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

14 EMINE SAHIN,

15 Petitioner,

16 v.

17 REGGIE RADER, Henderson Chief of
Police; MICHAEL BERNACKE, Field
18 Director, West Valley City Office of ICE
ERO; TODD LYONS, ICE Acting Director;
19 KRISTI NOEM DHS Secretary; PAMELA
BONDI, U.S. Attorney General, *et al.*,

20 Respondents.
21

Case No. 2:26-cv-00134-RFB-NDC

**Federal Respondents' Response to
Petition for Writ of Habeas Corpus
(ECF No. 2)**

22 Federal Respondents hereby file their Response to Petitioner's Petition for Habeas
23 Corpus (ECF No. 2).

24 **I. Introduction**

25 On January 21, 2026, Petitioner filed her Petition for Habeas Corpus (ECF No. 2) and
26 Emergency Motion for Temporary Restraining Order (ECF No. 9). On February 6, 2026,
27 the Court granted Petitioner's Motion for Preliminary Injunction. (ECF No. 24

28 *SEALED*). Petitioner was released from custody. The Petition is now moot as Petitioner

1 has been released and was granted the relief she requested. Therefore, Respondents are
2 asking that the Court to deny the Petition as moot.

3 **I. Legal Argument**

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

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

11 For efficiency and consistency, Federal Respondents adopt the *Jacobo Ramirez*
12 Response in full. As the response demonstrates, Petitioner's lawful detention under §
13 1225(b)(2)(A) is mandatory by statute. Further, as the response demonstrates, the Court
14 lacks jurisdiction to adjudicate this matter.

15 **B. A Growing Body of Well-Reasoned and Persuasive Authority Supports the**
16 **Federal Respondents' Legal Positions Including the Recent Fifth Circuit Court**
17 **of Appeals Decision in *Buenrostro-Mendez v. Bondi*, 2026 U.S. App. LEXIS 3899**
(5th Cir. 2026)

18 In the recent decision on February 6, 2026, from the Fifth Circuit Court of Appeals,
19 *Buenrostro-Mendez v. Bondi*, 2026 U.S. App. LEXIS 3899 (5th Cir. 2026) the Court ruled,
20 "unadmitted aliens apprehended anywhere in the United States are ineligible for release on
21 bond, regardless of how long they have resided inside the United States." *Id.* at 9 (quoting
22 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216). See attached *Buenrostro-Mendez v. Bondi*, 2026
23 U.S. App. LEXIS 3899 (5th Cir. 2026) attached hereto as Exhibit B. In *Buenrostro-Mendez*
24 the court stated, "The Supreme Court has said, Section 1225(b)(2) operates as a "catchall
25 provision that applies to all applicants for admission not covered by [subsection
26 (b)(1)]." *Jennings v. Rodriguez*, 583 U.S. 281, 287, 138 S. Ct. 830, 837 (2018). Section
27 1225(b)(2) does not include any exception that permits the government to release detained
28 aliens on bond." *Id.* at 7. In *Buenrostro-Mendez* the court explained, "unlike § 1225(b), §

1 1226(a)(2)(A) permits, but does not require, the Attorney General to release detained aliens
2 on "bond of at least \$1,500 with security approved by, and containing conditions prescribed
3 by, the Attorney General." *See also* 8 C.F.R. §§ 236.1(c)(8), (d), 1236.1(d)(1), 1003.19.

4 Because § 1226 is not limited to applicants for admission, it also covers numerous grounds
5 of deportability, including for admitted aliens who overstay or violate the terms of their
6 visas, engage in conduct that renders them removable, or were improperly admitted. Not
7 all aliens detained under § 1226(a) are eligible for release on bond. If an alien has
8 committed one of the criminal offenses enumerated in § 1226(c), he loses his bond
9 eligibility. 8 U.S.C. § 1226(c)(1)(A)-(E). The Laken Riley Act, enacted in 2025, expanded §
10 1226(c) by adding new bases for ineligibility for bond. *See* 8 U.S.C. § 1226(c)(1)(E). Aside
11 from being ineligible for bond, aliens covered by § 1226(c) also may not be granted parole
12 under 8 U.S.C. § 1182(d)(5)(A)." *Id.* at 8. In *Buenrostro-Mendez*, the court emphasized that 8
13 U.S.C. § 1225(b)(2)(A) requires detention without eligibility for bond of individuals like
14 Petitioner who entered the U.S. without being admitted and stated "The statute
15 unambiguously provides for mandatory detention. *See* 8 U.S.C. § 1225(b)(2)(A) (providing
16 that aliens "shall be detained") (emphasis added); *see also Jennings*, 583 U.S. at 302, 138 S.
17 Ct. at 845 ("§§1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion
18 of applicable proceedings and not just until the moment those proceedings begin.")
19 (emphasis added). And "neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever
20 about bond hearings." *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. *Id.* at 11-12.

