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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LEOBARDO GARCIA RINCON,

Petitioners,

v.

THOMAS E. FEELEY, Director of
Enforcement and Removal Operations, Salt
Lake City Field Office, Immigration and
Customs Enforcement; KRISTI NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY;
PAMELABONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; JOHN
MATTOS, Warden of NEVADA
SOUTHERN DETENTION CENTER, in
their official capacities,

Respondents.

Case No. 2:26-cv-00396

**Federal Respondents' Response to
Petitioner's Petition for Writ of
Habeas Corpus (ECF No.1)**

**NO ORAL ARGUMENT
REQUESTED**

Federal Respondents Thomas Feeley, Kristi Noem, U.S. Department of Homeland
Security, and Pamela Bondi hereby file their Response to Petitioner Leobardo Garcia
Rincon's Petition for Writ of Habeas Corpus. (ECF No. 1). Pursuant to the Order to Show
Cause, Federal Respondents have no new arguments to offer that have not already been

1 addressed by the Court and will incorporate by reference to their previous briefing ECF
2 No. 6.

3 **I. Factual Background**

4 On January 24, 2026, Petitioner Leobardo Garcia Rincon (“Petitioner”) a
5 citizen of Mexico was detained by ICE officers for entering the U.S. without admission or
6 parole and without inspection and subject to mandatory detention under 8 U.S.C. §
7 1225(b)(2). See Form I-213 of Petitioner attached hereto as Exhibit A. A Notice to Appear
8 was issued on January 24, 2026. See Notice to Appear dated January 24, 2026, attached
9 hereto as Exhibit B. Petitioner was denied a request for a bond hearing. See Order of the
10 Immigration Judge dated February 9, 2026, attached hereto as Exhibit C.

11 **II. Legal Argument**

12 **A. Incorporation By Reference of the United States’ Prior Responses**

13 Federal Respondents hereby incorporate by reference the Federal Respondents’
14 Response in *Jacobo Ramirez v. Noem*, Case No. 2:25-cv-02136-RFB-MDC (D. Nev. Oct. 30,
15 2025) (attached herein as Exhibit D). The *Jacobo Ramirez* Response addresses substantially
16 the same questions at issue in the case at bar regarding DHS’s authority to detain
17 individuals under § 1225(b)(2) who are not yet admitted and whose cases remain in
18 pending removal proceedings.

19 For efficiency and consistency, Federal Respondents adopt the *Jacobo Ramirez*
20 Response in full. As the response demonstrates, Petitioner’s lawful detention under §
21 1225(b)(2)(A) is mandatory by statute. Further, as the response demonstrates, the Court
22 lacks jurisdiction to adjudicate this matter.

23 **B. A Growing Body of Well-Reasoned and Persuasive Authority Supports the** 24 **Federal Respondents’ Legal Positions Including the Recent Fifth Circuit Court** 25 **of Appeals Decision in *Buenrostro-Mendez v. Bondi*, 2026 U.S. App. LEXIS 3899** **(5th Cir. 2026)**

26 In the recent decision on February 6, 2026, from the Fifth Circuit Court of Appeals,
27 *Buenrostro-Mendez v. Bondi*, 2026 U.S. App. LEXIS 3899 (5th Cir. 2026) the Court ruled,
28 “unadmitted aliens apprehended anywhere in the United States are ineligible for release on

1 bond, regardless of how long they have resided inside the United States.” Id. at 9 (quoting
2 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216). See attached *Buenrostro-Mendez v. Bondi*, 2026
3 U.S. App. LEXIS 3899 (5th Cir. 2026) attached hereto as Exhibit E. In *Buenrostro-Mendez*
4 the court stated, “The Supreme Court has said, Section 1225(b)(2) operates as a “catchall
5 provision that applies to all applicants for admission not covered by [subsection
6 (b)(1)].” *Jennings v. Rodriguez*, 583 U.S. 281, 287, 138 S. Ct. 830, 837 (2018). Section
7 1225(b)(2) does not include any exception that permits the government to release detained
8 aliens on bond.” Id at 7. In *Buenrostro-Mendez* the court explained, “unlike § 1225(b), §
9 1226(a)(2)(A) permits, but does not require, the Attorney General to release detained aliens
10 on “bond of at least \$1,500 with security approved by, and containing conditions prescribed
11 by, the Attorney General.” See also 8 C.F.R. §§ 236.1(c)(8), (d), 1236.1(d)(1), 1003.19.
12 Because § 1226 is not limited to applicants for admission, it also covers numerous grounds
13 of deportability, including for admitted aliens who overstay or violate the terms of their
14 visas, engage in conduct that renders them removable, or were improperly admitted. Not
15 all aliens detained under § 1226(a) are eligible for release on bond. If an alien has
16 committed one of the criminal offenses enumerated in § 1226(c), he loses his bond
17 eligibility. 8 U.S.C. § 1226(c)(1)(A)-(E). The Laken Riley Act, enacted in 2025, expanded §
18 1226(c) by adding new bases for ineligibility for bond. See 8 U.S.C. § 1226(c)(1)(E). Aside
19 from being ineligible for bond, aliens covered by § 1226(c) also may not be granted parole
20 under 8 U.S.C. § 1182(d)(5)(A).” Id. at 8. In *Buenrostro-Mendez*, the court emphasized that 8
21 U.S.C. § 1225(b)(2)(A) requires detention without eligibility for bond of individuals like
22 Petitioner who entered the U.S. without being admitted and stated “The statute
23 unambiguously provides for mandatory detention. See 8 U.S.C. § 1225(b)(2)(A) (providing
24 that aliens “shall be detained”) (emphasis added); see also *Jennings*, 583 U.S. at 302, 138 S.
25 Ct. at 845 (“§§1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion
26 of applicable proceedings and not just until the moment those proceedings begin.”)
27 (emphasis added). And “neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever
28 about bond hearings.” *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. Id. at 11-12.

