

1 SIGAL CHATTAH  
Acting United States Attorney  
2 District of Nevada  
Nevada Bar No. 8462  
3 VIRGINIA T. TOMOVA  
Assistant United States Attorney  
4 Nevada Bar No. 12504  
501 Las Vegas Blvd. So., Suite 1100  
5 Las Vegas, Nevada 89101  
6 Phone: (702) 388-6336  
7 Fax: (702) 388-6336  
Virginia.Tomova@usdoj.gov

*Attorneys for the Federal Respondents*

8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 ROGELIO BERTO MENDEZ

11 Petitioner,

12 v.

13 KRISTI NOEM, Secretary of the U.S.  
Department of Homeland Security;  
14 PAMELA BONDI, Attorney General of the  
United States; THOMAS E. FEELEY, Field  
15 Office Director of Salt Lake City Field  
Office, U.S. Immigration and Customs  
16 Enforcement, JOHN MATTOS, Warden at  
Southern Nevada Detention Center

17 Respondents.  
18

Case No. 2:25-cv-02062-RFB-MDC

**Federal Respondents' Response to the  
Court's Order to Show Cause  
Regarding Petitioner's Detention (ECF  
No. 8)**

19 Federal Respondents Kristi Noem, Pamela Bondi, and Thomas Feeley, through  
20 undersigned counsel, file their briefing in response to the Court's Order to Show Cause  
21 regarding the basis for Petitioner Rogelio Berto Mendez' continued detention. ECF No. 8.<sup>1</sup>

22 This briefing is supported by the following memorandum of points and authorities.

23 Respectfully submitted this 27th day of October 2025.

24 SIGAL CHATTAH  
Acting United States Attorney

25 /s/ Virginia T. Tomova  
26 VIRGINIA T. TOMOVA  
Assistant United States Attorney  
27

28 <sup>1</sup> Pursuant to the Court's Order, Federal Respondents will respond to the Petitioner's Emergency Motion for  
Temporary Restraining Order on October 29, 2025, and Petition for Writ of Habeas on October 31, 2025. ECF No. 8.

1 **Memorandum of Points and Authorities**

2 The Supreme Court has long recognized Congress's broad power and immunity from  
3 judicial control to expel aliens from the country and to detain them while doing so. *See e.g.,*  
4 *Shaughnessy v. United States*, 345 U.S. 206, 210 (1953); *Carlson v. Landon*, 342 U.S. 524, 538  
5 (1952). The United States' temporary detention of Petitioner in no way exceeds this broad  
6 authority and does not deprive Petitioner of Due Process. *See Demore v. Kim*, 538 U.S. 510,  
7 531 (2003) ("Detention during removal proceedings is a constitutionally permissible part of  
8 that process."). Through multiple provisions of 8 U.S.C. § 1252, Congress has  
9 unambiguously stripped federal courts of jurisdiction over challenges to the commencement  
10 of removal proceedings, including detention pending removal proceedings.

11 Since his arrival illegally in the United States, Petitioner has been arrested and  
12 convicted at least three (3) times for various crimes.<sup>2</sup> Petitioner is an undocumented alien, a  
13 citizen of Mexico who entered the United States at an unknown time and date without  
14 being admitted, inspected, or paroled into the United States. On June 25, 2004, Petitioner  
15 was arrested for discharging a firearm resulting in a disorderly conduct conviction and fine.  
16 On June 25, 2004, Petitioner was arrested for driving under the influence resulting in a  
17 conviction. On July 7, 2021, Petitioner was arrested for assault with a deadly weapon  
18 resulting in an assault conviction and sentence of six months in jail. On May 29, 2025, ICE  
19 arrested the Petitioner on a warrant. Due to his criminal record and the fact that he had  
20 entered the United States without an inspection, ICE commenced removal proceedings  
21 against the Petitioner and placed him in ICE custody at no bond pending his removal.

22 The law authorizes ICE to detain the Petitioner under § 235(b) of the Immigration  
23 and Naturalization Act, since the Petitioner entered illegally the United States without an  
24 inspection and by law is considered an applicant for admission under 8 U.S.C. §1225(b)(2)  
25 and subject to mandatory detention, pending the outcome of his removal proceedings. On  
26 September 9, 2025, the Petitioner's merits hearing on his application for relief from  
27

28 <sup>2</sup> Federal Respondents have requested Petitioner's criminal record, and such will be provided to the Court once received.

1 removal took place. The Immigration Judge granted the respondent's application for  
2 Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1). DHS  
3 reserved appeal of the Immigration Judge's decision and a Notice of Appeal was filed on  
4 September 19, 2025, with the Board of Immigration Appeals. As of today, October 27,  
5 2025, DHS is awaiting a scheduling order from the Board of Immigration Appeals to file a  
6 brief in support of the DHS appeal of the Immigration Judge's decision on September 9,  
7 2025, granting the respondent Cancellation of Removal for Nonpermanent Residents.  
8 Petitioner continues to be in custody pending a resolution of DHS's appeal with the Board  
9 of Immigration Appeals. "[F]or aliens arriving in and seeking admission into the United  
10 States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA,  
11 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have  
12 concluded.'" *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018). Petitioner is in removal  
13 proceedings and his detention is mandated pursuant to 235(b)(2)(A) of the INA, 8 U.S.C. §  
14 1225(b)(2)(A), until such removal proceedings have concluded.

15 Respectfully submitted this 27th day of October 2025.

16 SIGAL CHATTAH  
17 Acting United States Attorney

18 /s/ Virginia T. Tomova  
19 VIRGINIA T. TOMOVA  
20 Assistant United States Attorney  
21  
22  
23  
24  
25  
26  
27  
28