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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DIONICIO CALMO PEREZ,

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 at Otay Mesa Detention Center,

Respondents.

Civil Case No.: 26-cv-3178-LL-JAC

Traverse in Support of Petition for Writ of Habeas Corpus

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

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

But Mr. Calmo Perez made another argument in his amended petition: he argued that because he was improperly detained without Respondents ever issuing an administrative warrant as required by § 1226, this Court should order his immediate release. ECF 6 at 8. The government wholly ignores this second argument in their return. *See* ECF 7.

Mr. Calmo Perez first cites to a recent decision by this Court that determined "a noncitizen may only be arrested and detained pending a decision on removal '[o]n a warrant issued by the Attorney General.'" *Cruz Pedraza v. Larose*, No. 26-cv-2697-LL-MSB, ECF 12 at 1 (S.D. Cal. May 27, 2026) (quoting 8 U.S.C. § 1226(a)). This Court further determined that when the government violates this requirement, "a petitioner's immediate release is justified." *Id.* (quotations and alterations omitted). And this Court is not alone in this holding. *Eslid. B.G. v. Bondi*, No. 26-cv-5020-RAL, 2026 WL 734992, *6 (D.S.D. Mar. 16, 2026) (collecting cases); *see also JACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025); *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) (collecting cases ordering immediate release in the absence of a warrant). The government does not engage with any of the above authorities in its return or even acknowledge Mr. Calmo Perez's argument.

Because Respondents do not address Mr. Calmo Perez's argument that he was detained without a statutorily required warrant, they have waived—or at least forfeited—their opportunity to contest the due process violations or argue against immediate release. *See United States v. Castillo-Marin*, 684 F.3d 914, 919 (9th Cir. 2012) (determining that the government concedes an argument that "was available at the time it filed its answering brief") (citing *United States v. McEnry*, 659 F.3d 893, 902 (9th Cir. 2011)).

For the above reasons and the reasons argued in his amended petition, this Court should order Mr. Calmo Perez's immediate release.

Respectfully submitted,

Dated: June 16, 2026

s/ Hannah Basalone

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