IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-03970-STV

Jesus Maria INESTROZA PAGUADA

Petitioner,

v.

JOHNNY CHOATE, Warden of Aurora Detention Center;
ROBERT HAGAN, Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement;
KRISTI NOEM, United States Secretary, Department of Homeland Security; and
PAMELA BONDI, United States Attorney General, Executive Office for Immigration Review

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 9)

Pursuant to the Court's December 15, 2025, Order (ECF No. 9), Respondents hereby respond to Petitioner Jesus Maria Inestroza Paguada's Petition for a Writ of Habeas Corpus, ECF No. 1 (filed December 11, 2025) (the "Petition")[1]. The Petition should be denied.

This case involves a question of statutory interpretation that is likely familiar to the Court. The Department of Homeland Security (DHS) is detaining Petitioner under a statutory provision of the INA, 8 U.S.C. § 1225(b)(2)(A), that applies to aliens who, like Petitioner, entered the United States without inspection, have never been admitted, and are thus deemed to be "applicants for admission" by law. Section 1225(b)(2)(A) requires detention of an "applicant for admission" if an "examining immigration officer determines that [the] alien seeking

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[1] Undersigned counsel apologizes for the late filing. Respondents erroneously miscalculated the deadline for its Response as January 15, 2026.

admission is not clearly and beyond a doubt entitled to be admitted."

Petitioner claims he is not subject to Section 1225(b)(2)(A) but is instead subject to 8 U.S.C. § 1226(a) – a catchall provision that also authorizes detention of certain aliens while removal proceedings are pending. The practical difference between the two sections is that aliens detained under Section 1225(b)(2)(A) are ordinarily *not* eligible for bond hearings, while those detained under Section 1226(a) are. Accordingly, Petitioner requests a bond hearing pursuant to 8 U.S.C. § 1226(a) or his immediate release. *See* ECF No. 1 at p. 14.

The Court should find that Petitioner is an applicant for admission within the scope of Section 1225(b)(2) based on the text of the statute and the Supreme Court's interpretation in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). Respondents recognize that numerous nonprecedential decisions, including several by this Court, have reasoned otherwise. Nevertheless, Respondents maintain that a proper reading of the text and the Supreme Court's explanation in *Jennings* supports their view.

Petitioner also contends he is entitled to relief based on the declaratory judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92. That decision does not have preclusive effect here.

Moreover, assuming arguendo, Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a), his request for relief from this Court is moot. He has been afforded a bond hearing before an immigration judge (IJ)—who declined to grant bond. And he has been granted *another* custody redetermination hearing before an IJ (yet to be scheduled).

FACTUAL BACKGROUND

Petitioner is a native and citizen of Honduras. *See* Exhibit 1 (Declaration of Nathan Horn,

Deportation Officer) ¶ 4. He was never admitted to, or paroled into, the United States. *See id.* ¶ 6. Respondents detained Petitioner on May 10, 2025. He is being detained pursuant to 8 U.S.C. § 1225(b)(2)(A). *See id.* ¶¶ 8, 9. He was provided with a bond hearing on July 9, 2026. *See id.*, ¶ 18. The Immigration Judge (IJ) denied bond, finding that Petitioner poses a danger to others and, in the alternative, is a flight risk. *See id.* Petitioner has moved for a custody redetermination on multiple occasions. *See id.* ¶ 23, 25. His latest was granted on January 13, 2026, but that has not yet been scheduled. *See id.* ¶ 26. The IJ has conducted four hearings in his removal proceedings and stated a written decision is forthcoming. *See id.* ¶ 24. Accordingly, his removal proceedings remain pending, but a decision from the IJ appears to be imminent.

PROCEDURAL BACKGROUND

Petitioner filed the Petition pursuant to 28 U.S.C. § 2241. *See* ECF No. 1. Petitioner asserts two claims for relief under the Fifth Amendment of the U.S. Constitution. *See id.* ¶¶ 57–68. First, he alleges that Respondents have violated the INA and the Central District of California's Order in *Bautista*, by subjecting him to mandatory detention under Section 1225(b)(2)(A). *See id.* ¶¶ 57–64. Second, he alleges a violation of his substantive due process rights under the Fifth Amendment because of Respondents' alleged failure to provide him a bond hearing. *See id.* ¶¶ 65–68. Petitioner requests that the Court order Respondents to immediately release Petitioner or to provide Petitioner an individualized bond hearing within 7 days. *Id.* at p.14.

