LAW OFFICE OF SHARA SVENDSEN PLLC
SHARA SVENDSEN, WSB: 38151
shara@svenlaw.com
16300 Mill Creek Blvd. Ste. 206
Mill Creek, WA 98012
425-361-1511

Attorney for Petitioner

UNITED STATES DISTRICT COURT
FEDERAL DISTRICT COURT OF WESTERN WASHINGTON

Javier ARENAS ZAMBRANO,

Petitioner,

v.

Laura HERMOSILLO, Seattle Acting Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security Pamela BONDI, U.S. Attorney General; Bruce SCOTT, Warden, Northwest Detention Center,

Respondents.

Case No. 2:25-cv-2357-TMC

Agency No. A240-502-441

PETITIONER TRAVERSE

Noted for Consideration: December 5, 2025

Petitioner hereby submits this reply to Federal Respondents' Return Memorandum.

I. PETITIONER'S DETENTION IS GOVERNED BY §1226(a)

Respondents do not argue that Mr. Arenas was apprehended at his arrival in the United States, or that he is subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. Nor do they dispute that he is currently subject to mandatory detention under § 1225(b)(2). This Court has declared application of § 1225(b)(2) unlawful under the Immigration and Nationality Act as applied to persons similarly situation to Mr. Arenas. *See Rodriguez Vazquez v. Bostock*, -- F.Supp.3d —, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025).

On November 25, 2025, the U.S. District Court of the Central District of California certified a nationwide class of noncitizens who are in immigration detention and have been denied access to a bond hearing based on the government's allegation that they entered without admission or inspection, like Mr. Arenas. *See, Maldonado Bautista et al v. Santacruz Jr. et al*, No. 5:25-cv-01873-SSS-BFM. Dkt. No. 41 (C.D. Cal. Nov. 25, 2025) (order granting plaitiff petitioners' motion for class certification).

Like the members of the *Rodriguez Vazquez* Bond Denial Class and the *Maldonado Bautista* Bond Eligible Class, Mr. Arenas is not "seeking admission" and thus cannot be subject to mandatory detention under § 1225(b)(2). *Rodriguez Vazquez v. Bostock* at *16-*27; *Maldonado Bautista v. Santacruz Jr.* at page 1447. Instead, he is subject to detention under § 1226(a), which permits release on bond. *Rodriguez Vazquez v. Bostock* at *16-*27.

Respondents rely on *Vargas Lopez v. Trump*, — F. Supp. 3d —, No. 8:25-cv-00526, WL 2780351 (D. Neb. September 30, 2025) and *Chavez v. Noem*, et. al., — F. Supp. 3d —, No.. 3:25-cv-02325, 2025 WL 2730228 (S. D. Cal. Sept. 24, 2025) for district court authority

LAW OFFICE OF SHARA SVENDSEN PLLC
16300 Mill Creek Blvd. Suite 206
Mill Creek, WA 98012
(425) 931-1178

supporting their proposition that 8 U.S.C. § 1225(b) properly governs Petitioner's detention. These cases do not support Respondents' position. The *Vargas* petition was dismissed by the Nebraska District Court due to that petitioner's failure to provide evidence and develop the record. *Vargas Lopez*, 2025 WL 2780351

The *Chavez* court has not reached a decision on the merits of the legal argument as to whether § 1225 or § 1226 properly applies to individuals such as Petitioner, who physically entered the United States more than two years ago. Respondents rely on language from the *Chavez* court's order denying an Ex Parte Application for a temporary restraining order. *Chavez v. Noem*, 2025 WL 2730228, Doc. No. 2. The *Chavez* court found only that the petitioner did not meet their burden for a temporary restraining order or preliminary injunction, but has not issued a decision denying the underlying habeas petition. The *Chavez* court did find that had jurisdiction to consider the petition pursuant to *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018), and that exhaustion would be futile based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Numerous districts courts throughout the country have held that people like Mr. Arenas – who entered the United States over two years ago without inspection – are properly detained under § 1226 and not subject to the mandatory detention provisions of § 1225(b). *See, e.g., Cruz Vega v. Larose, et al*, 3:25-cv-2725-CAB-MSB (S.D. Cal. Nov. 20, 2025) (order issuing preliminary injunction); *Delgado Avila v. Crowley*, No. 2:25-cv-00533-MPB-MJD, (S.D. Ind. Nov. 13, 2025); *Hyppolite v. Noem*, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025); *Guerrero Orellana v. Moniz*, — F. Supp. 3d —, 2025 WL 2809996 (D. Mass. Oct. 3, 2025); *Lepe v. Andrews*, — F. Supp. 3d —, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Hasan v. Crawford*, — F. Supp. 3d —

LAW OFFICE OF SHARA SVENDSEN PLLC
16300 Mill Creek Blvd. Suite 206
Mill Creek, WA 98012
(425) 931-1178

–, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Jimenez v. FCI Berlin, Warden*, —— F. Supp. 3d ——, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025). By contrast, it appears that to date only the two district courts cited by Respondents have followed *Hurtado*'s reasoning to find that noncitizens already in the county are covered by section 1225(b)(2). *See Vargas Lopez v. Trump*, —— F. Supp. 3d ——, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, —— F. Supp. 3d ——, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025). This Court should similarly reject Respondents' interpretation.

