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

10 XAVIER FRANCISCO CARRILLO
 FERNANDEZ,

11
 12 Petitioner,

v.

13 Jason KNIGHT, Acting Las Vegas/Salt
 Lake City Field Office Director,
 14 Enforcement and Removal Operations,
 United States Immigration and Customs
 15 Enforcement (ICE); John MATTOS,
 Warden, Nevada Southern Detention
 16 Center; Kristi NOEM, Secretary, United
 States Department of Homeland Security;
 17 Pamela BONDI, Attorney General of the
 United States; Executive Office for
 18 Immigration Review,

19 Respondents.
 20

Case No. 2:25-cv-02221-RFB-BNW

**Federal Respondents' Response to
 Petition for Writ of Habeas Corpus
 (ECF No. 1)**

21 The Federal Respondents hereby submit this Response to Petitioner Xavier
 22 Francisco Carrillo Fernandez's ("Petitioner" or "Carrillo Fernandez") Petition for Writ of
 23 Habeas Corpus (ECF No. 1). The Federal Respondents are amenable to receiving a ruling
 24 on the papers and are willing to waive a hearing.

25 **I. Introduction**

26 Carrillo Fernandez's Petition asserts that the Federal Respondents are in violation of
 27 the INA and due-process principles because, according to Petitioners, the mandatory
 28 detention provisions set forth in 8 U.S.C. § 1225(b)(2) do not apply to aliens who previously

1 entered the United States without inspection and have been residing in the United States
2 without the requisite documentation. Additionally, Petitioner argues that the automatic stay
3 regulation that allowed DHS to stay the immigration judge's order granting a bond to
4 Petitioner violates principles of substantive due process. At this time, however, Petitioner is
5 not being detained by virtue of the automatic stay regulations; instead, the Board of
6 Immigration Appeals vacated the immigration judge's ill-informed decision granting
7 Petitioner's release on bond. Exhibit A, at 4. Therefore, any arguments relating to the
8 automatic stay regulation are moot.

9 Setting the moot issues surrounding the automatic stay provisions aside, the Federal
10 Respondents maintain that Petitioners' detention under 8 U.S.C. § 1225 is lawful and does
11 not violate principles of due process. The issues presented in this case are not novel as they
12 are substantially similar to arguments that have been recently litigated in other proceedings
13 before this Court and other district courts.

14 Accordingly, for the reasons stated below—and as set forth more fully in the United
15 States' prior response in *Morales Rondon v. Bernacke*, Case No. 2:25-cv-01979-RFB-BNW (D.
16 Nev. Oct. 15, 2025) as incorporated herein—Petitioners fail to demonstrate that they are
17 entitled to the relief requested.

18 **II. Factual and Procedural Background**

19 Petitioner is a citizen of Venezuela. Exhibit D, at 1. He entered the United States at
20 or near Eagle Pass, Texas, on or about December 21, 2023. *Id.* This location has not been
21 designated as a port of entry by the Attorney General or the Secretary of the Department
22 of Homeland Security. Exhibit C, at 2. He was not admitted or paroled after inspection by
23 an immigration officer. Exhibit D, at 1; Exhibit C, at 2.

24 On July 31, 2025, ERO officers encountered Petitioner during a field investigation.
25 The ERO officers positively identified Petitioner as matching their target's description and
26 moments later they stopped him as he was driving 6863 S. State Street, Midvale, Utah.
27 Exhibit C, at 2. He was then arrested and transported to the Salt Lake City Field Office for
28 processing. *Id.* Petitioner makes no claim to U.S. citizenship or lawful permanent resident

1 status, and he is amenable to removal. *Id.* Even so, he states a fear of persecution or
2 torture if he is removed to Venezuela. *Id.*

3 On August 14, 2025, an immigration judge issued a decision granting Petitioner's
4 release on bond. Exhibit A, at 3. However, after DHS filed an appeal of the immigration
5 judge's decision on bond, the Board of Immigration Appeals, on November 13, 2025,
6 vacated the immigration judge's decision on the basis of the precedential decision in
7 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that under the plain
8 language of 8 U.S.C. § 1225(b)(2)(A), immigration judges lack authority to hear bond
9 requests or grand bond to aliens who are present in the United States without admission or
10 parole. *Id.* at 3–4.

11 Consequently, Petitioner is currently detained pursuant to 8 U.S.C. §
12 1225(b)(2)(A), and not by virtue of an automatic stay regulation, as the Petition alleges.

13 III. Argument

14 A. Incorporation By Reference of United States' Prior Response

15 Federal Respondents hereby incorporate by reference the Federal Respondents'
16 Response to the Petition for Writ of Habeas Corpus in *Morales Rondon v. Bernacke*, No. 2:25-
17 cv-01979-RFB-BNW (D. Nev. Oct. 15, 2025) (“Morales Rondon Response”) as ECF No.
18 8, as though fully set forth herein.¹ The Morales Rondon Response has been attached herein
19 as Exhibit B, and it addresses substantially the same statutory and constitutional questions
20 as the case at bar regarding DHS's authority to detain individuals under § 1225(b)(2)(A)
21 who are not yet admitted and whose cases remain in pending removal proceedings.

22 For efficiency and consistency, Respondents adopt the Morales Rondon Response
23 in full, except for Section III.C., which is inapplicable to Petitioner's circumstances. As the
24 *Morales Rondon* Response demonstrates, Petitioners lawful detention under § 1225(b)(2)(A)
25 is mandatory by statute, not § 1226(a), and DHS's custody determination therefore complies
26 with statutory and constitutional requirements. Further, as the *Morales Rondon* Response

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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 demonstrates, the Court lacks jurisdiction to adjudicate this matter, and Petitioner's request
2 for attorneys' fees cannot prevail.

3 **B. A Growing Body of Well-Reasoned and Persuasive Authority Supports the**
4 **Federal Respondents' Legal Positions**

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

17 **IV. Conclusion**

18 For the foregoing, the Federal Respondents request that the Petition be denied in its
19 entirety.

20 Respectfully submitted this 24th day of November 2025.

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22 First Assistant United States Attorney

23 /s/ Christian R. Ruiz
24 CHRISTIAN R. RUIZ
25 Assistant United States Attorney
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