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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

LUIS GILBERTO LUYO CHAVEZ Petitioner, vs. GURMEET SINGH, Warden of Mesa Verde Detention Center, et al., Respondents.	Case No. 1:25–CV–01727–DAD–CSK PETITIONER'S TRAVERSE TO RESPONDENTS' OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER AND ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

MEMORANDUM OF POINTS AND AUTHORITIES

Respondents contend that (A) dismissal is warranted because Petitioner failed to exhaust his administrative remedies, (B) Petitioner is properly detained under 8 U.S.C. § 1225, (C) Petitioner's right to due process has not been violated, and (D) relief under the APA is not available to Petitioner. In support of such contentions, Respondents raise no argument that has not already been rejected by several district courts across the United States. Lastly, in light of the binding final judgement recently issued in *Maldonado Bautista*, Respondents request for abeyance is improper and unjustified.

A. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of the instant Petition.

In the context of administrative exhaustion, the Supreme Court has

recognized that "sometimes Congress expressly authorizes pre-enforcement review." *Shalala v. Ill. Council on Long Term Care*, 529 U.S. 1, 13, (2000). Unlike exhaustion mandated by statute, which cannot be waived as it is a jurisdictional limit, "courts have discretion to waive the exhaustion requirement when it is prudentially required." *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004) (citations omitted). The Supreme Court has clarified that exhaustion is not necessary when (1) pursuit of further administrative remedies would prove futile and (2) the issues posed are purely questions of law. *McKart v. United States*, 395 U.S. 185, 193 (1969); *accord Shalala*, 529 U.S. at 120 (explaining that ripeness and exhaustion contain exceptions "when, for example, the legal question is 'fit' for resolution and delay means hardship, or when exhaustion would prove 'futile.'" (internal citations omitted)).

For a plaintiff similarly situated to Petitioner, the District of Nevada noted that "[n]either the habeas statute, 8 U.S.C. § 2241, nor the relevant sections of the INA require petitioners to exhaust administrative remedies before filing petitions for habeas corpus." *Ramirez v. Noem*, No. 2:25-cv-02136-RFB-MDC, 2025 LX 588647, at *14 (D. Nev. Nov. 24, 2025) (citing *Laing,* 370 F.3d at 998) (additional citations omitted). In fact, the court references *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007)—the same case to which Respondents cite when asserting "[t]his Court likely would benefit" from agency interpretation of §§ 1225 and 1226. (Resp'ts' Return 5, Dkt. No. 7). Countering *Puga*, the court acknowledges that prudential exhaustion may be waived "if administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Ramirez v. Noem*, 2025 LX 588647 at *14 (citing *Laing*, 370 F.3d at 999) (internal quotation marks omitted).

Petitioner's conditional parole was revoked without a pre-deprivation hearing,

meaning Petitioner was deprived of his physical liberty without an opportunity to be heard as required by the Fifth Amendment. U.S. Const. amend. V; *see Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) (noting that "release on recognizance" is another name for conditional parole). Such deprivation of constitutional rights constitutes irreparable harm. *Arevalo v. Hennessy*, 882 F.3d 763, 767 (9th Cir. 2018) (citations omitted); *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Petitioner's re-arrest and denial of the opportunity to seek release on bond constitute irreparable injury. Moreover, though "most courts [would] hold that no further showing of irreparable injury is necessary," *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (citations omitted), Petitioner and his family face further harm the longer he is unlawfully detained.

In the three months since his re-arrest, Petitioner has been kept away from his spouse and children, the youngest of whom is an eight-month-old baby girl born in the United States. Petitioner's son—a four-year-old boy—cries for his father each night, believing he has been abandoned as he is too young to understand the true circumstances of his father's absence. What's more, because Petitioner is his family's primary financial provider, Petitioner's spouse has been struggling greatly to provide for their two children since his re-arrest. Any day spent in additional confinement furthers the irreparable injury Petitioner and his family have had to endure as a result of Respondent's unlawful "recent change" in "agency interpretation of § 1225 and § 1226," through which Respondents are attempting to justify Petitioner's mandatory detention. (Resp'ts' Return 5, Dkt. No. 7). Waiving of prudential exhaustion is thus merited. Moreover, the questions posed in the instant petition are purely questions of law, which are fit for resolution consistent with the findings of the majority of district courts nationwide, *Martinez Lopez v. LaRose*, No. 25-CV-2717-JES-AHG, 2025 WL 3030457, at *4 (S.D. Cal. Oct. 30, 2025) (listing cases); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL

2782499, at *1 (W.D. Wash. Sept. 30, 2025) (listing cases), and the final judgement entered in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025, LX 523334, at *86-7 (C.D. Cal. Dec. 18, 2025).

Additionally, as to Respondents suggestion that this Court benefit from the agency's expertise, the Western District of Michigan issued a recent decision explaining precisely why such a suggestion is entirely devoid of any merit:

> [I]t is doubtful that BIA review of Petitioner's custody would preclude the need for judicial review. The Court reaches that conclusion based upon the fact that the Government has clearly set forth its belief that all noncitizens are subject to mandatory detention during removal proceedings. And, recently the BIA proclaimed that all noncitizens are subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216, 229 (BIA 2025). It is simply unlikely that any administrative review by the BIA would lead the Government to change its position, and thereby obviate the need for judicial review of Petitioner's § 2241 petition.

Rujano v. Lynch, No. 1:25-cv-1631, 2026 LX 54089, at *5-6 (W.D. Mich. Jan. 2, 2026).

Lastly, for the reasons discussed above, Respondents' request for abeyance, (Resp'ts' Return 4, Dkt. No. 7), is little more than a transparent attempt at kicking the can down the road. In fact, on November 20, 2025, the Central District of California issued a ruling providing a statutory analysis that is largely dispositive of the issues arising from the instant petition—*Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *see Maldonado Bautista,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond

Eligible Class, incorporating and extending previously issued declaratory). Critically, as parties to *Maldonado Bautista*, Respondents are well aware that the Central District of California has declared unlawful their "current interpretation," (Resp'ts' Return 5, Dkt. No. 7). *Id.* In fact, Respondents are *bound* by that judgment, which has the full "force and effect of a final judgment" under 28 U.S.C. § 2201(a) and has since indeed become final. *Id.* That Respondents' feel emboldened enough to reference this unlawful policy, (Resp'ts' Return 5, Dkt. No. 7), without addressing or even acknowledging the final judgement in *Maldonado Bautista*, suggests Respondents' true motive in requesting an abeyance is continuing to keep Petitioner unlawfully detained pending an appeal that *may* change petitioner's likelihood of success. *See Rascon v. Lyons*, No. 1:25-cv-1787 AC, 2025 LX 501736, at *15-16 (E.D. Cal. Dec. 22, 2025). Should this Court deem it appropriate to stay consideration of the merits, to avoid further irreparable harm, Petitioner's should nevertheless be immediately released pending a pre-deprivation hearing pending a decision in the *Rodriguez Vasquez* appeal. *Id.*

B. Respondents fail to establish why their reading of § 1225 should supplant contrary rulings of district courts across the United States.

In reply to Respondents' contention that Petitioner is properly detained under § 1225," (Resp'ts' Return 7-9, Dkt. No. 7), Petitioner restates and realleges the legal framework and claims for relief as set forth in his original petition. (Pet. ¶¶ 33-74, Dkt. No. 1).

> Respondents assert Petitioner is "rightfully detained" because "[he] falls precisely within the statutory definition of aliens subject to detention pursuant to 8 U.S.C. § 1225(b)(2)(A)." (Resp'ts' Return 7, Dkt. No. 7). In defense of such an assertion, however, Respondents state only that "[Petitioner] was and remains an applicant for admission." Notably, Respondents fail to address—let alone overcome—the wave of recent district court rulings rejecting their

