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Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEONARDO LOPEZ BOHORQUEZ,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

No. 1:25-cv-1875 DJC

**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**

1 Petitioner is a citizen and national of Columbia who entered the United States illegally. He is
2 then an “applicant for admission” who is subject to mandatory detention by ICE under 8 U.S.C. §
3 1225(b)(2)(A). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D.
4 Cal. Nov. 17, 2025).

5 Petitioner’s prior release in the discretion of DHS, even if the release document cited 8 U.S.C.
6 § 1226, does not have the effect of having converted petitioner’s presence in the United States into an
7 “admission.” “[A]n alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not
8 been admitted,’ is treated as ‘an applicant for admission.’” *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

9 As an applicant for admission, petitioner is subject to mandatory detention and thus ineligible for
10 a bond hearing. Therefore, the Petitioner’s petition for writ of habeas corpus and motion for a temporary
11 restraining order should be denied.

12 Counsel for the government has reviewed the cases cited in the Court’s minute order, and notes
13 that *Antonio Lopez v. Lyons*, 2:25-cv-3174 deals with a different subsection of § 1225—subsection
14 (b)(1) which deals with expedited removal. The remaining cases are in the same procedural posture as
15 this case, and also as the pending Ninth Circuit appeal in *Rodriguez v. Bostock*, 779 F.Supp.3d 1239
16 (W.D. Wash. 2025), Ninth Circuit docket no. 25-6842. Because the issues in *Rodriguez* are likely to be
17 dispositive of the issues in this case, Respondents ask that any further briefing deadlines be held
18 abeyance until the resolution of the *Rodriguez* case.

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20 Dated: December 17, 2025

Respectfully submitted,

21 ERIC GRANT
22 United States Attorney

23 By: /s/ Audrey B. Hemesath
24 AUDREY B. HEMESATH
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25 Attorneys for Respondents
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