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

11 **EDUARDO VILLANO DE JESUS,**

12 **Petitioner,**

13 **v.**

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

23 **Respondents.**

Civil Case No.: 26-cv-2958-LL-MMP

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

9 But Mr. Villano de Jesus made another argument in his second amended
 10 petition: he argued that because he was improperly detained without Respondents
 11 ever issuing an administrative warrant as required by § 1226, this Court should
 12 order his immediate release. ECF No. 6 at 8–9. The government wholly ignores
 13 this second argument in their return. *See* ECF No. 7.

14 Mr. Villano de Jesus first cites to a recent decision in this district that
 15 determined “a noncitizen may only be arrested and detained pending a decision on
 16 removal ‘[o]n a warrant issued by the Attorney General.’” *Cruz Pedraza v.*
 17 *Larose*, No. 26-cv-2697-LL-MSB, ECF 12 at 1 (S.D. Cal. May 27, 2026) (quoting
 18 8 U.S.C. § 1226(a)). This decision further determined that when the government
 19 violates this requirement, “a petitioner’s immediate release is justified.” *Id.*
 20 (quotations and alterations omitted). Other courts have reached the same
 21 conclusion. *See Eslid. B.G. v. Bondi*, No. 26-cv-5020-RAL, 2026 WL 734992, *6
 22 (D.S.D. Mar. 16, 2026) (collecting cases); *see also JAACP v. Wofford*, No. 25-cv-
 23 1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025); *Diaz v.*
 24 *Albarran*, No. 25-cv-9837-JSC, 2025 WL 3214972 (N.D. Cal. Nov. 18, 2025);
 25 *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL 788263, *2 (D. Minn. Mar.
 26 20, 2026) (collecting cases ordering immediate release in the absence of a
 27 warrant).
 28

1 Because Respondents do not address Mr. Villano de Jesus's argument that
2 he was detained without a statutorily required warrant, they have waived—or at
3 least forfeited—their opportunity to contest the due process violations or argue
4 against immediate release. *See United States v. Castillo-Marin*, 684 F.3d 914, 919
5 (9th Cir. 2012) (determining that the government concedes an argument that “was
6 available at the time it filed its answering brief”) (citing *United States v. McEnry*,
7 659 F.3d 893, 902 (9th Cir. 2011)). Accordingly, this Court should order
8 Mr. Villano de Jesus's immediate release.

9 Respectfully submitted,

10
11 Dated: June 3, 2026

s/ Kara Hartzler

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