classification of noncitizens like Petitioner as applicants for admission subject to § 1225. *See, e.g., Ruiz v. Larose*, No. 25-cv-02714-BAS-SBC, 2025 LX 536826, at *10 (S.D. Cal. Nov. 18, 2025) ("Statutory interpretation supports that Section 1226(a), not Section 1225(b)(2)(A), applies to Petitioner's immigration detention. Because the BIA's decision binding Immigration Judges incorrectly provides that Petitioner is subject to mandatory detention with no individualized bond determination, Petitioner is being held in violation of Federal Law."); *Gutierrez v. Chesnut*, No. 1:25-cv-01515-DAD-AC (HC), 2025 LX 544215, at *16-17 (E.D. Cal. Dec. 8, 2025) (same); *Velasquez v. LaRose*, No. 25-CV-3137 JLS (MSB), 2025 LX 538873 (S.D. Cal. Nov. 21, 2025) (same); *Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 LX 444893, at *9 (S.D. Tex. Oct. 8, 2025) (same); *see also Martinez Lopez v. LaRose*, 2025 WL 3030457 at *4 (listing cases); *Rodriguez v. Bostock*, 2025 WL 2782499 at *1 (listing cases).

The terms of Petitioner's detention are governed *not* by § 1225 but rather the discretionary detention framework of section § 1226(a), which applies to noncitizens in formal removal proceedings who were residing in the United States at the time of apprehension. *See, e.g. Mercado v. Francis*, No. 25-cv-6582 (LAK), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 232876, 2025 WL 3295903, at *4 & App'x A (S.D.N.Y. Nov. 26, 2025) (collecting cases); *see also Maldonado Bautista*, 2025 LEXIS 233085 at *11. Accordingly, by denying Petitioner a bond hearing under § 1226(a) on the basis that he is subject to mandatory detention under § 1225, Respondents are violating Petitioner's statutory right to be considered for discretionary release under the INA as well as the court's judgment in *Maldonado Bautista*. *Id.*; *see Salazar v. Warden of Adelanto Det. Facility*, No. 5:25-cv-03236-PA-KES, 2025 LX 519973, at *9 (C.D. Cal. Dec. 17, 2025) ("The overwhelming majority of district court judges who have considered this issue, including at least ten in this District, have agreed with Salazar's argument and rejected the

government's new interpretation of the INA.") (citing *Maldonado Bautista*, 2025 LEXIS 233085 at *21-29) (additional citations omitted).

Critically, on December 18, 2025, in light of the Department's instructions to Immigration Judges to disregard its orders, the Central District of California entered final judgement and clarified it had indeed previously "declared the DHS Policy unlawful and granted vacatur under the APA." *Maldonado Bautista*, 2025 LX 523334 at *86-7. As such, and consistent with the holdings of other district courts nationwide, Petitioner's detention is governed by the discretionary detention framework of section § 1226(a), which applies to noncitizen unlawful entrants in formal removal proceedings. *See Martinez Lopez v. LaRose*, 2025 WL 3030457 at *4 (listing cases); *Rodriguez v. Bostock*, 2025 WL 2782499 at *1 (listing cases).

Lastly, Respondents attempt to construe Petitioner's release in April of 2024 as merely "an exercise of that [§ 1182(d)(5)] DHS discretion." (Resp'ts' Return 7, Dkt. No. 7). Section 1182(d)(5) grants the Department exclusive discretion to issue parole on a case-by-case basis for "urgent humanitarian reasons or significant public benefit." INA § 212(d)(5); 8 U.S.C. § 1182(d)(5). But such unilateral discretion is limited to applicants for admission detained under § 1225. *Id.* For this reason, despite acknowledging in a footnote that "Petitioner's release likely makes reference to [§ 1226(a)]," which "the government previously interpreted . . . as available to those in Petitioner's position," Respondents dismiss "any such reference [as] legal error." (Resp'ts' Return 7, Dkt. No. 7). The Eastern District of California has already addressed and dispensed of these exact arguments. *Rascon v. Lyons*, 2025 LX 501736 at *7 ("The legal arguments relied upon by the government have been rejected by the vast majority of the district courts across the country to have considered them."). Moreover, Respondents' own charging documents issued against Petitioner indicate his release was no error—whether legal or otherwise.

