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8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 **OSCAR DAVID ALAS GARCIA,**
12
13 **Plaintiff,**

Case No.: 2:25-cv-02580

14 vs.

**PETITIONER’S REPLY TO
FEDERAL RESPONDENTS’
RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS**

15 **JOHN MATTOS, Warden, Nevada**
16 **Southern Detention Center;**
17 **MICHAEL BERNACKE, Field Office**
18 **Director, U.S. Immigration and Customs**
19 **Enforcement,**
20 **PAMELA BONDI, Attorney General of**
21 **the United States; and**
22 **KRISTI NOEM, Secretary of Homeland**
23 **Security, in their official capacities,**

24 **Defendant**

25 The Federal Respondents’ Response asks this Court to ignore its own repeated
26 and settled rulings. In *Yaky Howard Mejia Soto v. Radar*, Case No. 2:25-cv-02281-
27 RFB-EJY (D. Nev. Dec. 11, 2025), issued just last month, this Court explicitly

1 rejected the exact arguments Respondents now recycle. As this Court noted in *Mejia*
2 *Soto*, it has already granted relief in "forty-two similar challenges" where the
3 Government attempted to apply mandatory detention under 8 U.S.C. § 1225(b)(2) to
4 long-time residents. *See, e.g., Escobar Salgado v. Mattos*, No. 2:25-cv-01872-RFB-
5 EJY, 2025 WL 3205356 (D. Nev. Nov. 17, 2025); *Herrera v. Knight*, No. 2:25-CV-
6 01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Vazquez v. Feeley*,
7 No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Roman*
8 *v. Noem*, No. 2:25-CV-01684-RFB-EJY, 2025 WL 2710211 (D. Nev. Sept. 23,
9 2025); *Carlos v. Noem*, No. 2:25-CV-01900-RFB-EJY, 2025 WL 2896156 (D. Nev.
10 Oct. 10, 2025); *see also infra* (citing full list of authority).

11 Respondents contend that Petitioner Oscar David Alas Garcia, a resident of
12 the United States since 2012, is subject to mandatory detention solely because he
13 was never formally "admitted." They rely on the recent BIA decision *Matter of*
14 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), to justify this position. However, this
15 Court has already held that *Yajure-Hurtado* is "unlawful" and that the Government's
16 new policy "subjects millions of undocumented U.S. residents to prolonged
17 detention without the opportunity for release on bond, in contravention of decades
18 of agency practice." *Mejia Soto*, at 2-3.

19 The law of this District is clear: Petitioner is subject to 8 U.S.C. §1226(a), not
20 §1225. Continued detention without a bond hearing violates both the Immigration
21 and Nationality Act ("INA") and the Due Process Clause.

22 ARGUMENT

23 **A. THIS COURT HAS ALREADY RULED THAT §1226(A) GOVERNS** 24 **ALIENS APPREHENDED IN THE INTERIOR**

1 Respondents argue that § 1225(b)(2) is a "catchall" that mandates detention for
2 anyone not lawfully admitted. This Court has repeatedly found this interpretation
3 "incorrect and unlawful." *Mejia Soto*, at 3; *Escobar Salgado*, 2025 WL 3205356 at
4 2-6.

5 In *Mejia Soto*, this Court held that for a "longtime U.S. resident, who entered the
6 country without inspection decades ago," the correct statutory authority for detention
7 is §1226(a). *Mejia Soto*, at 7 . Like Mr. Mejia Soto, Petitioner entered the United
8 States over a decade ago (2012) and was apprehended in the interior (Las Vegas),
9 far from any port of entry. *See* Resp. Ex. A (I-213 form from April 2012).

10 To accept Respondents' argument would render §1226(a) superfluous. As this
11 Court reasoned in *Escobar Salgado* and affirmed in *Mejia Soto*, the "plain meaning
12 of the relevant statutory provisions," supported by legislative history and decades of
13 agency practice, confirms that §1226 applies to interior apprehensions. *Mejia Soto*,
14 at 7 (citing *Escobar Salgado*, 2025 WL 3205356 at *10-22) . Respondents offer no
15 new reason for this Court to depart from its established precedent in over forty prior
16 cases. *See, e.g., Berto Mendez v. Noem*, No. 2:25-cv-02602-RFB-MDC, 2025 WL
17 3124285 (D. Nev. Nov. 7, 2025); *Cornejo-Mejia v. Bernacke*, No. 2:25-cv-02139-
18 RFB-BNW, 2025 WL 3222482 (D. Nev. Nov. 18, 2025); *Jacobo Ramirez v. Noem*,
19 No. 2:25-cv-02136-RFB-MDC, 2025 WL 3270137 (D. Nev. Nov. 24, 2025);
20 *Garcia-Arauz v. Noem*, No. 2:25-cv-02117-RFB-EJY, 2025 WL 3470902 (D. Nev.
21 Dec. 3, 2025).

22
23 **B. The Matter of Yajure Hurtado Does Not Strip this Court of Jurisdiction**
24 **or Override Statutory Text.**

25 Respondents rely heavily on the BIA's decision in *Yajure Hurtado* to argue that
26 Immigration Judges lack jurisdiction to grant bond. This Court has explicitly rejected
27

1 that premise, finding that "administrative exhaustion is excused as futile due to the
2 BIA's decision in *Hurtado*." *Mejia Soto*, at 7 (citing *Jacobo Ramirez*, 2025 WL
3 3270137 at *5-6).