21 In *Buenrostro-Mendez* the court explained how 8 U.S.C. § 1225(b)(2)(A) and 8
22 U.S.C. § 1226(a) operate and overlap by stating, "It is true that § 1226 applies to aliens in
23 the United States. That it does so, however, does not preclude § 1225 from also applying to
24 such aliens. As the government acknowledges, the two provisions overlap. Accordingly, for
25 petitioners to find support in *Jennings*, they must overread the Supreme Court's language. In
26 particular, they seem to infer that when the Supreme Court specified that § 1226 applies to
27 aliens inside the United States, it implied that § 1225 does not apply to such aliens. But this
28 is the exact sort of language-parsing inquiry that the Supreme Court has cautioned lower

1 courts against. See *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 373-74, 143 S. Ct. 1142,
2 1155 (2023) ("[T]he language of an opinion is not always to be parsed [like the] language of
3 a statute." (quoting *Reiter v. Sonotone Corp.*, 442 U.S. 330, 341, 99 S. Ct. 2326, 2332 (1979))).
4 Moreover, even if this court should conduct a granular analysis of the language in *Jennings*,
5 doing so supports the government's interpretation. In claiming that the Supreme Court's
6 pronouncement that § 1225(b) applies to aliens who are seeking admission supports their
7 interpretation, the petitioners inexplicably assume that the Supreme Court understood
8 "seeking admission" in the same way that petitioners do. It demonstrably did not.
9 Elsewhere in *Jennings*, the Supreme Court explained that "§ 1225(b) applies to aliens
10 seeking entry into the United States ('applicants for admission' in the language of the
11 statute)." *Jennings*, 583 U.S. at 297, 138 S. Ct. at 842. That language supports the
12 government's contention that "applicants for admission" are according to the statute
13 seeking entry or admission. And it suggests that when the Supreme Court described § 1225
14 as applying to aliens "seeking admission," it understood that to mean aliens who, like the
15 petitioners here, are present in the United States without admission." *Id.* at 20-22. In
16 *Buenrostro-Mendez*, the court addressed the issue of government's longstanding practice
17 which allowed illegal resident aliens who are present without being admitted, to seek
18 release on bond under § 1226(a) instead of detaining them pursuant to § 1225(b)(2)(A) and
19 explained, "While that is true, the government's past practice has little to do with the
20 statute's text. The text says what it says, regardless of the decisions of prior
21 Administrations. Years of consistent practice cannot vindicate an interpretation that is
22 inconsistent with a statute's plain text. See, e.g., *Pereira v. Sessions*, 585 U.S. 198, 204, 138 S.
23 Ct. 2105, 2111 (2018). In *Pereira*, the court considered whether notices to appear for
24 removal proceedings under 1229(a) had to specify the time and place of removal
25 proceedings. *Id.* at 202, 138 S. Ct. at 2110. Despite 21 years during which the government
26 consistently served notices to appear that omitted time and place information, the court
27 rejected the government's practice based on the text of § 1229(a). *Id.* at 205, 209, 138 S. Ct.
28 at 2111, 2114. The same approach is appropriate here. Regardless of the government's past

1 practice and regardless of Congress's silence on § 1225(b)(2)(A), the text controls.” Id. at
2 22.

3 *Buenrostro-Mendez* applies to this case, since Petitioner entered the U.S. without
4 inspection and is an applicant for admission who is lawfully mandatorily detained under §
5 1225(b)(2)(A) and is not subject to discretionary detention under 8 U.S.C. § 1226(a).
6 Although *Buenrostro-Mendez* is not a case from the Ninth Circuit Court of Appeals, it is a
7 very recent Circuit Court of Appeals decision, which is cited as persuasive authority that
8 squarely addresses the issues involving 8 U.S.C. § 1225(b)(2)(A) and 8 U.S.C. § 1226(a)
9 and supports the Federal Respondents’ position.

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

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1 **II. Conclusion**

2 For the foregoing reasons, Federal Respondents respectfully request that the Court
3 deny Petitioner's Petition for Habeas Corpus as moot.

4 Respectfully submitted this 27th day of February 2026.

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