The Department placed Petitioner in formal removal proceedings under INA

§ 240, 8 U.S.C. § 1229a, and the NTA charges Petitioner as removable pursuant to INA 212(a)(6)(A)(i). 8 U.S.C. § 1182(a)(6)(A)(i) ("An alien *present in the United States* without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible."). *Id.* (emphasis added). "That petitioner was designated as '*present* in the United States' supports a finding that petitioner has been detained under § 1226(a)." *Gutierrez v. Chesnut*, 2025 LX 544215 at *14 (citations omitted). Similarly, Respondents previously released Petitioner after finding he posed no flight risk or danger to the community, which is the criteria for meriting release under § 1226(a). In contrast, release under § 1182(d)(5) requires a showing of urgent humanitarian reasons or significant public interest. INA § 212(d)(5); 8 U.S.C. § 1182(d)(5). As such, the circumstances of Petitioner's release—not to mention the express reference to § 1226(a)—all evidence Respondents' initial decision to detain Petitioner under § 1226(a). As put aptly by this Court in *Gutierrez v. Chesnut*, "numerous courts have observed [that] the initial decision to pursue petitioner's detention under § 1226(a) precludes the government from later 'switch[ing] tracks' to subject him to mandatory detention under § 1225(b)(2)." *Id.*, 2025 LEXIS 253475 at *15 (quoting *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025) (additional citations omitted).

C. Respondents rely on their widely rejected reading of § 1225 to wrongly limit Petitioner's Fifth Amendment due process rights.

In reply to Respondents' contention that Petitioner has no right to the due process protections he asserts in the original petition, (Resp'ts' Return 7-9, Dkt. No. 7), Petitioner restates and realleges the legal framework and claims for relief as set forth in his original petition. (Pet. ¶¶ 33-74, Dkt. No. 1).

Relying on their recent policy to extend the reach of § 1225 to *all* noncitizen

unlawful entrants—a policy which the Central District of California declared unlawful, *Maldonado Bautista*, 2025 LX 523334 at *86-7—Respondents next argue that Petitioner's due process rights have not been violated because he is not entitled to a pre-re-detention hearing or custody redetermination before the Immigration Court. (Resp'ts' Return 7, Dkt. No. 7). Here, Respondents' argument once more premised on the erroneous and unlawful classification of Petitioner as an "applicant for admission" under § 1225. *E.g. Rascon v. Lyons*, 2025 LX 501736 at *8 ("The undersigned agrees with the well-reasoned and persuasive decisions by the overwhelming majority of courts which have addressed this issue, and rejects the government's new interpretation of § 1225 as the applicable immigration detention authority for all inadmissible noncitizens.").

"'[S]eeking admission' requires an affirmative act such as entering the United States or applying for status, and . . . it does not apply to individuals who, like petitioners, have been residing in the United States and did not apply for admission or a change of status." *Zaragoza Mosqueda v. Noem*, No. 5:25-cv-02304, 2025 LX 343661, at *13 (C.D. Cal. Sep. 8, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 LX 484516, at *17 (S.D. Cal. Nov. 4, 2025) ("The plain text of § 1225(b)(2)(A) requires a noncitizen present without admission to be actively seeking lawful entry.") (citations omitted). Moreover, as emphasized by the court in *Beltran*, "[t]he Ninth Circuit has already rejected an interpretation of 'applicant for admission' that would consider any applicant for admission as someone also 'deemed to have made an actual application for admission.'" *Beltran v. Noem*, 2025 LX 484516 at *17. Here, by misclassifying Petitioner as subject to § 1225, Respondents incorrectly conflate "applicant for admission" with "seeking admission" as used in that section. *Id.*

Still, since "Petitioner was never granted admission to the United States," Respondents assert that, "[f]or immigration law purposes, [Petitioner] is treated as

being stopped at the border, even though he has been physically present within the United States." (Resp'ts' Return 8, Dkt. No. 7). To support this assertion, Respondents cite to *Barrera-Echavarria v. Rison*, 44 F.3d 1441, 1450 (9th Cir. 1995) (en banc), and *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020), both of which concern the "entry fiction" doctrine first described in *Shaughnessy v. United States ex rel. Mezei,* 345 U.S. 206, 97 L. Ed. 956 (1953). But both the factual and legal questions of *Mezei* are extraordinary and distinct from Petitioner's. As such, they bear repeating here.

