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

12 **OLBAN ROBERTO ERAZO ACOSTA,**

13 **Petitioner,**

14 **v.**

15 **JOHN DOE,**

16 **Respondents.**
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Case No.: 26-cv-03492-JLS-MMP

RESPONSE TO PETITION

22
23 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. The government has
24 carefully reviewed this petition and determined that the legal issues presented concern the
25 statutory authority for U.S. Immigration and Customs Enforcement's (ICE) detention of
26 Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving all rights, including
27 the right to appeal, the government respectfully submits this abbreviated response to
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1 preserve the legal issues, to conserve judicial and party resources, and to expedite the
2 Court's consideration of this matter.

3 It is the government's position that Petitioner is subject to mandatory detention under
4 § 1225(b)(2). However, the government acknowledges that Petitioner appears to be a
5 member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, 813 F.
6 Supp. 3d 1084 (C.D. Cal. 2025). The Ninth Circuit has stayed application of the Order
7 beyond the Central District of California. However, Respondents acknowledge the prior
8 orders from this District directing bond hearings pursuant to 8 U.S.C. § 1226(a) in similar
9 cases.¹ Respondents therefore do not oppose an order from this Court directing a bond
10 hearing be held pursuant to 8 U.S.C. § 1226(a).²

11 To the extent Petitioner requests immediate release because of a lack of an
12 administrative warrant, Respondents respectfully oppose. *See* Exhibit 1. Further,
13 Respondents note that 8 U.S.C. § 1357(a)(2) authorizes warrantless arrests and 8 C.F.R.
14 § 287.3(d) provides the government 48 hours to issue a warrant if it determines that the
15 noncitizen will remain custody. *See Garcia-Juarez v. Blanche*, No. 26-cv-3007-LL-DEB,
16 ECF No. 18 (S.D. Cal. June 30, 2026).

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18 DATED: July 6, 2026

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19 ¹ Petitioner also challenges his detention citing violations of Due Process. Should the Court
20 grant the petition, it should decline to address these additional arguments. *INS v.*
21 *Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not
22 required to make findings on issues the decision of which is unnecessary to the results they
reach.").

23 ² To the extent the Court issues an order directing a bond hearing under 1226(a),
24 considering heavy caseloads and staffing levels, Respondents respectfully request that such
25 order provide the government 14 days from issuance to hold such bond hearing. The Ninth
26 Circuit has confirmed that at a bond hearing under 8 U.S.C. § 1226(a), the burden is on the
27 detainee to demonstrate by a preponderance of the evidence that he is not a flight risk or
28 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).

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s/Danielle L. Brown

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