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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

Jhair RICSE MENDOZA

Petitioner,

Case No. 1:26-cv-00020-AKB

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; Mike HOLLINSHEAD, Sheriff of Elmore County,

**REPLY TO RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS (Dkt. 7)**

Respondents.

Petitioner Jhair Ricse Mendoza (“Petitioner”) submits this Reply to Respondents’ answering brief (Dkt. 7) and the supporting declaration of Jared Callahan (Dkt. 7-1).

Respondent hereby submits this reply to the Responsive Brief of the Respondents (Dkt. No. 7).

I. PETITIONER IS NOT DETAINED UNDER 8 U.S.C. § 1225(b)(1)

Respondents argue that Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(1), and therefore ineligible for bond redetermination. However, this is contradicted by the declaration submitted by Jared Callahan, which explicitly states that “CBP... .initiat[ed] removal proceedings under 8 U.S.C. § 1229a”, charging Petitioner as being an “alien present in the United States without being admitted or paroled”, pursuant to section 1182(a)(6)(A)(i); that “CBP released Petitioner from custody”, and, that he “was never inspected and admitted or paroled into the United States.” Dkt. 7-1 at 3.

Section 1225 applies to two distinct categories of noncitizens, set out at sections 1225(b)(1) and 1225(b)(2), respectively. Section 1225(b)(1) covers noncitizens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(2) is “broader” and “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Id.*

Noncitizens covered by § 1225(b)(1) are “normally ordered removed ‘without further hearing or review’ pursuant to an expedited removal process.” *Id.* (quoting 8 U.S.C. § 1225(b)(1)(A)(i)). However, should a noncitizen “indicate[] either an intention to apply for asylum . . . or a fear of persecution,” that noncitizen is referred to an asylum interview. *Id.*; 8 U.S.C. § 1225(b)(1)(A)(ii). “If an immigration officer determines after that interview that the alien has a credible fear of persecution, ‘the alien shall be detained for further consideration of the application for asylum.’” *Id.* (quoting 8 U.S.C. § 1225(b)(1)(B)(ii)). Noncitizens covered by 1225(b)(2), however, are “detained pursuant to a different process.” *Id.* at 288. Those individuals “shall be detained for a [removal] proceeding” if an immigration officer “determines that [they

are] not clearly and beyond a doubt entitled to be admitted” into the country. *Id.* (quoting 8 U.S.C. § 1225(b)(2)(A)).

For aliens subject to expedited removal proceedings under subsection 1225(b) who are placed in full removal proceedings before the Immigration Court, their detention is mandatory; and release into the United States can only be granted pursuant to parole under section 1182(d)(5)(A), for “urgent humanitarian reasons” or “significant public benefit”. 8 C.F.R. §§ 235.3(c), 212.5 *citing* 8 U.S.C. § 1182(d)(5)(A). As such, the only mechanism by which a noncitizen initially detained pursuant to section 1225(b) could be released from detention is pursuant to a grant of humanitarian parole under section 1182(d)(5)(A).

Once a noncitizen detained under 1225(b)(1) is paroled, 1225(b)(1) no longer governs their detention. Section 1225(b)(1) sets for the limits of its applicability as follows:

Aliens described: An alien described in this clause is an alien who is not described in subparagraph (F)), *who has not been admitted or paroled into the United States*, and who has not affirmatively shown . . . that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility under this paragraph.

8 U.S.C. § 1225(b)(1)(A)(iii)(II). As such, having been paroled would disqualify a noncitizen from the statutory scheme at 1225(b)(1).

More simply put, when the Petitioner was placed into removal proceedings and released from custody, he was no longer subject to expedited removal, and therefore, his detention these more than two years after his release is not pursuant to 1225(b)(1). In *N.A. v. Larose*, the Southern District of California found that an alien detained under substantially identical

