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

10 JUAN PEREZ SANTILLAN,

11 Petitioner,

12 v.

13 KRISTI NOEM, *et.al.*

14 Respondents.

Case No. 3:25-cv-00633-ART-CSD

**Federal Respondents’ Response to the
Petitio for Writ of Habeas Corpus (ECF
No. 1)**

15 The Federal Respondents hereby submit this Response to Petitioner Juan Perez
16 Santillan’s (“Petitioner” or “Perez Santillan”) Petition for Writ of Habeas Corpus (ECF
17 No. 1. The Federal Respondents are amenable to receiving a ruling on the papers and are
18 willing to waive a hearing.

19 **I. Argument**

20 **A. Incorporation By Reference of United States’ Prior Response**

21 The Petition asserts that the Federal Respondents are violating principles of
22 substantive due process and procedural due process—*i.e.*, Due Process Clause of the Fifth
23 Amendment—because, according to Petitioners, the mandatory detention provisions set
24 forth in 8 U.S.C. § 1225(b)(2) do not apply to individuals such as Perez Santillan and
25 instead they apply only to noncitizens at the border or a port of entry who are actively
26 seeking admission to the United States. *See e.g.*, ECF No. 1, at 16–17.

27 The Federal Respondents maintain that Petitioners’ detention under 8 U.S.C. § 1225
28 is lawful and does not violate principles of due process. The issues presented in this case are

1 not novel as they are substantially similar to arguments that have been recently litigated in
2 other proceedings before this Court and other district courts.

3 Accordingly, and in the interest of efficiency, the Federal Respondents hereby
4 incorporate by reference the Federal Respondents' Response to the Petition for Writ of
5 Habeas Corpus in *Morales Rondon v. Bernacke*, No. 2:25-cv-01979-RFB-BNW (D. Nev. Oct.
6 15, 2025) ("*Morales Rondon* Response") as ECF No. 8, as though fully set forth herein.¹ The
7 *Morales Rondon* Response has been attached as Exhibit A to this pleading. For the reasons set
8 forth in the *Morales Rondon* Response as well as below, the Petitioner fails to demonstrate
9 that he is entitled to the relief he requests.

10 **B. Petitioner Is An "Applicant for Admission" "Seeking Admission" By His Own**
11 **Admissions (No Pun Intended)**

12 In addition to the arguments previously set forth in the *Morales Rondon* Response,
13 the Federal Respondents respectfully submit that, by his own admission, Perez Santillan
14 "applied for Cancellation of Removal for Certain Non-Permanent Residents under INA §
15 240A(b)(1)." ECF No. 1, at 10. Although his application was initially denied, Perez
16 Santillan appealed the denial to the Board of Immigration Appeals. *Id.* Consequently, the
17 proceedings associated with his application are still pending, and he thus is still *seeking*
18 *admission* to the United States. *Id.*

19 As the record reflects and by his own admission (no pun intended), Perez Santillan
20 has taken affirmative steps to seek admission into the United States. A successful
21 application for cancellation of removal under INA § 240A(b)(1) leads to lawful permanent
22 resident status. *See e.g.*, [https://www.ilrc.org/resources/non-lpr-cancellation-removal-](https://www.ilrc.org/resources/non-lpr-cancellation-removal-overview-eligibility-immigration-practitioners)
23 [overview-eligibility-immigration-practitioners](https://www.ilrc.org/resources/non-lpr-cancellation-removal-overview-eligibility-immigration-practitioners) (last visited Nov. 21, 2025) ("A person who
24 is granted non-LPR cancellation of removal [under INA § 240A(b)(1)] receives a green
25 card."). It is difficult to measure the sincerity with which Petitioner also asserts in his
26 Petition that he "is not presently seeking admission." *See e.g.*, ECF No. at 14. The Federal

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).

1 Respondents respectfully submit that someone who submits an application for cancellation
2 of removal, in an effort to obtain a lawful permanent resident status, is the quintessential
3 “applicant for admission” “seeking admission” because such an applicant seeks to be
4 allowed to lawfully and permanently remain in the United States. If this Court were to find
5 that an applicant for cancellation of removal under INA § 240A(b)(1) does not qualify an
6 alien as an “applicant for admission” “seeking admission,” as those terms are used in §
7 1225, then the Court in essence would render significant portions of 8 U.S.C. § 1225—
8 namely §§ 1225(a)(1), (b)(2)(A)—meaningless and inoperable, which would be an error for
9 violating fundamental principles of statutory interpretation.

10 To highlight Petitioners’ ill-conceived reading of the statute, 8 U.S.C. § 1225(b)(2)(A)
11 states: “in the case of an alien who is an *applicant for admission*, if the examining immigration
12 officer determines that *an alien seeking admission* is not clearly and beyond a doubt entitled to
13 be admitted, the alien shall be detained . . .” 8 U.S.C. § 1225(b)(2)(A) (emphasis added).
14 And 8 U.S.C. § 1225(a)(1) states: “An alien *present in the United States who has not been*
15 *admitted* or who arrives in the United States . . . shall be deemed for purposes of this chapter
16 an *applicant for admission*.” Nowhere do either §§ 1225(b)(2)(A) or 1225(a)(1) limit the
17 applicability of § 1225(b)(2)(A) to *only* those aliens who are “recent arrivals ‘seeking
18 admission’ or who are at the border or a port of entry, as Petitioners would have the Court
19 believe. ECF No. 1, at 14–15. Petitioners have simply invented this limitation by ignoring
20 the plain language of the statute.” But Petitioners gloss over the plain language of the statute
21 to frustrate Congress’s intent as well as the Federal Respondents’ efforts to comply with the
22 corresponding Congressional mandate.

23 In sum, by his own admission, Petitioner is unequivocally an “applicant for
24 admission” “seeking admission” by virtue of his application for cancellation of removal. By
25 consequence, the plain language of 8 U.S.C. § 1225(b) and the “all applicants for
26 admission” language of *Jennings* permit DHS to detain Petitioner under § 1225(b)(2), which
27 requires mandatory detention without the possibility of bond. *See Vargas Lopez*, No.
28 8:25CV526, 2025 WL 2780351, at *9 (D. Neb. Sept. 30, 2025).

1 **C. A Growing Body of Well-Reasoned and Persuasive Authority Supports the**
2 **Federal Respondents’ Legal Positions**

3 In addition to the arguments set forth in the *Morales Rondon* Response, the United
4 States notes the following decisions that have found that, when the law is properly
5 interpreted and applied, the law supports the Federal Respondents’ positions in the case at
6 bar: *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025); *Chavez v.*
7 *Noem*, No. 25-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*,
8 No. 25-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-
9 01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463,
10 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL
11 3131942 (E.D. Mo. Nov. 10, 2025). As *Mejia Olalde* observes, “the overwhelming majority
12 of district courts sometimes get the law very wrong,” and the decisions cited here underscore
13 that this Court now has a meaningful opportunity to revisit its prior interpretation with the
14 benefit of a growing body of well-reasoned and persuasive authority.

15 **II. CONCLUSION**

16 For the foregoing, the Federal Respondents request that the Petition be denied in its
17 entirety.

18 Respectfully submitted this 21st day of November 2025.

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20 First Assistant United States Attorney

21 /s/ Christian R. Ruiz
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23 Assistant United States Attorney
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