IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00666-SKC

JACQUELINE CARRILLO ALONZO,

Petitioner,

v.

JUAN BALTASAR, Warden, GEO Group ICE Processing Center;
GEORGE VALDEZ, Director of the Denver Field Office for U.S. Immigration and Customs Enforcement[1];
TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security; and
PAMELA BONDI, U.S. Attorney General,
in their official capacities,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS (ECF No. 1) AND ORDER TO SHOW CAUSE (ECF No. 4)

Respondents 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

---

[1] George Valdez is substituted for Robert Hagan, in his official capacity, pursuant to Fed. R. Civ. P. 25(d).

[2] On February 19, 2026, Magistrate Judge Starnella (to whom this case was initially assigned) ordered that Respondents respond to the Petition and show cause why it should not be granted within five days of service. *See* ECF No. 4. That same day, February 19, the U.S. Attorney's Office received service in this matter via email notice from the clerk's office. Therefore, pursuant to Judge Starnella's Order at ECF No. 4, Respondents' response is due today, February 24, 2026 (five days after service).

who 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), 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 Aleman Hernandez v. Baltazar*, No. 1:25-cv-3688-SKC-SBP, 2025 WL 3718159, at *1 (D. Colo. Dec. 23, 2025). Respondents respectfully disagree with that ruling. But to conserve 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, she was present in the United States without having been admitted. *See* ECF No. 1 ¶¶ 3, 23, 29-30; *see also* ECF No. 1-1 at 1 (immigration judge's order noting that Petitioner "entered the U.S. without inspection"). Respondents' position is that Petitioner is, therefore, 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).[3] 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

[3] Respondents are aware that this Court disagrees with the Fifth Circuit's majority opinion. *See Komara v. Bondi*, No. 26-cv-00478-SKC, ECF No. 11, at 4-5 (D. Colo. Feb. 18, 2026).

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, e.g.*, *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, to expedite disposition of this case, 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.[4]

The Petition contends that Petitioner should be viewed as detained under 8 U.S.C. § 1226(a) rather than § 1225(b). *See* ECF No. 1 ¶¶ 5-6, 11, 52. If the Court agrees and 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 multiple decisions in this district have recognized.[5]

---

4 A copy of that brief is attached as Exhibit A hereto.

5 *See, e.g.*, *Montanez de la Cruz v. Baltazar et al.*, No. 26-cv-00360-PAB, ECF No. 15, at 8 (D. Colo. Feb. 17, 2026) ("[B]ecause § 1226 authorizes detention, the Court does not find that petitioner's immediate release is an appropriate remedy. Instead, the Court will order that a bond hearing be conducted."); *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)."); *Perez Zepeda v. Hagan et al.*, No. 25-cv-3789-SKC-STV, ECF No. 18, at 17 (D. Colo. Jan. 27, 2026) ("[Section] 1226 does not require

This Court's ruling on the § 1225(b)(2)(A) issue in this case should 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."). The Court should also deny any other requests for prospective injunctive relief. *See Montanez de la Cruz*, No. 26-cv-00360-PAB, ECF No. 15, at 9-11. For example, the Court should not preemptively enjoin ICE from re-detaining Petitioner if she is ordered released, either by this Court or after any bond hearing by an immigration judge. *See* ECF No. 1 at 28 (requesting that the Court "enjoin[] Respondents from re-detaining Petitioner during the pendency of her removal proceedings," without providing argument in support of that specific request or addressing the potential for changed future circumstances). If the Court nevertheless does enter prospective injunctive relief, it should specify what procedures are required and the legal basis for requiring them. 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.

In sum, Respondents submit that if the Court grants the petition and determines that Petitioner is detained pursuant to § 1226(a), the Court should find

---

release—it provides DHS the discretion to grant a noncitizen release on bond. . . . Additionally, the Court concludes that an immigration judge is in a better position to consider whether Petitioner poses a flight risk and a danger to the community.").

that the appropriate relief is a bond hearing under 8 U.S.C. § 1226(a). If the Court orders such a bond hearing, Respondents request that the Court order Respondents to conduct such a bond hearing within seven days and direct Respondents to file a status report within seven days of the bond hearing, confirming that it was held.

Dated: February 24, 2026

Respectfully submitted,

PETER MCNEILLY
United States Attorney

s/ Jane Bobet Rejko
Jane Bobet Rejko
Assistant United States Attorney 1801 California Street, Suite 1600
Denver, Colorado 80202
Telephone: (303) 454-0100
Jane.Bobet.Rejko@usdoj.gov
Counsel for Respondents

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/ Jane Bobet Rejko
United States Attorney's Office