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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

Rigoberto GARCIA ORTIZ,

Petitioner,

v.

Brian HENKEY, Field Office Director of
Enforcement and Removal Operations, Salt
Lake City Field Office, Immigration and
Customs Enforcement; Kenneth PORTER,
Acting Director of the Boise U.S. Immigration
and Customs Enforcement Field Sub-Office;
Kristi NOEM, Secretary, U.S. Department of
Homeland Security; Pamela BONDI, U.S.
Attorney General; Mike HOLLINSHEAD,
Sheriff of Elmore County,

Respondents.

Case No. 1:26-CV-00043-BLW

**REPLY TO RESPONSE TO PETITION
FOR WRIT OF HABEAS CORPUS
(Dkt. No. 7)**

As Respondents present no further argumentation as to the merits of the legal issue at hand than those already presented to this Court in *Ayala v. Henkey*, 25-CV-682-AKB, Dkt. No. 7 (D. Idaho, December 11, 2025), Petitioner will likewise rest on the argumentation set forth in his Petition for Writ of Habeas Corpus. Dkt. No. 1.

As to the appropriate remedy in this case, Respondents argue that the Court should allow the Agency the opportunity to “follow the process provided by the statute and regulations . . . pursuant to Section 1226(a).” Dkt. No. 7 at 2-3. Respondents have already been afforded every opportunity to follow the governing law in their detention of non-citizens, but have instead repeatedly applied inapplicable legal standards to new detainees, only to conform their conduct with the law after being compelled to do so, and only then with respect to individual petitioners in hundreds of individual actions. *See, e.g.*, Dkt. No. 1 at 11-13 (collecting district court cases deciding the same). This course of conduct has imposed an undue and inequitable burden on individuals like Petitioner, who have been forced to pursue a two-step process to secure relief, first litigating which law governs in federal district court, and only thereafter, carrying the burden to prove they merit release under the correct legal framework with the Agency.

The Respondents’ pleas for the process due under the statute becomes less convincing with age, and with every subsequent individual to whom they deny that same process, despite the repeated rebukes by the Courts. *See, e.g.*, Dkt. No. 1 at 3-4 (collecting cases from this Court ruling in favor of arguments legally mirroring Petitioner’s). As they can have no doubt as to the Court’s position, the Respondent’s interest is reduced to applying an unlawful mandatory detention scheme to Petitioner, followed by the scheme mandated by law, consecutively.

Respondents have not offered argumentation as to the Government's interest in keeping Petitioner detained beyond reiterating their trodden arguments of the necessity of detention pursuant to their oft-rejected interpretation of statute.

Conversely, Petitioner has a fundamental interest in his release from imprisonment which "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). Every day he is held under a detention authority – which Respondents agree the Court has already ruled on as being inapplicable to individuals like him, Dkt. No. 7 at 2 – is unjust, needlessly and baselessly impeding on his Constitutional rights while costing him unnecessary time and money to get to the same legal position which he could have already occupied absent Respondent's failure to comply with the law.

As respondents have no interest which would be prejudiced by Petitioner's release and provide no new legal justification in support of the ongoing detention of Petitioner, he asks this Court to order his immediate release from custody.

Respectfully submitted,

/s/ Nikki Ramirez-Smith

Nikki Ramirez-Smith

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