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

12 **WUILBER GARCIA-JUAREZ,**

13 **Petitioner,**

14 **v.**

15 **MARKWAYNE MULLIN, Secretary of**
16 **the Department of Homeland Security,**
17 **TODD BLANCHE, Acting Attorney**
18 **General, TODD M. LYONS, Acting**
19 **Director, Immigration and Customs**
20 **Enforcement, JESUS ROCHA, Acting**
21 **Field Office Director, San Diego Field**
22 **Office, CHRISTOPHER LAROSE,**
23 **Warden at Otay Mesa Detention Center,**

24 **Respondents.**

Civil Case No.: 26-cv-3007-LL-DEB

Traverse in Support of
Petition for Writ
of
Habeas Corpus

[Civil Immigration Habeas,
28 U.S.C. § 2241]

1 In his second amended petition for a writ of habeas, Mr. Garcia Juarez made
2 two arguments. He first argued, that he was eligible for relief as a class member of
3 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL
4 3288403, at *9 (C.D. Cal. Nov. 25, 2025). In their Response, Respondents state that
5 they “do not oppose an order from this Court directing a bond hearing be held
6 pursuant to 8 U.S.C. § 1226(a).” ECF 10 at 1–2. Thus, this Court, at the very least,
7 should order that Mr. Garcia Juarez receives a bond hearing.

8 But Mr. Garcia Juarez made another argument in his second amended
9 petition: he argued that because he was improperly detained without Respondents
10 ever issuing an administrative warrant as required by § 1226, this Court should
11 order his immediate release. ECF 9 at 2. The government wholly ignores this
12 second argument in their return. *See* ECF 10.

13 Mr. Garcia Juarez first cites to a recent decision by this Court that determined
14 “a noncitizen may only be arrested and detained pending a decision on removal
15 ‘[o]n a warrant issued by the Attorney General.’” *Cruz Pedraza v. Larose*, No. 26-
16 cv-2697-LL-MSB, ECF 12 at 1 (S.D. Cal. May 27, 2026) (quoting 8 U.S.C. §
17 1226(a)). This Court further determined that when the government violates this
18 requirement, “a petitioner’s immediate release is justified.” *Id.* (quotations and
19 alterations omitted). And this Court is not alone in this holding. *Eslid. B.G. v. Bondi*,
20 No. 26-cv-5020-RAL, 2026 WL 734992, *6 (D.S.D. Mar. 16, 2026) (collecting
21 cases); *see also JAACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328,
22 *8 (E.D. Cal. Oct. 27, 2025); *Diaz v. Albarran*, No. 25-cv-9837-JSC, 2025 WL
23 3214972 (N.D. Cal. Nov. 18, 2025); *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB,
24 2026 WL 788263, *2 (D. Minn. Mar. 20, 2026) (collecting cases ordering
25 immediate release in the absence of a warrant). The government does not engage
26 with any of the above authority in its return or even acknowledge Mr. Garcia
27 Juarez’s argument.

28 Because Respondents do not address Mr. Garcia Juarez’s argument that he

1 was detained without a statutorily required warrant, they have waived—or at least
2 forfeited—their opportunity to contest the due process violations or argue against
3 immediate release. *See United States v. Castillo-Marin*, 684 F.3d 914, 919 (9th Cir.
4 2012) (determining that the government concedes an argument that “was available
5 at the time it filed its answering brief”) (citing *United States v. McEnry*, 659 F.3d
6 893, 902 (9th Cir. 2011)).

7 For the above reasons and the reasons argued in his second amended petition,
8 this Court should order Mr. Garcia-Juarez’s immediate release.

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10 Respectfully submitted,

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12 Dated: June 1, 2026

s/ Hannah Basalone
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