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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA (Las Vegas)**

BALDEMAR MORA ESPEJO,

Petitioner,

vs.

KRISTI NOEM, Acting Secretary of the
United States Department of Homeland
Security;

PAM BONDI, Attorney General of the
United States;

THOMAS E. FEELEY, Salt Lake City
Field Office Director, U.S. Immigration
and Customs Enforcement;

JOHN MATTOS, Warden at Nevada
Southern Detention Center

Respondents.

CASE NO. 2:26-cv-00372-RFB-BNW
Agency N 

**REPLY TO FEDERAL
RESPONDENTS' RESPONSE TO
ORDER TO SHOW CAUSE
(ECF. No. 9)**

Reply To Federal Respondents' Response to Order to Show Cause (ECF. No. 9)

I. ARGUMENT

A. THIS COURT’S PRIOR DECISION CONTROLS, AND RESPONDENTS DO NOT PRESENT ANY NOVEL ARGUMENT THAT THIS COURT HAS NOT ADDRESSED.

In a recent reply, Respondents expressly conceded that this case is controlled by this Court’s prior decisions in *Jacobo-Ramirez v. Noem*, No. 25-CV-02136, and *Perez-Regalado v. Feeley*, No. 25-CV-02409, as the “material facts are not meaningfully distinguishable.” Federal Respondents’ Reply to Pet. For Writ of Habeas Corpus, *Venegas Banuelos v. Noem*, No. 2:25-cv-02483-RFB-BNW (D. Nev. Feb. 2, 2026), at 2. Respondents now maintain the same position that this Court has rejected on various occasions despite a rapidly growing body of case law that supports Petitioner’s claim. In spite of effectively conceding cases dealing with the same factual backgrounds, Respondents now, feeling emboldened by non-controlling precedent from another Circuit, double down on their position without providing a meaningful argument in support of that position.

This Court’s prior decisions do indeed control the instant case, and as such, the Court should grant the equitable relief as Petitioner’s case does not vary substantially from any other case presented by similarly situated detainees. Importantly, this Court recently certified a class of individuals of which Petitioner is a member and would qualify for the relief being sought for the class. *Jacobo Ramirez v. Noem*, No. 25-CV-02136, 2026 WL 310090, at *3. (D. Nev. Feb. 5, 2026). In the opinion certifying the class, this Court again rejected the arguments that Respondents repeatedly place before it without making individualized arguments justifying

Petitioner's prolonged detention. *See id.* at *8–*17. As such, Petitioner's request should be granted.

1. RESPONDENTS' ARGUMENT RELIES ON NONCONTROLLING PRECEDENT FROM OTHER DISTRICTS AND THE FIFTH CIRCUIT.

Respondents' reply fails to address all arguments and relies on *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. 2026), as support and only focuses on courts' interpretation of *Jennings v. Rodriguez*. The Respondents fail to square the repeatedly rejected claims with traditional canons of statutory interpretation as the new policy relates to Laken Riley Act.

In *Buenrostro-Mendez*, the Fifth Circuit gave Federal Respondents an exceedingly rare win when it comes to their arguments in favor of the government's new detention policy. The *Buenrostro* court emphasizes that *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), does not require courts to parse the language of a Supreme Court decision as they would a statute. *Buenrostro-Mendez*, No. 25-20496, at 16. The rest of the Fifth Circuit's discussion focuses solely on this contention, and the Respondents fail to meaningfully address any other arguments before this Court. Specifically, this Court has repeatedly found that the language of the new detention policy cannot be squared with the language of new legislation that controls mandatory detention for certain individuals while permitting release on bond for others.

