

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

Civil Action No. 26-cv-00763-SKC

EDUIN VEGA CACERES,

Petitioner,

v.

JUAN BALTAZAR, Warden of the Denver Contract Detention Facility;  
GEORGE VALDEZ<sup>1</sup>, Field Office Director, Denver Field Office, U.S. Immigration  
and Customs Enforcement;  
TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement;  
KRISTI NOEM, Secretary, U.S. Department of Homeland Security; and  
PAMELA BONDI, United States Attorney General,

Respondents.

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**RESPONSE TO ORDER TO SHOW CAUSE (ECF No. 13)**

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Respondents hereby respond to the Court's Order to Show Cause (ECF No. 13), directing them to respond to the Petition for a Writ of Habeas Corpus (ECF No. 1, the "Petition"). Specifically, the Court ordered Respondents "to first address . . . whether the present case differs factually or legally from" "the Court's recent analysis" in *Rivas v. Baltazar*, No. 1:26-cv-00442-SKC, 2026 WL 444732 (D. Colo. Feb. 17, 2026), "and if so, shall specify the material differences." ECF No. 13.

The central legal issues presented in this case concern (1) whether a noncitizen who is present in the United States and has not been admitted or

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<sup>1</sup> George Valdez, the Acting Field Office Director for ICE's Denver Field Office, is substituted for Robert G. Hagan pursuant to Fed. R. Civ. P. 25(d).

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; and (2) whether ICE may invoke an automatic stay and continue to detain a noncitizen after an Immigration Judge (“IJ”) has ordered bond pursuant to 8 C.F.R. § 1003.19(i)(2). These issues are not materially different from the issues this Court has resolved in prior rulings in other cases. *See, e.g., Perez Zepeda v. Hagan, et al.*, No. 25-cv-03789-SKC, ECF No. 18 (D. Colo.); *Rivas*, 2026 WL 444732. Respondents respectfully disagree with those rulings. 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.

**I. Petitioner is subject to mandatory detention during his removal proceedings under Section 1225(b).**

As to the first issue, Petitioner was present in the United States without being admitted or paroled when he was detained by ICE. *See* ECF No. 1 ¶ 27. 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*, 166 F.4th 494, 502-08 (5th Cir. 2026). This position is further supported by *Jennings v. Rodriguez*, 583 U.S. 281 (2018), where the Supreme Court 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, e.g., Buenrostro-Mendez*, 166 F.4th at 502-08; *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. Respondents are aware that this Court disagrees with the Fifth Circuit’s majority opinion. *See, e.g., Yanez Chavez v. Baltazar, et al.*, No. 26-cv-00556-SKC, 2026 WL 516934, at \*2 (D. Colo. Feb. 25, 2026). 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.<sup>2</sup>

**II. Petitioner's detention pursuant to an automatic stay pending an appeal of the Immigration Judge's initial bond determination is proper.**

Respondents' position is that the application of the automatic stay pursuant to 8 C.F.R. § 1003.19(i)(2) does not violate Petitioner's due-process rights and is not *ultra vires*.

As noted above, the issues presented in the Petition regarding the application of the automatic stay are not materially different from the issues this Court resolved in *Rivas*, 2026 WL 444732. *See also Merchan-Pacheo v. Noem*, No. 25-cv-03860-SBP, 2026 WL 88526 (D. Colo. Jan. 12, 2026). Respondents acknowledge that, absent a ruling from the Tenth Circuit on this issue, this Court's prior ruling

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<sup>2</sup> A copy of that brief is attached as Exhibit A hereto.

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 the application of the automatic stay provision violates Petitioner's due process rights. Thus, while Respondents do not consent to issuance of the writ and reserve the right to appeal, Respondents hereby rely upon, and incorporate by reference, the legal arguments Respondents presented on this issue in *Rivas*, No. 26-cv-00442-SKC, ECF No. 13<sup>3</sup> and *Merchan-Pacheo v. Noem*, No. 25-cv-03860-SBP, ECF No. 12.<sup>4</sup>

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Respondents anticipate that this Court's rulings on the § 1225(b)(2)(A) issue and/or on whether the automatic stay violates Petitioner's due process rights will resolve this habeas petition. If the Court grants the petition on one of those two grounds, 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."); *see also Merchan-Pacheo*, 2026 WL 88526, at \*17 (declining to reach petitioner's additional arguments). But if the Court wishes to receive additional briefing on any other issue, Respondents request that the Court issue an

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<sup>3</sup> A copy of that brief is attached as Exhibit B hereto.

<sup>4</sup> A copy of that brief is attached as Exhibit C hereto.

order directing Respondents to address such issues.

Respondents are aware that this Court has ordered in other cases that respondents must immediately release the petitioner and, if the petitioner resides outside of Colorado, transport the petitioner to his or her place of residence within 36 hours. *See, e.g., Carrillo Alonzo*, No. 26-cv-0666-SKC, ECF No. 14, at 5-6 (D. Colo. Feb. 25, 2026); *see also* ECF No. 1 at 25 (requesting as relief that “Respondents transport [Petitioner] back to Lake Worth, Florida, at their own expense, within 36 hours of the date and time of the Court’s Order”). Respondents submit that, if the Court is inclined to order Petitioner’s immediate release after he posts the \$5,000 bond ordered by the Immigration Judge (ECF No. 1 at 41), the Court should (1) require counsel for Respondents promptly to confer with counsel for Petitioner to determine whether Petitioner wishes for ICE to transport him back to his residence, or would prefer for ICE to simply release him from custody<sup>5</sup>; (2) require Respondents to submit a status report updating the Court on such conferral within 36 hours of the date and time of the order; and (3) if Petitioner prefers to be transported by ICE to his residence, afford Respondents three days

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<sup>5</sup> Petitioner notes in his Motion for a Temporary Restraining Order that he has an Individual Merits Hearing in front of an Immigration Judge scheduled for March 30, 2026. ECF No. 8 at 4. It is unclear if Petitioner would like to remain in Colorado pending his immigration proceedings. *See* ECF No. 1 at 25 (Petition requesting “return to Lake Worth, Florida” as relief); ECF No. 8 at 12 (Motion for Temporary Restraining Order requesting “immediate[] release”).

from the date that the bond is processed in which to effect such transportation.

Dated: March 19, 2026

Respectfully submitted,

PETER MCNEILLY  
United States Attorney

s/ Julia M. Prochazka  
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*Counsel for Respondents*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 19, 2026, I electronically filed the foregoing  
with the Clerk of the Court using the CM/ECF system.

*s/ Julia M. Prochazka*

***Julia M. Prochazka***

Assistant United States Attorney

Counsel for Respondents