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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

ALFREDO GARCIA RIOS, Petitioner, v. KENNETH PORTER, Acting Director of the Boise U.S. Immigration and Customs Enforcement Fild Sub-Office; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, Acting U.S. Attorney General; and MIKE HOLLINSHEAD, Sheriff of Elmore County, Respondents.	Case No. 1:26-CV-00279-AKB **RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS (Dkt. No. 1)**

In this habeas corpus petition, ECF 1, Petitioner Alfredo Garcia Rios—who is currently detained in the Canyon County Jail pursuant to Immigration and Customs Enforcement (ICE) detention—seeks immediate release from ICE's custody. The present petition presents no complicating feature from those previously filed petitions for habeas corpus relief wherein the Court has ordered release. Nevertheless, to ensure preservation of the Government's interpretation of 8 U.S.C. § 1225(b)(2)(A), the Government files the present response.

Background

Petitioner Alfredo Garcia Rios is a native and citizen of Mexico currently in the custody of ICE). Originally, Mr. Rios, who had traveled to the United States as a child, received Deferred Action for Childhood Arrivals (DACA)—a policy that deferred deportation of undocumented children who entered the United States and remained after entering adulthood. His DACA status ended on February 26, 2026. Three months later, on May 6, 2026, he pleaded guilty to a misdemeanor drug paraphernalia charge in Canyon County, Idaho. Shortly thereafter, Petitioner entered ICE custody. Petitioner now challenges his detention under 8 U.S.C. § 1225(b)(2)(A) through a Petition for Writ of Habeas Corpus filed at Dkt. No. 1 (Petition).

Argument

I. The Government herein preserves its argument that 8 U.S.C. § 1225(b)(2)(A) authorizes detention for any "applicant for admission."

The Government maintains its position that the Petitioner is an "applicant for admission" subject to mandatory detention under the plain language of 8 U.S.C. § 1225(b)(2)(A). Relying on its prior briefing regarding the applicability of § 1225(b) and based on the recent decisions from the Courts of Appeals for the Fifth and Eighth Circuits, the Government requests that the Petitioner's request for a writ of habeas corpus be denied. However, the Government understands that all district judges in the District of Idaho have disagreed with DHS's interpretation of § 1225 and that the Court does not

intend to alter its analysis. Therefore, in the interest of brevity, the Government will not brief this issue but simply lodge a standing objection.[1]

The Government also requests that the Court not order the Petitioner's release but rather allow the Agency to follow the procedures outlined in 8 U.S.C. § 1226 to determine whether bond or another form of release is appropriate.

II. If the Court determines that 8 U.S.C. § 1226(a) applies, outright release is not justified. Instead, the Court should order ICE to follow the process under § 1226(a) to assess whether Petitioner is a danger to the community.

Even if the Court determines that 8 U.S.C. § 1226(a) applies, outright release is not justified. If § 1226 applies, Petitioner is entitled to the process provided for in that Section. *See* Government's Response, *Ayala v. Henkey*, 25-CV-682-AKB, Dkt. No. 8. The regulations implementing § 1226(a) provide that the Field Office Director makes the first determination about whether the alien should remain in detention, 8 C.F.R. § 236.1(c)(8), but the alien may thereafter request a bond determination by an immigration judge, 8 C.F.R. § 236.1(d)(1). If this Court concludes § 1226(a) applies, the Court should allow the Agency to follow the process provided by the statute and regulations and allow the Agency to make a detention determination pursuant to § 1226(a), in the first instance. If detention is found to be appropriate by the officer, then Petitioner can seek a bond hearing.

Conclusion

Because Petitioner is properly detained pursuant to § 1225(b), the Court should deny his petition, deny the motion for temporary restraining order, and lift the restrictions imposed in its prior order. Alternatively, if the Court decides § 1226(a) applies, it should

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[1] In support of this objection, the Government incorporates by reference its arguments in *Salazar v. Leyva*, 1:26-CV-00190-DCN, Dkt. No. 8 and *Ayala v. Henkey*, 25-CV-682-AKB, Dkt. No. 7.

remand to ICE on the detention issue so that the Agency can comply with the law, including by providing Petitioner a bond hearing if the field officer does not first opt to release.

Respectfully submitted this 15th day of May, 2026.

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By:

/s/ Katherine Horwitz
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Assistant United States Attorney