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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

OSBER GABRIEL IZAAC UTUY,

Petitioner,

v.

KRISTI NOEM, et al,

Respondents.

Case No.: 3:26-cv-1007-AGS-BLM

RESPONSE TO PETITION

On July 8, 2025, the Department of Homeland Security ("DHS") instituted a notice titled "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the "Notice") requiring, in general, that anyone arrested in the United States and charged with being inadmissible to be considered an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A), subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8 U.S.C. § 1226(a).

In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.R.D. ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the Notice unlawful under the Administrative Procedures Act but did not issue a final judgment. On December 18, 2025, however, the *Bautista* court entered final judgement. *Bautista*, ECF No. 94. Accordingly, Respondents acknowledge that Petitioner is detained under 8 U.S.C. § 1226(a) and is entitled to an order from this Court directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).[1]

Respondents reserve the right to supplement this response in the event of a stay of enforcement of the *Bautista* final judgment, appellate relief, or a change in DHS policy.

DATED: February 23, 2026

ADAM GORDON
United States Attorney

s/Robbin O. Lee
Robbin O. Lee
Assistant United States Attorney

[1] To the extent the Court issues an order directing a bond hearing under 8 U.S.C. § 1226(a), considering the heavy caseloads and staffing levels, Respondents respectfully request that such order provide the Government 14 days from issuance to hold such a bond hearing.