4 Furthermore, under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), this
5 Court is not bound to defer to the BIA's interpretation when it conflicts with the
6 statute's text. This Court has already determined that applying §1225(b)(2) to
7 residents like Petitioner is "unlawful under the INA." *Mejia Soto*, at 3. The Executive
8 Branch cannot rewrite the statute to create a "mass detention policy" that Congress
9 did not authorize. *Id.* at 2-3.

10 **C. Mandatory Detention Violates Petitioner's Procedural Due Process** 11 **Rights.**

12 Even if the Government's statutory interpretation were correct, Petitioner's
13 detention would still be unconstitutional. As this Court held in *Mejia Soto*, applying
14 mandatory detention to a resident noncitizen fails the three-part test set forth in
15 *Mathews v. Eldridge*, 424 U.S. 319 (1976). *Mejia Soto*, at 8.

- 17 1. **Private Interest:** Petitioner has a "substantial" interest in freedom from
18 imprisonment, which is "the most elemental of liberty interests." *Mejia*
19 *Soto*, at 8 (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)).
- 20 2. **Risk of Erroneous Deprivation:** The risk of error is "extraordinarily
21 high" because the current policy gives DHS officials "sole, unguided, and
22 unreviewable discretion" to detain individuals without any process to
23 challenge that decision. *Mejia Soto*, at 9.
- 24 3. **Government Interest:** The Government has no legitimate interest in the
25 "unjustified deprivation of a person's liberty." *Mejia Soto*, at 10. Indeed,
26 the Government's interest in public safety and preventing flight is *better*
27

1 served by the existing bond hearing process under §1226(a), which allows
2 for individualized determinations. *Mejia Soto*, at 10 (citing *Rodriguez Diaz*
3 *v. Garland*, 53 F.4th 1189, 1188-89 (9th Cir. 2022)).

4
5 Mandatory detention imposes staggering fiscal costs without adding any value
6 to public safety that a bond hearing could not address. *Mejia Soto*, at 10 (citing
7 *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017)). Denying Petitioner a
8 hearing serves no purpose other than arbitrary incarceration.

9 **D. Mandatory Detention Violates Substantive Due Process.**

10 Continued detention violates substantive due process because Respondents have
11 articulated "absolutely no individualized justification—let alone a special or
12 compelling justification—to continue to deprive Petitioner of his physical liberty."
13 *Mejia Soto*, at 11.

14 Under *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), detention is only
15 constitutional in non-punitive circumstances where a "special justification"
16 outweighs the individual's liberty interest. *Mejia Soto*, at 11. Respondents have not
17 alleged that Petitioner is a danger to the community or a flight risk. Absent such a
18 showing, his mandatory detention is unconstitutional.

19
20 **CONCLUSION**

21 For the foregoing reasons, Petitioner Oscar David Alas Garcia respectfully
22 requests that this Court grant his Petition for a Writ of Habeas Corpus.

23 Federal Respondents ask this Court to disregard the text of the INA, the
24 Constitution, and its own settled "law of the district." As this Court definitively held
25 just last month in *Mejia Soto v. Radar*, the Government's attempt to apply the
26 mandatory detention provisions of 8 U.S.C. §1225(b)(2) to longtime residents
27

1 apprehended in the interior is "incorrect and unlawful." *Mejia Soto*, at 3. There is no
2 factual or legal basis to distinguish Mr. Alas Garcia's case from the forty-two similar
3 challenges where this Court has already granted relief.

4 Mr. Alas Garcia has resided in the United States since 2012. His continued
5 detention without a bond hearing is not authorized by statute and constitutes a
6 violation of his procedural and substantive Due Process rights. The Government's
7 reliance on *Matter of Yajure Hurtado* cannot cure these deficiencies, nor can it force
8 this Court to abdicate its judicial oversight in favor of an unauthorized agency policy.
9

10 Accordingly, Petitioner prays that this Court: (1) **GRANT** the Petition for Writ
11 of Habeas Corpus; (2) **DECLARE** that Petitioner's detention is governed by 8
12 U.S.C. §1226(a); and (3) **ORDER** Respondents to provide Petitioner with an
13 individualized bond hearing before an Immigration Judge within five (5) days, at
14 which the Government bears the burden of proving by clear and convincing evidence
15 that Petitioner is a danger to the community or a flight risk, or else release him
16 immediately.

17
18
19 Respectfully submitted,

20 Date: January 12, 2026

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CERTIFICATE OF SERVICE

13 **JOHN MATTOS, Warden, Nevada**
14 **Southern Detention Center;**
15 **MICHAEL BERNACKE, Field Office**
16 **Director, U.S. Immigration and Customs**
17 **Enforcement,**
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19 **the United States; and**
20 **KRISTI NOEM, Secretary of Homeland**
21 **Security, in their official capacities,**

22 **Defendant**

23 I, Juan Carrillo, employee for Attorney David E. Walters, hereby certify that
24 I served a copy of the **Petitioner's Reply to Respondent's Response to Petition**
25 **for Writ of Habeas Corpus** was made this day by electronic mail service (email) and
26

1 depositing a physical copy of the same in the United States Mail in Las Vegas, Nevada,
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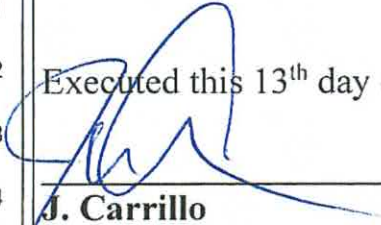
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27 _____
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