**Daniel J. Yadron, Jr.**
Cal. Bar No. 336765
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101-5030
Telephone: (619) 234-8467
Facsimile: (619) 687-2666
danny_yadron@fd.org

Attorneys for Mr. Gonzalez

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

RAFAEL GONZALEZ-RAMOS,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of the Department of Homeland Security, TODD BLANCHE, Acting Attorney General, TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, JESUS ROCHA, Acting Field Office Director, San Diego Field Office, CHRISTOPHER LAROSE, Warden of Otay Mesa Detention Center,

Respondents.

Case No.: 26-cv-3159-JLS-GC

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

Respondents acknowledge that they have detained Rafael Gonzalez-Ramos under 8 U.S.C. § 1226(a) since April 20, 2026. *See* Return 2. Yet they do not address (much less dispute) Mr. Gonzalez's showing that § 1226's text required them to get an administrative warrant before detaining him. Amended Pet. 1, 6–7. Nor do Respondents claim that they had such a warrant when they detained Mr. Gonzalez. They do not even dispute that their agents ignored a lawyer's demand to show such a warrant as they took him away from a state courthouse. *See id.* at 3. Finally, respondents do not challenge Mr. Gonzalez's showing that numerous courts have found that release is the appropriate remedy for warrantless detentions in violation of § 1226. *Id.* at 1. They have just waived any argument to the contrary. *See United States v. Cabrera*, 796 F. Supp. 3d 660, 664 (S.D. Cal. 2025) (recognizing that "a party waives argument when it fails to respond to an argument made to the court" quoting *United States v. Caceres-Olla*, 738 F.3d 1051, 1053 n.1 (9th Cir. 2013)).

So while Mr. Gonzalez welcomes Respondents' concession that he is detained under § 1226(a) and that they would not oppose a bond hearing, *see* Return 2, that concession is insufficient. Once again, the appropriate remedy is immediate release. That is because, as discussed in the Amended Petition, "Respondents cannot cure these violations by conducting a *post-hoc* bond hearing as the warrant requirement . . . [is] designed to prevent unjustified detention in the first instance." *Romero-Perez v. Blanche*, No. 2:26-CV-01708-RFB-BNW, 2026 WL 1724752, at *4 (D. Nev. June 15, 2026). Thus, merely ordering a bond hearing "would effectively allow the [g]overnment to transform an unlawful detention into a lawful one through *post-hoc* justifications." *Id.* (quoting *Melendez Paz v. Mullin*, No. 2:26-cv-00296-RFB-MDC, 2026 WL 1194944, at *7 (D. Nev. May 1, 2026)); *see also* Amended Pet. 1, 6–7.

A growing number of district courts have accepted this reasoning. *See Mayen v. Warden, California City Det. Ctr.*, No. 1:26-CV-02354-DAD-AC, 2026 WL

1158217, at *2 (E.D. Cal. Apr. 29, 2026) (ordering immediate release after finding that the petitioner was detained under § 1226(a) without a warrant); *Djiwaje v. Bondi*, No. 2:26-CV-00344-RFB-MDC, 2026 WL 926753, at *4 (D. Nev. Apr. 6, 2026) (ordering immediate release because Respondents arrested the petitioner without a *signed* warrant); *see also Pedraza v. Larose*, No. 26V2697-LL-MSB, 2026 WL 1484326, at *2 (S.D. Cal. May 27, 2026); *Diaz v. Albarran*, No. 25-cv-9837-JSC, 2025 WL 3214972 (N.D. Cal. Nov. 18, 2025); *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL 788263, *2 (D. Minn. Mar. 20, 2026).

This Court should do the same. To discourage Respondents from continuing to detain first and ask questions later and to protect Mr. Gonzalez's due process rights, it should order immediate release.

Respectfully submitted,

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*s/ Daniel J. Yadron, Jr.*

Daniel J. Yadron, Jr.
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Gonzalez
Email: danny_yadron@fd.org