II. PETITIONER COULD NOT PREVAIL IN A BOND REDETERMINATION HEARING UNDER BINDING BIA CASE LAW

Respondents assert that the petition is not ripe for consideration because there has been no initial bond determination in the case. However, Respondents do concede that Mr. Martinez Vasquez could be considered a member of the Bond Denial Class for purposes of this litigation.

Respondents further argue that because Mr. Arenas has not yet been denied bond by an Immigration Judge, that he has failed to exhaust the administrative remedies available to him. This argument is disingenuous, as Respondents are aware that there is no Immigration Court that will find jurisdiction for a bond argument, without a District Court ordering them to do so, at this time. *Matter of Yajure Hurtado* is binding precedent on the Immigration Judges. Furthermore, Immigration Judges across the country continue to deny bond for *Maldonado Bautista* Bond Eligible Class members, claiming that the *Maldonado Bautista* nationwide class certification does not actually apply nationwide. Thus, requesting a bond determination before the Immigration Judge would be an exercise in futility on the part of Petitioner.

LAW OFFICE OF SHARA SVENDSEN PLLC
16300 Mill Creek Blvd. Suite 206
Mill Creek, WA 98012
(425) 931-1178

This is not merely an exercise in futility - Respondents are asking that the Court force Bond Denial Class and Bond Eligible Class members such as Mr. Arenas suffer through additional unlawful detention by requiring that they first attend a bond hearing where they will be denied relief, adding days and even weeks of detention as the Immigration Court processes their requests for bond. Even the two cases cited by Respondents in support of their position – *Chavez* and *Vargas* – have agreed that exhaustion would be futile for the reasons outlined. *Chavez v. Noem*, et. al., No. 3:25-cv-02325, 2025 WL 2730228 at 6-7 (S. D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 8:25-cv-00526, WL 2780351 at (D. Neb. September 30, 2025).

III. RELEASE IS THE APPROPRIATE REMEDY

On the other hand, Respondents do not oppose Petitioner being considered a member of the *Rodriguez Vasquez* Bond Denial Class for purposes of this litigation. Resp. Return Memo at 4. Respondents request that if the habeas petition is granted, that the Court order the Immigration Judge to provide Mr. Arenas with a bond hearing pursuant to 8 U.S.C. § 1226(a).

Petitioner continues to seek release from detention. Respondents have not stated their specific interest in Mr. Arenas, only asserting that detention is required by statute. If Respondents' sole interest is to seek Mr. Arenas's removal, that does not require detention. Absent an indication of flight risk or danger to the community, the interest in detention is insignificant.

Many district courts faced with the same issue in this action have in recent weeks determined to order the immediate release of immigration habeas petitioners. *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 LX 473521, at *39 (W.D. Tex. Oct. 1, 2025) *citing J.U. v.*

LAW OFFICE OF SHARA SVENDSEN PLLC
16300 Mill Creek Blvd. Suite 206
Mill Creek, WA 98012
(425) 931-1178

Maldonado, No. 25-cv-4836, 2025 U.S. Dist. LEXIS 191630, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *M.S.L. v. Bostock*, No. 25-cv-1204, 2025 WL 2430267, at *15 (D. Or. Aug. 21, 2025). In the majority of these cases, the Court found that the government had no or an insignificant interest in detaining the petitioner. *Santiago*, 2025 LX473521 at *39 *citing J.U.*, 2025 U.S. Dist. LEXIS 191630, 2025 WL 2772765, at *10; *Zumba*, 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, at *10; *Rosado*, 2025 WL 2337099, at *14, *18; *Sepulveda Ayala v. Bondi ("Sepulveda Ayala II")*, 25-cv-1063, 2025 WL 2209708, at *3 (W.D. Wash. Aug. 4, 2025).

Respondents have not argued that Mr. Arenas is a flight risk or that he presents a danger to society. Thus, Petitioner requests that he be released from detention or, at a minimum, granted a bond hearing within a short period of time.

IV. CONCLUSION

Pursuant to the foregoing, Petitioner respectfully asks that the Court grant his requests for relief.

DATED this 3rd day of December, 2025.

By: /s/ Shara Svendsen
Shara Svendsen
Law Office of Shara Svendsen PLLC

Attorney for Petitioner

I certify that this memorandum contains 1,558 words, in compliance with the Local Civil Rules.

LAW OFFICE OF SHARA SVENDSEN PLLC
16300 Mill Creek Blvd. Suite 206
Mill Creek, WA 98012
(425) 931-1178