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DETAINED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BLANCA GLORIA VENTURA CABALLERO Petitioner, vs. CHRISTOPHER J. LAROSE, et al., Respondents.	Case No.: 26-cv-3978-BJC-DEB [redacted] **PETITIONER'S TRAVERSE IN SUPPORT OF HER PETITION FOR WRIT OF HABEAS CORPUS**

PETITIONER'S TRAVERSE TO RESPONDENTS' RESPONSE

Petitioner Blanca Gloria Ventura Caballero, through undersigned counsel, respectfully submits this Traverse to Respondents' Response (ECF No. 4) and in further support of her Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241.

I. INTRODUCTION

Respondents preserve the position that 8 U.S.C. § 1225(b)(2)(A) mandates detention but acknowledge that Ms. Ventura Caballero appears to fall within the Bond Eligible Class recognized in *Maldonado Bautista v. Santacruz*, 813 F. Supp. 3d 1084 (C.D. Cal. 2025), acknowledge similar Southern District orders, and do not oppose a § 1226(a) bond hearing. Resp. at 1-2. Those concessions warrant granting the writ. The remaining issue is remedy.

A future hearing is not the only available remedy. Respondents have held Petitioner under a categorical § 1225 theory and identify no existing individualized § 1226(a) determination that confinement is necessary. The Court should order immediate release under reasonable conditions. In the alternative only, it should require a § 1226(a) hearing within seven days and release if that deadline is missed.

II. RESPONDENTS' POSITION THAT § 1225(b)(2)(A) GOVERNS IS INCORRECT

Section 1226(a) directly governs an interior arrest pending a removal decision and authorizes detention, bond, or conditional parole. 8 U.S.C. § 1226(a)(1)-(2). Ms. Ventura Caballero was arrested in North Carolina after approximately twenty-five years in the United States and is in ordinary proceedings under 8 U.S.C. § 1229a. Respondents do not invoke § 1226(c) or § 1231. The Supreme Court

describes § 1225 as addressing persons seeking admission and § 1226 as governing persons already in the country pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 287-89, 303 (2018).

Section 1225(b)(2)(A) applies when an 'examining immigration officer' determines that an 'alien seeking admission' is not clearly entitled to admission. Those operative phrases describe inspection at the threshold of entry, not an arrest decades later in the interior. Reading § 1225(a)(1)'s definitional language to deem every person present without admission perpetually 'seeking admission' would erase the operative text and displace § 1226(a). *See Torres v. Barr*, 976 F.3d 918, 926, 930 (9th Cir. 2020).

The NTA confirms the distinction: DHS did not designate Petitioner an arriving alien; it charged her as present without admission or parole and initiated § 1229a proceedings. Judges in this District have repeatedly rejected the same § 1225 theory for long-time interior residents. *See, e.g., Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Grosso v. Warden, Otay Mesa Detention Center*, No. 3:26-cv-00396-CAB-MMP (S.D. Cal. Feb. 6, 2026). Respondents identify no controlling contrary decision.

III. RESPONDENTS' ACKNOWLEDGMENT OF BOND ELIGIBILITY SUPPORTS GRANTING THE WRIT

Respondents' acknowledgment that Petitioner appears to be within the Bond Eligible Class, together with their non-opposition to a § 1226(a) hearing, eliminates any material factual dispute on statutory classification. The Ninth Circuit's stay of broader class relief outside the Central District did not decide this individual petition or prevent case-specific habeas relief. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 550-51 (2022).

The Government's appellate reservation preserves its legal position; it does not justify continued custody under a classification this District has repeatedly rejected. The Court should declare that § 1226(a) governs. Section 2243 then authorizes the Court to dispose of the matter as law and justice require, including release rather than merely a future hearing.