LEGAL BACKGROUND

In the INA, Congress established rules governing when certain aliens may be detained. As relevant here, 8 U.S.C. § 1225 governs the processes for the detention and removal of aliens

who are "applicants for admission." 8 U.S.C. § 1225(a)(1). The question in this case is whether Petitioner is within the set of aliens to which 8 U.S.C. § 1225 applies. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court assessed whether certain aliens are entitled to periodic bond hearings during prolonged detention. In making that assessment, "[t]he primary issue [wa]s the proper interpretation of §§ 1225(b), 1226(a), and 1226(c)." *Jennings*, 583 U.S. at 289. That is the primary issue in this case as well. Thus, the Supreme Court's explanation of Section 1225's scope in *Jennings* should guide the Court's analysis here.

I. Section 1225 applies to "applicants for admission," a term that includes aliens who are unlawfully present and never admitted.

Section 1225 provides, in relevant part, that "[a]n alien present in the United States who has not been admitted … shall be *deemed* for purposes of this chapter [to be] an applicant for admission." 8 U.S.C. § 1225(a)(1) (emphasis added). The Court in *Jennings* recognized that the statute uses the term "applicant for admission" as a term of art, and that this term applies to *both* (a) an "arriving alien," as well as (b) an individual who is *present* in the United States but has not been "admitted" through a lawful entry at a port of entry.[2] 583 U.S. at 287 (emphasis added). In other words, aliens who are present in the country and were never lawfully admitted are "treated as" "applicants for admission."

Moreover, "applicants for admission" are not limited to aliens who have submitted an immigration application. The *Jennings* Court's discussion made clear that the term "applicant for admission" is not limited to aliens who have submitted an immigration application. *Id.* at 287

[2] The INA defines "admission" to mean "lawful entry of the alien into the United States *after inspection and authorization* by an immigration officer." 8 U.S.C. § 1101(a)(13)(A) (emphasis added).

(emphasis added). Indeed, Section 1225 elsewhere recognizes that the *status* of being an applicant for admission is one way that an alien may be "seeking admission." It states, "All aliens … who are applicants for admission *or otherwise seeking admission* … shall be inspected by immigration officers." 8 U.S.C. § 1225(a)(3). Section 1225 thus confirms that an alien can seek admission in a manner alternative to an "application."

The *Jennings* Court's discussion of Section 1225's scope also indicates that "applicants for admission" does not somehow *exclude* those who entered without inspection years ago. Section 1225(b) contains two provisions applicable to applicants for admission: Section 1225(b)(1) relates to applicants for admissions subject to expedited removal; and Section 1225(b)(2) is a catchall provision relating to all other applicants for admission.

First, the Court explained that Section 1225(b)(1) applies to two subcategories of applicants for admission. One subcategory applies to those arriving aliens who have been "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Jennings*, 583 U.S. at 287 (citing Section 1225(b)(1)(a)(i)). Another subcategory applies to certain aliens who are: (1) designated by the Attorney General in her discretion; (2) unlawfully present without being admitted; and (3) recent arrivals. *Id.* at 287; *see also* § 1225(b)(1)(A)(iii). Aliens in those two subcategories are subject to "expedited removal." *Jennings*, 583 U.S. at 287.

Second, the Court explained that *all* applicants for admission who fall outside those narrow two subcategories in Section 1225(b)(1) are covered by the *second* subsection of Section 1225(b)—*i.e.*, Section 1225(b)(2). It described Section 1225(b)(2) as a "*catchall* provision that applies to *all* applicants for admission not covered by § 1225(b)(1)." 583 U.S. at

287 (emphases added). Thus, an alien who meets the general definition of applicant for admission (such as an individual who is unlawfully present and has not been admitted)—but does not fall within the two Section 1225(b)(1) subcategories described above—is still an "applicant for admission" who falls under the "catchall" provision of Section 1225(b)(2).

