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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Erik CARBALLO-FIGUEROA ,

Petitioner,

v.

Patrick DIVVER, *et al.*,

Respondents.

Case No. 3:26-cv-02984-BAS-BJW

**PETITIONER'S REPLY IN
SUPPORT OF HABEAS
PETITION AND REQUESTED
RELIEF**

Petitioner submits this reply in response to Respondents response. Petitioner seeks immediate release based on the undisputed record. Respondents do not contest any of the material facts underlying Petitioner's detention. They do not contest that Petitioner was arrested through a warrantless public arrest executed under false pretenses, that he has been detained without any individualized custody determination, that he has no criminal history, or that he has lived peacefully in the United States for more than twenty years with strong family and community ties. Nor do Respondents identify any individualized basis justifying Petitioner's continued detention.

Respondents submit no evidence, declarations, or argument attempting to justify Petitioner's continued detention. They do not contend that Petitioner poses a danger to the community or a risk of flight and instead merely request fourteen days to provide a future bond hearing.

This case therefore presents more than a request for additional process. The constitutional violation arose at the inception of custody itself, when immigration authorities imposed detention through a warrantless public arrest executed under false pretenses and without any prior individualized determination that detention was necessary. Under these circumstances, immediate release—not delayed future process—is the appropriate remedy.

Courts in this District, including this Court, have ordered immediate release, rather than delayed future process, where the government failed to justify continued detention. *See Chirinos Uranga v. Divver*, No. 26-cv-02437-BAS-DEB, Order at 2–3 (S.D. Cal. Apr. 29, 2026) (ordering immediate release after respondents failed to justify continued detention and instead requested a future bond hearing).

The same result is warranted here. Respondents have not attempted to justify Petitioner's detention, have not identified any individualized basis supporting continued confinement, and have not disputed the absence of meaningful procedural safeguards preceding Petitioner's arrest and detention.

At a minimum, Respondents' request for fourteen days to provide a custody hearing is unsupported. Administrative burden and staffing constraints do not justify continued detention in violation of the Constitution. If the Court determines that a custody hearing is appropriate, such relief should be ordered on an expedited basis and within a matter of days—not weeks—and with the burden placed on Respondents to demonstrate by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight.

Because Respondents have offered no justification for Petitioner's continued detention, the Court should grant the Petition and order Petitioner's immediate release. In the alternative, the Court should order a prompt and constitutionally adequate individualized custody determination.

Dated: May 20, 2026

Respectfully submitted,

/s/ Rose M. Thompson

Rose M. Thompson
Attorney at Law

Attorney for Petitioner