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10 **UNITED STATES DISTRICT COURT**

11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 YOHANA DEL CARMEN ARIAS
13 TOVAR,

14 Petitioner,

15 v.

16 CHRISTOIPHER J. LAROSE, *et al.*,

17 Respondents.
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Case No.: 26-cv-03524-RBM-DEB

**RETURN TO PETITION FOR
WRIT OF HABEAS CORPUS**

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

8 Petitioner was previously released from immigration custody on parole issued under
9 8 U.S.C. § 1182(d)(5). Respondents have insufficient information regarding termination of
10 that parole, pursuant to 8 C.F.R. § 212.5(e)(2), to provide to the Court. It is the
11 government's position that Petitioner is subject to mandatory detention under § 1225(b)(2).
12 However, the government acknowledges that this Court, and Courts in this District, have
13 repeatedly reached the opposite conclusion under the same and/or similar facts. *See, e.g.,*
14 *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18,
15 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D.
16 Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D.
17 Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina*
18 *v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025);
19 *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov.
20 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal.
21 Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec.
22 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov.
23 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19,
24 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D.
25 Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL
26 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF

No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

The government acknowledges that this Court's prior decisions will control the result here if the Court adheres to its prior decisions, as the facts are not materially distinguishable for purposes of the Court's decision, and on that basis the government does not oppose the petition and defers to the Court on the appropriate relief.¹

DATED: June 16, 2026

Respectfully submitted,

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s/ Jacob T. Metzger
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Attorney for Respondents

¹ 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. Respondents also respectfully note that 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).