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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 A.A.,

Petitioner,

12
13 v.

14 KRISTI NOEM, *et al.*,

15 Respondents.
16

No. 1:26-CV-00302-DAD-JDP

**RESPONSE TO PETITIONER'S EX-PARTE
APPLICATION FOR TEMPORARY
RESTRINING ORDER**

17 On January 14, 2026, Petitioner filed his petition for Writ of Habeas Corpus and his motion for
18 *ex parte* Temporary Restraining Order ("TRO"). ECF Nos. 1 & 2. The same day this ordered
19 Respondents to file its opposition to the TRO by 5:00 PM on January 16, 2026. ECF No. 4. The Court
20 directed Respondents to substantively address whether any provision of law or fact in this case would
21 distinguish it from the Court's decision in *Ayala Cajina v. Wofford*, No. 1:25-cv-01566-DAD-AC (HC),
22 2025 WL 3251083 (E.D. Cal. Nov. 21, 2025), and other similar cases previously decided by the court, or
23 otherwise indicate that the matter is not substantively distinguishable. ECF No. 4.

24 Respondents hereby respond to this Court's Order and oppose the issuance of a TRO.
25 Respondents are amenable to converting this motion to a motion for Preliminary Injunction.
26 Respondents waive the right to any hearing.

27 While the facts in this case are not the same as the facts in *Ayala Cajina*, this matter is not
28 substantively distinguishable. That said, Respondents recognize this Court, and other courts nationwide

1 have rejected the Department of Homeland Security’s (“DHS”) July 2025 Policy (“July Policy”) as to
2 the detention authority in this case. (ECF No. 4 at 3-4.) Nevertheless, DHS maintains that July Policy is
3 correct and is lawful under the Constitution and applicable provisions of the Immigration and
4 Nationality Act. Therefore, Respondents oppose a preliminary injunction in this case for the reasons set
5 forth in *Matter of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025) (concluding that all applicants for
6 admission are subject to mandatory detention under 8 U.S.C. § 1225(b) and are not eligible for a bond
7 hearing), as well as cases such as *Valencia v. Chestnut*, No. 25-cv-01550, 2025 WL 3205133 (E.D. Cal.
8 Nov. 17, 2025); *Alonzo v. Noem*, No. 25-cv-01519, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025);
9 *Altamirano Ramos v. Lyons*, No. 25-cv-09785, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025)
10 (acknowledging that the court had previously rejected the government’s interpretation of § 1225(b)(2),
11 but “after additional research and analysis, the court has concluded that Petitioner is subject to
12 mandatory detention under § 1225(b)(2)(a), and that Petitioner is not eligible for a bond hearing under 8
13 U.S.C. § 1226(a)”; and *Sixtos Chavez v. Noem*, No. 25-cv-02325, 2025 WL 2730228 (S.D. Cal. Sept.
14 24, 2025), *appeal docketed*, No. 25-7077 (9th Cir. Nov. 7, 2025).

15 Respondents also wish to bring to the Court’s attention the fact that the Ninth Circuit will likely
16 address the application of 8 U.S.C. § 1225(b)(2) in *Rodriguez v. Bostock*, 9th Cir. No. 25-6842, an
17 appeal that is scheduled for oral argument in March 2026. Given the above, Respondents have no
18 additional legal argument nor new case law to persuade this Court to reconsider its position *Ayala*
19 *Cajina v. Wofford*.

20 In the event the Court denies the injunctive relief, Respondents will file a response to the habeas
21 petition and any supporting documents within 14 days of the date of the Court order. If, however, the
22 Court grants injunctive relief, Respondents request that the Court set a briefing schedule, with deadline
23 for filing Respondents’ opposition to the habeas petition and any relevant documents set 180 days from
24 the date of the Court’s order.

25 The purpose of this potentially lengthy extension request is to allow Respondents time to present
26 informed briefing in a rapidly-evolving area of the law, where appeals are currently pending in the Ninth
27 Circuit that are likely to have precedential effect on current immigration habeas litigation, including this
28 case. In the event injunctive relief has issued, petitioner will not be prejudiced by this briefing schedule.

1 Dated: January 16, 2026

Respectfully submitted,

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4 /s/ Jonathan H. Yu
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