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UNITED STATES DISTRICT COURT
EASTERN DIVISION OF THE
CENTRAL DISTRICT OF CALIFORNIA

OSCAR EDUARDO OSORIO VALDEZ,

Petitioner,

vs.

Warden, Adelanto Detention Facility; Ernesto Santacruz, *Field Office Director, U.S. Immigration and Customs Enforcement;* Todd M. Lyons, *Acting Director, U.S. Immigration and Customs Enforcement;* Kristi Noem, *Secretary of United States Department of Homeland Security* Pam Bondi, *Attorney General of the United States,* in their official capacities,

Respondents.

Case No.: 5:25-cv-03204-RGK-DTB

PETITIONER'S REPLY BRIEF

Petitioner initially submitted a Notice to Submit on its brief; given Respondents had not responded by the court's ordered deadline. *See* Dkt. 6. Respondents then filed an Answer on 1/22/2026 after the court re-ordered a response. *See* Dkt. 8. After having deprived Petitioner of his liberty interest and denying a full and fair hearing on bond due to jurisdiction for over 90 days, Respondents now concede that he is a bond eligible class member pursuant to 8 USC 1226(a), and

should be provided a bond hearing. *See* Dkt. 9. Counsel for Petitioner respectfully submits this Traverse in response to Respondent's answer.

Petitioner argues that his arrest and detention, among other things, violate the Due Process Clause of the Fifth Amendment. As a result, the appropriate remedy should be Petitioner's immediate release; which is required to return him to the *status quo ante*—"the last uncontested status which preceded the pending controversy." Pinchi v. Noem, No. 25-cv-05632-RMI (RFL), 2025 WL 1853763 at 3 (N.D. Cal. July 4, 2025); Kuzmenko v. Phillips, No. 2:25-cv-00663-DJC-AC, 2025 WL 779743 at 2 (E.D. Cal. Mar. 10, 2025); see also Y-Z-L-H v. Bostock, No. 3:25-cv-00965, 2025 WL 1898025 at 14 (D. Or. 20205) (ordering immediate release due to violation of 8 C.F.R. § 212.5(e)(2)(i)); Valdez v. Joyce, 25 Civ. 4627, 2025 WL 1707737, at 5 (S.D.N.Y. June 18, 2025) (ordering immediate release of unlawfully detained noncitizen); Ercelik v. Hyde, No. 1:25-CV-11007-AK, 2025 WL 1361543, at *15–16 (D. Mass. May 8, 2025) (same); Günaydın v. Trump, No. 25-CV-01151, 2025 WL 1459154, at *10–11 (D. Minn. May 21, 2025) (same). "[F]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Alternatively, due process requires a prompt bond hearing before a neutral decision maker. "The Ninth Circuit has held that prolonged or unjustified immigration detention violates due process unless the government proves, by clear and convincing evidence, that continued detention is necessary to prevent flight or danger." Singh v. Holder, 638 F. 3d 1196, 1203-05 (9th Cir. 2011). The burden cannot be shifted to the detainee. "Due process requires the government to prove that continued detention is justified." Casas-Castrillon v. DHS, 535 F.3d 942, 951 (9th Cir. 2008).

This principle should apply with greater force to individuals such as the Petitioner, who appeared for his ICE check-in, thereby undermining the government's claim of flight risk. Given the deprivation of liberty, Petitioner argues that the government should bear the burden of proof for why they detained him.

Therefore, we respectfully ask this court to expeditiously require the Respondents to immediately release Petitioner or, in the alternative, provide a bond hearing at which the government must bear the burden of proof by clear and convincing evidence that Petitioner's detention is justified.

Date: 1/23/26

Mitchell H. Shen, Esq.
Attorney for Petitioner.

CERTIFICATION OF SERVICE

I, Mitchell H. Shen, hereby certify that on January 23, 2026, a true and correct copy of the foregoing Petitioner's Reply Brief was served electronically on all counsel of record: Erika Suzanne Rojas at Erika.Rojas@usdoj.gov, in accordance with the Federal Rules of Civil Procedure.

Respectfully submitted,

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