The BIA's novel interpretation of § 1225(b)(2)(A) would deem the LRA meaningless and duplicative. The LRA specifically targets individuals who are inadmissible under § 1182(a)(6)(A) for entering without inspection, but only when they also face the criminal liabilities enumerated in the LRA. If § 1225(b)(2)(A) already required mandatory detention for

1 all who entered without inspection—as the BIA now claims—the LRA would add nothing
2 new. Congress would not have created mandatory detention rules for a group already swept in,
3 leaving the LRA without any independent effect. Courts reject such interpretations because
4 they render statutes superfluous. *See Duncan v. Walker*, 533 U.S. 167, 174 (2001).
5

6 The statutory text is plain. The LRA carved out a narrow group for mandatory
7 detention—not all who entered without inspection. But the BIA’s new interpretation erases
8 much of § 1226, contradicts the LRA, and departs from the government’s own position held
9 until July 2025. No statutory amendment changed the text of either § 1225 or § 1226. The only
10 change is the BIA’s sudden reinterpretation. That shift confirms the interpretation is plainly
11 wrong.
12

13 To the extent that the INA’s text is ambiguous, this Court should resolve it in favor of
14 liberty. The Supreme Court has long applied the rule of lenity in criminal cases, holding that
15 “ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity.”
16 *United States v. Bass*, 404 U.S. 336, 347 (1971) (internal citations omitted). Under the rule of
17 lenity, “any reasonable doubt about the application of a penal law must be resolved in the favor
18 of liberty.” *Wooden v. United States*, 595 U.S. 360, 388 (2022) (Kavanaugh, J., concurring).
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20

21 **2. RESPONDENTS CONTINUE TO IGNORE A NATIONWIDE**
22 **RULING REGARDING A CLASS OF INDIVIDUALS OF WHICH**
23 **PETITIONER IS A MEMBER.**

24 Beyond the insistence that this Court ignore several of its previous decisions and a
25 growing body of precedent, the Respondents continue to ignore a nationwide ruling from the
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2 Central District of California that has granted relief to a nationwide class of individuals of
3 which Petitioner is a member. In fact, on Feb. 18, 2026, Judge Sunshine S. Sykes issued an
4 order to Enforce Judgment on the nationwide class's summary judgment. *Maldonado Bautista*
5 *v. Santacruz Jr. et al.*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026).
6

7 In the order enforcing judgment, the court emphasized that the government has urged
8 Immigration Judges to ignore the judgment granting relief to the class of individuals, and the
9 Federal Respondents in that case were unable to provide a direct answer. *See id.* at 10. The
10 *Maldonado-Bautista* court also notes that "Respondents have far crossed the boundaries of
11 constitutional conduct." *Id.* The court notes that the Respondents' course of action would only
12 be viable "in a world where the Constitution does not exist." *Id.* at 11. Beyond ignoring the
13 final judgment, Respondents continue, in both this Court and other courts nationwide, to
14 "proffer frivolous arguments that aim to insulate unlawful policies from judicial review while
15 taking positions that seek to bludgeon the separation of powers into oblivion." *Id.*
16

17 Such a course of action cannot stand in a Constitutional democracy. Respondents' clear
18 disdain for the rule of law and insistence on incomplete and trite arguments are all evidence
19 that the Respondents' claim as it relates to the detention policy is baseless and unfounded in
20 law.
21

22 **B. THIS COURT HAS JURISDICTION.**
23

24 This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States
25 Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody
26 under color of authority of the United States, and such custody is in violation of the
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1 Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28
2 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651. Further, the
3 Respondents make the same arguments with respect to jurisdiction that this Court has rejected
4 now on several occasions. *See, e.g., Sanchez Aparicio v. Noem*, No. 25-CV-01919, 2025 WL
5 2998098, at *6 (D. Nev. Oct. 23, 2025); *E.C. v. Noem*, No. 25-CV-01789, 2025 WL 2916264,
6 at *8 (D. Nev. Oct. 14, 2025); *Roman v. Noem*, No. 25-CV-01684, 2025 WL 2710211, at *5;
7 *Vazquez v. Feeley*, No. 25-CV-01542, 2025 WL 2676082, at *13 (D. Nev. Sep. 17, 2025). In
8 Respondents' reply, they sidestep this Court's prior decisions—and numerous decisions from
9 federal district courts nationwide—that have squarely recognized jurisdiction over habeas
10 petitions challenging this type of immigration detention.
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13
14 Petitioner again emphasizes that he would belong to the recently certified class of
15 individuals indicated in this Court's recent decision. *Jacobo-Ramirez*, 2026 WL 310090, at *3.
16 In that opinion, this Court rejected all Federal Respondents' proclaimed grounds for contesting
17 jurisdiction. *See id.* at *8–*14. Petitioner incorporates by reference the Court's discussion of
18 jurisdiction. *See id.*
19

