IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-01047-CNS

LUZ AGUIRRE HERNANDEZ,

Petitioner,

v.

JUAN BALTAZAR, Warden of the Aurora ICE Processing Center, in his official capacity,
GEORGE VALDEZ, Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity,
KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity,
TODD LYONS, Acting Director, Immigration and Customs Enforcement, in his official capacity,
PAM BONDI, in her official capacity as Attorney General of the United States, in his official capacity,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE, ECF No. 8

Respondents respond to the Court's Order to Show Cause, ECF No. 8, in which the Court directed Respondents to respond to Petitioner's Petition for Writ of Habeas Corpus, ECF No. 1 (the "Petition"), and Motion for a Temporary Restraining Order And/Or Preliminary Injunction, ECF No. 4 (the "TRO Motion").[1]

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[1] The Court directed Petitioner to serve Respondents with copies of the Petition, Motion, accompanying papers, and the Court's order by e-mail and overnight mail. ECF No. 8. Respondents received an e-mail completing electronic service on March 15, 2026, and received the overnight mail on March 17, 2026. *See* ECF Nos. 10-1 & 10-2. The Court ordered Respondents to respond within five calendar days of service. Five calendar days from the completion of service was March 22, 2026. Because the deadline falls on a Sunday, the period continues to run until the next day. *See* Fed. R. Civ. P. 6(a)(1)(C). Counsel for Respondents conferred with Petitioner's counsel regarding this

The central legal issues presented in this case concern (1) whether ICE may invoke an automatic stay and continue to detain a noncitizen after an Immigration Judge ("IJ") has ordered bond pursuant to 8 C.F.R. § 1003.19(i)(2), and (2) whether Petitioner is detained improperly under 8 U.S.C. § 1225(b)(2). Petitioner argues that the automatic stay provision of 8 C.F.R. § 1003.19(i)(2) violates procedural due process, substantive due process, and is ultra vires as beyond the statutory authority granted to the Department of Homeland Security ("DHS") in the Immigration and Nationality Act. ECF No. 1 ¶¶ 58-77. Petitioner also argues that Respondents are detaining her under 8 U.S.C. § 1225(b)(2), when she should be detained under § 1226(a). *Id.* ¶¶ 78-88. Those issues are not materially different from the issues this Court has resolved in a prior case. *See Arana-Hernandez v. Baltasar*, 26-cv-00725-CNS, 2026 WL 696642 (D. Colo. Mar. 12, 2026). Respondents respectfully disagree with that ruling. But to conserve judicial and party resources and expedite the Court's consideration of this case, while preserving legal arguments and reserving all of Respondents' rights including the right to appeal, Respondents submit this abbreviated response.

Petitioner entered the United States without inspection and has been residing in the country since approximately 2004. *See* ECF No. 1 ¶ 1; *see also id.* ¶ 4 (indicating that Petitioner is a member of the class certified in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, 2025 WL 3713987 (C.D. Cal. 2025), which specifies that class members entered without inspection). Petitioner is presently detained by

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understanding of the deadline and Petitioner's counsel agreed to this calculation of the response deadline.

Immigration and Customs Enforcement ("ICE") at the detention facility in Aurora, Colorado. ECF No. 1 ¶¶ 4, 10. On March 5, 2026, an immigration judge considered Petitioner's request for a custody redetermination and ordered Respondents to release Petitioner from custody under bond of $5,000. ECF No. 4-2. Respondents subsequently invoked the automatic stay provision found at 8 C.F.R. § 1003.19(i)(2) while it appeals the immigration judge's custody redetermination decision to the Board of Immigration Appeals ("BIA"). ECF No. 4-3. Petitioner alleges (and Respondents agree) that DHS has argued that it properly detained her under 8 U.S.C. § 1225(b)(2) and, thus, the immigration judge lacked jurisdiction to order a bond. ECF No. 1 ¶ 17.

Respondents have previously addressed the propriety of the automatic stay provision and the Court's jurisdiction to address the statutory basis for Petitioner's detention in their response brief submitted to this Court in *Arana-Hernandez*, 26-cv-00725-CNS, ECF No. 11 (D. Colo. Mar. 4, 2026).[2] Respondents maintain that the automatic stay provision found at 8 C.F.R. § 1003.19(i)(2) does not violate due process and is not ultra vires. *See Arana-Hernandez*, 26-cv-00725-CNS, ECF No. 11 at 3-11. Respondents further maintain that arguments regarding the proper statutory basis for Petitioner's detention are not ripe because, based on the immigration judge's order, Petitioner is currently in custody pursuant to § 1226(a) pending further decision by the BIA. *Id.* at 11-13. Several courts in this district, including this one, have previously rejected Respondents' arguments. *See Arana-Hernandez*, 2026 WL 696642; *Granillo Chavarria v. Baltasar*, 26-cv-0712-WJM, 2026 WL 696580 (D. Colo. Mar. 12, 2026);

[2] A copy of the response brief from *Arana-Hernandez* is attached as Exhibit A.

Merchan-Pacheo v. Noem, 25-cv-03860-SBP, 2026 WL 88526 (D. Colo. Jan. 12, 2026). The Tenth Circuit has not ruled on these issues.

Respondents acknowledge that this Court's prior ruling would lead the Court to reach the same result here, as the facts of this case are not materially distinguishable from that prior case for purposes of whether the automatic stay provision of 8 C.F.R. § 1003.19(i)(2) is constitutional and whether Petitioner can challenge the statutory basis for her detention. Thus, while Respondents do not consent to issuance of the writ and reserve the right to appeal, in order to preserve their arguments, Respondents incorporate their 10-page argument on these issues in *Arana-Hernandez*, 26-cv-00725-CNS, ECF No. 11 at 3-13. *See* Ex. A.

Petitioner has also moved for a Temporary Restraining Order requesting that the Court enjoin Respondents from transferring her outside the District of Colorado and for the same substantive relief as that requested in his underlying habeas Petition. *See* ECF No. 4 at 22. The Court granted, in part, the TRO Motion, when it issued an order enjoining Respondents from transferring Petitioner. *See* ECF No. 8. The remaining relief requested by the TRO Motion is the same as that which he requests in his habeas Petition. Respondents rest on their arguments asserted above regarding whether such relief should be afforded.

* * *

Respondents anticipate that this Court's ruling on whether the automatic stay violates Petitioner's due process rights will resolve this habeas petition. If the Court grants the petition on that ground, it should decline to address additional arguments.

See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach."); *see also Granillo Chavarria*, 2026 WL 696580, at *5 ("Given the Court's conclusion that 8 C.F.R. § 1003.19(i)(2) violates Granillo Chavarria's procedural due process rights, it need not consider whether the automatic stay regulation also violates Granillo Chavarria's substantive due process rights and the APA" and declining "to address Granillo Chavarria's request that it enjoin the Government from re-arresting him pursuant to section 1225(b)(2)(A)."). But if the Court wishes to receive additional briefing on any other issue, Respondents request that the Court issue an order directing Respondents to address such issues.

Dated March 23, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

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s/ Benjamin Gibson
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