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8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE DISTRICT OF ARIZONA

11 Kenedy Junior Bellorin Diaz,
 12 Petitioner,

No. CV-25-04877-PHX-KML (ASB)


13 vs.

14 v.
 15 Kristi Noem, et al.

16 Respondents.

**RESPONSE TO ORDER
 TO SHOW CAUSE (Doc. 4)
 AND
 HABEAS PETITION (Doc. 1)**

17
 18 **I. INTRODUCTION AND RELEVANT FACTS.**

19 Respondents hereby respond to the Court’s Order to Show Cause (Doc. 4), and thus to
 20 the Petition for a Writ of Habeas Corpus (Doc. 1). Petitioner, Kenedy Junior Bellorin Diaz, is
 21 a native and citizen of Venezuela, born on  Doc. 1. He unlawfully entered
 22 the United States without inspection, admission or parole by immigration officials on July 12,
 23 2023. *Id.* He has resided in the United States since. *Id.* Petitioner does not assert that he has
 24 requested or received a bond hearing before an immigration judge. *Id.*

25 **II. RESPONDENTS’ PRESERVE THEIR LEGAL POSITION.**

26 Respondents respectfully preserve their legal position that Petitioner is an applicant
 27 for admission as defined by 8 U.S.C. § 1225(a)(1) because he has never been lawfully
 28 admitted to the United States, and that because he is in section 240 proceedings, he is therefore

1 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See Rojas v. Olson*, No. 25-
2 CV-1437-BHL, 2025 WL 3033967, at *1 (E.D. Wis. Oct. 30, 2025); *Sandoval v. Acuna*, No.
3 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Oliveira v. Patterson*, No.
4 6:25-CV-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No.
5 1:25-CV-00168-JMD, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Garibay-Robledo v.*
6 *Noem*, 1:25-cv-00177 (N.D. Tex. 2025); *Cabanas v. Bondi*, No. 4:25-CV-04830, 2025 WL
7 3171331 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-
8 AJR, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Alonzo v. Noem*, No. 1:25-CV-01519
9 WBS SCR, 2025 WL 3208284, at *1 (E.D. Cal. Nov. 17, 2025). Respondents, however, also
10 acknowledge that its legal position has been squarely rejected in *Echevarria v. Bondi*, 2025
11 WL 2821282 (D. Ariz. 2025).

12 **III. BAUTISTA AND CASTANON-NAVA.**

13 Respondents acknowledge that on December 11, 2025, the Seventh Circuit concluded
14 the Government was “not likely to succeed on the merits of their argument” regarding
15 “mandatory detention under § 1225(b)(2)(A)” —the same argument Respondents respectfully
16 maintain here. *Castanon-Nava v. U.S. Dep’t of Homeland Sec.*, No. 25-3050, 2025 WL
17 3552514, at *9 (7th Cir. Dec. 11, 2025).

18 Respondents further concede that Petitioner is a member of the Bond Eligible Class
19 certified in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, -- F.R.D. --, 2025 WL
20 3288403, at *9 (C.D. Cal. Nov. 25, 2025). On December 18, 2025, the Bautista Court entered
21 final judgment finding that section 1226(a), not section 1225(b)(2) governs the detention of
22 the Bond Eligible Class. *See Bautista*, ECF No. 94. A notice of appeal was then filed by the
23 *Bautista* respondents on December 18, 2025. *See Bautista*, ECF No. 95.

24 Critically, however, the *Bautista* Court has not granted anything beyond declaratory
25 relief, such as ordering bond hearings for the certified class members. It has only extended its
26 previous finding that section 1226(a) rather than section 1225(b)(2) governs the named
27 Plaintiffs’ claims to the entire class, entering a final judgment from which the Government
28 has appealed.

