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13 **UNITED STATES DISTRICT COURT**
14 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

15 ENRIQUE MORALES
16 SANCHEZ,

17 Petitioner,

18 v.

19 TONYA ANDREWS, in her official
20 capacity, Facility Administrator of
21 Golden State Annex, et al.,

22 Respondent.

Case No. 1:25-cv-1811-TLN-CSK

REPLY BRIEF

23 Comes Petitioner, by counsel, and replies to the Warden's Return/Motion to
24 Dismiss.

25 **I. Introduction**

26 The Warden is incorrect that this Court has no jurisdiction to grant Petitioner's
27 petition for writ of habeas corpus challenging his unlawful detention. The Warden is
28 also incorrect that Petitioner is challenging the BIA's finding of alienage related to
his removal proceeding. Here, Petitioner has properly requested relief from his
unlawful detention, and no other relief, and this Court should grant the petition and

1 order his release.

2 **II. This Court has jurisdiction.**

3 If Petitioner were directly challenging his removal proceedings, the Warden
4 would be correct that this Court has no jurisdiction. *See* ECF 6 at p. 5; *see also id.* at
5 pp. 5-6. However, as understood within the context of the entire pro se pleading, it
6 is clear that Petitioner is solely challenging his detention. Indeed, at the onset,
7 Petitioner summarizes his request:

8 Petitioner therefore respectfully requests that this Court issue a writ of
9 habeas corpus, determine that Petitioner's detention is not justified
10 because the government has not established by clear and convincing
11 evidence that Petitioner presents a risk of flight or danger in light of
12 available alternatives to detention, and order Petitioner's release, with
appropriate conditions of supervision if necessary, taking into account
Petitioner's ability to pay a bond.

13 ECF 1 at p. 2. At no place does Petitioner ask that this Court review the BIA's
14 removal order or the factual findings in support thereof. Rather, Petitioner solely
15 brings up his citizenship as reason for why he is entitled to release. *Id.* at 5-6.

16 **III. Exhaustion is not required.**

17 The Warden next urges this Court to dismiss because the matter of removal is
18 being heard by the Ninth Circuit, and this Court should wait for that determination.
19 *Id.* at 5. However, as just stated, Petitioner has not asked for review of his
20 removability, only his detention.

21 **IV. For detention purposes, there is no final order of removal.**

22 The Warden further posits that there is a final order of removal in this case.
23 ECF 6 at p. 5. Although the Warden does not explicitly argue this, a final order of
24 removal can in some circumstances act as an absolute impediment to release. *See* 8
25 U.S.C.1231(a)(1)(A). However, the Ninth Circuit stayed the finality of Petitioner's
26 removal pending a decision on his petition for review. *See Sanchez Morales v. Bondi*,
27 25-1429, Dkt. Entry 3. Because Petitioner has a bona fide claim to U.S. citizenship,
28

1 the Ninth Circuit will issue the final removal decision. 8 U.S.C. § 1252(b)(5)(C)
2 (nationality claims may be decided only by Article III courts as provided in section
3 1252(b)(1)(A) and (B).) Thus, due to the Court's stay and the absence of a final
4 decision on the operative question of fact, the removal period under which detention
5 is mandatory has not yet begun. 8 U.S.C. § 1231(a)(1)(B)(ii). Section 1231(a)(1)(A),
6 requiring detention, does not apply.

7 As such, Petitioner's release is within this Court's authority.

8 **V. 8 U.S.C. 1226(c) is not applicable.**

9 The Warden also does not explicitly raise 8 U.S.C. § 1226(c), which prohibits
10 release if an alien has been convicted of certain crimes. However, the Warden does
11 allude to Petitioner's criminal history as proscribing release. ECF 6 at pp. 5-6.
12 Section 1226, though, by its terms, only applies to aliens, and Petitioner, as discussed
13 below, has not been adjudicated an alien and challenges the Warden's contrary
14 allegations.

15 **VI. Petitioner is a United States citizen.**

16 In 2006, the Superior Court of San Diego ordered the registration and filing
17 of Petitioner's delayed California birth certificate. Exhibit A. A birth certificate was
18 issued. Exhibit B. Subsequently, Petitioner obtained a social security card from the
19 Social Security Administration, a branch of the federal government. Exhibit C. Such
20 cards are only issued to U.S. citizens and legal permanent residents. *See*
21 [https://www.ssa.gov/ssnumber/cards.htm#:~:text=Types%20of%20Social%20Security%20Cards%20\(En%20espa%C3%B1ol\),Services%20for](https://www.ssa.gov/ssnumber/cards.htm#:~:text=Types%20of%20Social%20Security%20Cards%20(En%20espa%C3%B1ol),Services%20for).
22

23 Then, in 2016, Border Patrol agents filed an amendment to the California birth
24 certificate. Exhibit D. In this amendment they expressed their belief that the
25 certificate was fraudulent because they had discovered another birth certificate, this
26 one from Mexico and also issued years after Petitioner's birth. *Id.* However, the
27 amendment has no legal effect on the document it follows because the Border Patrol
28 has no authority to decide questions of nationality or alienage. *Id.*; 8 USC §

1 1252(b)(5). Even if such authority did exist, the agency's actions here would have
2 violated due process because the amendment was effectuated ex parte. Moreover, at
3 no time has any official government employee—federal or state—gone back to the
4 Superior Court of San Diego and requested reconsideration of the 2005 order.

