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9 UNITED STATES DISTRICT COURT  
10 FOR THE DISTRICT OF NEVADA

11 Gustavo MORA-SILVA,

12 Petitioner-Plaintiff,

13 v.

14 Kristi NOEM, in her Official Capacity, Secretary,  
15 U.S. Department of Homeland Security;

16 Pam BONDI, in her Official Capacity, Attorney  
17 General of the United States;

18 Todd M. LYONS, Acting Director, Immigration and  
19 Customs Enforcement, U.S. Department of Homeland  
20 Security;

21 Jason KNIGHT, Salt Lake City Field Office Director  
22 for Detention and Removal, U.S. Immigration and  
23 Customs Enforcement, Department of Homeland  
24 Security; and

25 Darin BALAAM, Sheriff, Washoe County Detention  
26 Center.

27 Respondents-Defendants.  
28

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

**PETITIONER'S REPLY TO  
FEDERAL RESPONDENTS'  
RESPONSE TO THE  
PETITION FOR WRIT OF  
HABEAS CORPUS AND  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF, ECF  
NO. 8**

1 I. **INTRODUCTION**

2 Petitioner hereby submits this Reply to the Federal Respondent’s response to the Petition  
3 (ECF No. 1).

4 Respondents’ Response does not resolve the fundamental constitutional and statutory defects  
5 identified in the Petition. Instead, the Government relies almost entirely on incorporation by  
6 reference to briefing filed in an unrelated case and on a categorical assertion that 8 U.S.C. §  
7 1225(b)(2) mandates detention without judicial review for all noncitizens who entered without  
8 inspection, regardless of the circumstances of their arrest, detention, or prolonged custody. That  
9 position overlooks both the procedural posture of Mr. Mora-Silva’s case and the narrow nature  
10 of the relief sought here.  
11

12  
13 This habeas action does not ask the Court to rewrite the detention statutes or to disregard  
14 binding precedent. It asks the Court to address whether the Government may continue to detain  
15 Mr. Mora-Silva without any meaningful custody determination where the Immigration Judge has  
16 already found—on the record—that he is neither a flight risk nor a danger to the community, and  
17 where detention is being prolonged solely by the Government’s interpretation of its own  
18 authority. The Government’s Response fails to grapple with that question and instead rests on  
19 broad assertions that do not defeat habeas jurisdiction or due process review.  
20

21 II. **ARGUMENT**

22 a. **Respondents’ Categorical Reliance on § 1225(b)(2) and Incorporation by**  
23 **Reference Does Not Resolve the Legality of Petitioner’s Continued Detention**  
24

25 Respondents’ Response relies almost entirely on two propositions: that 8 U.S.C. § 1225(b)(2)  
26 categorically mandates detention of all noncitizens deemed applicants for admission, and that  
27 this Court should adopt by reference arguments made in a separate case, *Jacobo Ramirez v.*  
28

1 *Noem*. Neither approach addresses the specific factual and constitutional posture of Mr. Mora-  
2 Silva's detention. Habeas corpus requires an individualized inquiry into the legality of a  
3 petitioner's restraint, not wholesale adoption of generalized statutory arguments advanced in  
4 other litigation. Here, the administrative record includes an Immigration Judge's express  
5 finding—made after a full custody hearing—that Mr. Mora-Silva poses neither a danger to the  
6 community nor a risk of flight and that a modest bond would be sufficient to ensure his  
7 appearance. Respondents do not dispute those findings, nor do they explain why continued  
8 detention remains necessary in light of them.  
9

10 The Government's invocation of § 1225(b)(2) is likewise overinclusive. While that statute  
11 authorizes detention of certain applicants for admission during removal proceedings, it does not  
12 eliminate habeas jurisdiction or insulate detention decisions from constitutional review.  
13 Immigration detention remains civil in nature, and its legality depends on whether it reasonably  
14 serves legitimate regulatory purposes. Respondents' position would transform § 1225(b)(2) into  
15 a blanket authorization for detention without meaningful judicial oversight, regardless of  
16 duration or necessity. Nothing in the statute or controlling precedent supports such a result, and  
17 incorporation by reference cannot cure the Government's failure to justify Mr. Mora-Silva's  
18 continued confinement on this record.  
19  
20

