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11 **UNITED STATES DISTRICT COURT**  
 12 **DISTRICT OF NEVADA**

13 Gustavo MORA-SILVA,

14 Petitioner,

15 v.

16 Kristi NOEM, in her Official Capacity,  
 Secretary, U.S. Department of Homeland  
 Security; Pamela BONDI, in her Official  
 17 Capacity, Attorney General of the United  
 States; Todd M. LYONS, Acting Director,  
 Immigration and Customs Enforcement, U.S.  
 18 Department of Homeland Security; Jason  
 KNIGHT, Salt Lake City Field Office  
 19 Director for Detention and Removal, U.S.  
 Immigration and Customs Enforcement,  
 20 Department of Homeland Security; and  
 Darin BALAAM, Sherriff, Washoe County  
 21 Detention Center.,

22 Respondents.

Case No. 3:26-cv-00032-RFB-CLB

**Federal Respondents' Response to the  
 Petition for Writ of Habeas Corpus and  
 Complaint for Declaratory and  
 Injunctive Relief, ECF No. 1**

24 The Federal Respondents hereby submit this Response to the Petition (ECF No. 1).

25 **I. Introduction**

26 Petitioner challenges the Department of Homeland Security's ("DHS") authority to  
 27 detain him during the pendency of his removal proceedings, contending that his custody is  
 28

1 governed by 8 U.S.C. § 1226(a) rather than 8 U.S.C. § 1225(b)(2)(A). That contention is  
2 incorrect and not novel; identical arguments have recently been litigated in parallel  
3 proceedings before this Court and other district courts.

4 For the reasons stated below—and as set forth more fully in the United States’ prior  
5 filing in *Jacobo Ramirez v. Noem*, Case No. 2:25-cv-02136-RFB-MDC (D. Nev. Oct. 30,  
6 2025) (attached herein as Exhibit A) as incorporated herein—Petitioner fails to  
7 demonstrate he is entitled to habeas relief.

8 Federal Respondents are amenable to receiving a decision on the papers and are  
9 willing to waive a court hearing.

## 10 **II. Factual and Procedural Background**

11 Petitioner Gustavo Mora-Silva is a native and citizen of Mexico. According to the  
12 Notice to Appear (“NTA”), Petitioner entered the United States at an unknown place and  
13 on an unknown date without having been inspected, admitted, or paroled by an  
14 immigration officer. ECF No. 1-1, at 1. DHS alleges that Petitioner is an immigrant not in  
15 possession of a valid unexpired immigrant visa or other valid entry document and charged  
16 him as removable under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration  
17 and Nationality Act (“INA”). *Id.* at 1.

18 On October 22, 2025, Petitioner was arrested in Reno, Nevada, and booked into the  
19 Washoe County Detention Center following charges under local and state law, including  
20 obstructing or resisting a peace officer and failure to provide proof of insurance. *Id.* at 2–3.  
21 On October 28, 2025, Immigration and Customs Enforcement (“ICE”) encountered  
22 Petitioner in criminal custody and thereafter took him into immigration custody for  
23 processing. ECF No. 1, at 2–3. That same day, DHS served Petitioner with the NTA and  
24 placed him into removal proceedings under section 240 of the INA. ECF No. 1-1, at 1.  
25 Petitioner remains in ICE custody at the Washoe County Detention Center pending the  
26 outcome of his removal proceedings. ECF No. 1, at 1–2.

27 On January 5, 2026, Petitioner requested a custody redetermination hearing before  
28 the Immigration Court in Las Vegas, Nevada. ECF No. 1, at 3–4. A bond hearing was held

1 on January 16, 2026, before Immigration Judge Lindsay Roberts. ECF No. 1-2, at 1. At the  
2 hearing, DHS argued that Petitioner was subject to detention under 8 U.S.C. § 1225(b) and  
3 that the Immigration Court lacked jurisdiction to redetermine custody pursuant to binding  
4 agency precedent, including *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). ECF  
5 No. 1-2, at 1. The Immigration Judge agreed that, under EOIR’s official position,  
6 immigration courts lack authority to grant bond to individuals who have not been admitted  
7 to the United States and denied Petitioner’s request for a custody redetermination on that  
8 basis. ECF No. 1-2, at 1–2.

