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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 HILARIO SUAREZ-AGUILAR  
12 Petitioner,  
13 v.  
14 JOHN DOE, WARDEN, CALIFORNIA  
CORRECTIONAL CENTER, *et al.*,  
15 Respondents.  
16

No. 1:25-CV-1742-KES-HBK

**MOTION TO DISMISS PETITION FOR WRIT  
OF HABEAS CORPUS UNDER 28 U.S.C.  
§ 2254 AND RULE 4; RESPONSE TO  
PETITION FOR WRIT OF HABEAS  
CORPUS; OPPOSITION TO PRELIMINARY  
INJUNCTION; OPPOSITION TO  
TEMPORARY RESTRAINING ORDER**

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1 Petitioner is a citizen and national of Mexico who entered the United States illegally, without  
2 inspection, at a place and date unknown, but believed to be in or around October 2001. Ex. 1 at 3  
3 (Form I-213), 4 (Notice to Appear). His Form I-213 also reflects an entry into the United States in 1995,  
4 following which he returned to Mexico voluntarily. *Id.* at 1. He has applied to the United States Center  
5 for Immigration Services (USCIS) for immigration benefits, via a Form I-485, but has no immigration  
6 status. *Id.* at 2–3. He was detained by ICE on June 17, 2025, at an appointment related to his Form I-  
7 485 application. *Id.* He is therefore an “applicant for admission” who is subject to mandatory detention  
8 by ICE under 8 U.S.C. § 1225(b)(2). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-  
9 SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).

10 There is no indication in Petitioner’s Form I-213 that he was encountered by immigration  
11 authorities and released under a specific statute, between his arrival into the United States in 2001 and  
12 his arrest in June 2025. It is apparent from the dates of his two misdemeanor convictions for driving  
13 under the influence of alcohol that he has left and re-entered the United States at least twice without  
14 inspection and without being admitted or paroled. Ex. 1 at 2. “[A]n alien who ‘arrives in the United  
15 States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for  
16 admission.’” *Jennings v. Rodriguez*, 583 U.S. 281, 279 (2018). As an applicant for admission, the  
17 government maintains that petitioner is subject to mandatory detention and thus ineligible for a bond  
18 hearing. Petitioner does not possess a right to freedom from immigration detention in any form other  
19 than the form provided by Congress. *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 73  
20 S. Ct. 625, 629, 97 L. Ed. 956 (1953). Therefore, the Petitioner’s petition for writ of habeas corpus,  
21 motion for a preliminary injunction, and motion for a temporary restraining order should be denied.

22 The government acknowledges that two district courts within the Ninth Circuit have recently  
23 vacated or stayed the Department of Homeland Security’s July 8, 2025 “Interim Guidance Regarding  
24 Detention Authority for Applicants for Admission” -- which takes the position that all applicants for  
25 admission within the meaning of 8 U.S.C. 1225(a) are subject to mandatory detention under 8 U.S.C.  
26 1225(b) -- as contrary to law under the Administrative Procedures Act. *See Maldonado Bautista v.*  
27 *Noem*, No. 5:25-cv-01873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025) (vacating the guidance); *Garro*  
28 *Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 3691938 (N.D. Cal. Dec. 19, 2025) (staying the guidance

1 within ICE's San Francisco area of responsibility, an area that includes the Eastern District of  
2 California, pending final resolution of the APA claim). The government has appealed the *Maldonado*  
3 *Bautista* judgment to the Ninth Circuit, *see Maldonado Bautista v. DHS*, 9th Cir. No. 25-7958, but  
4 neither the district court nor the Ninth Circuit has issued a stay of the district court's order.

5 The Court should deny the petition for writ of habeas corpus because there is no such liberty  
6 interest, and petitioner's detention is mandated by statute.

7 Alternatively, respondents acknowledge the pending Ninth Circuit appeal in *Rodriguez v.*  
8 *Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025), Ninth Circuit docket no. 25-6842. Because the issues  
9 in *Rodriguez* are likely to be dispositive of the issues in this case, Respondents ask that any further  
10 briefing deadlines be held abeyance until the resolution of the *Rodriguez* case.

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12 Dated: January 9, 2026

Respectfully submitted,

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14 United States Attorney

15 By: /s/ James Conolly  
16 JAMES CONOLLY  
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