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

11 JAVIER SANTOS LUCAS JUAN,
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Petitioner,
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v.
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16 CHRISTOPHER J. LAROSE, *et al.*,
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Respondents.
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Case No.: 26-cv-03568-JES-AHG
SUPPLEMENTAL BRIEFING

21 On June 16, 2026, Petitioner filed habeas petition a under 28 U.S.C. § 2241,
22 seeking release or a bond hearing under 8 U.S.C. § 1226(a). ECF No. 1. The government
23 then filed a response, ECF No. 4, and Petitioner filed a reply, ECF No. 5. On June 23,
24 2026, the Court issued an order noting that Petitioner's reply seeks immediate release
25 and that the record before the Court is insufficient for the Court to make a determination
26 on what relief Petition is entitled to receive. ECF No 6. The Court's order then directed
27 Respondents to file supplemental briefing addressing enumerated questions. *Id.*
28 Respondents herein provide a supplemental response pursuant to the Court's order.

1 To the extent Petitioner is seeking to amend his habeas petition through his reply,
2 particularly as it relates to solely seeking release, such amendment is not permissible.
3 *See Estate of Munoz v. United States*, No. 23-cv-1422-JES-SBC, 2024 WL 584430, at
4 *3 (S.D. Cal. Feb. 13, 2024).

5 Further, given that the Court has found the factual record presented by the habeas
6 petition to be insufficient for adjudication, it should be dismissed. The Supreme Court
7 has held that “[h]abeas Corpus Rule 2(c) is more demanding [than Federal Rule of Civil
8 Procedure 8(a)]. It provides that the petition must ‘specify all the grounds for relief
9 available to the petitioner’ and ‘state the facts supporting each ground.’” *Mayle v. Felix*,
10 545 U.S. 644, 655 (2005) (citing Rules Governing Section 2254 Cases in the United
11 States District Court (“Federal Habeas Rules”); *see also James v. Borg*, 24 F.3d 20, 26
12 (9th Cir. 1994) (“Conclusory allegations which are not supported by a statement of
13 specific facts do not warrant habeas relief.”). As stated by the Advisory Committee’s
14 Note on Habeas Corpus Rule 4, 28 U.S.C., p. 471, “notice pleading is not sufficient, for
15 the petition is expected to state facts that point to a real possibility of constitutional
16 error.”) (internal quotation marks omitted). Here, as already noted by the Court,
17 Petitioner’s habeas petition fails to supply sufficient information for the Court to
18 adjudicate his claims. As such, the Court should deny the petition. *See Alonso Velasquez*
19 *v. LaRose*, No. 25-cv-3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025)
20 (dismissing without prejudice habeas petition that failed to allege sufficient factual
21 information).

22 To the extent the Court is not inclined to dismiss the petition for the above
23 reasons, the government provides the following information as ordered by the Court.

24 In 2007, Petitioner was issued an expedited removal order under 8 U.S.C.
25 § 1225(b)(1) and removed on that order to Mexico. Exhibit 1. In May 2019, when
26 Petitioner re-entered the United States with his then-minor son, he was inadmissible
27 under 8 U.S.C § 1182(a)(9)(A)(i) and was subject to removal pursuant to 8 U.S.C.
28 § 1231(a)(5). However, due to a lack of bed space and Petitioner being the only family

1 member who could care for his minor son, as a matter of prosecutorial discretion,
2 Petitioner's prior removal order was not reinstated and Petitioner was issued temporary
3 parole under 8 U.S.C. § 1182(d)(5) and placed on an order of supervision (OSUP).
4 Exhibit 1. Petitioner violated his supervision terms on March 12, 2024, by failing to
5 report to his scheduled supervision meeting. *See id.* Petitioner then failed to attend a
6 scheduled non-detained family appointment on September 16, 2025. *Id.* At this time
7 counsel for Respondents has no further information or records regarding Petitioner's
8 release conditions or parole.

9 On June 11, 2026, Petitioner was apprehended pursuant to a Form I-200, Warrant
10 for Arrest of Alien. Exhibit 2. Respondents initially intended to reinstate Petitioner's
11 prior removal order under 8 U.S.C. § 1231(a)(5). However, on June 16, 2026, a Notice
12 to Appear (NTA) was instead issued and served on Petitioner. Exhibit 3. The NTA
13 charges Petitioner as inadmissible under 8 U.S.C. §§ 1182(a)(6)(A)(i) (as an alien
14 present in the United States without being admitted or paroled) and 1182(a)(7)(A)(i)(I)
15 (as an immigrant not in possession of a valid entry document). The filing of the NTA
16 with the immigration court initiated removal proceedings under 8 U.S.C. § 1229a
17 against Petitioner, and those proceedings remain ongoing.

18 As provided in its response to the petition, it is the government's position that
19 Petitioner is subject to mandatory detention under § 1225(b)(2). However, the
20 government acknowledges that this Court has repeatedly disagreed with the government
21 under the same and/or similar facts and the government acknowledges that this Court's
22 prior decisions will control the result here if the Court adheres to its prior decisions.
23 Accordingly, on that basis the government does not oppose the petition and asserts that
24 the proper remedy is a bond hearing under 8 U.S.C. § 1226(a). *See Rodriguez Diaz v.*
25 *Garland*, 53 F.4th 1189, 1207-13 (9th Cir. 2022) (finding § 1226(a)'s procedures satisfy
26 due process); *id.* at 1213 ("[T]he Constitution does not 'require the government to
27 undertake every possible effort to mitigate the risk of erroneous deprivation and
28 potential harm to the private party.'" (quoting *Kashem v. Barr*, 941 F.3d 358, 379 (9th

1 Cir. 2019)).

2 DATED: June 25, 2026

Respectfully submitted,

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