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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ANTONIO BERNABE-TEXCAHUA, Petitioner, v. MARKWAYNE MULLIN, et al., Respondents.	Case No.: 3:26-cv-03281-BJC-BJW **RESPONSE TO PETITION**

Based upon the allegations set forth in the Petition, (ECF 1, at paragraph 1) Petitioner appears to be a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, 813 F. Supp.3d 1084 (C.D. Cal. 2025). *See Id.* at 1127 (describing bond eligible class to include noncitizens who enter without inspection, not apprehended on arrival, and not subject to detention under 8 U.S.C. §§ 1225(b)(1), 1226(C), or 1231). The United States Court of Appeals for the Ninth Circuit has stayed application of the

Maldonado Bautista class certification except in the Central District of California. *See Maldonado Bautista v. U.S. Department of Homeland Security*, No. 26-1044, Order, Docket Entry #17, (9th Cir. Mar. 31, 2026) (granting stay pending appeal of district court's December 18, 2025, class certification order insofar as it extends beyond Central District of California).

However, Respondents acknowledge prior orders from this District directing bond hearings pursuant to 8 U.S.C. § 1226(a) in similar cases. *See, e.g., Salano v. Noem*, No. 26-cv-01278-BAS-DDL, 2026 WL 675564 (S.D. Cal. March 10, 2026) (noting March 6, 2026, [temporary stay pending hearing on motion for stay] of *Maldonado Bautista* outside of Central District of California but still applying rationale of the decision in granting a bond hearing under 1226(a)); *Juan v. LaRose*, No. 26-cv-2099-JES-BJW. 2026 WL 1018635, *2 (S.D. Cal. April 15, 2026) (Court finds Maldonado Bautista to be compelling persuasive authority and adopts its rationale).[1] Respondents therefore do not oppose an order from this Court directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).[2]

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1. The Ninth Circuit has confirmed that at a bond hearing under 8 U.S.C. § 1226(a), the burden is on the detainee to demonstrate by a preponderance of the evidence that he is not a flight risk or danger to the community. See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022); *see also Dos Santos v. Becerra*, No. 26-cv-01423-GPC-VET, 2026 WL 800201 (S.D. Cal. Mar. 23, 2026).

[2] To the extent the Court issues an order directing a bond hearing under 1226(a), considering heavy caseloads and staffing levels, Respondents respectfully request that such order provide the government 14 days from issuance to hold such bond hearing.

DATED: June 22, 2026

Respectfully submitted,

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