IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Case No. 26-cv-01142-WJM

ROHIT SAINI,

Petitioner,

v.

JUAN BALTAZAR, Warden, Denver Contract Detention Facility;
GEORGE VALDEZ[1], Field Office Director, Denver Field Office, United States Immigration and Customs Enforcement;
TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement,
MARKWAYNE MULLIN[2], Secretary of the Department of Homeland Security; and
TODD BLANCHE[3], Acting United States Attorney General,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS (ECF No. 1), MOTION FOR TEMPORARY RESTRAINING ORDER (ECF No. 4), AND ORDER TO SHOW CAUSE (ECF No. 7)

Respondents hereby respond to the Court's Order to Show Cause (ECF No. 7), directing them to respond to the habeas petition and motion for temporary restraining order.

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[1] 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).
[2] Markwayne Mullin, the Secretary of the Department of Homeland Security, is substituted for Kristi Noem pursuant to Fed. R. Civ. P. 25(d).
[3] Todd Blanche, the Acting United States Attorney General, is substituted for Pam Bondi pursuant to Fed. R. Civ. P. 25(d).

This response is timely. In an order dated March 20, 2026, the Court directed Respondents to respond to the Petition and Motion by March 30, 2026, and directed Petitioner to file "a copy of the Petition, the Motion, and all accompanying papers, along with a copy of this Order, **by electronic mail on or before March 21, 2026**." ECF No. 7 (emphasis in original). The Court thus provided Respondents with 9 days to respond from the date of Petitioner's service of the pleadings and the Court's order. *Id.* Petitioner did not, at that time, provide Respondents with either the Petition, Motion or a copy of the Court's Order to Respondents, and Respondents were unaware of the Court's order and the March 30 deadline. Then, on April 1, 2026, the Court, observing that Petitioner had not complied with the Court's order, directed Petitioner "to serve all Respondents by electronic mail and file proof of such service" by April 1, 2026. ECF No. 9. Petitioner then served Respondents by email on April 1. Respondents sought an extension to April 10, 2026 in order to respond to the Petition and Motion, and to determine whether the response would be routine or require special briefing. *See* ECF No. 12. The Court granted Respondents' motion for an extension until April 10, 2026.

On March 10, 2026, Petitioner was arrested by [redacted] Police Department for a domestic violence simple assault charge. *See* Ex. 1 at ¶ 11 (Declaration of Alexis Luquin). He was thereafter detained by ICE, having been present in the United States without having been admitted. *See id.* at ¶¶ 5,10.

Accordingly, 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., Morales Lopez v. Baltazar et al.*, Case No. 25-cv-03078-WJM-KAS (D. Colo.). 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.

Respondents' position is that because Petitioner is present in the United States without having been admitted, he is, therefore, subject to mandatory detention under § 1225(b) under the interpretation of that provision adopted by the Fifth and Eighth Circuits. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502–08 (5th Cir. 2026); *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"—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, Eighth 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; *Avila*, 2026 WL 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. Respondents are aware that this Court disagrees with the Fifth Circuit's majority opinion. *See Fuentes Bonilla v. Baltazar et al.*, Case No. 26-cv-00363-WJM, 2026 WL 452365, at *4 (D. Colo Feb. 18, 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.[4]

The Petition seems to contend that Petitioner should be viewed as detained under 8 U.S.C. § 1226(a) rather than § 1225(b). *See* ECF No. 1 at ¶ 90. 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. 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.[5]

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 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

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

[5] *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.").

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*, 2026 WL 439217, at *3–5. For example, the Court should not preemptively direct the immigration judge or ICE to follow particular procedures; if the Court nevertheless does so, 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.

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.

Dated: April 10, 2026.

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CERTIFICATE OF SERVICE

I certify that on Elliot Wertheim, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all persons who have registered for such notifications.

s/ Elliot Wertheim
U.S. Attorney's Office