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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

H.F.,

PETITIONER-PLAINTIFF,

v.

SERGIO ALBARRAN, Acting Director, San
Francisco Field Office, U.S. Immigration and
Customs Enforcement; *et al.*,

RESPONDENTS-DEFENDANTS.¹

No. 1:25-cv-01795-TLN-EFB (HC)

**PETITIONER'S REPLY TO
RESPONDENTS' OPPOSITION TO
MOTION FOR A TEMPORARY
RESTRAINING ORDER / PRELIMINARY
INJUNCTION**

NO HEARING REQUESTED

Rather than repeat the arguments set forth in his Motion for a Temporary Restraining Order and Preliminary Injunction, Petitioner will address two issues raised in the Respondents' Opposition:

(1) Petitioner's class membership in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM (C.D. Cal.), and (2) whether this Court should order immediate release of Petitioner in lieu of a bond

¹ In fn. 1 of their opposition, the government moves to dismiss all respondents other than Minga Woffard. Their request is both procedurally and substantively deficient and should be rejected. As a procedural matter, "a request for affirmative relief is not proper when raised for the first time in an opposition." *See Ortega v. Kaiser*, 2025 WL 2243616, at *4 (N.D. Cal. Aug. 6, 2025). As a substantive matter, Respondents' reliance on *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004) is misplaced. Dkt. 10 at fn. 1. Petitioner's request is not limited to release from the officer having custody of him, but rather encompasses an injunction against his re-detention, absent process, by the Department of Homeland Security. *See* Dkt. 1, Petition for Writ of Habeas Corpus, at 58. Thus, all Respondents are properly named.

1 hearing.

2 **ARGUMENT**

3 **I. WHETHER OR NOT PETITIONER IS A CLASS MEMBER OF THE BOND**
4 **ELIGIBLE CLASS IN *MALDONADO BAUTISTA* DOES NOT PREVENT HIM**
5 **FROM SEEKING RELIEF ON SIMILAR LEGAL GROUNDS.**

6 On November 20, 2025, the district court granted partial summary judgment on behalf of
7 individual plaintiffs and on November 25, 2025, certified a nationwide class and extended
8 declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-
9 01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
10 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
11 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
12 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible
13 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
14 Motion for Partial Summary Judgment).

15
16 The declaratory judgment held that the Bond Denial Class members are detained under 8
17 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under §
18 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. Petitioner asserts that is a
19 member of the Bond Eligible Class, as he:

- 20
21 a. does not have lawful status in the United States and is currently detained at the
22 Mesa Verde ICE Processing Facility in Bakersfield, California, after he was
23 apprehended by ICE on October 27, 2025;
24 b. entered the United States without inspection almost four years ago and was
25 not immediately apprehended upon arrival; and
26 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

27 Shortly *after* arrival in the U.S., Petitioner was apprehended by the government and taken
28 into immigration custody, where he was briefly detained with his family. The following day,

Petitioner was released on his own recognizance under 8 U.S.C. § 1226 and provided with the following documents: Form I-200 (Warrant for Arrest of Alien) pursuant to 8 U.S.C. § 1226, Form I-220A (Order of Release on Recognizance), Form I-286 (Notice of Custody Determination) pursuant to 8 U.S.C. § 1226, and Form I-862 (Notice to Appear (“NTA”)) for removal proceedings under 8 U.S.C. § 1229a. Petitioner was not in ICE custody from December 25, 2021 until October 27, 2025, when Respondents apprehended him upon his release from the county jail. At that time, because his 2021 NTA had never been filed with the Court, Respondents issued a new NTA to Petitioner, again placing him in removal proceedings pursuant to 8 U.S.C. § 1229a. The government charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection. Petitioner’s class membership, therefore, will turn on the issues of whether he was “immediately apprehended upon arrival” and ICE’s choice to detain and release him under 8 U.S.C. § 1226.