In *Mezei*, the noncitizen had resided in the United States for several years before departing for Europe, after which he returned to the country on a ship and attempted to re-enter. *Mezei*, 345 U.S. at 208. At that time, the noncitizen was apprehended and "temporarily excluded from the United States by an immigration inspector acting pursuant to the Passport Act as amended and regulations thereunder." *Id.* The noncitizen petitioner was then transferred from the ship to Ellis Island for continued detention. *Id.* Shortly after, the Attorney General deemed the noncitizen petitioner permanently excluded on the basis of national security, a basis which required the noncitizen to be held in detention. *Id.* However, no foreign nation was willing to accept him. *Id.* Consequently, the noncitizen Petitioner sat in confinement for approximately twenty-one months without a foreseeable end to his detention. *Id.* Arguing that such prolonged detention constitutes an unlawful violation of his due process rights, the noncitizen sought habeas corpus relief. *Id.*

As noted by the Court, the immigration law in effect at the time in which *Mezei* was decided permitted discretionary, judicially reviewable release on bond of "resident aliens temporarily detained pending expeditious consummation of deportation proceedings." *Id.* at 215. However, at that time, "neither the rationale nor the statutory authority for such release exist[ed]" for a noncitizen in an "exclusion proceeding grounded on danger to the national security." *Id.* Ultimately,

the Court found that, under § 307 of the 1940 Nationality Act, the noncitizen petitioner broke his continuous residence in the United States by departing "without authorization or reentry papers" and "remain[ing] behind the Iron Curtain for 19 months." *Id.* at 214. Moreover, the Court found that Congress did not intend for a noncitizen's "temporary removal from ship to shore" to constitute an entry for purposes of immigration law. Accordingly, the Court ultimately held that the noncitizen petitioner in *Mezei* "is treated as if stopped at the border," thereby requiring him to remain in detention since no statute allowed for his release. *Mezei*, 345 U.S. at 216.

As observed by the Ninth Circuit, "*Mezei* established what is known as the 'entry fiction,' which provides that 'although aliens seeking admission into the United States may physically be allowed within its borders pending a determination of admissibility, such aliens are legally considered to be detained at the border and hence as never having effected entry into this country.'" *Barrera-Echavarria v. Rison*, 44 F.3d at 1450. As was the case in *Mezei*, the noncitizen petitioner in *Barrera-Echavarria v. Rison* is "an excluded alien whose deportation is not practicable" as neither his country of origin, Cuba, nor seemingly any other country was willing to accept him after he was deemed to be excludable. *Id.*, 44 F.3d at 1443. However, unlike *Mezei*, the noncitizen petitioner in *Barrera-Echavarria v. Rison* was at one point released on immigration parole pursuant to the Cuban Review Plan, 8 C.F.R. §§ 212.12-13. *Id.*, 44 F.3d at 1444. The noncitizen Petitioner would ultimately be re-arrested following a two-year state prison sentence for armed robbery. *Id.* Ultimately, however, the Ninth Circuit's decision in *Barrera-Echavarria v. Rison* follows the same logical structure of the Court's reasoning in *Mezei*: because noncitizens enjoy only those due process rights afforded to them by Congress, and since the noncitizen petitioner's detention falls under a statutory provision that provides no right to release, the noncitizen's continued detention does

not violate constitutional requirements of due process. *Id.,* 44 F.3d at 1444-1450. The same logic guides the reasoning in *Thuraissigiam,* in which the Court held that a noncitizen who was apprehended only twenty-five from the border is "on the threshold" of entry and thus cannot be said to have "effected an entry," thereby entitling him to only those due process rights afforded by statute. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139-140 (2020) (citations omitted).

