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

MAIRON HERIBERTO HERNANDEZ
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, JEREMY CASEY, Warden at
Imperial Regional Detention Facility,

Respondents.

Civil Case No.: 26-cv-3490-JLS-DDL

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

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

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

8 But Mr. Hernandez Perez made another argument in his amended petition:
9 he argued that because he was improperly detained without Respondents ever
10 issuing an administrative warrant as required by § 1226, this Court should order his
11 immediate release. ECF 8 at 8. The government wholly ignores this second
12 argument in their return. *See* ECF 9.

13 Mr. Hernandez Perez first cites to a recent decision by this Court that
14 determined “a noncitizen may only be arrested and detained pending a decision on
15 removal ‘[o]n a warrant issued by the Attorney General.’” *Cruz Pedraza v. Larose*,
16 No. 26-cv-2697-LL-MSB, ECF 12 at 1 (S.D. Cal. May 27, 2026) (quoting 8 U.S.C.
17 § 1226(a)). This Court further determined that when the government violates this
18 requirement, “a petitioner’s immediate release is justified.” *Id.* (quotations and
19 alterations omitted). And this Court is not alone in this holding. *Eslid. B.G. v. Bondi*,
20 No. 26-cv-5020-RAL, 2026 WL 734992, *6 (D.S.D. Mar. 16, 2026) (collecting
21 cases); *see also JACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328,
22 *8 (E.D. Cal. Oct. 27, 2025); *Diaz v. Albarran*, No. 25-cv-9837-JSC, 2025 WL
23 3214972 (N.D. Cal. Nov. 18, 2025); *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB,
24 2026 WL 788263, *2 (D. Minn. Mar. 20, 2026) (collecting cases ordering
25 immediate release in the absence of a warrant). The government does not engage
26 with any of the above authorities in its return or even acknowledge Mr. Hernandez
27 Perez’s argument.
28

1 Because Respondents do not address Mr. Hernandez Perez’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)).

8 For the above reasons and the reasons argued in his amended petition, this
9 Court should order Mr. Hernandez Perez’s immediate release.

10 Respectfully submitted,

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12 Dated: July 1, 2026

s/ Hannah Basalone
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