II. In Section 1225, Congress did not grant applicants for admission a right to a bond hearing.

The Court in *Jennings* recognized that Section 1225 does not provide for a bond hearing. It explained that Congress has provided that aliens covered by Section 1225(b)(2) generally "shall be detained" during their removal proceedings, with narrow exceptions. *Jennings*, 583 U.S. at 287-88 (quoting 8 U.S.C. § 1225(b)(2)(A)). That is, under Section 1225(b)(2)(A), all other applicants for admission whom an immigration officer determines are "not clearly and beyond a doubt entitled to be admitted" shall be detained for removal proceedings.

III. Section 1226, in contrast, provides for detention, and bond hearings, for other categories of aliens subject to removal.

The *Jennings* Court recognized that a different statutory provision—Section 1226(a)—governs the detention of other aliens, including those who had been "admitted." Thus, § 1226(a) extends to those who were admitted.

The *Jennings* Court did *not* suggest that Section 1226(a) governs the detention of aliens who are covered by Section 1225(b)(2). Rather, the Court appeared to recognize that these two provisions—Section 1225(b)(2) and Section 1226(a)—authorize detention for *different* sets of individuals: the detention of aliens covered by Section 1225 is authorized by Section 1225, and *other* individuals in the country not covered by Section 1225 may be detained under Section 1226. *Jennings*, 583 U.S. at 289. In distinguishing between these detention authorities,

the *Jennings* Court did *not* suggest that aliens who are properly covered by Section 1225 (where Congress has not authorized bond) should instead be governed by the detention authority set forth in Section 1226(a) (where Congress *has* expressly authorized bond).

ARGUMENT

I. Petitioner's Request for a Bond Hearing is Moot as the Immigration Court has Granted His Motion for Custody Reconsideration

Petitioner's request for habeas corpus is based on allegations that he has been denied due process, to wit: a bond hearing under 8 U.S.C. § 1226(a). He already received one such bond hearing before an IJ, on July 9, 2025; bond was denied on the grounds that Petitioner poses a danger to others or a risk of flight. Ex. 1 ¶ 18. More recently, he filed another motion for another bond hearing. *See id.* ¶ 26. On January 13, 2026, the IJ granted his motion. *See id.* ¶ 26. Thus, Petitioner is being afforded the due process and relief he seeks. Accordingly, Petitioner's Petition is moot. *See Kingsly v. Doll*, 2019 WL 3069689, at *3 (M.D. Pa. May 6, 2019), *report and recommendation adopted*, No. 17-cv-2059, 2019 WL 3067253 (M.D. Pa. July 12, 2019) ("A habeas corpus case in the immigration context is rendered moot when a petitioner seeking a bond hearing is given the bond hearing he seeks.") (collecting cases). Likewise, because he is being afforded due process his alleged basis for immediate release–due process violations–is also moot.

II. Petitioner's detention under Section 1225(b)(2)(A) does not violate the INA.

Under *Jennings*, 8 U.S.C. § 1225 applies to aliens, like Petitioner, who entered without inspection and remain unlawfully present in the United States. Here, Petitioner is present in the country but has not been "admitted"—*i.e.*, he has not made a "lawful entry … after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A); *see* Ex. 1, ¶ 6. The

Supreme Court's explanation in *Jennings* of the scope of Section 1225 shows that an alien in Petitioner's position is treated as an "applicant for admission." Moreover, Section 1225(b)(2)(A) mandates detention for an alien "who is an applicant for admission" if he is "not clearly and beyond a doubt entitled to be admitted." In short, the text of the statute supports detention without bond under Section 1225.

