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

OLBAN ROBERTO ERAZO ACOSTA,

Civil Case No.: 26-cv-3492-JLS-MMP

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.

**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. Erazo Acosta made three
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 8 at 2. Thus, this Court, at the very least,
7 should order that Mr. Erazo Acosta receives a bond hearing.

8 But Mr. Erazo Acosta made two additional arguments in his amended
9 petition: First, he argued he is entitled to immediate release based on the prior
10 determinations for release made by HHS and ORR when Mr. Erazo Acosta
11 entered the United States as an unaccompanied alien child (“UAC”). *See* ECF 6 at
12 3–9. Second, he argued that because he was improperly detained without
13 Respondents ever issuing an administrative warrant as required by § 1226, this
14 Court should order his immediate release. ECF 6 at 8.

15 Respondents wholly ignore Mr. Erazo Acosta’s argument concerning his
16 prior determination of release as a UAC. Mr. Erazo Acosta argues his prior release
17 is akin to parole, an argument that Respondents do not contest. Nor do Respondents
18 provide any information regarding changed circumstances or procedures followed
19 that would have warranted Mr. Erazo Acosta’s detention on April 30, 2026. This
20 Court has previously granted release in a case similar to Mr. Erazo Acosta’s. *See*
21 *Torres Sanchez v. Mullin*, 26-cv-2957-JLS-AHG, ECF 9 (granting immediate
22 release “subject to the conditions of his preexisting release” where Petitioner was
23 previously released from custody after entering the United States as a minor).

24 Because Respondents do not address Mr. Erazo Acosta’s argument that he
25 was detained without any finding of changed circumstances warranting his
26 detention, they have waived—or at least forfeited—their opportunity to contest the
27 due process violations or argue against immediate release. *See United States v.*
28 *Castillo-Marin*, 684 F.3d 914, 919 (9th Cir. 2012) (determining that the government

1 concedes an argument that “was available at the time it filed its answering brief”)
 2 (citing *United States v. McEnry*, 659 F.3d 893, 902 (9th Cir. 2011)).

3 Regarding Mr. Erazo Acosta’s warrant argument, Respondents attempt to
 4 remedy his improper detention by providing a recently executed arrest warrant for
 5 Mr. Erazo Acosta. ECF 8-1. This warrant is entirely insufficient to cure Mr. Erazo
 6 Acosta’s illegal detention.

7 First, the date of execution and service on the provided arrest warrant is
 8 July 6, 2026, the same date that Respondents filed their response to Mr. Erazo
 9 Acosta’s amended habeas petition. ECF 8-1. Mr. Erazo Acosta was detained on
 10 April 30, 2026 by a state trooper after the car he was riding in was pulled over.
 11 ECF 6-1 at ¶¶ 5–6. In other words, Mr. Erazo Acosta was detained over two
 12 months before any administrative warrant for his detention was executed or
 13 served. Instead, it seems that this warrant was only prepared and served on him
 14 *after* he was unlawfully detained and *after* he made arguments in his amended
 15 habeas petition related to that unlawful, warrantless detention. This renders Mr.
 16 Erazo Acosta’s arrest illegal. As one court has explained, “[t]he Supreme Court’s
 17 explanation of the process for a warrant-based apprehension and detention under §
 18 1226(a) confirms that the warrant must be issued *before* the alien is arrested and
 19 taken into custody.” *Ramos v. Lyons*, 809 F. Supp. 3d 1015, 1023 (C.D. Cal. Nov.
 20 12, 2025). So unlike other cases where Respondents have submitted evidence that
 21 this warrant was issued before a noncitizen’s arrest,¹ the evidence here
 22 unquestionably demonstrates the opposite.

23

24

25 ¹ For instance, in *Villano de Jesus v. Mullin*, 26-cv-2958-LL-MMP (S.D. Cal.
 26 June 24, 2026), this Court rejected a similar warrant argument where Respondents
 27 had submitted a warrant with visible signatures and an accompanying I-213 that
 28 stated agents had been “tasked with locating an individual *with an I-200*
[warrant] lodged against him.” See *id.* at ECF 10-1. So unlike here, the record in
Villano de Jesus contained direct evidence that the warrant was issued prior to the
 individual’s apprehension.

Other courts have found that a delay in execution or absence of such a warrant requires immediate release. *Quezada-Estrada v. Lyons*, 2026 WL 1361880, at *5–6 (D. Colo. May 15, 2026) (ordering release where a warrant was only obtained for Petitioner nearly a month after his initial detention); *Ferro v. Warden*, 26-cv-694-SPC-DNF, 2026 WL 820563, at *1 (M.D. Fl. Mar. 25, 2026) (ordering release after Petitioner was detained during a traffic stop and no warrant or notice to appear was filed until after Petitioner filed a habeas petition); *Vo v. Baltazar*, 26-cv-2626-NYW, 2026 WL 1998578, at *4 (D. Col. July 10, 2026) (ordering release where Respondents did not produce a warrant); *Urias v. Semaia*, 26-cv-2753-DTB, 2026 WL 1710375, at *6–7 (C.D. Cal. June 10, 2026) (ordering release where Respondents violated due process and § 1226(a) by arresting Petitioner without a warrant or any probable cause to believe that he posed a risk of escape); *Romero-Perez v. Blanche*, 26-cv-1708-RFB-BNW, 2026 WL 1724752, at *5 (D. Nev. June 15, 2026) (ordering Petitioner’s release where Respondents did not provide procedural protections required under § 1226(a)).

Respondents then cite to 8 C.F.R. 287.3(d) to support the proposition that noncitizens can be arrested without a warrant if a warrant is issued within 48 hours of arrest. As addressed above, the warrant for Mr. Erazo Acosta was not sought within 48 hours of his warrantless arrest that occurred on April 30, 2026; it was sought many, many hours after that. *See* ECF 8-1.

Because “Respondents have deprived [Mr. Erazo Acosta] of significant procedural protections which cannot be replicated unless [he] is released from government custody[,],” *Romero-Perez*, 2026 WL 1724752, at *3, this Court should grant the petition and order Mr. Erazo Acosta’s immediate release.

Respectfully submitted,

Dated: July 13, 2026

s/ Hannah Basalone

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