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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 Gabriel Antonio Maldonado-Jovel

12 Petitioner,

13 v.

14 KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security; TODD LYONS, in his official
15 capacity as Acting Director of Immigration
and Customs Enforcement; MARCOS
16 CHARLES, in his official capacity as ICE
Field Officer Director; JOHN MATTOS, in
17 his official capacity as the warden of the
Nevada Southern Detention Facility;
18 PAMELA BONDI, in her official capacity
as the United States Attorney General; The
19 Executive Office for Immigration Review;
20 United States Immigration and Customs
Enforcement.
21

22 Respondents.

Case No. 2:26-cv-00360-RFB-EJY

**Federal Respondents' Response to
Petitioner's Verified Petition For
Habeas Corpus (ECF No. 1)**

**NO ORAL ARGUMENT
REQUESTED**

23 Federal Respondents hereby file their Response to Petitioner Gabriel Antonio
24 Maldonado-Jovel (ECF No. 1). Pursuant to the Order to Show Cause, Federal
25 Respondents does not request oral argument or an evidentiary hearing on the Petition and
26 request the Court rule on the papers. ECF No. 4.

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I. Introduction

On October 25, 2025, Petitioner Gabriel Antonio Maldonado-Jovel (“Petitioner”) a citizen of Honduras was detained by ICE officers for entering the U.S. without admission or parole and without inspection and subject to mandatory detention under 8 U.S.C. § 1225(b)(2). See I-213 of Petitioner attached hereto as Exhibit A. A Notice to Appear was issued. See Notice to Appear dated October 25, 2026, attached hereto as Exhibit B. Petitioner was issued a warrant for his arrest by DHS to initiate removal proceedings. See Warrant for Arrest of Alien attached hereto as Exhibit C. Petitioner was denied a request for a bond hearing. See Order of the Immigration Judge dated November 25, 2025, attached hereto as Exhibit D. Petitioner was again denied a request for a bond hearing on January 15, 2026. See Order of the Immigration Judge dated January 15, 2026, attached hereto as Exhibit E. Petitioner is currently in removal proceedings.

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, 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.

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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), § 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

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

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

1 petitioners here, are present in the United States without admission.” *Id.* at 20-22. In
2 *Buenrostro-Mendez*, the court addressed the issue of government’s longstanding practice
3 which allowed illegal resident aliens who are present without being admitted, to seek
4 release on bond under § 1226(a) instead of detaining them pursuant to § 1225(b)(2)(A) and
5 explained, “While that is true, the government’s past practice has little to do with the
6 statute’s text. The text says what it says, regardless of the decisions of prior
7 Administrations. Years of consistent practice cannot vindicate an interpretation that is
8 inconsistent with a statute’s plain text. *See, e.g., Pereira v. Sessions*, 585 U.S. 198, 204, 138 S.
9 Ct. 2105, 2111 (2018). In *Pereira*, the court considered whether notices to appear for
10 removal proceedings under 1229(a) had to specify the time and place of removal
11 proceedings. *Id.* at 202, 138 S. Ct. at 2110. Despite 21 years during which the government
12 consistently served notices to appear that omitted time and place information, the court
13 rejected the government’s practice based on the text of § 1229(a). *Id.* at 205, 209, 138 S. Ct.
14 at 2111, 2114. The same approach is appropriate here. Regardless of the government’s past
15 practice and regardless of Congress’s silence on § 1225(b)(2)(A), the text controls.” *Id.* at
16 22.

17 *Buenrostro-Mendez* applies to this case, since Petitioner entered the U.S. without
18 inspection and is an applicant for admission who is lawfully mandatorily detained under §
19 1225(b)(2)(A) and is not subject to discretionary detention under 8 U.S.C. § 1226(a).
20 Although *Buenrostro-Mendez* is not a case from the Ninth Circuit Court of Appeals, it is a
21 very recent Circuit Court of Appeals decision, which is cited as persuasive authority that
22 squarely addresses the issues involving 8 U.S.C. § 1225(b)(2)(A) and 8 U.S.C. § 1226(a)
23 and supports the Federal Respondents’ position.

24 In addition, the United States notes the following recent decisions, each of which
25 concludes that, when properly interpreted and applied, the governing statutes support the
26 Federal Respondents’ position in this case: *Chavez v. Noem*, No. 25-02325, 2025 WL
27 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351
28 (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 Petition for Habeas Corpus.

Respectfully submitted this 19th day of February 2026.

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