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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
8

9 GILBERTO VELASCO BALTAZAR,
10 Petitioner,
11 v.
12 WARDEN, California City Correctional
Center,
13 Respondent.
14

CASE NO. 1:26-cv-05062-DJC-AC (HC)

ANSWER AND OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS; OPPOSITION TO
MOTION FOR TEMPORARY RESTRAINING
ORDER; RESPONSE TO ORDER TO SHOW
CAUSE

15
16 Petitioner is detained under 1225(b)(2)(A). On March 10, 2026, Petitioner was issued a Notice
17 to Appear charging him with 8 USC § 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i). He was taken into custody
18 by ICE ERO officers at Gooding County Probation in Idaho. Petitioner admitted to immigration officers
19 that he entered the United States on or about July 27, 2023. Petitioner's immigration history includes an
20 arrest by the Chula Vista Border Patrol officers on July 26, 2023, for which he was given a Voluntary
21 Return to Mexico. Petitioner does have a criminal history, to wit: a misdemeanor DUI (driving under
22 the influence) conviction on March 2, 2026, (Idaho Code 18-8004 (M) (Case #  for
23 which he was sentenced to 180 days. See Exhibits 1-2.

24 Respondent does not request a hearing and does not intend to file additional affirmative briefing.
25 Respondent does not oppose the Court ruling on the habeas petition without further briefing. Petitioner's
26 case is factually distinct from *Morillo v. Albarran*, No. 1:25-cv-01533-DJC-AC, 2025 WL 3190899
27 (E.D. Cal. Nov. 15, 2025) in that unlike *Morillo, supra*, Petitioner has no approved applications for
28 relief on file, Petitioner admitted to only being in the country since July 2023 (although he was arrested

by ICE in March 2026), and Petitioner has a DUI conviction and one voluntary return. The instant matter differs from *E.L.D.M. v. Becerra et al*, No. 1:25-cv-01906-DJC-JDP, 2025 WL 3707140 (E.D. Cal. Dec. 22, 2025) in that unlike the alien in *E.L.D.M. supra*, Petitioner has not been in the United States for over 20 years and Petitioner does have a DUI conviction.

Petitioner entered the United States illegally. Petitioner is thus an “applicant for admission” who is subject to mandatory detention by ICE under 8 U.S.C. § 1225(b)(2). *Joaquin Herrera Avila v. Bondi*, No. 25-3741 (8th Cir. March 25, 2026); *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026); *see also Cortes Alonzo v. Noem*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).

An “alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for admission.’” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (quoting 8 U.S.C. § 1225(a)(1)). As an applicant for admission, petitioner is subject to mandatory detention and thus ineligible for a bond hearing. Petitioner does not possess the right to freedom from immigration detention in any form other than the form provided by Congress. *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953), *reaffirmed in DHS v. Thuraissigiam*, 591 U.S. 103, 139 (2020). The Court should deny the petition for writ of habeas corpus, motion for temporary restraining order and all requested relief because there is no such liberty interest, and petitioner’s detention is mandated by statute.

DATED: July 8, 2026

Respectfully submitted,

ERIC GRANT
United States Attorney

By: /s/ Anthony Andrews
ANTHONY ANDREWS
Assistant United States Attorney

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that I am an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers; that on July 8, 2026, I served a copy of ANSWER AND OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS; OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER; RESPONSE TO ORDER TO SHOW CAUSE; by forwarding this document to a legal assistant of the same office who subsequently placed said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below which is the last known address, and by depositing said envelope and its contents in the United States Mail at Fresno, California.

/s/ Anthony Andrews
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