The Court, however, does not need to resolve the issue of whether or not Petitioner is a member of the Bond Denial Class because even if Petitioner is not a member, this does not mean that he is automatically subject to mandatory detention under § 1225(b).² Even when a petitioner was apprehended on arrival, if he has been “treated by [the government] as subject to discretionary detention under section 1226, rather than mandatory detention under section 1225,” the former is more likely to apply. *Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL 2403827, at *8 (D. Mass. Aug. 19, 2025). Here, the government has treated Petitioner as subject to discretionary detention under § 1226(a). All of the documents issued to Petitioner on the day he entered the United States and subsequently released from custody state that he was in custody

~~and that he did not pose a danger to property or persons, and that the (non-citizen)~~

² Even if he is a class member, it appears that Respondents have instructed immigration judges not to comply with the Court’s order, as immigration judges have been denying *Maldonado Bautista* bond hearings on the basis that they do not have jurisdiction to grant bond.

pursuant to § 1226. He was then released on recognizance pursuant to the authority contained in § 1226 of the Act. *See also Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) (explaining that “release on recognizance” is “another name for ‘conditional parole’ under § 1226(a)”). “These circumstances indicate that [Petitioner] was—and continues to be—subject to discretionary detention under § 1226.” *Bello Chacon v. Hermosillo, et al.*, No. 2:25-CV-02299-TMC, 2025 WL 3562666, at *2 (W.D. Wash. Dec. 12, 2025)

Taken in its entirety, the statutory scheme “makes it not possible for [petitioner] to be simultaneously subject to both detention regimes as a matter of statutory interpretation and, as a matter of due process, when the Government [previously] placed [petitioner] in normal removal proceedings under Sections § 1229, not § 1225(b)(1), and chose to release h[im] on conditional parole under § 1226(a), not hold h[im] in detention under § 1225(b)(2), it created a reliance interest in his continued freedom so long as he abided by the terms of his release.” *J.C.E.P. v. Wofford*, No. 1:25-CV-01559-EFB (HC), 2025 WL 3268273, at *5 (E.D. Cal. Nov. 24, 2025), quoting *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025) (internal citation marks omitted).

II. IMMEDIATE RELEASE IS THE APPROPRIATE REMEDY.

“[D]uring the pendency of removal proceedings, the government may continue to detain the individual or may release him on bond or conditional parole.” *Manzanarez v. Bondi*, No. 1:25-CV-01536-DC-CKD (HC), 2025 WL 3247258, at *2 (E.D. Cal. Nov. 20, 2025). “When a person is apprehended under section 1226, an ICE officer makes an initial custody determination, and the noncitizen will be released upon a showing “to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen]

1 is likely to appear for any future proceeding.” *Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir.
2 2022) (citing 8 C.F.R. § 236.1(c)(8)).

3 Here, the government detained Petitioner under § 1226 and released him on conditional
4 parole under § 1226(a). Although § 1226(a) allows ICE to revoke a noncitizen's bond or parole “at
5 any time,” the “requirements of due process, of course, supersede statutory and regulatory authority,
6 and numerous courts have held that the Due Process clause entitles a noncitizen to notice and an
7 opportunity to be heard before his parole or bond is summarily revoked under section 1226(b).
8 *J.C.E.P.*, *supra*, 2025 WL 3268273, at *6; *see also, e.g., Pinchi v. Noem*, 792 F. Supp. 3d 1025,
9 1032 (N.D. Cal. 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal. 2019); *Lopez v.*
10 *Lyons*, No. 2:25-CV-03174-DJC-CKD, 2025 WL 3124116, at *3 (E.D. Cal. Nov. 7, 2025); *Qazi v.*
11 *Albarran*, No. 2:25-cv-02791-TLN (E.D. Cal. Sept. 29, 2025); *Mata Velasquez v. Kurzdorfer*, No.
12 25-CV-493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025); *Doe v. Becerra*, No. 2:25-
13 CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025). Here, there is no dispute
14 that Petitioner did not receive notice or an opportunity to be heard before his conditional parole was
15 revoked and he was detained in ICE custody.
16
17

18 CONCLUSION

19 For the foregoing reasons, and the reasons set forth in his Motion for a Temporary
20 Restraining Order and Preliminary Injunction, Petitioner respectfully moves the Court to order
21 Respondents to immediately release him and enjoin them from re-detaining him without a pre-
22 deprivation bond hearing before a neutral decisionmaker at which the government must prove by
23 clear and convincing evidence that Petitioner is a flight risk or danger to the community such that he
24 must be re-detained.
25

26 //

1 Dated: December 17, 2025

Respectfully submitted,

/s/ Lina Baroudi

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