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6
7 UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA
9

10 Angel Cruz Rodriguez,

11 Petitioner,

12 v.

13 Warden of Mesa Verde Detention Facility,
14 et al.

15 Respondents.
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No. 1:25-cv-1680-TLN-CKD P

**PETITIONER'S TRAVERSE AND
RESPONSE TO RESPONDENTS'
OPPOSITION TO HIS PETITION FOR
WRIT OF HABEAS CORPUS**

ARGUMENT

I. Respondents' Untimely Opposition Constitutes Nonopposition to the Petition.

Respondents' response to Petitioner Angel Cruz Rodriguez's ("Petitioner" or "Mr. Cruz Rodriguez") Petition for Writ of Habeas Corpus should be disregarded in its entirety because it is untimely.

In this District, "No party will be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has not been timely filed by that party. See L.R. 135. A failure to file a timely opposition may also be construed by the Court as a nonopposition to the motion." L.R. 230(c) (citing L.R. 135).

Moreover, as discussed in the parties' joint briefing schedule, Respondents agreed to respond to the Petition by January 23, 2026. ECF No. 10, at 1. On January 16, 2026, Assistant U.S. Attorney Heiko Coppola ("AUSA Coppola") indicated that the government may still need a short extension and would reach out the next week. On the same day, undersigned counsel for petitioner noted the extension request.

On January 21, 2026, undersigned counsel again contacted AUSA Coppola to inquire whether the government needed an extension for its response. Undersigned counsel did not receive a response.

Today, on the deadline for *Petitioner's* Traverse, the government has belatedly submitted its untimely Opposition. *See* ECF No. 14. The government has, therefore, waived its objections to Mr. Cruz Rodriguez's Petition. *See Jenkins v. Cnty. of Riverside*, 398 F.3d 1093, 1095 (9th Cir. 2005) ("Jenkins abandoned her other two claims by not raising them in opposition to the County's motion for summary judgment."); *Hall v.*

1 *Marriott Int'l, Inc.*, No. 3:19-CV-01715-JLS-AHG, 2021 WL 1906464, at *9 (S.D. Cal.
2 May 12, 2021) (“Here, though Defendant raised these objections in its initial responses, it
3 did not reassert them in its Opposition brief. Thus, the Court deems these objections
4 waived.”)

6 **II. Petitioner’s Continued Detention Violates His Due Process Rights.**

7 The *Mathews v. Eldridge* factors all favor Mr. Cruz Rodriguez. *Mathews v.*
8 *Eldridge*, 424 U.S. 319, 334-35 (1976). Respondents do not contest this, and they do not
9 address those arguments from the Petition. *See generally* ECF No. 14; ECF No. 1, at 10,
10 ¶ 32.

12 The government’s interest in keeping Mr. Cruz Rodriguez in detention without a
13 due process hearing is low, and when weighed against his significant private interest in
14 his liberty, the scale tips sharply in favor of releasing Mr. Cruz Rodriguez from custody.
15 *See, e.g., Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal.
16 July 24, 2025).

18 Moreover, as immigration detention is civil, it can have no punitive purpose. Mr.
19 Cruz Rodriguez noted in his *pro se* petition filing that, at the time of his apprehension,
20 his Ninth Circuit appeal was pending, and he had a valid work permit. ECF No. 1, at 6.
21 He also has a minor son who “is very anxious and sad...” and has been traumatized from
22 his father’s apprehension by U.S. Immigration and Customs Enforcement (“ICE”) agents
23 without due process. ECF No. 1, at 6; *see also Exhibit A*, Child Therapist Note, at 1. He
24 has a significant private interest in his liberty.
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27 The government’s only interests in holding an individual in immigration detention
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1 can be to prevent danger to the community or to ensure a noncitizen's appearance at
2 immigration proceedings. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, the
3 government has failed to establish any such danger or any flight risk. *See generally* ECF
4 No. 14. On information and belief, Petitioner did not receive any notice or opportunity to
5 be heard upon apprehension on September 24, 2025. Nor do Respondents allege
6 providing such due process to Petitioner before his apprehension by ICE. *See* ECF No.
7 14, at 2. Regardless of the status of the stay of removal in his Ninth Circuit appeal, Mr.
8 Cruz Rodriguez has not abandoned his appeal, and he maintains his challenge as to
9 Respondents' unconstitutional deprivation of his liberty without due process. *See*
10 *generally*, ECF No. 1. The length of ongoing appellate proceedings for him and his
11 family weigh in favor of his release. *See Abdul-Samed v. Warden of Golden State Annex*
12 *Det. Facility*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343, at *7 (E.D. Cal. July 25,
13 2025) ("Although the Court recognizes that future events are difficult to predict, the
14 Court nevertheless finds that in the event Petitioner's applications for relief from removal
15 are denied, Petitioner's possible administrative appeal and judicial review by the Ninth
16 Circuit will be sufficiently lengthy such that this factor weighs in favor of Petitioner.").

