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

9 ANTONIO DE JESUS MENDEZ,

Case No.: 26-cv-2963-BAS-AHG

10 Petitioner,

11 v.

**Traverse in Support of Amended
Petition for a
Writ of Habeas Corpus**

12 MARKWAYNE MULLIN, Secretary of
13 the Department of Homeland Security,
14 TODD BLANCHE, Acting Attorney
15 General, TODD M. LYONS, Acting
16 Director, Immigration and Customs
17 Enforcement, JESUS ROCHA, Acting
18 Field Office Director, San Diego Field
19 Office, JEREMY CASEY, Warden at
Otay Mesa Detention Center,

Respondents.

20 In his amended petition, Mr. Mendez explained that he had been arrested
21 without an administrative warrant and detained without a bond hearing in
22 violation of 8 U.S.C. § 1226(a). ECF No. 6; *see id.* at Exhibit A, ¶¶ 2, 4.
23 Respondents stated they “do not oppose an order from this Court directing a bond
24 hearing to be held pursuant to 8 U.S.C. § 1226(a).” ECF No. 8. Respondents do
25 not allege or show that Mr. Mendez was arrested based on an administrative
26 warrant. *See id.* His “arrest and detention are therefore unauthorized, and the
27 appropriate remedy for detention that lacks a proper statutory basis under
28 § 1226(a) is release.” *Eslid B.G. v. Bondi*, No. 26-cv-5020-RAL, 2026 WL

1 734992, *6 (D.S.D. Mar. 16, 2026) (collecting cases ordering immediate release
2 when the government cannot show that a petitioner who was arrested in the
3 interior of the United States was arrested pursuant to an administrative warrant);
4 accord *JAACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328, *8
5 (E.D. Cal. Oct. 27, 2025); *Diaz v. Albarran*, No. 25-cv-9837-JSC, 2025 WL
6 3214972 (N.D. Cal. Nov. 18, 2025); *Chogllo Chafla v. Scott*, 804 F. Supp. 3d 247,
7 264 (D. Me. 2025).

8 “[T]he ‘issuance of a warrant is a necessary condition to justify
9 discretionary detention under section 1226(a).’” *Pedraza v. Larose*, No. 26-cv-
10 2697-LL-MSB, 2026 WL 1484326, *2 (S.D. Cal. May 27, 2026) (quoting *JACP*,
11 2025 WL 3013328 at *8). As a result, when “Petitioner claims, and respondents
12 do not dispute, that Petitioner was arrested by ICE without a warrant” under
13 § 1226(a), “the appropriate remedy for unlawful detention is release.” *Id.*

14 Mr. Mendez thus respectfully requests this Court order his requested relief
15 and issue an order that:

- 16 1. Petitioner is not subject to mandatory detention under 8 U.S.C.
17 § 1225(b)(2), and is instead subject to detention, if at all, pursuant to
18 the discretionary provisions of 8 U.S.C. § 1226;
- 19 2. Respondents shall immediately release Petitioner from custody;
- 20 3. Respondents shall return to Petitioner any personal property; and
- 21 4. If Respondents seek to re-detain Petitioner, they shall hold a pre-
22 deprivation bond hearing before a neutral arbiter pursuant to section
23 1226(a) and its implementing regulations, at which Respondents
24 shall demonstrate the issuance of a warrant and at which petitioner’s
25 eligibility for bond must be considered, *see, e.g., JAACP*, 2025 WL
26 3013328 at *8; or, at a minimum,
- 27 5. Respondents shall provide Petitioner with a hearing and
28 individualized bond determination within fourteen days of this

1 Court's order, and Respondents shall make a complete record of the
2 bond hearing available to Petitioner and his counsel at counsel's
3 request.

4 Respectfully submitted,

5 Date: June 3, 2026

/s/ Jessie Agatstein

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