circumstances as the petitioner after having been released and placed into removal proceedings was not subject to mandatory detention at the time of rearrest, because she was not a noncitizen arriving in the United States; and was not statutorily eligible to be designated for expedited removal, having been previously “admitted or paroled into the United States.” *N.A. v. Larose*, No. 25-cv-2384, 2025 U.S. Dist. LEXIS 198688, at *15-16 (S.D. Cal. Oct. 7, 2025); *see also Harmanpreet Singh v. Albarran*, No. 1:25-cv-01821, 2025 LX 513965 (E.D. Cal. Dec. 16, 2025) (accord); *Bautista v. Pico v. Noem*, No. 25-cv-08002-JST, 2025 WL 3295382, at *2 (N.D. Cal. Nov. 26, 2025) *citing as in accordance Orozco Acosta v. Bondi*, No. 25-cv-09601-HSG, 2025 WL 3229097, at *2–*5 (N.D. Cal. Nov. 19, 2025); *Caicedo Hinestroza v. Kaiser*, No. 25-cv-07559-JD, 2025 WL 3090767, at *1 (N.D. Cal. Nov. 5, 2025) (adopting reasoning from order granting temporary restraining order, 2025 WL 2606983, at *2–*3); *Pablo Sequen v. Albarran*, ---- F. Supp. 3d ----, No. 25-cv-06487-PCP, 2025 WL 2935630, at *5–*13 (N.D. Cal. Oct. 15, 2025); *Cardenas Castellanos v. Albarran*, No. 25-cv-07962-NW, ECF No. 17 at 11–18 (N.D. Cal. Oct. 14, 2025); *Cordero Pelico v. Kaiser*, No. 25-cv-07286-EMC, 2025 WL 2822876, at *5–*17 (N.D. Cal. Oct. 3, 2025); *Valera Chuquillanqui v. Kaiser*, 25-cv-06320-TLT, ECF No. 26 at 9–18 (N.D. Cal. Oct. 2, 2025); *Valencia Zapata v. Kaiser*, ---- F. Supp. 3d ----, No. 25-cv-07492-RFL, 2025 WL 2741654, at *5–*14 (N.D. Cal. Sept. 26, 2025); *Acosta Roa v. Albarran*, No. 25-cv-7802-RS, 2025 WL 2732923, at *5–*6 (N.D. Cal. Sept. 25, 2025); *Jaraba Oliveros v. Kaiser*, No. 25-cv-07117-BLF, 2025 WL 2677125, at *2–*11 (N.D. Cal. Sept. 18, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 WL 2637503, at *5–*14 (N.D. Cal. Sept. 12, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110, at *4–*5 (N.D. Cal. Sept. 3, 2025); *Jimenez Garcia v. Kaiser*, 25-cv-06916-YGR, ECF No. 22 at 4–12 (N.D. Cal. Aug. 29, 2025); *Ortiz Calderon v. Kaiser*, No. 25-cv-06695-AMO, 2025 WL 2430609, at

*2-*5 (N.D. Cal. Aug. 22, 2025); *see also, e.g., Aldana Serrano v. Albarran*, No. 25-cv-08408-EKL, 2025 WL 3197879, at *2-*3 (N.D. Cal. Oct. 2, 2025) (granting temporary restraining order).

At the time of Petitioner's detention, he was not an arriving alien, he had already been paroled or released into the United States, and as such, his detention is governed by the general detention statute at 1226(a).

II. PETITIONER IS NOT DETAINED UNDER 8 U.S.C. § 1225(b)(2).

Regarding Respondents' argument in the alternative that Petitioner is subjected to detention under 8 U.S.C. § 1225(b)(2): this Court has repeatedly held that such arguments fail for flattening "applicant for admission" and "seeking admission" into meaning the same thing, rendering the latter surplusage. *See, e.g., Serrato v. Anderson*, 2025 U.S. Dist. LEXIS 228936 at *14-15 (D. Idaho, 2025). Petitioner may be an "applicant for admission," but he is not "seeking admission." *Id.* ("The use of the phrase 'seeking' implies the present action of 'asking for' or 'trying to acquire or gain,' and the 'entry,' as it has long been understood, implies 'a crossing into the territorial limits of the United States.'") (*citing Lepe v. Andrews*, 2025 WL 2716910 at *5). As such, he is not mandatorily detained under 8 U.S.C. § 1225(b)(2).

III. RELEASE IS THE APPROPRIATE REMEDY.

Respondents here present no interest in detaining Petitioner, and the balance of equities tips in his favor. Release is the appropriate remedy. *See, e.g. Serrato v. Anderson* at 21.

IV. CONCLUSION.

For the foregoing reasons, Petitioner asks that this Court grant his Writ for Habeas Corpus.

CERTIFICATE OF SERVICE

I hereby certify that, on January 26, 2026, I served the foregoing document via electronic service to counsel for the Respondents at:

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/s/ Nikki Ramirez-Smith
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