SYLVIA L. ESPARZA, ESQ. NV #8444
Law Office of Sylvia L. Esparza
3340 Pepper Lane, Suite 105
Las Vegas, Nevada 89120
(702) 853-0233
Fax (702) 853-0234
Sylvia@sylviaesparzalaw.com
Counsel for Petitioner,
MANUEL PILAR TORRES

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA (LAS VEGAS)
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MANUEL PILAR TORRES Petitioner, vs. KRISTI NOEM, Acting Secretary of the United States Department of Homeland Security; PAM BONDI, Attorney General of the United States; JASON KNIGHT, Salt Lake City Acting Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; JOHN MATTOS, Warden at Southern Nevada Southern Detention Center. Respondents.	CASE NO. 2:25-cv-02270-RFB-EJY Agency No. [redacted] **REPLY TO FEDERAL RESPONDENTS' RESPONSE TO PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER (ECF No. 9)**

Petitioner, Manuel Pilar Torres, hereby files his Reply to Federal Respondents Response to Petitioner's Emergency Motion for Temporary Restraining Order (ECF No. 9) ("Federal Respondents' Response"). Petitioner is not subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), but instead 8 U.S.C. §1226(a) and has a constitutional right to a bond hearing.

Furthermore, today the district court in *Maldonado Bautista v. Noem,* No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025) granted nationwide class certification and partial summary judgment on behalf of the class rejecting *Matter of Yajure Hurtado*. *See* Exh. A (Copy of Orders). Petitioner would be a class member and should benefit from this ruling and his motion for temporary restraining order and petition for habeas corpus should be accordingly granted. In any event, Petitioner submits his Reply.

A. INCORPORATION BY REFERENCE OF UNITED STATES' PRIOR RESPONSE

In accordance with the Court's Order, ECF No. 8, Petitioner—like Federal Respondents—incorporates by reference a previously filed reply that raises substantively identical arguments in other immigration habeas matters presenting nearly the same issues under 8 U.S.C. § 1225(b)(2)(A) and § 1226(a). Petitioner hereby adopts the Petitioner's Reply to Federal Respondent's Response to Petitioner's Emergency Motion for Temporary Restraining Order[1] in *Samuel Sanchez Aparicio v. Noem et al*, No. 2:25-cv-01919-RFB-DJA (D. Nev. Oct. 22, 2025) ("Samuel Sanchez Aparicio Reply"), filed as ECF No. 18, as though fully reproduced herein. *See* Exh. B. (Samuel Sanchez Aparicio Reply).

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[1] Petitioner notes that the document was incorrectly titled - "Reply to Federal Respondents' Opposition to Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief". The correct title should have been, "Reply to Federal Respondents' Response to Petitioner's Emergency Motion for Temporary Restraining Order" however the substance of the arguments is entirely correct and apply directly on point in this matter.

The incorporated Reply addresses the same core statutory and constitutional issues raised in this action, specifically, the government's incorrect and unprecedented interpretation of § 1225(b)(2)(A) to impose mandatory detention on individuals who entered without inspection many years ago and who are presently in ongoing removal proceedings.

To promote judicial efficiency and ensure consistency in the resolution of these parallel legal questions, Petitioner adopts the Samuel Sanchez Aparicio Reply in its entirety. As that filing makes clear, Petitioner is properly detained under 8 U.S.C. § 1226(a) and is therefore entitled to an individualized bond hearing to determine whether he poses a danger or flight risk. He is not subject to mandatory detention under § 1225(b)(2)(A). The government's misclassification deprives Mr. Pilar Torres of his statutory and constitutional right to a bond hearing during removal proceedings.

B. RESPONDENTS CITED LEGAL AUTHORITIES DO NOT SUPPORT THEIR ARGUMENT

Respondents' assertion that this Court's prior well-reasoned judgment was incorrect is itself mistaken. Although Respondents claim that "a growing body of well-reasoned and persuasive authority" supports their position, the handful of cases they cite cannot outweigh the more than one hundred decisions issued nationwide in favor of individuals in circumstances similar to Mr. Pilar Torres. Moreover, Respondents fail to analogize that authority to the instant case. Instead, Respondents incorporates by reference several district court cases from district courts outside of the Ninth Circuit that present no binding authority on this court. Respondents rely on another district court decision, *Mejia Olalde v. Noem*, to urge this court to conclude that "the overwhelming majority of district courts sometimes get the law very wrong" and

suggest that this Court's previous reasoned judgment is faulty. *See* Respondent's Response at 3.

While it is true that the *Mejia Olalde* court came to a conclusion that favors the government's interpretation of 8 U.S.C. § 1225(b)(2), the court there ignored the traditional canons of statutory interpretation that have made this an almost unanimously answered question in almost every other district court across the country. *See, e.g.*, *Mejia Olalde v. Noem*, No. 25-CV-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025). The *Mejia Olalde* decision addresses the fact that the Laken Riley Act amendments and longstanding agency practice contradict the new interpretation, but the court declines to defer to traditional techniques of construction and arbitrarily accepts the government's interpretation because it assumes that "Congress knows how to limit the scope of the text geographically and temporally when it wants to." *Id.* at *4.

The BIA's novel interpretation of § 1225(b)(2)(A) would deem the LRA meaningless and duplicative. The LRA specifically targets individuals who are inadmissible under § 1182(a)(6)(A) for entering without inspection, but only when they also face the criminal liabilities enumerated in the LRA. If § 1225(b)(2)(A) already required mandatory detention for all who entered without inspection—as the BIA now claims—the LRA would add nothing new. Congress would not have created mandatory detention rules for a group already swept in, leaving the LRA without any independent effect. Courts reject such interpretations because they render statutes superfluous. *See Duncan v. Walker*, 533 U.S. 167, 174 (2001).

