Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUAN MANUEL MENDEZ-GARCIA Petitioner v. **Christopher LaROSE**, Warden, Otay Mesa Detention Center; et al.,	Case No.: 3:26-cv-03914-RBM-VET **Judge:** **Hon. Ruth Bermudez Montenegro** **PETITIONER'S TRAVERSE TO RESPONDENT'S RETURN**

I. INTRODUCTION

Petitioner respectfully submits this Traverse in response to Respondents' Return.

Respondents do not meaningfully dispute the central legal issue presented by the Petition. Although they continue to assert that Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2), they acknowledge that this Court has previously ordered relief in materially similar cases and expressly do not oppose an order directing relief under 8 U.S.C. § 1226(a).

The only meaningful disagreement concerns the appropriate remedy. Respondents ask this Court to order a future bond hearing under § 1226(a). This Court has already rejected that precise argument. Where detention has been found unlawful, the traditional function of habeas corpus is to end the unlawful restraint, not to authorize its continuation while the government conducts future administrative proceedings. A post-detention bond hearing cannot remedy the

deprivation of liberty that has already occurred, nor have Respondents identified any individualized justification for Petitioner's continued confinement.

Accordingly, for the reasons set forth below, and consistent with this Court's prior decisions, the Petition should be granted and Respondents should be ordered to immediately release Petitioner from custody.

II. RESPONDENTS EFFECTIVELY CONCEDE THAT THE PETITION SHOULD BE GRANTED

Respondents do not meaningfully dispute the central issue presented by the Petition. Although they continue to assert that Petitioner is detained under 8 U.S.C. § 1225(b)(2), they acknowledge that this Court has repeatedly ordered relief in materially similar cases and expressly state that they do not oppose an order directing relief under 8 U.S.C. § 1226(a).

Respondents identify no material factual dispute, make no attempt to distinguish Petitioner's case from the materially similar cases previously decided by this Court, and provide no substantive response to Petitioner's statutory analysis.

Accordingly, the only meaningful issue remaining before this Court is the appropriate remedy. Once the Court concludes that Petitioner's continued detention is unlawful, the traditional purpose of the writ of habeas corpus is to terminate that unlawful custody.

Respondents' request that Petitioner remain incarcerated while awaiting future administrative proceedings does not cure the constitutional and statutory violations identified in the Petition; it merely prolongs them.

The Court should therefore reject Respondents' proposed remedy and order Petitioner's immediate release from custody.

III. THIS COURT HAS ALREADY DECIDED THE IDENTICAL REMEDY QUESTION AND ORDERED IMMEDIATE RELEASE

Respondents ask this Court to order only a future custody hearing under 8 U.S.C. § 1226(a) if the Petition is granted. This Court has already considered and rejected that precise argument.

In *Ramirez-Rivera v. Noem*, Case No. 3:25-cv-03072-RBM-DEB (S.D. Cal. Nov. 26, 2025), this Court addressed materially indistinguishable circumstances. There, as here, the government argued that if the Court concluded the petitioner was improperly detained under 8 U.S.C. § 1225, "the proper remedy would be directing a new bond hearing under § 1226(a)." This Court expressly rejected that argument.

The Court explained that a future custody hearing could not remedy the liberty deprivation already suffered because "Petitioner will have already suffered the injury he is now seeking to avoid." The Court further recognized that "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." Based on that reasoning, the Court granted the petition and ordered Petitioner's immediate release from immigration custody, rather than directing the future custody hearing requested by Respondents.

The same reasoning applies here. Respondents identify no material distinction between this case and *Ramirez-Rivera*, nor do they explain why the remedy should differ. Instead, they simply renew the same request for a future custody hearing that this Court has already rejected. Respondents identify no individualized facts demonstrating that Petitioner poses a danger to the community or a risk of flight, no changed circumstances justifying continued detention, and no other basis for prolonging Petitioner's confinement.

Because this Court has already determined that a future custody hearing is not an adequate remedy for unlawful detention under materially indistinguishable circumstances, the same result is warranted here. Accordingly, the Court should grant the Petition and order Petitioner's immediate release from custody.

IV. CONCLUSION

For the foregoing reasons, Respondents have not identified any material distinction between this case and the materially similar cases previously decided by this Court. Respondents do not meaningfully dispute the dispositive legal issue presented by the Petition and instead seek only to limit the remedy to a future custody hearing. As this Court has previously recognized,

however, a post-detention custody hearing cannot remedy the unlawful deprivation of liberty that has already occurred.

Petitioner therefore respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release from immigration custody. In the alternative, and only if the Court declines to order immediate release, Petitioner respectfully requests that the Court order Respondents to provide Petitioner with a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because Petitioner presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered.

Respectfully submitted,

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave, Suite 9
Chula Vista, CA 91910
Phone: (619) 777-6796
Email: info@alexmonsalvelawfirm.com
Counsel for Petitioner

Dated: July 13, 2026