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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSSIE ARENGUREN-PACHECO,
12 Petitioner,
13 v.
14 KRISTI NOEM, *et al.*,
15 Respondents.
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No. 1:25-cv-1901-DC-CKD

**RESPONSE TO PETITION FOR WRIT OF
HABEAS CORPUS; OPPOSITION TO
PRELIMINARY INJUNCTION; OPPOSITION
TO TEMPORARY RESTRAINING ORDER**

17 Respondents file this opposition to Petitioner's Motion for a Temporary Restraining Order and
18 Petition for Writ of Habeas Corpus. Petitioner is a citizen and national of Venezuela who entered the
19 United States illegally. He is then an "applicant for admission" who is subject to mandatory detention
20 by ICE under 8 U.S.C. § 1225(b)(2). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-
21 SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).

22 The government maintains the position that Petitioner's prior release at DHS's discretion, even if
23 the release document cited 8 U.S.C. § 1226, does not have the effect of having converted petitioner's
24 presence in the United States into an "admission." *See* Exhibit 1 at 1. "[A]n alien who 'arrives in the
25 United States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for
26 admission.'" *Jennings v. Rodriguez*, 583 U.S. 281 (2018). As an applicant for admission, Petitioner is
27 subject to mandatory detention and thus ineligible for a bond hearing. Therefore, his petition for writ of
28 habeas corpus and motion for temporary restraining order should be denied.

Counsel for the government has reviewed the cases cited in the Court’s minute order, *Labrador-Prato v. Noem, et al.*, 1:25-cv-01598-DC-SCR, 2025 WL 3458802 (E.D. Cal. Dec. 2, 2025), *Selis Tinoco v. Noem, et al.*, 1:25-cv-01762-DC-JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025), and notes that the cases address largely the same issues and are in the same procedural posture as this case, and also as the pending Ninth Circuit appeal in *Rodriguez v. Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025), Ninth Circuit docket no. 25-6842.

The government adds, however, that Petitioner’s criminal history in this case distinguishes it even from *Selis Tinoco*, in which government unsuccessfully opposed the petitioner’s release based on the petitioner’s prior arrest for a DUI charge and violations of the terms of his release. 2025 WL 3567862 at *6. In that case, the Court held that these matters were proper for an immigration judge’s consideration at a bond hearing to determine whether the petitioner was a danger to the community or a flight risk. *Id.* Here, however, the crimes for which Petitioner has been arrested are overall more serious than those of the petitioner in *Selis Tinoco*, involving a DUI, but also charges for retail theft with the intent to sell, shoplifting, and criminal conspiracy. Ex. 1 at 5. The government notes also that Petitioner has been charged under the name “Freddy Zambrano” in the DUI case against him in San Francisco County, which indicates the use of an alias. ECF No. 4-13 (Petitioner’s Ex. M). It is the government’s understanding that these cases have yet to be resolved.¹ ICE cited Petitioner’s criminal history as a basis to detain him. Ex. 1 at 5. As breaches of the conditions of his release, these factors weigh in favor of Petitioner’s continued detention under § 1225(b)(2).

Finally, because the Ninth Circuit’s resolution of issues in *Rodriguez* are likely to be dispositive of the issues in this case, Respondents ask that any further briefing deadlines be held abeyance until the resolution of the *Rodriguez* case.

Dated: December 19, 2025

Respectfully submitted,
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United States Attorney

By: /s/ JAMES CONOLLY
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¹ Petitioner’s Exhibit M and N do not indicate the cases have terminated. ECF No. 4-13, -14.