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

12

13

14 **E.C.**

15

Petitioner,

Case No.: 2:25-cv-01789

16

v.

17

**KRISTI NOEM, U.S. DEPARTMENT OF
 HOMELAND SECURITY; PAMELA J.
 18 BONDI, U.S. DEPARTMENT OF
 JUSTICE; TODD LYONS, JASON
 19 KNIGHT, U.S. IMMIGRATION AND
 CUSTOMS ENFORCEMENT; JOHN
 20 MATTOS,**

REPLY IN SUPPORT
OF MOTION FOR TEMPORARY
RESTRAINING ORDER

21

Respondents.

22

23

1 **INTRODUCTION**

2 Petitioner files this Reply in Support of his Motion for Temporary Restraining Order in
3 response to Respondent’s Response in Opposition to the TRO, ECF No. 13, filed on October 1,
4 2025.

5
6 **I. ARGUMENT**

7 **A. Respondent offers no opposition to Petitioner’s argument that the Laken
8 Riley Act cannot be applied to his case**

9 Respondents offer no response to Petitioner’s challenge to the application of the Laken
10 Riley Act to his case. Petitioner stands by the arguments set forth in his Motion for TRO, ECF
11 No 4. at 18-22, arguing that the Laken Riley Act cannot be applied to him, and requesting an
12 injunction or TRO ordering a bond hearing. Respondent’s lack of opposition on this argument is
13 an indicator that Petitioner is likely to succeed on the merits, and should be a factor in balance of
14 equities to be weighed in considering an TRO or preliminary injunction.

15 Petitioner takes this opportunity to update that Court on emerging caselaw on this issue.
16 On September 30, 2025, the Southern District of Iowa issued an order granting a writ of habeas
17 corpus for an immigrant detainee against whom theft charges had been dismissed. *Santiago*
18 *Helbrum v. Bondi*, No. 4:25-cv-00349-SHL-SBJ (S.D. Iowa. Sept. 30, 2025). The court held that
19 the Laken Riley Act did not apply, just as Petitioner has argued in this case, and ordered the
20 Immigration Court to hold a bond hearing.

21 The *Santiago Helbrum* decision suggests an alternative argument leading to the same
22 conclusion that Petitioner is seeking here. Rather than rely on procedural due process, the court
23 offered a statutory interpretation. The court held that the statutory references to a person who “is

1 charged with” or “is arrested” for a theft-related offense in 8 U.S.C. § 1226(c)(1)(E) apply only
2 to a person who is currently facing charges or currently under arrest. The court wrote: “After
3 charges are dismissed, it is no longer accurate to say that a person ‘is charged with’ theft (present
4 tense),” and that the Laken Riley Act does not make detention mandatory when charges are
5 dismissed without a conviction or admission of guilt. *Santiago Helbrum* at 1; *see also* discussion
6 at 8-9. Under this interpretation, the same provision also could not apply to a person, like
7 Petitioner, who has been acquitted of criminal charges. *See Santiago Helbrum* at 9 (“The point is
8 that § 1226(c)(1)(E)(ii) recognizes that a person “is charged with” a crime (present tense) only
9 until those charges are resolved.”).

10 **B. Respondent misstates the relief that Petitioner seeks**

11 As a threshold matter, Respondent’s interpretation of Petitioner’s request for relief is
12 plainly wrong. Respondent asserts that “Petitioner claims that he should be released without the
13 payment of any bond (if one is even imposed by an Immigration Judge),” ECF No. 13 at 2.
14 Petitioner requests only that this Court order a bond *hearing* in Immigration Court, or,
15 alternatively, his release only if no timely hearing is provided.

16 **C. Respondent’s arguments regarding standing must be rejected**

17 Respondent offers a jarring argument that a person in detention is not suffering an injury
18 sufficient to meet constitutional standing requirements. *See Rep’t Opposition*, ECF No. 13, at 6-
19 7. This claim must be rejected out of hand. Ongoing loss of liberty can satisfy injury-in-fact
20 requirement and creates standing for habeas review. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998)
21 (“the incarceration ... constitutes a concrete injury”). To suggest that a person who has been
22 locked up by the government lacks standing to challenge the legality of his detention would

23

1 allow the government to imprison people arbitrarily without judicial check. The writ of habeas
2 corpus exists precisely to prevent this.

3 **D. Respondent's 8 U.S.C. § 1252 jurisdictional arguments have been repeatedly**
4 **rejected by courts, including this court**

5 Respondents contend that Petitioner's claims and requests are barred by 8 U.S.C. § 1252.
6 Resp't Opposition, ECF No. 13, at 8-11. Federal respondents have been raising these arguments
7 in many recent cases, and they have been repeatedly rejected by courts. *See, e.g., Hasan v.*
8 *Crawford*, 2025 WL 2682255, at *3-4 (E.D. Va. Sept. 19, 2025); *Maldonado v. Olson*, 2025 WL
9 2374411, at *5-8 (D. Minn. Aug. 15, 2025); *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 705-06
10 (D. Minn. 2025); *Vazquez v. Bostock*, 2025 U.S. Dist. LEXIS 456399, at *24, *among many*
11 *others.*

