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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF ARIZONA
12 PHOENIX DIVISION

13 **Sergio Hernandez Ramirez,**

14 Petitioner,

15 v.

16 **Luis Rosa Jr., Warden, et al.,**

17 Respondents.
18 _____

Case No. 2:26-cv-2775-DJH (MTM)

**PETITIONER'S REPLY TO
FEDERAL RESPONDENTS'
RESPONSES TO PETITION FOR
WRIT OF HABEAS CORPUS AND
ORDER TO SHOW CAUSE**

19
20 Petitioner Sergio Hernandez Ramirez (Ramirez) has been unlawfully
21 detained at the Central Arizona Florence Correctional Center for over two months.
22 Despite his 20-year residence in the country, his four U.S. citizen children, his
23 steady employment, and his lack of any criminal history, U.S. Immigration and
24 Customs Enforcement (ICE) arrested Ramirez on his way to work and transported
25 him to the Central Arizona Florence Correctional Center. He has been denied any
26 opportunity for release on bond or other conditions, or to be heard before a neutral
27 arbiter to challenge the legality of his detention. Ramirez filed a petition for a writ
28 of habeas corpus, alleging that his detention violates the Immigration and

1 Nationality Act (INA) and his Fifth Amendment due process rights. ECF No. 1. In
2 response, Federal Respondents lodge a boilerplate brief that fails to show that
3 Ramirez’s detention comports with the INA’s text or the U.S. Constitution. The
4 Court should, therefore, grant Ramirez’s petition and order his immediate release.

5 **Ramirez’s Mandatory Detention Violates the INA and the U.S. Constitution.**

6 First, Federal Respondents contend that Ramirez is rightfully detained under
7 8 U.S.C. § 1225(b)(2)(A)’s mandatory detention provisions. ECF No. 6 at 2-4. But
8 the overwhelming majority of courts have rejected Federal Respondents’ reading of
9 § 1225(b)(2)(A) and § 1226(a).

10 In *Echevarria v. Bondi*, this Court grappled with the same issue presented
11 here: whether § 1225(b)(2)(A) governs the detention of a noncitizen who has
12 resided in the country for over 20 years and is charged as being present without
13 having been admitted or paroled. 2025 U.S. Dist. LEXIS 196174 (D. Ariz. Oct. 3,
14 2025). In its analysis, the Court rejected the Government’s proffered statutory
15 interpretation of § 1225, concluding that it “ignores some of the additional
16 requirements imposed by § 1225(b)(2)(A)” and “fails to account for the broader
17 statutory scheme.” *Id.* at *12. The Court honed in on § 1225(b)(2)(A)’s phrase
18 “seeking admission,” which “has a temporal element—Petitioner must have been
19 in the process of seeking admission at the time of the inspection.” *Id.* at *16. It was,
20 therefore, “hard to see how Petitioner could be deemed to have been ‘seeking’
21 admission at the time of the encounter on July 2, 2025,” because by that time,
22 “Petitioner had already been present in the United States for 24 years, having arrived
23 and entered in 2001.” *Id.* Consequently, “it would seem to push the statutory text
24 beyond its breaking point to conclude that Plaintiff became an ‘applicant for
25 admission’ by operation of law in 2001, due to his arrival in the United States at
26 that time, yet was still ‘seeking admission’ 24 years later.” *Id.* at *19.

27 The Court also cited key portions of *Jennings* and *Nielsen* where the Supreme
28 Court clarified § 1226(a)’s scope, explaining that the statements in those cases

1 “would not make sense under [the Government’s] new interpretation.” *Id.* at **22-
 2 23. Ultimately, the Court found that it “cannot see how it could adopt [the
 3 Government’s] position without running afoul of *Jennings*’ reasoning.” *Id.* at *26.
 4 The Court thus ordered the Government to provide the petitioner a bond hearing
 5 under § 1226(a), as a matter of statutory construction. *Id.* at *30; *see also Sanabria*
 6 *v. Rosa*, 2025 U.S. Dist. LEXIS 259099 (D. Ariz. Dec. 11, 2025) (same);
 7 *Valdovinos v. Larose*, 2025 U.S. Dist. LEXIS 262096 (S.D. Cal. Dec. 18, 2025)
 8 (same); *Chub v. Larose*, 2025 U.S. Dist. LEXIS 261192 (S.D. Cal. Dec. 17, 2025)
 9 (same); *Maldonado Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265 (C.D.
 10 Cal. Dec. 18, 2025) (declaring the Government’s interpretation of § 1225(b)(2)(A)
 11 “contrary to law”).¹

