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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
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12 Esau Wilberto Diego Gonzalez,

13 Petitioner,

14 v.

15 JEREMY CASEY, Warden at Imperial
16 Regional Detention Center, *et al.*,

17 Respondents.
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Case No.: 26-cv-03579-JO-DEB

RESPONSE TO PETITION

20 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. The government has
21 carefully reviewed this petition and determined that the legal issues presented concern the
22 statutory authority for U.S. Immigration and Customs Enforcement's (ICE) detention of
23 Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving all rights, including
24 the right to appeal, the government respectfully submits this abbreviated response to
25 preserve the legal issues, to conserve judicial and party resources, and to expedite the
26 Court's consideration of this matter.
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1 Petitioner was previously released from immigration custody on conditional parole
2 issued under 8 U.S.C. § 1226(a). It is the government's position that Petitioner is subject
3 to mandatory detention under § 1225(b)(2). However, the government acknowledges that
4 this Court, and Courts in this District, have repeatedly reached the opposite conclusion
5 under the same and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-
6 MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-
7 cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No.
8 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F.
9 Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM),
10 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-
11 RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-
12 cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-
13 3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-
14 cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-
15 RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-
16 2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*,
17 No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v.*
18 *LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v.*
19 *Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

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

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¹ To the extent the Court issues an order directing a bond hearing under 1226(a),
26 considering heavy caseloads and staffing levels, Respondents respectfully request that
27 such order provide the government 14 days from issuance to hold such bond hearing.
28 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

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27 preponderance of the evidence that he is not a flight risk or danger to the community. *See*
28 *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).