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16 *Attorneys for the Federal Respondents*

17 **UNITED STATES DISTRICT COURT  
18 DISTRICT OF NEVADA**

19 DAVID ALBERTO PEREZ SANCHEZ,

20 Petitioner,

21 v.

22 MICHAEL BERNACKE, Field Office  
23 Director of Enforcement and Removal  
24 Operations, Salt Lake City Field Office,  
25 Immigration and Customs Enforcement;  
26 KRISTI NOEM, Secretary, U.S.  
27 Department of Homeland Security; U.S.  
28 DEPARTMENT OF HOMELAND  
SECURITY; PAMELA BONDI, U.S.  
Attorney General; EXECUTIVE OFFICE  
FOR IMMIGRATION REVIEW; JOHN  
MATTOS, Warden of Nevada Southern  
Detention Center,

29 Respondents.

30 Case No. 2:25-cv-1921-RFB-MDC

31 **Federal Respondents' Response to  
32 Petitioner's Motion for Preliminary  
33 Injunction, ECF No 2**

34 The Federal Respondents hereby submit this Response to Petitioner's Motion for  
35 Preliminary Injunction (ECF No. 2).

36 **I. Introduction**

37 Petitioner seeks injunctive relief challenging the Department of Homeland  
38 Security's ("DHS") detention authority, contending that his custody is governed by 8  
39 U.S.C. § 1226(a) rather than § 1225(b)(2)(A). This is not a novel question; identical

1 arguments have recently been litigated in parallel proceedings before this Court and other  
2 district courts.

3 For the reasons stated below—and as set forth more fully in the government's prior  
4 filing in *Jefferson Dominguez-Lara, et al. v. Noem, et al.*, No. 2:25-cv-01553-RFB-BNW (D.  
5 Nev. Sept. 27, 2025) as incorporated herein—Petitioner fails to demonstrate any  
6 likelihood of success on the merits, irreparable harm, or a basis for extraordinary  
7 injunctive relief.

### 8 III. Factual and Procedural Background

9 Petitioner David Alberto Perez Sanchez is a citizen and national of Mexico. ECF  
10 No. 3 at 2. On or about April 29, 1997, he entered the United States without being  
11 admitted, paroled or inspected. *Id.* at 3. On April 4, 2025, Petitioner was detained by DHS  
12 agents and charged with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i), as an alien  
13 present in the United States who has not been admitted or paroled. *Id.* He was then placed  
14 in removal proceedings under 8 U.S.C. § 1229a and issued a Notice to Appear (NTA).  
15 ECF No. 3-1 at 2. Petitioner is currently detained at the Nevada Southern Detention  
16 Center pursuant to 8 U.S.C. § 1225(b)(2). On July 10, 2025, an IJ granted Petitioner's  
17 request for bond pursuant to 8 U.S.C. § 1226. ECF No. 3-3 at 2. DHS filed a Notice of  
18 Intent to Appeal on July 11, 2025. *Id.* at 6. On July 22, 2025, DHS filed its bond appeal  
19 with the BIA. ECF No. 3-5 at 2. DHS filed its brief on appeal on September 26, 2025  
20 (ECF No. 3-5 at 3, 7-31) and Petitioner filed his responding brief on September 26, 2025.  
21 *See* ECF No. 3-6. It appears no decision on the bond appeal has been issued by the BIA.  
22 ECF No. 2-1 at 9. Petitioner is scheduled to have an individual hearing on his removal on  
23 October 22, 2025. *See* Exhibit A.

### 24 IV. Argument

#### 25 *Incorporation By Reference of Government's Prior Response*

26 Federal Respondents hereby incorporate by reference Federal Respondents'  
27 Opposition to Petitioners' Motion for Preliminary Injunction in *Jefferson Dominguez-Lara, et*  
28 *al. v. Noem, et al.*, No. 2:25-cv-01553-RFB-BNW (D. Nev. Sept. 27, 2025) ("Dominguez-

1 Lara Opposition"), as though fully set forth herein.<sup>1</sup> The Dominguez-Lara Opposition  
2 addresses identical statutory and constitutional questions regarding DHS's authority to  
3 detain individuals under § 1225(b)(2)(A) who are not yet admitted and whose cases remain  
4 in pending removal proceedings.

5 For efficiency and consistency, Respondents adopt the Dominguez-Lara Opposition  
6 in full, except for Sections IV.C ("No Class Certification") and IV.D ("Classwide Relief  
7 Runs Afoul of § 1252(f)(1)"), which do not apply here as Petitioner has not sought class  
8 certification in this matter.

9 The arguments in Sections I, II.A, III.C, and IV.A–B of the Dominguez-Lara  
10 Opposition are equally applicable and incorporated by reference. Those sections  
11 demonstrate that detention under § 1225(b)(2)(A) is mandatory by statute, not § 1226(a),  
12 and that DHS's custody determination therefore complies with both statutory and  
13 constitutional requirements.

14 (See Dominguez-Lara Opposition, ECF No. 17, at 1-23, attached hereto as Exhibit  
15 "B" and incorporated herein by reference, except Sections IV.C and IV.D.)

## 16 V. CONCLUSION

17 For the reasons stated herein and in the Dominguez-Lara Opposition, Petitioner  
18 cannot satisfy the standards for preliminary injunctive relief. The motion should therefore  
19 be denied.

20 Respectfully submitted this 16th day of October 2025.

21 SIGAL CHATTAH  
22 Acting United States Attorney

23 /s/ Summer A. Johnson  
24 SUMMER A. JOHNSON  
25 VIRGINIA T. TOMOVA  
26 Assistant United States Attorneys

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<sup>1</sup> The Court has endorsed the incorporation by reference of prior government filings in related or substantively  
28 identical immigration habeas petitions, recognizing the efficiency of unified briefing given the number of  
overlapping cases presenting identical questions under 8 U.S.C. § 1225(b)(2)(A) and § 1226(a).