20 **1. 8 U.S.C. § 1252(b)(9) does not preclude jurisdiction.**

21 Concerning the question of removability, 8 U.S.C. § 1252(b)(9) funnels judicial review
22 to the appropriate federal court of appeals, which would be the Ninth Circuit here. However,
23 where a petitioner is not seeking review of a removal order or is challenging their detention or
24 a part of the removal process, § 1252(b)(9) is not a jurisdictional bar. *Nielsen v. Preap*, 586
25 U.S. 392, 402 (2019); *see also Dep't of Homeland Sec. v. Regents of the Univ. of California*,

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2 591 U.S. 1, 19 (2020) (“§ 1252(b)(9) does not present a jurisdictional bar where those bringing
3 suit are not asking for review of an order of removal, the decision to seek removal, or the
4 process by which removability will be determined.”). Further, Respondents concede that 8
5 U.S.C. § 1252(b)(9) does “not bar claims challenging the conditions or *scope of detention* of
6 foreign nationals in removal proceedings.” Respondents argue that § 1252(b)(9) should be read
7 to bar all claims “challenging the decision to detain.” This reading contradicts the clear
8 language of the statute as the decision to detain is unequivocally a part of the “scope of
9 detention.”
10

11 **2. 8 U.S.C. § 1252(g) does not preclude jurisdiction.**

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13 Another jurisdictional bar exists in 8 U.S.C. § 1252(g), which states that courts cannot
14 hear “any cause of claim by or on behalf of any alien arising from the decision or action by the
15 Attorney General to commence proceedings, adjudicate cases, or execute removal orders
16 against any alien under this chapter.” § 1252(g). The Supreme Court has limited application of
17 this section to three discrete actions that an Attorney General may take: (1) the decision or
18 action to commence proceedings, (2) the decision or action to adjudicate cases, and (3) the
19 decision or action to execute removal orders. *Reno v. Am.-Arab Anti-Discrimination Comm.*,
20 525 U.S. 471, 482 (1999). Because Petitioner challenges the lawfulness of his detention, it is
21 not a challenge to one of the three discrete events listed in *Reno*.
22

23 **3. 8 U.S.C. § 1226(e) does not preclude jurisdiction.**

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25 While Section 1226(e) of the INA precludes an alien from challenging a discretionary
26 judgment by the Attorney General or a decision that the Attorney General has made regarding
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1 their detention or release, *see Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018), Section
2 1226(e) “does not preclude challenges to the statutory framework that permits the alien’s
3 detention without bail.” *Jennings*, 138 S. Ct. at 841.
4

5 Moreover, Section 1226(e) does not limit habeas review over constitutional claims or
6 questions of law. *Singh v. Holder*, 638 F.3d 1196 at 1202. As Petitioner is raising constitutional
7 claims and questions of law—whether the automatic stay provision in this case and the BIA’s
8 new interpretation of the INA violate the Petitioner’s right to procedural due process and
9 substantive due process after denying him the ability to post a bond—Section 1226(e) does not
10 preclude this Court’s jurisdiction to review Petitioner’s habeas petition.
11

12 II. CONCLUSION

13 WHEREFORE, and for the foregoing reasons, Petitioner asserts that his continued
14 detention is unlawful, and he respectfully requests that this Court grant his Petition for Writ of
15 Habeas Corpus and order a bond hearing within (7) day under 8 U.S.C. §1229(a), and if the
16 Immigration Judge grants a bond, to further enjoin the government from filing an automatic
17 stay under 8 C.F.R. § 1003.19(i)(2).
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20 Dated: February 23, 2026
21 /s/ **Sylvia L. Esparza**

22 _____
23 Sylvia L. Esparza, Esq.
24 Attorney for Petitioner
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