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6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF NEVADA**

9 Rafael PEÑA TREJO,
10 *Petitioner,*

11 v.

12 Jason KNIGHT, Field Office Director, Salt
Lake City Field Office, U.S. Immigration and
13 Custom Enforcement, Enforcement and
Removal Operations Division;

14
15 Reggie RADER, Chief of Police for the City of
Henderson, Henderson Detention Center;

16
17 Kristi NOEM, Secretary, United States
Department of Homeland Security;

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19 Pamela BONDI, Attorney General of the United
States,

20 *Respondents.*

Case No. 2:26-cv-00197-RFB-DJA

**PETITIONER'S TRAVERSE IN
SUPPORT WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C.
§ 2241**

Judge Richard Boulware

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1 **INTRODUCTION**

2 Petitioner, Rafael Peña Trejo (Mr. Peña Trejo) files the present traverse in support of his
3 Petition for a Writ of Habeas Corpus, 28 U.S.C. § 2241, challenging his unlawful detention by
4 Respondents. Mr. Peña Trejo continues to be held in the custody of Respondents at the Henderson
5 Detention Center in Henderson, Nevada. This Court has found in a multitude of recent cases¹, that
6 detention is unjustified under the erroneous application of 8 U.S.C. §1225(b)(2)(A) to those
7 present in the U.S. in contravention of decades of agency practice and robust due process
8 protections afforded under 8 U.S.C. 1226(a). *See Escobar Salgado v. Mattos, No. 2:25-cv-01872-*
9 *RFB-EJY, 2025 WL 3205356 (D. Nev. Nov. 17, 2025)*. Despite this Court’s instruction to
10 Respondents to offer new arguments that have not already been addressed by this Court,
11 Respondents filed a response recycling past arguments and contemptuously stating that the Court’s
12 reasoning is imposing a “perverse regime”, “endorsing such a backwards outcome” and is a
13 “mistaken interpretation”. *See Response, Dkt. 8, p 4.*

14 The arguments Respondents raise in their Response, Dkt. 8, have been considered and
15 overwhelmingly rejected by this Court and courts around the country. Because Respondents cannot
16 “show cause why the writ should not be granted,” Mr. Peña Trejo asks that the Court “forthwith

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19 ¹ This Court has already granted petitioners relief in over a dozen similar challenges. *See, e.g.,* Herrera v.
20 Knight, No. 2:25-CV-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); Vazquez v. Feeley, No.
21 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); Roman v. Noem, No. 2:25-CV-
22 01684-RFB-EJY, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); Carlos v. Noem, No. 2:25-CV-01900-RFB-
23 EJY, 2025 WL 2896156 (D. Nev. Oct. 10, 2025); E.C. v. Noem, No. 2:25-CV-01789-RFB-BNW, 2025 WL
2916264 (D. Nev. Oct. 14, 2025); Perez Sanchez v. Bernacke, No. 2:25-CV-01921-RFB-MDC (D. Nev.
Oct. 17, 2025); Aparicio v. Noem, No. 2:25-CV-01919-RFB-DJA, 2025 WL 2998098 (D. Nev. Oct. 23,
2025); Dominguez-Lara v. Noem, No. 2:25-CV-01553-RFB-EJY, 2025 WL 2998094 (D. Nev. Oct. 24,
2025); Bautista-Avalos v. Bernacke, 2:25-CV-01987-RFB-BNW (D. Nev. Oct 27, 2025); Arce-Cervera v.
Noem, No. 2:25-CV-01895-RFB-NJK, 2025 WL 3017866 (D. Nev. Oct. 28, 2025); Alvarado Gonzalez v.
Mattos, No. 2:25-CV-01599-RFB-NJK (D. Nev. Oct. 30, 2025); Rodriguez Cabrera v. Mattos, No. 2:25-
CV-01551-RFB-EJY, 2025 WL 3072687 (D. Nev. Nov. 3, 2025); Berto Mendez v. Noem, No. 2:25-cv-
02602-RFB-MDC (D. Nev. Nov. 7, 2025); among others.

1 award the writ,” 28 U.S.C. § 2243, and order his immediate release from Respondents’ custody or
2 in the alternative order a prompt custody redetermination pursuant to 8 U.S.C. §1226(a).

