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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

YENISDEL CONCEPCION-CONCEPCION, Petitioner v. **Christopher LAROSE,** *et al.*, Respondents	Case No.: 26-cv-03764-TWR-BJW **PETITIONER'S TRAVERSE AND REQUEST FOR RELEASE OR, IN THE ALTERNATIVE, A CONSTITUTIONALLY ADEQUATE BOND HEARING**

I. RESPONDENTS EFFECTIVELY CONCEDE THAT THE PETITION SHOULD BE GRANTED

Respondents maintain their legal position that Petitioner is detained under 8 U.S.C. § 1225(b). At the same time, however, Respondents expressly acknowledge that this Court and other courts in this District have repeatedly rejected that position under materially indistinguishable facts. Respondents further acknowledge that "the facts are not materially distinguishable" from those prior decisions, expressly state that they "do not oppose the petition," and "defer to the Court on the appropriate relief."

That concession leaves no identified factual or legal basis for this Court to depart from its prior decisions granting materially similar petitions. Respondents identify no factual distinction, no intervening authority, and no reason for this Court to depart from its prior decisions. Instead, Respondents expressly recognize that, if this Court follows its prior rulings, the Petition should be granted.

Although Respondents preserve their legal position for purposes of appeal, they do not ask this Court to reject its prior precedent, nor do they attempt to distinguish Petitioner's case from those decisions. The Return therefore presents no genuine dispute requiring further factual development or extended legal analysis.

Accordingly, because Respondents acknowledge that controlling precedent supports the relief requested, the Court should grant the Petition and proceed directly to determining the appropriate remedy.

II. THE APPROPRIATE REMEDY IS IMMEDIATE RELEASE

Respondents defer to the Court regarding the appropriate relief but suggest that, if relief is granted, the Court should merely order a future custody hearing under 8 U.S.C. § 1226(a).

That proposed remedy fails to restore Petitioner to the position he occupied before Respondents deprived him of his liberty. Habeas corpus exists to remedy unlawful detention. Where detention has been found unlawful, the traditional remedy is release from custody, not continued incarceration pending future administrative proceedings. Respondents identify no changed circumstances, no individualized findings, and no emergency justifying Petitioner's continued confinement pending further administrative proceedings.

Respondents identify no reason why this case warrants a different remedy from the materially indistinguishable cases they acknowledge control the result if this Court follows its prior decisions. Having concluded that the Petition should be granted under this Court's existing precedent, Respondents likewise identify no basis for departing from the relief previously ordered in those cases.

Accordingly, the appropriate remedy is immediate release restoring Petitioner to the conditions that existed immediately before his detention. Only if the Court declines that relief should it consider ordering a constitutionally adequate custody hearing.

III. CONCLUSION

Respondents acknowledge that the dispositive statutory issue has already been resolved by this Court's prior decisions, concede that the facts presented here are not materially distinguishable, do not oppose the Petition, and defer to the Court regarding the appropriate relief.

Because Respondents acknowledge that the dispositive issue is controlled by this Court's prior decisions, identify no material factual distinction, expressly state that they do not oppose the Petition, and defer to the Court regarding the appropriate relief, the Court should grant the Petition and order Petitioner's immediate release. In the alternative, should the Court decline to order Petitioner's immediate release, Petitioner respectfully requests a constitutionally adequate custody hearing at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he poses a danger to the community or a risk of flight, with consideration of Petitioner's ability to pay and whether less restrictive alternatives to detention would reasonably address any legitimate governmental interests.

Respectfully submitted,

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