Petitioner makes several arguments about why Section 1225(b)(2)(A) does not apply to him. *See* ECF No. 1, ¶¶ 13–14; 42–47. First, he argues that Respondent's interpretation of Section 1225 and Section 1226 is contrary to the plain text of those provisions. *See id.*, ¶¶ 13–14; 42–45. Second, he argues that 1225(b)(2)(A) applies only to people arriving at U.S. port of entry and are "seeking admission," not individuals, like him, who have already illegally entered without inspection. *See id.*, ¶ 46–47. Finally, he argues he is a member of the class in the *Bautista* case and that the United States is bound by the judgment entered in *Bautista*. *See id.*, ¶¶ 2–9, 16, 58–62. For the reasons set forth below, the Court should reject these arguments.

A. The language of the statute establishes that Section 1225 applies to Petitioner.

"When interpreting the language of a statute, the starting point is always the language of the statute itself." *McGraw v. Barnhart*, 450 F.3d 493, 498 (10th Cir. 2006) (*quoting United States v. Quarrell*, 310 F.3d 664, 669 (10th Cir. 2002)). Looking to the text of Section 1225, as the *Jennings* Court explained, Section 1225 applies to "applicants for admission," a term encompassing *both* those just arriving in the United States *and* those who entered without inspection. In *Jennings*, the Supreme Court expressly recognized that Section 1225(b)(2) applies to all "applicants for admission" who do not fall within Section 1225(b)(1), stating that Section 1225(b)(2) is a "catchall provision that applies to *all applicants for admission* not

covered by § 1225(b)(1)." 583 U.S. at 287 (emphasis added). Accordingly, Section 1225(b)(2) applies *both* to applicants for admission just arriving at the border who do not fall within Section 1225(b)(1)(A)(i) (inadmissible due to fraud, misrepresentation, or lack of valid documentation) *and* to applicants for admission who have been physically present in the United States but are not covered by Section 1225(b)(1)(A)(iii)(II) (unlawful recent arrivals).

B. "Seeking admission" is a term of art that accurately describes Petitioner.

Petitioner's argument that Section 1225 does not apply to him because he is had already entered the United States and is not "arriving" at a port of entry. ECF No. 1, ¶¶ 46–47. However, Section 1225 confirms that *anyone* falling within the category of "applicant for admission" is deemed, as a matter of law, to be seeking admission. *See* 8 U.S.C. § 1225(a)(3) ("All aliens … who are applicants for admission or *otherwise seeking admission* … shall be inspected by immigration officers." (emphasis added)); *id.* § 1225(a)(5) ("An applicant for admission may be required to state … the purposes and intentions of the applicant *in seeking admission* …." (emphasis added)). In short, the Court in *Jennings* confirmed that all aliens who are "applicants for admission" are "seeking admission" by virtue of that status. Thus, based on the language of the statute, Section 1225 applies to Petitioner.

C. The legislative history further supports this view of Section 1225's scope.

The legislative history also weighs in favor of Respondents' interpretation. In 1996, Congress enacted the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA). Before the IIRIRA, Section 1225 provided for the inspection of aliens only when they were arriving at a port of entry. *See* 8 U.S.C. § 1225(a) (1990) (discussing inspection of all aliens "arriving at ports of the United States"). It required that such aliens be placed in exclusion

proceedings. *See id.* § 1225(c). By contrast, aliens who "entered without inspection" were deemed deportable under 8 U.S.C. § 1251(a)(1)(B) (1994) and placed in deportation proceedings, where they could be eligible for bond. *See id.* § 1252(a)(1) (1994).

In short, under the pre-IIRIRA regime, whether an alien was placed in exclusion proceedings or deportation proceedings depended on whether they had "entered" the country. But this focus on "entry" "resulted in an anomaly"—"non-citizens who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings, while noncitizens who presented themselves at a port of entry for inspection were subjected to more summary exclusion proceedings." *Hing Sum v. Holder*, 602 F.3d 1092, 1100 (9th Cir. 2010).

In 1996, with the enactment of the IIRIRA, Congress sought to address this anomaly "by substituting 'admission' for 'entry' and by replacing deportation and exclusion proceedings with a general 'removal' proceeding." *Id.* In doing so, Congress expanded Section 1225 to address not only those who presented themselves at a port of entry, but to include all applicants for admission—*i.e.*, all aliens arriving or present in the country who had not been lawfully admitted.

