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8 UNITED STATES DISTRICT COURT
9 Southern District of California

10 JAVIER SANTOS LUCAS JUAN,
11 Petitioner,
12 v.

13 CHRISTOPHER J. LaROSE ; *et al.*,
14 Respondents.

) Case Number: 26-cv-03568-JES-AHG

)
) **PETITIONER'S TRAVERSE AND**
) **MEMORANDUM IN SUPPORT OF**
) **PETITION**

1 Petitioner submits this Traverse and Memorandum to comply with the Court's order and the
2 habeas corpus procedure and to expedite the process.

3 **1225 v. 1226**

4 As a threshold matter, petitioner agrees with respondents' Return that petitioner is detained
5 pursuant to 8 U.S.C. § 1226(a). There have been dozens, maybe hundreds, of decisions in the
6 Southern District of California reaching this conclusion. Despite this wealth of established law in
7 this District, the respondent continue to obstinately detain noncitizens on this unlawful basis—
8 including petitioner. But final question is what is the proper remedy?

9 **Remedy**

10 In this case, the appropriate relief is an order that respondents immediately release petitioner
11 from detention. Petitioner has lived in the USA since 2019. He is married with four children.
12 Petitioner has been regularly employed. He works in landscaping. He does not have any criminal
13 history. Respondents detained petitioner in 2019, but then released him, conceding that he is neither
14 a danger nor a flight risk. He has regularly reported for directed ICE check ins for the last seven
15 years. Then on June 11, 2026, petitioner was swarmed by numerous unmarked vehicles while he
16 was at a gas station. His detention smacks of racial profiling. Plus why is one part of the
17 government detaining petitioner when he was already under ICE supervision? Respondents have
18 unlawfully detained petitioner for 12 days now. Petitioner is never getting those days of liberty
19 back. Worse, respondents know that petitioner was entitled to a bond hearing under 8 U.S.C. §
20 1226(a) but they are forcing him (and everyone else) to file habeas corpus petitions to compel
21 compliance with the law.

22 Finally, there is a growing trend or realization that the bond proceedings at the Otay Mesa
23 Immigration Court are not fair. The EOIR system has been debased into a deportation machine. The
24 immigration judges apparently know that they risk being fired if they do not perform their expected
25 task of denying bonds and deporting millions of noncitizens. The newest tactic used by immigration
26 judges at the Otay Mesa Immigration Court is to set unreasonably high bonds, knowing that
27 working class noncitizens of modest economic means will not be able to pay the bond. This is
28 despite Ninth Circuit law that when determining the conditions of release for an individual detained

pursuant to 8 U.S.C. § 1226(a), U.S. Immigration and Customs Enforcement (“ICE”) officers and immigration judges (“IJ”) must consider the person’s (1) financial ability to post bond and (2) suitability for release on non-monetary alternative conditions of supervision. As the Court explained, these basic procedures are necessary to ensure that “no person [is] imprisoned merely on account of his poverty,” in violation of his or her due process rights. *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (Citing *Bearden v. Georgia*, 461 U.S. 660, 671 (1983)). Respondents’ goal is to continue to oppress noncitizens into hopelessness, despair, and exhaustion so that they will abandon their rights.

But the court should not countenance this injustice. Accordingly, some courts are finding that immediate release, rather than a bond hearing, is the appropriate remedy. *See E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (“Although the Government notes that Petitioner may request a bond hearing while detained, such a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty.”); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (“if Petitioner is detained, he will already have suffered the injury he is now seeking to avoid”); *Domingo v. Kaiser*, Case No. 25-cv-05893 (RFL), 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025) (“Even if Petitioner[] received a prompt post-detention bond hearing under 8 U.S.C. § 1226(a) and was released at that point, he will have already suffered the harm that is the subject of his motion; that is, his potentially erroneous detention.”).

So, petitioner seeks the following remedy:

1. Respondents are ordered to immediately release Petitioner from custody.
2. The Court orders, prior to any re-detention of Petitioner, that Petitioner shall receive a hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) to determine whether detention is warranted. Respondents shall bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight.

DATED: 23 June 2026

Respectfully submitted,

/s/ William Baker

William Baker (157 906)