12 This court has thoroughly analyzed these questions and rejected Respondent's arguments
13 in issuing a preliminary injunction in a similar case. *See Maldonado Vazquez v. Feeley*, No.
14 2:25-cv-01542-RFB-EJY, ECF No. 30 (Order) (Sept. 17, 2025) at 12-14. Petitioner asks that the
15 Court applied the same analysis here. Petitioner add one additional point of emphasis. The
16 jurisdiction provisions that Respondents rely on all relate to the decision to commence removal
17 proceedings or review of orders of removal. *See* 8 U.S.C. §§ 1252(b)(9), 1252(g). Respondent
18 has nothing to fear, because there is no order of removal against Petitioner at present, and
19 Petitioner has not asked to this Court to review the Department of Homeland Security's decision
20 to commence removal proceedings. In fact, if the Court gives Petitioner everything he is
21 requesting in this Motion and in this Petition, removal proceedings will still be pending against
22 him. Petitioner is only asking for a bond hearing in Immigration Court.

1 **E. Respondent’s argument for deference to an administrative agency has been**
2 **rejected by the Supreme Court**

3 Respondents suggest that this court should not issue an order for a bond hearing our to
4 deference to the “agency expertise” of the Board of Immigration Appeals. *See* Resp’t
5 Opposition, ECF No. 13, at 12. That is incorrect. The issues presented here are purely statutory
6 and constitutional questions, reserved for courts, not agencies, and courts owe no deference to
7 agency interpretations of ambiguous statutes. *See Loper Bright Enters. v. Raimondo*, 603 U.S.
8 369, 385 (2024).

9 **F. This case is not fundamentally different from *Maldonado Vazquez***

10 Respondent asserts that Petitioner provides no legal authority showing that he is not an
11 “applicant for admission” or “seeking admission.” *See* Resp’t Opposition, ECF No. 13, at 17.
12 However, Respondent makes little to no attempt to explain how this case differs from
13 *Maldonado Vazquez*, No. 2:25-cv-01542-RFB-EJY, ECF No. 30 (Order) (Sept. 17, 2025) at 22-
14 29.

15 The only possible distinction with *Maldonado Vazquez* is the petitioner’s length of
16 residence. However, this is not a distinguishing factor in terms of applying Section 1225 or
17 Section 1226. Of the many district court cases rejecting the Respondents’ interpretations of
18 Sections 1225 and 1226, in at least seven cases, the petitioners have resided in the United States
19 for less than two years, with the shortest being eight months. *See Hasan v. Crawford*, 1:25-cv-
20 1408(LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025). *See also Gomes v. Hyde*, No.
21 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, No. 25-
22 11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Samb v. Joyce*, 25 Civ. 6373 (DEH),
23 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Jimenez v. Bostock*, No. 3:25-cv-00570-MTK,

1 2025 WL 2430381 (D. Or. Aug. 22, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB,
2 2025 LX 320701 (N.D. Cal. Sept. 3, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC
3 (EMC), 2025 WL 2637503 (N.D. CA. Sept. 12, 2025). The facts of those cases closely mirror
4 those here in terms of the petitioners' entry to the United States and initiation of removal
5 proceedings.

6 The Respondents themselves have not treated Petitioner differently than the petitioner in
7 *Maldonado Vazquez*. In initiating removal proceedings, the Department of Homeland Security
8 charged him with language mirroring Section 1226, not Section 1225. The Notice to Appear
9 ("NTA"), which initiates removal proceedings states that the Petition is: "In removal proceedings
10 under section 240 of the Immigration and Nationality Act." See Motion for TRO Exhibit E, ECF
11 4-1, at 17. DHS explicitly designates the petitioner as "present in the United States," while
12 explicitly declining to label them an "arriving alien." The NTA appears as follows:

13 You are an arriving alien.

14 You are an alien present in the United States who has not been admitted or
15 paroled.

16 You have been admitted to the United States, but are removable for the reasons
17 stated below.

18 *Id.* The NTA charges the Petitioner with removability because he is "an alien present in the
19 United States *without being admitted or paroled*, or who arrived in the United States at any time
20 or place other than as designated by the Attorney General." *Id.* (emphasis added). Respondents
21 cannot classify a person as an "arriving alien" when the Department of Homeland Security's own
22 charging documents reject that categorization. In one of recent decisions applying this logic, the

1 court observed: “Indeed, the DHS’s Notice to Appear form similarly distinguishes between
2 ‘arriving alien’ and ‘alien present in the United States who has not been admitted or paroled.’”
3 *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC (EMC) at 27. In that case, the petitioner had
4 entered the United States on June 10, 2024, *Id.* at 10, several months after the Petitioner in this
5 case. Petitioner is likely to succeed on the merits.

6 **CONCLUSION**

7 For these reasons and for those provided in Petitioner Motion, this Court should grant
8 Petitioner’s Motion for a Temporary Restraining Order or Preliminary Injunction.

9 DATED this 3rd day of October, 2025.

10 Respectfully Submitted,

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18 /s/Yilu Song
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