3 ARGUMENT

4 **I. Respondents Fail to Justify Mr. Peña Trejo’s Detention Under 8 U.S.C. §** 5 **1225(b)(2)**

6 Contrary to Respondents’ argument, 8 U.S.C. § 1225(b)(2) does not plainly authorize the
7 mandatory detention of individuals in Mr. Peña Trejo’s posture, who have effectuated an entry
8 into the United States and have resided in the U.S. for years. *See e.g., Maldonado Vazquez v.*
9 *Feeley*, No. 25-cv-1542, 2025 WL 2676082, at *13 (D. Nev. Sept. 17, 2025); *see also Escobar*
10 *Salgado v. Mattos*, No. 25-cv-01872-RFB-EJY, 2025 WL 3205356 (D. Nev. Nov. 17, 2025).
11 Respondents’ assertion that *Jennings v. Rodriguez* sets out that any noncitizen who enters without
12 admission is an “applicant for admission” and thus subject to detention until whenever removal
13 proceedings end is mistaken. Dkt. 8. *Jennings* examined section 1226 and stated it as “generally
14 governing the process of arresting and detaining . . . [noncitizens] already in the country pending
15 the outcome of removal proceedings,” including noncitizens who are “present in the country”
16 despite being “inadmissible at the time of entry.” *Jennings v. Rodriguez*, 583 U.S. 281, 288-89
17 (2018). “[O]nce inside the United States . . . the default rule” is set forth in § 1226. *Id.* at 288
18 (quoting § 1226(a)).

19 Next, Respondents’ raise that Mr. Peña Trejo’s unlawful detention should continue as he has
20 failed to exhaust his administrative remedies for not requesting a bond hearing prior to the
21 commencement of this action. The Response admits that § 1225 is being applied in the
22 immigration courts as “the law of the land”, asserts that Mr. Peña Trejo is not entitled to a bond
23 hearing, and yet turns around and maintains he should request one. Dkt 8, p. 13. Exhaustion in

1 these cases has become “futile” because the agency is bound by the BIA precedent, and an
2 individualized administrative review of Mr. Peña Trejo’s claims is effectively foreclosed. *Herrera*,
3 2025 WL 2581792, *8; *Maldonado Vazquez*, 2025 WL 2676082, at *10.

4 Respondents also contend that Mr. Peña Trejo’s liberty interests and irreparable harm is
5 outweighed by the governments compelling interests to ensure the nation’s security against a 57-
6 year-old man, with no arrests or convictions, who is a dedicated father and the main provider for
7 his three minor U.S. citizen children. They assert that there is no irreparable harm when a mother
8 is left alone to balance appointments, household responsibilities and the care of a child with an
9 autism spectrum disorder and mood dysregulation disorder.

10 Notedly, Respondents argue against EAJA fees in their Response (Dkt. 8, p. 17), when Mr.
11 Peña Trejo has not included consideration nor requested said benefit in either his Petition or
12 Motion for Temporary Restraining Order. This again evidences the contemptuous manner in which
13 Respondents’ counsel are handling these matters of great importance that are depriving persons of
14 liberty, harming families, and largely impacting communities.

15 Last, Mr. Peña Trejo requests that this court enforce his rights as a member of the class certified
16 in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). On November
17 25, 2025, the district court certified a nationwide class and extended declaratory judgment to the
18 certified class in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp.
19 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary
20 judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-
21 SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order
22 certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible Class, incorporating and
23 extending declaratory judgment from Order Granting Petitioners’ Motion for Partial Summary

1 Judgment). A clarifying order and final judgment was then issued on December 18, 2025, in the
2 matter. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----,2025
3 WL 3713982, (C.D. Cal. Dec. 18, 2025) (Order Granting in Part and Denying in Part Petitioners'
4 Ex Parte Application for Reconsideration or Clarification). Respondents are bound by the
5 judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C.
6 § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and
7 continue to subject Petitioner to unlawful detention despite his clear entitlement to consideration
8 for release on bond as a Bond Eligible Class member. Mr. Peña Trejo respectfully requests this
9 Court issue a position on this blatant violation by Respondents.

10 **CONCLUSION**

11 Here, Respondents' response demonstrates material deficiency towards this Court's order.
12 They unconscionably continue to restate that Mr. Peña Trejo should be held under 28 U.S.C. §
13 1225(b)(2), even with scores of decisions to the contrary. Further, Mr. Peña Trejo still remains
14 unlawfully and unrightfully detained despite the declaratory judgment issued to the nationwide
15 class in *Maldonado Bautista*. Accordingly, we ask this Court to enter Orders releasing him from
16 Custody or in the alternative holding a prompt bond redetermination hearing.

17 Dated: February 5, 2026

Respectfully submitted,

18 /s/ Nallely Abad

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