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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 ELEAZAR BARRIENTOS,

No. 1:26-CV-05245-DAD-CKD

**OPPOSITION TO MOTION FOR TRO AND
PETITION FOR WRIT OF HABEAS CORPUS**

12 
13 Petitioner,

14 v.

15 TONYA ANDREWS,

16 Respondent.
17

18 Petitioner entered the United States illegally. Petitioner is thus an “applicant for admission” who
19 is subject to mandatory detention by ICE under 8 U.S.C. § 1225(b)(2). *Joaquin Herrera Avila v. Bondi*,
20 No. 25-3741 (8th Cir. March 25, 2026); *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330,
21 at *1 (5th Cir. Feb. 6, 2026); *see also Cortes Alonzo v. Noem*, 1:25-cv-01519-WBS-SCR at Dkt. 14
22 (E.D. Cal. Nov. 17, 2025).

23 An “alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been
24 admitted,’ is treated as ‘an applicant for admission.’” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)
25 (quoting 8 U.S.C. § 1225(a)(1)). As an applicant for admission, petitioner is subject to mandatory
26 detention and thus ineligible for a bond hearing. Petitioner does not possess a right to freedom from
27 immigration detention in any form other than the form provided by Congress. *Shaughnessy v. United*
28 *States ex rel. Mezei*, 345 U.S. 206, 212 (1953), *reaffirmed in DHS v. Thuraissigiam*, 591 U.S. 103, 139

(2020). The Court should deny the petition for writ of habeas corpus because there is no such liberty interest, and petitioner's detention is mandated by statute.

This case does not appear to be materially distinguishable from the cases cited in the Court's Minute Order except possibly for the fact that this Petitioner was not previously encountered or released by immigration authorities.

If the Court is inclined to grant release over Respondent's objection, it should not enjoin Respondent from placing Petitioner on supervision with reasonable conditions of supervision without a pre-deprivation hearing as Respondents would otherwise have discretion to do the first time they encounter and "release" a noncitizen who entered the United States illegally. *See Juarez Ramirez v. Warden of the Mesa Verde Detention Facility*, No. 1:26-cv-1763-DJC-JDP, Dkt. 12 (E.D. Cal. Apr. 28, 2026) ("[T]he Court agrees with Respondent that since Respondent has no prior contact with Petitioner prior to his detention, they may place him under reasonable conditions of supervision."). This Petitioner was not previously encountered by immigration authorities since he last entered the United States unlawfully and thus has never been "released" into the U.S. Further, since his detention he has been placed in removal proceedings, at which point reasonable conditions of supervision are standard and appropriate.

In sum, as an unadmitted alien, Petitioner is due the process that Congress has created. That process includes mandatory detention while Petitioner exercises the statutory right to challenge removal. The petition should be dismissed.

Dated: July 9, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney

By: /s/ Shelley D. Weger
SHELLEYD. WEGER
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers. She also certifies that on July 9, 2026, a copy of the **OPPOSITION TO MOTION FOR TRO AND PETITION FOR WRIT OF HABEAS CORPUS** was served by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail at Sacramento, California.

Addressee: **Eleazar Barrientos**


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/s/ S. Weger
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