9 In her written order, the Immigration Judge explained that *Matter of Yajure-Hurtado*  
10 remains binding precedent on agency adjudicators and that declaratory relief issued in  
11 *Maldonado Bautista v. Santacruz* does not vacate, stay, or enjoin that decision. ECF No. 1-2,  
12 at 1–2. Accordingly, the Immigration Judge concluded that she lacked delegated authority  
13 to issue a bond in Petitioner’s case. ECF No. 1-2, at 1–2.

14 The Immigration Judge further noted that, in the alternative and only if jurisdiction  
15 existed, she would have found that a bond in the amount of \$1,500, along with alternatives  
16 to detention at DHS’s discretion, would be sufficient to ensure Petitioner’s appearance at  
17 future immigration hearings. ECF No. 1-2, at 2. DHS waived appeal of the Immigration  
18 Judge’s custody determination. ECF No. 1-2, at 2.

19 On January 21, 2026, Petitioner filed the present Petition for Writ of Habeas Corpus  
20 and Complaint for Declaratory and Injunctive Relief, challenging the legality of his  
21 continued immigration detention and seeking release from custody or, in the alternative, a  
22 bond hearing. ECF No. 1, at 1–2. Petitioner also filed a Motion for Temporary Restraining  
23 Order and Preliminary Injunction on the same date. ECF No. 3, at 1–2.

24 Petitioner remains in ICE custody pending resolution of his removal proceedings  
25 and this habeas action. ECF No. 1, at 1–2.

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1 **III. Argument**

2 **A. Incorporation By Reference of United States' Prior Responses**

3 Federal Respondents hereby incorporate by reference the Federal Respondents'  
4 Response in *Jacobo Ramirez v. Noem*, Case No. 2:25-cv-02136-RFB-MDC (D. Nev. Oct. 30,  
5 2025) (attached herein as Exhibit A). The *Jacobo Ramirez* Response addresses substantially  
6 the same questions at issue in the case at bar regarding DHS's authority to detain individuals  
7 under § 1225(b)(2) who are not yet admitted and whose cases remain in pending removal  
8 proceedings.

9 For efficiency and consistency, Federal Respondents adopt the *Jacobo Ramirez*  
10 Response and in full. As the responses demonstrate, Petitioner's lawful detention under §  
11 1225(b)(2)(A) is mandatory by statute. Further, as the responses demonstrate, the Court  
12 lacks jurisdiction to adjudicate this matter.

13 **A. A Growing Body of Well-Reasoned and Persuasive Authority Supports the**  
14 **Federal Respondents' Legal Positions**

15 In addition, the United States notes the following recent decisions, each of which  
16 concludes that, when properly interpreted and applied, the governing statutes support the  
17 Federal Respondents' position in this case: *Chavez v. Noem*, No. 25-02325, 2025 WL  
18 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351  
19 (D. Neb. Sept. 30, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437, 2025 WL 3033967, at \*1  
20 (E.D. Wis. Oct. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-01467, 2025 WL 3048926  
21 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463, 2025 WL 3095972 (W.D.  
22 La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942 (E.D. Mo. Nov.  
23 10, 2025); *Garibay-Robledo v. Noem*, 1:25-cv-00177 (N.D. Tex. 2025); *Montoya Cabanas v.*  
24 *Bondi*, 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13, 2025); *Altamiro Ramos v. Lyons*,  
25 2:25-cv-09785, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Cortes Alonzo v. Noem*, No.  
26 1:25-cv-01519, 2025 WL 3208284, at \*1 (E.D. Cal. Nov. 17, 2025).

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**IV. Conclusion**

For the reasons stated herein and in the United States' filing that has been incorporated by reference, the Petition should be denied.

Respectfully submitted this 26th day of January 2026.

TODD BLANCHE  
Deputy Attorney General of the United States  
SIGAL CHATTAH  
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/s/ Christian R. Ruiz  
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