The statutory text is plain. The LRA carved out a narrow group for mandatory detention—not all who entered without inspection. But the BIA's new interpretation erases

much of § 1226, contradicts the LRA, and departs from the government's own position held until July 2025. No statutory amendment changed the text of either § 1225 or § 1226. The only change is the BIA's sudden reinterpretation. That shift confirms the interpretation is plainly wrong.

To the extent that the INA's text is ambiguous, this Court should resolve it in favor of liberty. The Supreme Court has long applied the rule of lenity in criminal cases, holding that "ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity." *United States v. Bass*, 404 U.S. 336, 347 (1971) (internal citations omitted). Under the rule of lenity, "any reasonable doubt about the application of a penal law must be resolved in the favor of liberty." *Wooden v. United States*, 595 U.S. 360, 388 (2022) (Kavanaugh, J., concurring).

That same principle applies here, as the Supreme Court has recognized that the rule of lenity applies in the immigration context. *See Clark v. Martinez*, 543 U.S. 371, 380 (2005) (quoting *Leocal v. Ashcroft*, 543 U.S. 1, 11–12, n. 8 (2004)); *INS v. Cardoza-Fonseca*, 480 U.S. 421, 449 (1987).

Further, courts are guided "by the general rule to resolve any ambiguities in a jurisdiction stripping statute in favor of the narrower interpretation and by the strong presumption in favor of judicial review." *Arce v. United States*, 899 F. 3d 796, 801 (9th Cir. 2018) (per curiam) (internal quotations and citations omitted). Adopting the DHS' interpretation of the INA would strip this court of jurisdiction to adjudicate the instant petition. This directly contradict the strong presumption in favor of judicial review when interpreting INA provisions.

Respondents also rely on other cases where district courts have denied petitions for habeas corpus without adequately analogizing the facts. The Respondents cite a decision from

the U.S. District Court for the District of Nebraska, which is nonbinding on this court, where the petitioner's request for a writ of habeas corpus was denied. *Vargas Lopez v. Trump*, No. 25CV526, 2025 WL 2780351 (D. Neb. Sep 30, 2025). This case is significantly distinguishable because the petitioner failed to adequately plead grounds demonstrating his detention was unlawful. *Id.*

In *Vargas Lopez*, the petitioner was identified on the NTA as being inadmissible under 8 U.S.C. § 1182(a)(6)(a)(i) for being present in the United States without having been inspected and admitted or paroled. *Id.* at *4. In *Vargas Lopez*, the court did not make a ruling regarding the petitioner's writ based on the merits of the law, rather, the petitioner simply failed to meet his burden of proof to "demonstrate[e] by a preponderance of the evidence that his detention [was] unlawful." *Id.* at *6. Based on lacking evidence and an inability to prove the circumstances of his detention, the court rejected his writ for habeas corpus. *Id.*

Respondents also cite to a case from the Southern District of California where petitioners were similarly denied preliminary equitable relief for inadequately pleading the unlawfulness of their detention. *Chavez v. Noem*, No. 25-C-02325, 2025 WL 2730228, at *3 (S.D. Cal. Sep. 24, 2025). In *Chavez v. Noem*, the court rejected the government's arguments regarding jurisdiction and exhaustion—two arguments that Respondents here made irrespective of this decision and the numerous other district court decisions addressing the issue.

However, *Chavez v. Noem* is readily distinguishable, for its lack of substantive analysis and because the court ultimately concluded that the petitioners failed to plead sufficient grounds for equitable relief. First, the *Chavez* court did not meaningfully engage with, let alone address, the more than thirty decisions (at that time) that have directly confronted the same

issues presented here. Rather than analyzing this robust body of precedent, the court disregarded the overwhelming consensus among federal district courts that have rejected the reasoning of *Yajure Hurtado,* finding that individuals who entered without inspection and have resided in the United States for years are properly detained under 8 U.S.C. § 1226(a), not § 1225(b). Second, and more specifically, Respondents' reliance on *Chavez* rests on a single, narrow portion of the opinion in which the court denied a temporary restraining order merely because "the Court finds on the present record that Petitioners have not shown either a likelihood of success or serious questions." This isolated statement does not constitute substantive guidance on the statutory detention issue presently before this Court.

Further the Respondents cite *Sandoval v. Acuna*, where a petitioner was denied a writ of habeas corpus as being subject to detention under 8 U.S.C. § 1225(b)(2). *Sandoval v. Acuna*, No. 25-CV-01467, 2025 WL 3048926, at *5 (W.D. La. Oct. 31, 2025). However, the petitioner there did not allege having served a warrant for arrest from DHS, which would suggest that she should have been detained under 8 U.S.C. § 1226(a). *Id.* at *5; *see also Oliveira v. Patterson*, No. 25-CV-01463, 2025 WL 3095972, at *5 (W.D. La. Nov. 4, 2025) (finding a petitioner did not warrant detention under § 1226(a) because he did not allege an arrest warrant from DHS).

Instead of addressing the overwhelming body of adverse precedent, the government selectively relies on a handful of cases in which a petitioner's writ of habeas and injunctive relief was denied—cases that are readily distinguishable on their facts and legal posture.

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CONCLUSION

For the foregoing, the Petitioner request that Petitioner's Emergency Motion for Temporary Restraining Order be granted.

Respectfully submitted this 25th day of November 2025.

/s/ SYLVIA L. ESPARZA
Sylvia L. Esparza, Esq.
Attorney for Petitioner