5 Thus, until determined otherwise, the order of the Superior Court court is the
6 only final determination of Petitioner's entitlement to the rights of citizenship. Until
7 an Article III court decides otherwise, Petitioner is a citizen and his detention is
8 unlawful. As the Ninth Circuit has said: "We must remember that we are here dealing
9 with the detention of an individual who claims to be a United States citizen. If his
10 claim is true, his detention under the INA violates the Non-Detention Act as well as
11 the Due Process Clause of the Constitution." *Flores-Torres v. Mukasey*, 548 F.3d
12 708, 712 (9th Cir. 2008).

13 Certainly, the government has contrary evidence that Petitioner is not a
14 citizen. That said, it should be noted that their principal evidence, the Mexican birth
15 certificate, was also not generated contemporaneously with Petitioner's 1974 birth—
16 just like the California certificate was not contemporaneous. Exhibit E. Moreover, it
17 should not be a surprise that either of these certificates, whichever is true, were not
18 filed around Petitioner's birth: "Children born to noncitizen parents, children born
19 in rural areas or border regions, and children whose parents were marginalized by
20 virtue of race or poverty are particularly likely to face the conundrums presented by
21 delayed birth certificates." Angela R. Remus, Caught Between Sovereigns: Federal
22 Agencies, States, and Birthright Citizens, 34 Stan. L. & Pol'y Rev. 225, 228 (2023)
23 (citing sources). As Petitioner's mother's declaration states, she only registered the
24 false Mexican certificate as a prerequisite to enroll her eleven-year-old son in school.
25 ECF 6-1 at 20.

26 **VII. Petitioner is entitled to a review of his detention.**

27 As explained above, 8 U.S.C. § 1231(a)(1)(A) and 8 U.S.C. § 1226(c) are
28 inapplicable to Petitioner's detention. That leaves 8 U.S.C. § 1226(a) as the only

1 alternative authority, despite that its application is explicitly limited to aliens.

2 Due process requires that some review of Petitioner's indefinite detention
3 occur, and section 1226(a) seems to be to most pertinent. Under section 1226(a),
4 the burden is on the petitioner to "establish to the satisfaction of the Immigration
5 Judge ... that he or she does not present a danger to persons or property, is not a
6 threat to the national security, and does not pose a risk of flight." *In re Guerra*, 24
7 I. & N. Dec. 37, 38 (BIA 2006).

8 **VIII. Petitioner is not a danger to the community, a threat to national**
9 **security, nor a flight risk.**

10 As to danger to the community, Petitioner's last brush with the criminal justice
11 system was in 2010. ECF 6-1 at p. 22. That was a decade and a half ago. He has
12 served his time. Today he is an upstanding member of his community. According to
13 Rebecca Sanchez, his wife of four years, he is a loving father to his twelve-year-old
14 son, a hard-working flooring subcontractor, and an active member of the Make It
15 Plain Bible Church in Spring Valley, where he serves as a deacon.

16 Five church members, who all know him by Henry, have written letters of
17 support. Exhibit F. They are excerpted as follows: "Mr. Sanchez has served our
18 church as Deacon and also helps in our community service drive to feed the hungry
19 and provide resources for those who struggle with life challenges." - Pastor James
20 Robins, *id.* at 1; "Mr. Sanchez is a pillar within our church." - Michael Van Keith,
21 *id.* at 2; "I see him as a loving husband and father, bringing up his son to know God
22 and be kind and loving to his fellowmen." - Martin Andrews, *id.* at 3; "Henry is
23 always ready to help whenever needed, exemplifying generosity and compassion
24 through his actions." - Garry Haynes, *id.* at 4; "I recommend Henry Sanchez as a
25 person of high standards and positive attitude." - Mario Gonzalez, *id.* at 5. Whoever
26 Mr. Sanchez used to be, he is that person no longer.

27 Mr. Sanchez is not a threat to national security.

28 As to flight risk, Mr. Sanchez attended every hearing regarding his removal.

1 Even after the BIA denied his appeal in February, Mr. Sanchez did not flee the
2 country or go into hiding. It was only in August that he was taken into custody.

3 To date no neutral arbiter has examined these facts. Mr. Sanchez had no ability
4 to challenge his detention before his immigration judge nor appeal it to the BIA
5 because he was not in detention at the time.

6 **IX. Conclusion**

7 Mr. Sanchez has abided by prior orders to report to immigration authorities,
8 and he gives the Court no reason to believe he will not surrender himself if he is
9 adjudicated removable by the Ninth Circuit. His overriding desire is simply to spend
10 Christmas with his wife and child. Mr. Sanchez is not asking the court to overturn
11 the BIA decision or substitute its own opinion for the BIA's. Mr. Sanchez will abide
12 by the final order related to his removal proceedings. The only question here is
13 whether his interim detention while awaiting that final order is authorized by law. It
14 is not.

15 Petitioner respectfully requests this Court grant him his release on any
16 conditions the Court feels necessary. His suitability for release is manifest. In the
17 alternative, as requested in the petition, ECF 1 at p. 2, he asks this Court to order a
18 hearing before an immigration judge.

1 Dated: December 18, 2025

Respectfully submitted,

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