The legislative history confirms this intent. The House Judiciary Committee Report, states that the IIRIRA was intended to replace certain aspects of the current "entry doctrine," under which "illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection." H.R. Rep. No. 104-469, pt. 1, at 225 (1996). The Report explains that, before the IIRIRA, "aliens who ha[d] entered without inspection [were] deportable under section [1251(a)(1)(B)]" but that after the IIRIRA "such aliens will not be considered to have been

admitted." *Id.* at 226. In other words, "the pivotal factor in determining an alien's status will be whether or not he has been *lawfully* admitted." *Id.* at 225 (emphasis added). In sum, the revisions to Section 1225 "ensure[d] that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country," would be on "equal footing in removal proceedings" as applicants for admission. *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc) (citing 8 U.S.C. § 1225(a)(1)).

If the Court interprets Section 1225 in the manner advocated by Petitioner, that interpretation would undo the fix that Congress enacted through the IIRIRA. On Petitioner's reading, an alien who enters without inspection would often be entitled to a bond hearing while an alien who presents themselves to immigration officers at a port of entry would not. Such a reading would recreate the anomalous pre-IIRIRA incentives for those entering the country without inspection. But as the Supreme Court has recognized, a statutory interpretation that would allow applicants for admission to avoid mandatory detention simply by evading immigration officers when they enter the country would enshrine in our law "a perverse incentive to enter at an unlawful rather than a lawful location." *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020).

D. Many courts have issued well-reasoned decisions affirming Respondents' interpretation of Section 1225.

As a final note, numerous courts have affirmed Respondents' interpretation of Section 1225, often articulating their reasoning in careful detail. *See, e.g.*, *Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-168, 2025 WL 3131942, at *2-3 (E.D. Mo. Nov. 10, 2025); *Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at *6 (E.D. Wis. Oct. 30, 2025); *Cabanas v. Bondi*, 4:25-cv-

04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Xiaoquan Chen v. Almodovar*, No. 1:25-cv-8350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Candido v. Bondi*, No. 25-cv-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025). As those decisions and the Supreme Court's discussion in *Jennings* show, Respondents' position is well supported by the statutory text.

II. The *Bautista* decision does not have preclusive effect in the District of Colorado

Petitioner argues that this Court should rule for him by giving preclusive effect to the declaratory judgment issued as part of a partial final judgment in *Bautista v. Noem*, No. 5:25-CV-1873 (C.D. Cal. Dec. 18, 2025), ECF No. 92, which has been appealed to the Ninth Circuit. ECF No. 1, ¶¶ 57–61. This Court should not grant preclusive effect to that decision.

First, for a prior judgment to have preclusive effect, the judgment must be "entered by a court of competent jurisdiction." *N. Nat. Gas Co. v. Grounds*, 931 F.2d 678, 683 (10th Cir. 1991); *see* Restatement (Second) of Judgments § 1 (1982). Here, the *Bautista* court lacked jurisdiction to determine the legality of Petitioner's detention. That court addressed whether class members were unlawfully detained under 8 U.S.C. § 1225(b)(2), and such a challenge to the legality of detention can only be brought in habeas. *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025). Under habeas principles, "jurisdiction lies in only one district: the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). And a habeas petitioner must name his immediate custodian. *Id.* at 435. The *Bautista* court thus lacked jurisdiction to determine the legality of the detention of class members like Petitioner confined outside the Central District of California. That court also lacked jurisdiction to grant a declaratory judgment in a class action to

determine a preliminary issue that class members then rely on to seek relief in individual habeas actions. *Calderon v. Ashmus*, 523 U.S. 740 (1998).

Second, while courts have "discretion to determine when [offensive collateral estoppel] should be applied." *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 329–31 (1979), offensive collateral estoppel is disfavored when applied against the federal government. *See United States v. Mendoza*, 464 U.S. 154, 159 (1984) (recognizing that the federal government's unique position weight against "a broad application of collateral estoppel").