12 Federal Respondents note that the Fifth and Eighth Circuits have ruled in the
 13 Government’s favor on the statutory construction analysis. However, *Buenrostro-*
 14 *Mendez v. Bondi*, 116 F.4th 494 (5th Cir. 2026) and *Avila v. Bondi*, 2026 U.S. App.
 15 LEXIS 8744 (8th Cir. Mar. 25, 2026) are out-of-circuit, unpersuasive decisions that
 16 simply adopt the same statutory construction arguments that this Court and many
 17 others have previously rejected. Notably, both cases conflict with the Seventh
 18 Circuit, which has ruled that the Government is not likely to succeed in pressing the
 19 same statutory interpretation. *Castanon-Nava v. U.S. Dep’t of Homeland Sec.*, 161
 20 F.4th 1048, 1061-63 (7th Cir. 2025). *Buenrostro-Mendez* and *Avila* are also at odds
 21 with the Second Circuit’s ruling in *Da Cunha v. Freden*, 2026 U.S. App. LEXIS
 22 12201 (2d Cir. Apr. 28, 2026), which held that, as a matter of statutory construction,
 23 “Section 1225(b)(2)(A) does not apply to noncitizens, such as Petitioner, who are
 24 present in the United States after entering the country without inspection and
 25

26 ¹ The Ninth Circuit stayed the *Maldonado Bautista* district court’s orders pending
 27 appeal, “insofar as they extend beyond the Central District of California.”
 28 *Maldonado Bautista v. EOIR*, Nos. 25-7958, 26-1044 (9th Cir. Mar. 31, 2026).
 Nevertheless, the district court’s decisions are well-reasoned and persuasive.

1 admission, and who were not apprehended at or near the border at the time of entry.”
2 *Id.* at *2; *see also id.* at **11-12 (noting that “over ninety percent of district court
3 judges have sided with Petitioner” and rejected the Government’s position).
4 Ramirez submits that *Da Cunha* provides the more persuasive, well-reasoned
5 analysis—one that demonstrates Ramirez is subject to § 1226(a), not §
6 1225(b)(2)(A).

7 Second, Federal Respondents spends pages arguing that *Maldonado Bautista*
8 is inoperative in this matter. *See* ECF No. 6 at 4-7. However, none of Ramirez’s
9 claims are based on *Maldonado Bautista*’s class-wide relief; in fact, the petition
10 does not even cite the case. *See* ECF No. 1. Federal Respondents’ boilerplate
11 arguments regarding *Maldonado Bautista*’s inapplicability in this District are thus
12 irrelevant. Far more relevant is *Maldonado Bautista*’s merits determination that the
13 Government’s statutory construction arguments lack merit. Yet, Federal
14 Respondents do not discuss that issue.

15 Third, Federal Respondents’ response focuses exclusively on Count I of
16 Ramirez’s petition, which alleges an INA violation. *See* ECF No. 1 at ¶¶ 50-52.
17 They have altogether ignored Counts II and III of the petition, which allege due
18 process violations. *See id.* at ¶¶ 53-68. Courts employ the familiar *Mathews v.*
19 *Eldridge* three-part balancing test to determine whether a procedural due process
20 violation has occurred. 424 U.S. 319, 334-35 (1976). Perhaps realizing that those
21 factors all weigh in Ramirez’s favor, Federal Respondents do not engage at all with
22 the *Mathews* test or dispute Ramirez’s allegations concerning the application of
23 those factors here. *See* ECF No. 1 at ¶¶ 53-61. Similarly, they do not discuss, much
24 less mention, Ramirez’s substantive due process allegations. *Id.* at ¶¶ 62-68. For
25 these reasons alone, the Court can and should grant Counts II and III of the petition.

26 CONCLUSION

27 For the foregoing reasons, the Court should grant Ramirez’s petition and
28 order his immediate release.

Respectfully submitted,

/s/ Peter Herberg

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CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send notice to all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Peter Herberg

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