1 In *Buenrostro-Mendez* the court explained how 8 U.S.C. § 1225(b)(2)(A) and 8
2 U.S.C. § 1226(a) operate and overlap by stating, “It is true that § 1226 applies to aliens in
3 the United States. That it does so, however, does not preclude § 1225 from also applying to
4 such aliens. As the government acknowledges, the two provisions overlap. Accordingly, for
5 petitioners to find support in *Jennings*, they must overread the Supreme Court's language. In
6 particular, they seem to infer that when the Supreme Court specified that § 1226 applies to
7 aliens inside the United States, it implied that § 1225 does not apply to such aliens. But this
8 is the exact sort of language-parsing inquiry that the Supreme Court has cautioned lower
9 courts against. See *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 373-74, 143 S. Ct. 1142,
10 1155 (2023) (“[T]he language of an opinion is not always to be parsed [like the] language of
11 a statute.” (quoting *Reiter v. Sonotone Corp.*, 442 U.S. 330, 341, 99 S. Ct. 2326, 2332 (1979))).
12 Moreover, even if this court should conduct a granular analysis of the language in *Jennings*,
13 doing so supports the government's interpretation. In claiming that the Supreme Court's
14 pronouncement that § 1225(b) applies to aliens who are seeking admission supports their
15 interpretation, the petitioners inexplicably assume that the Supreme Court understood
16 “seeking admission” in the same way that petitioners do. It demonstrably did not.
17 Elsewhere in *Jennings*, the Supreme Court explained that “§ 1225(b) applies to aliens
18 seeking entry into the United States ('applicants for admission' in the language of the
19 statute).” *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. That language supports the
20 government's contention that “applicants for admission” are according to the statute
21 seeking entry or admission. And it suggests that when the Supreme Court described § 1225
22 as applying to aliens “seeking admission,” it understood that to mean aliens who, like the
23 petitioners here, are present in the United States without admission.” *Id.* at 20-22. In
24 *Buenrostro-Mendez*, the court addressed the issue of government's longstanding practice
25 which allowed illegal resident aliens who are present without being admitted, to seek
26 release on bond under § 1226(a) instead of detaining them pursuant to § 1225(b)(2)(A) and
27 explained, “While that is true, the government's past practice has little to do with the
28 statute's text. The text says what it says, regardless of the decisions of prior

1 Administrations. Years of consistent practice cannot vindicate an interpretation that is
2 inconsistent with a statute's plain text. *See, e.g., Pereira v. Sessions*, 585 U.S. 198, 204, 138 S.
3 Ct. 2105, 2111 (2018). In *Pereira*, the court considered whether notices to appear for
4 removal proceedings under 1229(a) had to specify the time and place of removal
5 proceedings. *Id.* at 202, 138 S. Ct. at 2110. Despite 21 years during which the government
6 consistently served notices to appear that omitted time and place information, the court
7 rejected the government's practice based on the text of § 1229(a). *Id.* at 205, 209, 138 S. Ct.
8 at 2111, 2114. The same approach is appropriate here. Regardless of the government's past
9 practice and regardless of Congress's silence on § 1225(b)(2)(A), the text controls." *Id.* at
10 22.

11 *Buenrostro-Mendez* applies to this case, since Petitioner entered the U.S. without
12 inspection and is an applicant for admission who is lawfully mandatorily detained under §
13 1225(b)(2)(A) and is not subject to discretionary detention under 8 U.S.C. § 1226(a).
14 Although *Buenrostro-Mendez* is not a case from the Ninth Circuit Court of Appeals, it is a
15 very recent Circuit Court of Appeals decision, which is cited as persuasive authority that
16 squarely addresses the issues involving 8 U.S.C. § 1225(b)(2)(A) and 8 U.S.C. § 1226(a)
17 and supports the Federal Respondents' position.

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

1 *Ramos v. Lyons*, 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Cortes Alonzo*
2 *v. Noem*, No. 1:25-cv-01519, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025).

3 **III. Conclusion**

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

6 Respectfully submitted this 20th day of February 2026.

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