However, in a recent decision, the Southern District of California clarified the holding in *Mezei* "only reinforced the precedent that noncitizens 'on the threshold of initial entry stand[ ] on a different footing' than those who have 'passed through our gates.'" *Noori v. Larose*, No. 25-cv-1824, 2025 LX 410576, at *26 (S.D. Cal. Oct. 1, 2025) (citing *Mezei*, 345 U.S. at 212). Here, Respondents avoid having to acknowledge the limited scope of the Court's holding in *Mezei* by instead citing vaguely to cases that rely upon it. Ultimately, neither *Mezei, Barrera-Echavarria v. Rison*, nor *Thuraissigiam* support Respondent's contention that Petitioner's due process rights have not been violated because the decisions in all three cases are premised on the propriety of the statutory classification governing the noncitizen petitioner's detention. Here, since Respondents have wrongfully classified Petitioner as subject to mandatory detention under § 1225, Respondents cannot rely on *Mezei, Barrera-Echavarria v. Rison*, or *Thuraissigiam* to argue Petitioner is only able to assert those limited due process protections afforded by that section.

Lastly, as stated in the original petition, (Pet. ¶¶ 33-50, 65-74 Dkt. No. 1), Respondents' revocation of Petitioner's conditional parole and subsequent detention without notice or an opportunity to be heard violates the Due Process Clause, which guarantees that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V; *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) (noting that "release on recognizance" is another name for conditional parole); *Faizyan v. Casey*, No. 3:25-cv-02884-RBM-

JLB, 2025 WL 3208844, at *5 (S.D. Cal. Nov. 17, 2025) ("release on recognizance is a form of conditional parole from detention." (citation modified) (quoting *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 485 (S.D.N.Y. 2025)).

D. Respondents' actions are unlawful under the APA.

In reply to Respondents' contention that Petitioner's re-arrest under § 1225 without a pre-deprivation hearing is not arbitrary and capricious under the APA, (Resp'ts' Return 10, Dkt. No. 7), Petitioner restates and realleges the legal framework and claims for relief as set forth in his original petition. (Pet. ¶¶ 33-74, Dkt. No. 1).

As to Petitioner's APA claims, Respondents first argue the APA is not available to challenge the validity of one's detention. In defense of this incredible assertion, Respondents state simply that, "by the APA's terms, it is available only for final agency action 'for which there is no adequate remedy in court.'" (Resp'ts' Return 9-10, Dkt. No. 7) (citing 5 U.S.C. § 704). Next, Respondents cite *Trump v. J.G.G.*, 604 U.S. 670 (2025), arguing that claims for relief under the APA and INA "that necessarily imply the invalidity of a detainee's confinement" must be brought in a habeas petition." (*Id.*). Finally, without citing to any statute or case law expressing or even implying that core habeas matters cannot raise APA claims, Respondents assert once more that Petitioner's challenge to his detention "is simply not cognizable under the APA" and "cannot be premised on the APA."

In light of Respondents' failure to develop their argument, Petitioner turns to the only case cited by Respondents; however, the Supreme Court's decision in *Trump v. J.G.G.* offers no clear connection to the instant petition or Respondents' argument that relief under the APA is unavailable to Petitioner. Instead, in that case, the noncitizen petitioners were a group of five Venezuelan nationals challenging their designation as members of a terrorist organization and subsequent detention and removal under the Alien Enemies Act (AEA), Rev. Stat. § 4067, 50 U.

S. C. § 21. Initially, the noncitizen petitioners sought injunctive and declaratory relief in habeas among other causes of action, though they would later dismiss their habeas claims. *Id.* at 671. Ultimately, the Supreme Court held that, "[r]egardless of whether the detainees formally request release from confinement, because their claims for relief necessarily imply the invalidity of their confinement and removal under the AEA, their claims fall within the core of the writ of habeas corpus and thus must be brought in habeas." *Id.* at 472 (cleaned up) (citations and internal quotations omitted).

