IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00292-GPG

JOSE MANUEL TORRES-RAMIREZ,

Petitioner,

v.

JUAN BALTAZAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado, in his official capacity,
ROBERT HAGAN, Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity,
KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity,
TODD LYONS, Acting Director of Immigration and Customs Enforcement, in his official capacity,
PAM BONDI, Attorney General, U.S. Department of Justice, in her official capacity,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 9)

Respondents hereby respond to the Court's January 26, 2026, Order to Show Cause (ECF No. 9).

The central legal issue presented in this case concerns whether an alien who is present in the United States and 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 is instead entitled by 8 U.S.C. § 1226(a) to seek a bond hearing. This issue is not materially different from the issue this Court has resolved in a prior ruling in another case. *See, e.g.*, *Moya Pineda v. Baltasar*, Case No. 25-cv-02955-GPG (D. Colo.). Respondents respectfully disagree with that ruling. But to conserve

judicial and party resources and expedite this Court's consideration of this case, and 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, ¶ 2 (the "Petition"). Respondents' position is that Petitioner is, therefore, subject to mandatory detention under Section 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 Supreme Court in *Jennings* explained that an alien "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 8 U.S.C. § 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 aliens, 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).

The Fifth Circuit and some district courts in this circuit have agreed with Respondents' interpretation of the statute. *See, e.g.*, *Buenrostro-Mendez v. Bondi*, ---

F.4th ---, 2026 WL 323330, at *5-10 (5th. Cir. Feb. 6, 2026); *Montoya v. Holt*, No. 25-cv-01231-JD, 2025 WL 3733302, at *5-12, (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*, Case 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 likely 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, 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*, Case No. 25-cv-02720-RMR, ECF No. 26 at 10-19 (D. Colo.).[1]

Respondents anticipate that this Court's ruling on the Section 1225(b)(2)(A) issue in this case will resolve the 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

[1] A copy of that brief is attached as Exhibit 1 hereto.

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.

Finally, 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.

Dated: February 10, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that, on February 10, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Nicholas A. Deuschle
Nicholas A. Deuschle
United States Attorney's Office