Sirce Owen hereby file their Response to Petitioner Pascacio
Ramirez-Rosales' Motion for Preliminary Injunction. (ECF No. 2). Pursuant to the Order
to Show Cause, Federal Respondents do not request oral argument or an evidentiary
hearing on the Motion and request the Court rule on the papers. ECF No. 4.

///

I. Factual Background

Petitioner Pascacio Ramirez-Rosales (“Petitioner”) who is a Citizen of Mexico entered the United States illegally and without inspection at an unknown location on or about the year 2000. See ECF No. 2, Page 5, lines 8-9. Petitioner was arrested on December 19, 2025 for the offense of domestic battery and later the case was denied by the District Attorney. See I-213 Form of Petitioner attached hereto as Exhibit A. On December 21, 2025, Clark County Detention Center released Petitioner to ICE custody and Petitioner was issued a Notice to Appear charging him with removability under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). See Notice to Appear attached hereto as Exhibit B. On January 15, 2026 the Immigration Judge (“IJ”) denied bond for lack of jurisdiction and cited to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) which largely stripped immigration courts of the ability to grant bonds. See Order of the Immigration attached hereto as Exhibit C. The IJ ruled, “this court lacks the delegated authority to consider bond for individuals who have not been admitted to the United States, this Court must find that the respondent is not eligible for release on bond.” See Exhibit C, Page 1. Petitioner is currently in removal proceedings and is 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 D). 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, Petitioner’s 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 E. 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), § 1226(a)(2)(A) permits, but does not require, the Attorney General to release detained aliens on “bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General.” *See also* 8 C.F.R. §§ 236.1(c)(8), (d), 1236.1(d)(1), 1003.19. Because § 1226 is not limited to applicants for admission, it also covers numerous grounds of deportability, including for admitted aliens who overstay or violate the terms of their visas, engage in conduct that renders them removable, or were improperly admitted. Not all aliens detained under § 1226(a) are eligible for release on bond. If an alien has committed one of the criminal offenses enumerated in § 1226(c), he loses his bond eligibility. 8 U.S.C. § 1226(c)(1)(A)-(E). The Laken Riley Act, enacted in 2025, expanded § 1226(c) by adding new bases for ineligibility for bond. *See* 8 U.S.C. § 1226(c)(1)(E). Aside from being ineligible for bond, aliens covered by § 1226(c) also may not be granted parole under 8 U.S.C. § 1182(d)(5)(A).” *Id.* at 8. In *Buenrostro-Mendez*, the court emphasized that 8 U.S.C. § 1225(b)(2)(A) requires detention without eligibility for bond of individuals like Petitioner who entered the U.S. without being admitted and stated “The statute

1 unambiguously provides for mandatory detention. *See* 8 U.S.C. § 1225(b)(2)(A) (providing
2 that aliens "*shall* be detained") (emphasis added); *see also Jennings*, 583 U.S. at 302, 138 S.
3 Ct. at 845 ("§§1225(b)(1) and (b)(2) *mandate* detention of aliens throughout the completion
4 of applicable proceedings and not just until the moment those proceedings begin.")
5 (emphasis added). And "neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever
6 about bond hearings." *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. *Id.* at 11-12.

7 In *Buenrostro-Mendez* the court explained how 8 U.S.C. § 1225(b)(2)(A) and 8
8 U.S.C. § 1226(a) operate and overlap by stating, "It is true that § 1226 applies to aliens in
9 the United States. That it does so, however, does not preclude § 1225 from also applying to
10 such aliens. As the government acknowledges, the two provisions overlap. Accordingly, for
11 petitioners to find support in *Jennings*, they must overread the Supreme Court's language. In
12 particular, they seem to infer that when the Supreme Court specified that § 1226 applies to
13 aliens inside the United States, it implied that § 1225 does not apply to such aliens. But this
14 is the exact sort of language-parsing inquiry that the Supreme Court has cautioned lower
15 courts against. *See Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 373-74, 143 S. Ct. 1142,
16 1155 (2023) ("[T]he language of an opinion is not always to be parsed [like the] language of
17 a statute." (quoting *Reiter v. Sonotone Corp.*, 442 U.S. 330, 341, 99 S. Ct. 2326, 2332 (1979))).
18 Moreover, even if this court should conduct a granular analysis of the language in *Jennings*,
19 doing so supports the government's interpretation. In claiming that the Supreme Court's
20 pronouncement that § 1225(b) applies to aliens who are seeking admission supports their
21 interpretation, the petitioners inexplicably assume that the Supreme Court understood
22 "seeking admission" in the same way that petitioners do. It demonstrably did not.
23 Elsewhere in *Jennings*, the Supreme Court explained that "§ 1225(b) applies to aliens
24 seeking entry into the United States ('applicants for admission' in the language of the
25 statute)." *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. That language supports the
26 government's contention that "applicants for admission" are according to the statute
27 seeking entry or admission. And it suggests that when the Supreme Court described § 1225
28 as applying to aliens "seeking admission," it understood that to mean aliens who, like the

petitioners here, are present in the United States without admission.” *Id.* at 20-22. In *Buenrostro-Mendez*, the court addressed the issue of government’s longstanding practice which allowed illegal resident aliens who are present without being admitted, to seek release on bond under § 1226(a) instead of detaining them pursuant to § 1225(b)(2)(A) and explained, “While that is true, the government’s past practice has little to do with the statute’s text. The text says what it says, regardless of the decisions of prior Administrations. Years of consistent practice cannot vindicate an interpretation that is inconsistent with a statute’s plain text. *See, e.g., Pereira v. Sessions*, 585 U.S. 198, 204, 138 S. Ct. 2105, 2111 (2018). In *Pereira*, the court considered whether notices to appear for removal proceedings under 1229(a) had to specify the time and place of removal proceedings. *Id.* at 202, 138 S. Ct. at 2110. Despite 21 years during which the government consistently served notices to appear that omitted time and place information, the court rejected the government’s practice based on the text of § 1229(a). *Id.* at 205, 209, 138 S. Ct. at 2111, 2114. The same approach is appropriate here. Regardless of the government’s past practice and regardless of Congress’s silence on § 1225(b)(2)(A), the text controls.” *Id.* at 22.

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

In addition, the United States notes the following recent decisions, each of which concludes that, when properly interpreted and applied, the governing statutes support the Federal Respondents’ position in this case: *Chavez v. Noem*, No. 25-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *1

(E.D. Wis. Oct. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v. Noem*, 1:25-cv-00177 (N.D. Tex. 2025); *Montoya Cabanas v. Bondi*, 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Altamiro Ramos v. Lyons*, 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025).

III. Conclusion

For the foregoing reasons, Federal Respondents respectfully request that the Court deny Petitioner's Motion for Preliminary Injunction.

Respectfully submitted this 13th day of February 2026.

TODD BLANCHE
Deputy Attorney General of the United States
SIGAL CHATTAH
First Assistant United States Attorney

/s/ Tamer B. Botros
TAMER B. BOTROS
Assistant United States Attorney