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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Andres Rodas-Dieguez;

Petitioner,

v.

Kristi Noem, Secretary, Department Of Homeland Security; Todd Lyons, in his official Capacity as Acting Director of U.S. Immigration and Customs Enforcement; Pam Bondi, Attorney General of the United States; Gregory J. Archambeault, Field Office Director, San Diego, ICE Field Office; and Jeremy Casey, Warden of Imperial Regional Detention Facility,

Respondents.

No.: 3:26-cv-00976-RBM-MMP

PETITIONER'S TRAVERSE

Petitioner notes that Respondents agree that Petitioner is entitled to a bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a). Dkt # 12. Petitioner requests that the Court order immediate release from custody or, in the alternative, a bond hearing in seven days. In *Maciel v. Noem,* No. 1:26-CV-01318-DC-CKD (HC), 2026 WL 496948, at *5 (E.D. Cal. Feb. 23, 2026), the District Court in the Eastern District of California recently granted immediate release in case presenting the same issue, where Respondents conceded eligibility for a bond hearing under 8 U.S.C. § 1226(a). The court stated:

> Because Respondents do not assert any alternative basis for Petitioner's detention, and do not provide any extenuating circumstances that would warrant Petitioner's continued unlawful detention pending a bond hearing, the court finds that the appropriate relief is Petitioner's immediate release

Id. The Court should similarly order direct release from custody, as Petitioner has unlawfully been deprived of the right to seek release on bond since his January 28, 2026 detention.

Alternatively, he requests that a bond hearing be issued in seven days. Any delay in the issuance of a bond hearing is a problem of Respondents' own making and should not further delay Petitioner's release. Further, the Court should order that "[c]onsistent with Ninth Circuit precedent, "the Government bears the burden of showing by clear and convincing evidence whether Petitioner poses a flight risk or danger to the public." *Shehata v. Santacruz*, No. 5:26-CV-00468-SSS-BFM, 2026 WL 508489, at *1 (C.D. Cal. Feb. 24, 2026) *citing Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1200 (9th Cir. 2022); *see also Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024) ("[a]t the outset of its decision, the BIA properly noted that the government bore the burden to established by clear and convincing evidence that [detainee] is a danger to the community"), *id.* at 786 (reiterating that Singh found that "due process requires ... the government to prove dangerousness or risk of flight by clear and convincing evidence"). S*ee also Al-Sadeai v. U.S. Immigr. & Customs Enf't*, 540 F. Supp. 3d 983, 990-91 (S.D. Cal. 2021) (discussing

Ninth Circuit precedent establishing the Government's burden and finding the IJ's placement of the burden of proof on detainee violated the Due Process Clause)

Dated: February 26, 2026

Respectfully Submitted,

S/Stacy Tolchin

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