IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00531-NYW

LUIS ALFREDO CHAVELAS ROSAS,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Aurora ICE Processing Center,
GEORGE VALDEZ, in his official capacity as Acting Field Office Director of the Aurora Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement,
TODD M. LYONS, in his official capacity as Acting Director, Immigration and Customs Enforcement,
KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security,
PAMELA JO BONDI, in her official capacity as Attorney General of the United States,

Respondents.

RESPONSE TO ORDER TO SHOW CAUSE, ECF No. 4

Respondents[1] hereby respond to the Court's Order to Show Cause (ECF No. 4), directing them to respond to the habeas petition.[2]

The central legal issue presented in this case concerns whether a noncitizen who

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[1] Pursuant to Fed. R. Civ. P. 25(d), George Valdez, in his official capacity as Acting Director of the Denver Field Office, U.S. Immigration and Customs Enforcement, has automatically been substituted as a party.

[2] The Court ordered Petitioner to serve Respondents with a copy of the Petition. ECF No. 4. Respondents received service via mail on February 17, 2026. *See* ECF No. 5 at 3. The Court ordered Respondents to respond to the Petition within seven days of service. ECF No. 4. This Response is therefore timely. *See* Fed. R. Civ. P. 6(a)(1).

is present in the United States and has not been admitted 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. This issue is not materially different from an issue this Court has resolved in a prior ruling in another case. *See, e.g.*, *Caballero v. Baltazar*, 25-cv-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025). Respondents respectfully disagree with that ruling. But 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. *See* ECF No. 1 ¶ 18. Respondents' position is that Petitioner is subject to mandatory detention under § 1225(b), under the interpretation of that provision adopted by the Fifth Circuit in *Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330, at *5–10 (5th Cir. Feb. 6, 2026). Respondents submit that this position is further 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—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 Buenrostro-Mendez*, 2026 WL 323330, at *5–10; *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.[3]

The Petition appears to contend that Petitioner should be viewed as detained under 8 U.S.C. § 1226(a) rather than § 1225(b). *See* ECF No. 1 ¶¶ 23-24, 80 (contending that his detention, if authorized, would need to be under § 1226(a)). If the Court determines that Petitioner is detained under § 1226(a) and grants the Petition, the appropriate relief is for the Court to direct a bond hearing be conducted pursuant to § 1226(a) before an immigration judge. The Court should not order further relief beyond directing that Petitioner be granted a bond hearing under § 1226(a). It should not order immediate release, as this court has recognized in a prior case. *See Leyva Ramirez v. Baltasar et al.*, No. 26-cv-00199-NYW, ECF No. 23, at 7–8 (D. Colo. Feb. 6, 2026) ("[A] bond hearing before an immigration judge is sufficient to vindicate the procedural protections afforded by § 1226(a).").

Respondents anticipate that this Court's ruling on the § 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.").

In sum, 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 seven days and should direct Respondents to file a status report within seven

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

days of the bond hearing, confirming that it was held.

Dated: February 24, 2026

Respectfully submitted,

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s/ Benjamin Gibson
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CERTIFICATE OF SERVICE

I certify that on February 24, 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/Benjamin Gibson
Benjamin Gibson

CERTIFICATE OF ARTIFICAL INTELLIGENCE USE

The undersigned counsel certifies that generative artificial intelligence was not used to draft this response.

s/ Benjamin Gibson
Benjamin Gibson