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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

JOSE ALFREDO BELTRAN ORELLANA,

Petitioner,

v.

BRIAN HENKEY, Field Office Director of Enforcement and Removal Operations, Salt Lake City Field Office, Immigration and Customs Enforcement; KENNETH PORTER, Acting Director of the Boise U.S. Immigration and Customs Enforcement Field Sub-Office; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General, and MIKE HOLLINSHEAD, Sheriff of Elmore County,

Respondents.

Case No. 1:25-CV-00013-AKB

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR A TEMPORARY RESTRAINING ORDER (Dkts. No. 1 and 2)

INTRODUCTION

Petitioner Jose Alfredo Beltran Orellana (Orellana) is a native and citizen of El Salvador who is currently in the custody of Immigration and Customs Enforcement (ICE). Although Petitioner challenges his detention under 8 U.S.C. § 1225(b), his history—including a prior

application for asylum and adjudicated removal order in 2019—distinguishes his circumstances from other recent habeas petitioners in this District. The United States maintains that Orellana, who reentered the United States despite his litigated immigration case ending with a final removal order, is properly detained under § 1225(b) as an applicant for admission. Furthermore, because Orellana cannot satisfy the requirements for injunctive relief, his request for a temporary restraining order should be denied.

ARGUMENT

I. Factual Inaccuracies in the Petition.

The Petition contains factual omissions concerning Orellana’s immigration history and legal status. Contrary to the assertion that Orellana is merely a resident who entered in 2021, records indicate he first entered the United States illegally in 2012 and was apprehended by immigration authorities. *See* Dkt. No. 1 at 1 and 7; Declaration of Jared Callahan (Callahan Decl.) at 1-2. Following litigation, Orellana was ordered removed, and was removed, to El Salvador in November 2019. Callahan Decl. at 4.

Orellana was recently encountered and detained by ICE on December 15, 2025, for the reinstatement of that prior removal order. 8 U.S.C. § 1231(a)(5); Dkt. No. 1 at 1-2; Callahan Decl. at 4. Orellana’s return to the United States, without permission or authority, was a crime. 8 U.S.C. § 1326 (making it a crime to enter the United States after being previously “denied admission, excluded, deported, or removed”); 8 U.S.C. § 1231(a)(5).

II. The Government Rests on its Prior Briefing, Challenging Jurisdiction and Proving that Detention is Mandatory.

The Government recognizes that this Court has previously ruled on the legal issues regarding detention authority. The Government maintains its position that this Court lacks subject matter jurisdiction under 8 U.S.C. § 1252 and that venue is only appropriate in the U.S.

District Court for the District of Columbia for challenges to national policy directives regarding § 1225(b). The Government also maintains its position that Orellana is an “applicant for admission” because he is present in the United States without having been admitted. As such, he is subject to mandatory detention under the plain language of 8 U.S.C. § 1225(b)(2)(A). *See* Government’s Response to Petition, *Ayala v. Henkey*, 25-CV-682-AKB, Dkt. No. 7 (D. Idaho, Dec. 11, 2025).

Even if the Court determines that § 1226(a) applies, outright release is not justified. If Section 1226 applies, the Petitioner is entitled to the process provided in that Section. *See* Government’s Response, *Ayala v. Henkey*, 25-CV-682-AKB, Dkt. No. 7. The regulations implementing Section 1226(a) provide that the Field Office Director makes the first determination about whether the alien should remain in detention, but the alien may thereafter request a bond determination by an immigration judge. *See* 8 C.F.R. § 236.1(d)(1). If the Court concludes Section 1226(a) applies, the Court should allow the Agency to follow the process provided by the statute and regulations and allow the Agency to make a detention determination pursuant to Section 1226(a), in the first instance.

Respectfully submitted this 18th day of January, 2026.

BART M. DAVIS
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By:

/s/ Michael W. Mitchell
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