Third, the existence of prior inconsistent judgments weighs against applying issue preclusion. *Parklane Hosiery*, 439 U.S. at 330–31. District courts have interpreted 8 U.S.C. § 1225(b)(2) differently from the *Bautista* court. *See, e.g.*, *Altamirano Ramos v. Lyons*, – F. Supp. 3d –, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025) (citing cases). These varying rulings support not giving the *Bautista* judgment preclusive effect. *See* Order, *Calderon Lopez v. Lyons*, No. 25-cv-00226 (N.D. Tex. Dec. 19, 2025), ECF No. 12, at 11 & 28.

Fourth, the pendency of an appeal to the Ninth Circuit of the district court's *Bautista* decision supports not giving that decision preclusive force at this time. While the mere "pendency of an appeal does not prevent application of the collateral estoppel doctrine," *Ruyle v. Cont'l Oil Co.*, 44 F.3d 837, 846 (10th Cir. 1994), applying preclusive force to a judgment that has been appealed can cause difficulty because a judgment that is reversed "is thereby deprived of all conclusive effect." *United States v. Lacey*, 982 F.2d 410, 412 (10th Cir. 1992). Courts thus should strive to avoid this "evil result[]." 9 A.L.R.2d 984. When a prior judgment has been appealed, the second court may hold the "disposition in abeyance until the pending appeal [is] resolved." *See Ruyle*, 44 F.3d at 846. Here, if this Court is inclined to grant collateral estoppel

effect to the *Bautista* decision, it should hold its decision in abeyance until the Ninth Circuit rules. Based on these factors, the Court should not accord the *Bautista* decision preclusive effect here. Rather, it should address the proper scope of § 1225(b) based on the above analysis.

IV. Petitioner's detention does not violate due process.

Petitioner alleges that his detention without a bond hearing violates his substantive due process rights under the Fifth Amendment. *See* ECF No. 1 ¶¶ 37-42. As an initial matter, this argument fails because Petitioner has received all the process he could possibly be entitled to, in the form of a bond hearing, and another bond hearing that has been granted. But his argument also fails because Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2)(A)—which does not provide for a bond hearing.

First, to show that he has been denied due process, Petitioner would need to show that he has been deprived of a statutory right. The Supreme Court has reiterated the "important rule" that for "foreigners who have never been … admitted into the country pursuant to law," "the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law." *Thuraissigiam*, 591 U.S. at 138. The Court also explained that an alien who was an "applicant for admission" had "only those rights regarding admission that Congress has provided by statute," and "the Due Process Clause provides nothing more." *Id.* at 140. Thus, Petitioner has not been deprived of any statutory right afforded under Section 1225.

Second, Petitioner has not shown any prejudice. He is not being denied any process in his immigration proceedings. He thus has not shown a violation of procedural due process. *See Duran-Hernandez v. Ashcroft*, 348 F.3d 1158, 1163 (10th Cir. 2003) (alien failed to prove prejudice where he did not show "that additional procedural safeguards would have changed" the

immigration court's decision). As another Court in this District explained, "so long as the government reasonably affords noncitizen detainees in ongoing immigration proceedings administrative process to challenge the *merits* determinations that are keeping them in custody, continued custody is permissible." *Bonilla Espinoza v. Ceja*, No. 25-cv-01120-GPG (D. Colo. May 21, 2025). (ECF No. 11 at 13).

Finally, Petitioner's detention pending removal is not presumptively unconstitutional due to its length. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court explained that aliens who were convicted of certain crimes may be detained during their removal proceedings. 538 U.S. at 513. In that case, like this one, Congress mandated detention pending removal proceedings. *See id.*; 8 U.S.C. § 1226(c). The Court reasoned that the "definite termination point" of the detention at the end of removal proceedings assuaged any constitutional concern about the length of detention. *Demore*, 538 U.S. at 512. The same is true here. Petitioner is detained in immigration detention while his immigration case is adjudicated. *See* ECF No. 1 ¶ 30-31; Ex. 1 ¶¶ 9-27. Congress's decision to detain him pending removal is a "constitutionally permissible part of th[is] process." *Demore*, 538 U.S. at 531.

CONCLUSION

For the reasons set forth above, the Court should deny the Petition (ECF No. 1).

Dated: January 15, 2026.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that, on January 15, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

United States Attorney's Office