21 **b. *Matter of Yajure-Hurtado* Does Not Foreclose Habeas Relief or Excuse**  
22 **Continued Detention Unmoored From Its Regulatory Purposes**  
23

24 Respondents' reliance on *Matter of Yajure-Hurtado* does not defeat the Petition. That  
25 decision addresses the scope of bond jurisdiction delegated to Immigration Judges; it does not  
26 resolve whether continued detention violates the Due Process Clause. As the Petition explains,  
27 *Yajure-Hurtado* renders administrative exhaustion futile precisely because it is binding agency  
28

1 precedent. The Board of Immigration Appeals lacks authority to adjudicate constitutional claims  
2 or to order release through habeas relief, and thus cannot provide an adequate remedy for the  
3 injury alleged here.

4 More importantly, Respondents conflate the absence of bond jurisdiction within EOIR with  
5 the absence of constitutional limits on detention. The Immigration Judge’s conclusion that she  
6 lacked authority to order release does not negate her factual findings that detention is  
7 unnecessary to ensure appearance or protect the community. Those findings are highly relevant  
8 to the due process inquiry. Detention that continues solely because of an agency’s interpretation  
9 of its own authority—despite an un rebutted finding that detention serves no regulatory  
10 purpose—raises serious constitutional concerns. *Yajure-Hurtado* does not authorize such  
11 detention, nor does it preclude this Court from exercising its habeas jurisdiction to assess the  
12 legality of Mr. Mora-Silva’s confinement.  
13  
14

15 **c. Continued Detention in the Face of an Individualized Finding That Detention**  
16 **Is Unnecessary Violates Due Process**  
17

18 The Fifth Amendment protects all persons within the United States from deprivation of  
19 liberty without due process of law, including noncitizens who entered without inspection.  
20 Although Congress may authorize civil immigration detention, such detention must remain  
21 reasonably related to its asserted purposes and may not become punitive. Here, the Immigration  
22 Judge’s alternative custody determination establishes that Mr. Mora-Silva’s detention is not  
23 necessary to ensure his appearance at future proceedings or to protect the community.  
24 Respondents do not contend otherwise. Instead, they assert that detention must continue  
25 indefinitely unless DHS elects to grant parole.  
26  
27  
28


1 That position improperly shifts the constitutional inquiry away from necessity and  
2 proportionality and places it entirely within the Government’s discretion. Habeas corpus exists to  
3 prevent precisely that result. Where detention continues in the absence of any individualized  
4 justification—and where the administrative record affirmatively demonstrates that detention is  
5 unnecessary—continued confinement violates due process. Mr. Mora-Silva does not seek review  
6 of a removal order or a discretionary parole decision; he challenges the legality of his continued  
7 physical restraint. This Court has jurisdiction to consider that claim and to grant appropriate  
8 relief.  
9

10 **III. CONCLUSION**

11 For the foregoing reasons, Respondents have not demonstrated that Mr. Mora-Silva’s  
12 continued detention is lawful under the Constitution. Their Response relies on a categorical  
13 interpretation of the detention statutes and incorporation by reference to arguments made in other  
14 cases, while failing to address the individualized findings already made in this case that detention  
15 is unnecessary to serve the Government’s asserted regulatory purposes. Where an Immigration  
16 Judge has found, after a full custody hearing, that Mr. Mora-Silva poses neither a danger to the  
17 community nor a risk of flight, continued detention without an operative custody determination  
18 violates due process.  
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1 Accordingly, the Court should grant the Petition for Writ of Habeas Corpus and order Mr.  
2 Mora-Silva's release. In the alternative, the Court should enforce the Immigration Judge's  
3 alternative bond determination and order Respondents to release Mr. Mora-Silva upon the  
4 posting of bond in the amount of \$1,500, or such other conditions as the Court deems  
5 appropriate.  
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7 Executed this 29<sup>th</sup> day of January 2026.

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10 Karen S. Monrreal, Esq.  
11 Attorney for Petitioner, Mr. Mora-Silva  
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