

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 25-cv-00488-SKC

ALFREDO RAMIREZ-FRANCISCO,

Petitioner,

v.

PAMELA BONDI, U.S. Attorney General;  
KRISTI NOEM, Secretary, U.S. Department of Homeland Security;  
TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement;  
ROBERT HAGAN, Director of Denver Field Office, U.S. Immigration and Customs  
Enforcement;  
JUAN BALTAZAR, Warden, Denver Contract Detention Facility;

Respondents.

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**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS (ECF No. 1)**

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Pursuant to this Court's Order to Show Cause, ECF No. 4, Respondents hereby submit this response to the Petition, ECF No. 1. On February 9, 2026, the Court ordered Petitioner to serve Respondents by February 11, 2026, and for Respondents to show cause why the Petition should not be granted within 5 days of service. ECF No. 4. Respondents received service on February 11. Five calendar days after that date was February 16, 2026, a legal holiday. Federal Rule of Civil Procedure 6(a)(1)(C) provides that when a court issues an order that states the time period to act in days, and the last day is a legal holiday, the period runs to the next day, making the response due on February 17, 2026. This response is therefore timely.

The central legal issue presented in this case concerns whether a noncitizen 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 whether such a noncitizen is entitled by § 1226(a) to seek a bond hearing. The Court instructs Respondents to address whether the present case materially differs from *Aleman Hernandez v. Baltazar*, No. 1:25-CV-3688-SKC-SBP, 2025 WL 3718159 (D. Colo. Dec. 23, 2025). Respondents submit that this case is not materially different from *Aleman Hernandez* but respectfully disagree with that ruling. However, to conserve judicial and party resources and expedite this Court’s consideration of this case, 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, 24, 28; ECF No. 1-5, Petitioner’s Ex. A, Notice to Appear. Respondents’ position is that Petitioner is, therefore, subject to mandatory detention under § 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 Court in *Jennings* explained that a noncitizen “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 § 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 noncitizens, 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. CIV-25-01231-JD, 2025 WL 3733302 (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*, Civil Action 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 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, in order 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*, Civil Action No. 25-cv-02720-RMR, ECF No. 26 at 10–19.<sup>1</sup>

Respondents anticipate that this Court's ruling on the Section 1225(b)(2)(A) issue in this case will resolve this habeas 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 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, the appropriate relief here is not for this Court to immediately release to the Petitioner because 8 U.S.C. § 1226(a), the statute that Petitioner requests that the Court apply, authorizes detention. *E.g., Alfaro Orellana*, 2025 WL 3706417, at \*4. Respondents therefore submit that if the Court determines that Petitioner is entitled to relief, the Court should order that Respondents conduct a bond hearing in

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<sup>1</sup> A copy of that brief is attached as Exhibit A hereto.

accordance with 8 U.S.C. § 1226(a), within a reasonable time and should direct the Parties to file a joint status report confirming that such a bond hearing was held.

Dated: February 17, 2026.

Respectfully submitted,

PETER MCNEILLY  
United States Attorney

s/ Winnie D. Wu

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**CERTIFICATION REGARDING THE USE  
OF ARTIFICIAL INTELLIGENCE FOR DRAFTING**

Pursuant to the Court's Standing Order for Civil Cases, undersigned counsel certifies that no portion of this filing was prepared using generative artificial intelligence.

s/ Winnie D. Wu

Winnie D. Wu

**CERTIFICATE OF SERVICE**

I hereby certify that on February 17, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to counsel of record.

*s/ Winnie D. Wu* \_\_\_\_\_  
U.S. Attorney's Office