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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Jorge Bautista-Avalos,

Petitioner,

v.

Michael Bernacke, Field Office Director,
ERO Salt Lake City, et al.,

Respondents.

Case No. 2:25-cv-01987-RFB-BNW

**Federal Respondents' Response to
Petitioner's Motion for Preliminary
Injunction, ECF No 3**

The Federal Respondents hereby submit this Response to Petitioner's Motion for Preliminary Injunction (ECF No. 3).

I. Introduction

Petitioner seeks injunctive relief challenging the Department of Homeland Security's ("DHS") detention authority, contending that his custody is governed by 8 U.S.C. § 1226(a) rather than § 1225(b)(2)(A). This is not a novel question; identical arguments have recently been litigated in parallel proceedings before this Court and other district courts.

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

III. Factual and Procedural Background

Petitioner Bautista-Avalos is a citizen and national of Mexico. ECF No. 1 at ¶14. On an unknown date and unknown time, he entered the United States without being admitted, paroled or inspected. ECF No. 2 at 2. On September 16, 2025, Petitioner was detained by DHS agents and charged with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i) and (7)(A)(i)(I), as an alien present in the United States who has not been admitted or paroled and an immigrant present without an immigrant visa. *Id.* at 3. He was then placed in removal proceedings under 8 U.S.C. § 1229a and issued a Notice to Appear (NTA). ECF No. 2 at 6. Petitioner is currently detained at the Nevada Southern Detention Center pursuant to 8 U.S.C. § 1225(b)(2). ECF No. 1 at ¶40.

On October 2, 2025, Petitioner filed a motion for bond reconsideration with the immigration court. ECF No. 2-1 at 3. The matter was set for hearing on October 7, 2025. ECF No. 2-3 at 2. Following the hearing, the Immigration Judge found that Petitioner was considered an “applicant for admission” and subject to the ruling in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) and denied Petitioner release on bond. ECF No. 2-3 at 3. The IJ noted, however, that Petitioner “was not a danger to the community and not a flight risk and would have set bond in the amount of \$3,500 with ATD at the direction of DHS.” *Id.* DHS did not file an appeal to the BIA. Though Petitioner reserved the right to appeal, it does not appear that he has done so. ECF No. 1 at ¶51. Petitioner is scheduled to have an individual hearing on his removal on November 3, 2025. *See* Exhibit A.

IV. Argument

Incorporation By Reference of Government’s Prior Response

Federal Respondents hereby incorporate by reference Federal Respondents’ Opposition to Petitioners’ Motion for Preliminary Injunction in *Jefferson Dominguez-Lara, et 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.¹ 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 24th day of October 2025.

21 SIGAL CHATTAH
22 Acting United States Attorney

23 /s/ Summer A. Johnson
24 SUMMER A. JOHNSON
25 Assistant United States Attorney
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27
28 ¹ The Court has endorsed the incorporation by reference of prior government filings in related or substantively 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).