17 Thus, because the *Mathews* factors weigh in favor of Mr. Cruz Rodriguez, he
18 should be ordered released.

19 **III. Release Is Appropriate Given the Irreparable Harm to Petitioner.**

20 Continued detention of Petitioner irreparably harms him, and he should therefore
21 be released from Respondents' custody. *See Garro Pinchi v. Noem*, No. 25-CV-05632-
22 PCP, 2025 WL 3691938, at *32 (N.D. Cal. Dec. 19, 2025) ("The government has not
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1 disputed that re-detention irreparably harms noncitizens.”) Here, *Garro Pinchi v. Noem* is
2 applicable to Petitioner’s claim. See ECF No. 6, at 1. In *Garro Pinchi*, the Court stayed
3 Respondents’ re-detention policy in the jurisdiction covering the Eastern District of
4 California and concluded that the government’s policy was likely to be found arbitrary
5 and capricious. *Garro Pinchi v. Noem*, No. 25-CV-05632-PCP, 2025 WL 3691938, at
6 *19, *25, and *34 (N.D. Cal. Dec. 19, 2025). Moreover, Respondents are bound by the
7 judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.”
8 28 U.S.C. § 2201(a); *Maldonado Bautista, et al. v. Noem, et al.*, No. 5:25-CV-01873-
9 SSS-BFM, 2025 WL 3678485, ECF No. 94, at *1 (C.D. Cal. Dec. 18, 2025).

12 A bond hearing is unlikely to remedy the harm to Petitioner because, on
13 information and belief, Immigration Judges are pretextually denying bond, or
14 government attorneys are appealing bonds even after issuance of a writ of habeas corpus.
15 See *Palomera Baltazar v. James Janecka et al.*, No. 5:26-cv-00019-SSS-BFM, Order
16 Granting Petitioner’s Ex Parte Application for Temporary Restraining Order, at *3 (C.D.
17 Cal. Jan. 16, 2026) (“At this point in time, the Court can no longer confer Respondents
18 with the benefit of the doubt as to the intent of their filings. Despite the final judgment in
19 *Bautista*, it appears that immigration judges continue to rely on legal interpretations that
20 were expressly found unlawful.”); see also **Exhibit B**, *Puerto Hernandez* District Court
21 Order dated October 2025 (requiring compliance with bond granted to the petitioner);
22 **Exhibit C**, *Puerto Hernandez* BIA Order dated December 2025 (where the BIA vacates
23 an IJ’s bond order despite the previously issued writ of habeas corpus in *Puerto-*
24 *Hernandez v. Lynch*, No. 1:25-CV-1097, 2025 WL 3012033, at *12 (W.D. Mich. Oct. 28,

1 2025) granting release pursuant to the IJ's bond order). These examples show that a bond
2 hearing is unlikely to remedy the irreparable harm to Petitioner, and he should be ordered
3 released based on the unconstitutional deprivation of his liberty without notice in
4 September 2025. *See* U.S. Const., amend. V.
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6 Because Respondents' continued detention of Petitioner constitutes irreparable
7 harm, the Court should order the immediate release of Petitioner.
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9 Dated: January 27, 2026

Respectfully Submitted,

10 /s/ Mihret Getabicha

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