IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00199-NYW

LEONARDO LEYVA RAMIREZ,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility,
ROBERT HAGAN, in his official capacity as Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement,
TODD M. LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement,
KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security,
PAMELA BONDI, in her official capacity as U.S. Attorney General,
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, and
U.S. DEPARTMENT OF HOMELAND SECURITY,[1]

Respondents.

CONSOLIDATED RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS (ECF No. 1) AND MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCITON (ECF No. 14)

Pursuant to the Court's Order, ECF No. 16, Respondents hereby submit this

[1] Respondents dispute that the named non-individual entities are proper respondents in this habeas proceeding. A writ of habeas corpus is properly directed to the custodian of the petitioner. *See* 28 U.S.C. §§ 2242-43 (habeas petitions must allege "the name of the person who has custody over him," and the writ or order to show cause "shall be directed to the person having custody of the person detained"); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) ("[T]here is generally only one proper respondent to a given prisoner's habeas petition. This custodian, moreover, is 'the person' with the ability to produce the prisoner's body before the habeas court.").

consolidated response to the Petition for Writ of Habeas Corpus, ECF No. 1, and Motion for Temporary Restraining Order and/or Preliminary Injunction, ECF No. 14. *See* ECF No. 16 at 2 (ordering Respondents to respond to the Motion and show cause why the Petition should not be granted).

As a threshold matter, on January 14, 2026, the Immigration Judge ordered Petitioner removed to Ecuador. Ex. A (Quinones Decl.) ¶ 9. Petitioner reserved his right to appeal that decision. *See id.* Any appeal is due by February 13, 2026. *Id.* ¶ 10. If no appeal is filed by that date, the Immigration Judge's order of removal will become final and Petitioner will then be detained pursuant to 8 U.S.C. § 1231. *See* 8 C.F.R. § 1241.1(c) (order of removal "shall become final . . . [u]pon expiration of the time allotted for an appeal if the respondent does not file an appeal within that time"); *see* 8 U.S.C. § 1231 (governing the detention and removal of aliens ordered removed). This will moot the claims raised in the Petition. Respondents will submit a Status Report to the Court no later than February 16, 2026, advising the Court of whether the order of removal has become final.

Until the removal order becomes final, the central legal issue presented in this case concerns whether Petitioner, who is a noncitizen present in the United States and who has not been admitted or paroled, is subject to mandatory detention by U.S. Immigration and Customs Enforcement ("ICE") under 8 U.S.C. § 1225(b)(2), or whether such a noncitizen is entitled by § 1226(a) to seek a bond hearing. This issue is not materially different from an issue this Court has resolved in a prior ruling in another case. *See Loa Caballero v. Baltazar, et al.*, 25-cv-03120-NYW, ECF No. 18.

Respondents respectfully disagree with that ruling. But—to the extent the Court is inclined to address the issues raised in the Petition before February 16, when it will be known if the removal order has become final and mooted this case—to conserve judicial and party resources and expedite this Court's consideration of this case, while preserving legal arguments and reserving all of Respondents' rights including the right to appeal, Respondents submit this abbreviated response.

When Petitioner was detained by ICE, he was present in the United States without being admitted or paroled. *See* ECF No. 1 ¶¶ 1-2, 37. Respondents' position is that Petitioner is, therefore, subject to mandatory detention under § 1225(b), on the grounds set forth in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025). Respondents submit that this position is supported by *Jennings v. Rodriguez*, 583 U.S. 281 (2018). The Court in *Jennings* explained that a noncitizen "who . . . 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for admission.'" 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). The Court then explained that *all* "applicants for admission" are subject to detention under either 8 U.S.C. § 1225(b)(1) or § 1225(b)(2)—both of which *require* detention. *See id.* ("Section 1225(b)(2) . . . serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)."); *id.* at 297 ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded"). Respondents submit that *Jennings* supports their position that all "applicants for admission"—who include noncitizens, like Petitioner, who are present in the United States and have not been admitted or paroled—are subject to mandatory detention

under 8 U.S.C. § 1225(b)(2).

Some district courts in this circuit have agreed with Respondents' interpretation of the statute. *See, e.g.*, *Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025). Many others have not, including this Court, as noted above. The Tenth Circuit has not ruled on this issue. A decision in this district rejecting Respondents' position on this issue has been appealed to the Tenth Circuit. *See Mendoza Gutierrez v. Baltazar*, Civil Action No. 25-cv-02720-RMR (D. Colo.), *appeal docketed*, No. 25-1460 (10th Cir. Dec. 15, 2025). That appeal remains pending.

Respondents acknowledge that until the Tenth Circuit rules on this issue, this Court's prior ruling on this issue would lead the Court to reach the same result here if the Court adheres to that decision, as the facts of this case are not materially distinguishable from that case for purposes of the Court's decision on the legal issue of whether Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Thus, while Respondents do not consent to issuance of the writ and reserve the right to appeal, in order to conserve judicial and party resources Respondents hereby rely upon, and incorporate by reference, the legal arguments Respondents presented on this issue in *Mendoza Gutierrez v. Baltazar*, Civil Action No. 25-cv-02720-RMR, ECF No. 26 at 10-19.[2]

Respondents anticipate that—if the Court is inclined to address the merits of the petition under the circumstances, where it may soon be mooted by entry of a final order of removal—this Court's ruling on the § 1225(b)(2)(A) issue in this case will resolve this

[2] A copy of that brief is attached as Exhibit B hereto.

habeas petition. If the Court grants the petition on this ground, it should decline to address additional arguments. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach."). But if the Court wishes to receive additional briefing on any other issue, Respondents request that the Court issue an order directing Respondents to address such issues.

Respondents submit that if the Court grants the petition and determines that Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a), the Court should order that Respondents conduct such a bond hearing in accordance with that provision within a reasonable time and should direct Respondents to file a status report confirming that such a bond hearing was held.

Finally, should the Court grant the Petition, it should deny the Motion as moot. The Motion seeks a temporary restraining order enjoining Respondents from: (1) detaining him under § 1225(b)(2)(A); and (2) transferring him outside the District of Colorado while this action is pending. *See* ECF No. 14 at 2. As to the latter, the Court already directed Respondents to not remove Petitioner from the District of Colorado or the United States. *See* ECF No. 16 at 3 (directing that Respondents shall not remove Petitioner from the District of Colorado or the United States until the Order is vacated). The relief sought in the Motion is otherwise identical to that sought in the Petition. Thus, should the Court grant the Petition, it should deny the Motion as moot. *See Loa Cabellero*, ECF No. 18 at 20 ("Because the relief Mr. Loa Cabellero seeks in his Motion for TRO is identical to the relief sought in—and granted under—the Petition, the Court

will respectfully DENY the Motion for TRO as moot.").

Respectfully submitted February 4, 2026.

PETER MCNEILLY
United States Attorney

s/ Alexandra J. Berger
Alexandra J. Berger
Assistant United States Attorney
1801 California Street, Suite 1600
Denver, Colorado 80202
Telephone: (303) 454-0100
Email: alexandra.berger@usdoj.gov
Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to counsel of record.

s/ Alexandra J. Berger
U.S. Attorney's Office