IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-01075-PAB

ISMAEL RENDON LANDA,

Petitioner,

v.

GEORGE VALDEZ, Acting Denver Field Office Director of Enforcement and Removal Operations, Immigration and Customs Enforcement,
MARKWAYNE MULLIN,[1] in his official capacity as Secretary, Department of Homeland Security,
U.S. DEPARTMENT OF HOMELAND SECURITY,
PAMELA BONDI, in her official capacity as U.S. Attorney General,
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,[2] and
JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility,

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

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[1] Pursuant to Fed. R. Civ. P. 25(d), Markwayne Mullin is automatically substituted as the official-capacity Respondent in this matter.

[2] Respondents dispute that the named non-individual entities are proper respondents in this habeas proceeding. A writ of habeas corpus is properly directed to the custodian of the petitioner. *See* 28 U.S.C. §§ 2242-43 (habeas petitions must allege "the name of the person who has custody over him," and the writ or order to show cause "shall be directed to the person having custody of the person detained"); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) ("[T]here is generally only one proper respondent to a given prisoner's habeas petition. This custodian, moreover, is 'the person' with the ability to produce the prisoner's body before the habeas court.").

them to respond to the habeas petition, ECF No. 1.

The Court ordered Petitioner to serve Respondents by overnight mail and email on or before March 20, 2026. ECF No. 4. The Court ordered Respondents to respond "[w]ithin seven days of service." *See id.* The U.S. Attorney's Office was served by mail on March 19, 2026, and by email on March 20, 2026. *See* ECF No. 5 ¶¶ 3-4. Thus, service was not complete in the manner specified by the Court's order until March 20. Respondents' response deadline is therefore March 27, 2026, and this response is timely filed.

The central legal issue presented in this case concerns whether a noncitizen 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, e.g.*, *Alfaro Orellana v. Noem, et al.*, 25-cv-03976-PAB, ECF No. 15 (D. Colo. 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, he was present in the United States without having been admitted. *See* ECF No. 1 ¶¶ 18, 28; ECF No. 1-1 (Notice to Appear). Respondents' position is that Petitioner is, therefore, subject to mandatory detention under § 1225(b) under the interpretation of that provision adopted by the Fifth and Eighth Circuits in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502–08 (5th Cir. 2026) and *Herrera Avila v. Bondi*, -- F.4th --, 2026 WL 819258, at *2–6 (8th Cir. Mar. 25, 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"—including 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 and Eighth Circuits 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; *Herrera Avila*, 2026 WL 819258, at *2–6; *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.[3]

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 ¶ 29. 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 to be conducted pursuant to § 1226(a) before an immigration judge. In particular, 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.[4]

This Court's ruling on the Section 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, e.g.*, *Leyva Ramirez*, 2026 WL 318989, at *3-4 ("The Court's analysis begins and ends with Count One, the statutory claim. . . . Having granted Mr. Leyva

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

[4] *See, e.g.*, *Montanez de la Cruz v. Baltazar et al.*, No. 26-cv-00360-PAB, 2026 WL 439217, at *3 (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, 2026 WL 318989, at *4 (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 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.").

Ramirez relief as to Count One, the Court does not reach his other claims at this time."); *see also 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 not grant any other prospective injunctive relief. *See Montanez de la Cruz*, No. 26-cv-00360-PAB, 2026 WL 439217, at *3-5. 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, 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 within seven days and should direct Respondents to file a status report within seven days of the bond hearing, confirming that it was held.

Respectfully submitted March 27, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on March 27, 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/ Alexandra J. Berger
U.S. Attorney's Office