Evidently, there is a need to clarify to Respondents that Petitioner has indeed brought his claims in habeas under 28 U.S.C. § 2241 as he is currently in custody under color of authority of the United States in violation of the INA, the APA, and the Fifth Amendment of the United States Constitution. (Pet. ¶¶ 4-6, 9-12, 51-74 , Dkt. No. 1). In fact, in its December 18, 2025, order, the Central District of California clarified it had previously declared unlawful the Department's policy of subjecting *all* noncitizen unlawful entrants to § 1225 detention. *Maldonado Bautista*, 2025 LX 523334, at *86-7; *Maldonado Bautista*, 2025 WL 3289861 at *11 (order granting partial summary judgment to named Plaintiffs-Petitioners). Critically, in this same order, the Central District of California granted vacatur under the APA. *Id.*

Lastly, Respondents assert that Petitioner's arrest at an ICE check-in meeting is neither arbitrary nor capricious under the APA because the INA grants the Executive Branch broad authority to investigate, arrest, and remove inadmissible noncitizens. (Resp'ts' Return 10, Dkt. No. 7). Notably, Respondents do not allege Petitioner was re-arrested at this time due to the alleged violations of the terms of his conditional parole, which Petitioner was given no opportunity to dispute. (*Id.*). Instead, Respondents reference generally the Executive Branch's statutory authority to engage in enforcement action against noncitizens "suspected of being, or found to

be, unlawfully present in or otherwise removable" in order to "effectuate their removal."(*Id.*).

A reviewing court has authority to "hold unlawful and set aside" agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An agency rule is arbitrary and capricious if, for example, the agency "offered an explanation for its decision that runs counter to the evidence before the agency" or "is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007).

As discussed above, Respondents are parties to *Maldonado Bautista* and thus bound by its final judgement. *Maldonado Bautista v. Santacruz*, 2025 LX 523334 at *86-7. Moreover, Respondents' own charging documents issued against Petitioner evidence his classification as a noncitizen present in the United States without inspection or admission. For example, Respondents initiated formal removal proceedings against Petitioner under INA § 240 through issuance of a Notice to Appear ("NTA"), which charges Petitioner as subject to removal under INA § 212(a)(6)(A)(i) as "an alien present in the United States without being admitted or paroled." In fact, Respondents themselves acknowledge they have consistently treated Petitioner as subject to discretionary, judicially reviewable detention under § 1226(a) rather than mandatory detention under § 1225. (Resp'ts' Return 7, Dkt. No. 7). Accordingly, the *Maldonado Bautista* judgement and Respondent's own processing of Petitioner runs counter to Respondents' implausible explanation of mere "legal error." Additionally, Respondent's attempt at justifying the re-arrest by vaguely referencing the agency's statutory power to detain, investigate and remove noncitizens crumples beneath the fact that Petitioner has already conceded inadmissibility before the Immigration Court, and there is no final order of removal

for Respondents to effectuate. Thus, even the explanation offered by Respondents in their opposition, (Resp'ts' Return 10, Dkt. No. 7) runs counter the evidence present in the records of proceeding before the Immigration Court.

Finally, as discussed at length in the original petition, (Pet. ¶¶ 22-74, Dkt. No. 1), Petitioner is not subject to mandatory detention under § 1225(b) as he is not an applicant for admission seeking admission under that section. (*Id.*). Instead, Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista* and thus entitled to seek release on bond under § 1226(a). (*Id.*). Accordingly, Respondents' continued detention of Petitioner under § 1225 is unlawful under the APA as it is *not* in accordance with the judgement in *Maldonado Bautista* or United States immigration law as prescribed in the INA. 8 U.S.C. §§ 1225-6. 5 U.S.C. § 706(2)(A). Similarly, because Respondents violated Petitioner's procedural due process rights under the Fifth Amendment by re-arresting him without a pre-deprivation hearing and now refusing him the opportunity to seek release on bond, Petitioner's continued detention is also unlawful under the APA as it fails to comport with the due process requirements of the United States Constitution. (*Id.*).

Respectfully submitted this January 13, 2026.

SERRATO LAW FIRM, PC

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