IV. RESPONDENTS' ASSERTION REGARDING THE APRIL 6, 2026, CONVICTION DOES NOT DEFEAT RELIEF

Petitioner candidly corrects the Petition. Based on the information available when it was prepared, the Petition incorrectly stated that she had no criminal history. For purposes of this Traverse, Petitioner does not dispute Respondents' statement that on April 6, 2026, she was convicted of knowingly making and uttering a $2,200

worthless check, received a fifteen-day sentence, and entered ICE custody on April 8, 2026. Petitioner withdraws the contrary statements; the omission was not intended to mislead the Court.

The correction does not change the detention statute. Respondents identify a single nonviolent financial offense, do not invoke § 1226(c), and expressly contemplate discretionary custody under § 1226(a). The conviction may be weighed in an individualized custody decision, but it cannot transform a 2026 interior arrest into a border-inspection encounter under § 1225.

Nor does the Response establish present danger or flight risk. It identifies no violence, injury, weapon, threat, or other conviction and offers no analysis of Petitioner's residence, family, employment, pending cancellation application, or alternatives to detention. Civil detention is regulatory, not additional punishment for a completed sentence. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

V. RESPONDENTS' REQUEST FOR FOURTEEN DAYS SHOULD BE REJECTED

Respondents request fourteen additional days based on generalized caseload and staffing concerns. However, Respondents knew that petitioner was a class member and therefore eligible for bond since July 10, 2026, and arguably since April 6, 2026, the date of the Notice to Appear, and therefore has no good cause to

request additional time. Petitioner has been in ICE custody since April 8, 2026. Every additional day is an irretrievable loss of liberty and continued separation from a disabled minor child who depends on her care. Habeas requires expedition. 28 U.S.C. § 2243; *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).

The Court should order immediate release. If it instead orders a hearing, seven calendar days is an appropriate outer limit, and the order must direct release under reasonable conditions if Respondents do not complete the hearing on time.

VI. RESPONDENTS' BURDEN ARGUMENT DOES NOT PRECLUDE IMMEDIATE RELEASE

Respondents cite *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022), for the rule that at an ordinary initial § 1226(a) hearing the detainee bears the burden by a preponderance to show that she is not a danger or flight risk. However, this District Court has shifted the burden to the Respondents in similar matters where Petitioners have been entitled to a "a prompt and individualized bond hearing, at which Respondents must justify her continued detention by a showing of clear and convincing evidence that Petitioner would likely flee or pose a danger to the community if released." *Sadeqi v. LaRose*, No. 25-CV-2587-RSH-BJW, 2025 WL 3154520, at *4 (S.D. Cal. Nov. 12, 2025) (citing *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) and *Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024));

see also Gautam v. Corr. Corp. of Am., No. 3:25-cv-03600, doc. 6 (S.D. Cal. Jan. 5, 2026). Petitioner asks that the same process be ordered in this case.

VII. IMMEDIATE RELEASE IS THE APPROPRIATE HABEAS REMEDY

Release is the traditional remedy for unlawful executive detention. 28 U.S.C. §§ 2241(c)(3), 2243; *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). In *Nadarajah v. Gonzales*, 443 F.3d 1069, 1076, 1084 (9th Cir. 2006), abrogated on other grounds by *Jennings*, the Ninth Circuit ordered immediate release when immigration custody exceeded statutory authority.

Recent courts have likewise ordered release after rejecting § 1225 detention where a belated hearing would not adequately cure months of denied process. *Martinez-Bonilla v. Santacruz*, No. 1:26-cv-03334-DAD-JDP, 2026 WL 1494002 (E.D. Cal. May 28, 2026); *Huerta Huerta v. Warden*, No. 1:26-cv-02301-DAD-CSK (E.D. Cal. June 1, 2026). Those cases involved distinct re-detention histories but demonstrate that habeas relief is not categorically limited to ordering a future bond hearing.

Here, the Response identifies § 1225 as the present basis for custody and does not identify an existing § 1226(a) bond denial or individualized finding that no conditions can manage risk. A promise of future process is not a present lawful

custody determination. Once § 1225 is rejected, release under reporting, address-update, travel, or monitoring conditions fully protects the Government's interests while removal proceedings continue.

VIII. PETITIONER'S INDIVIDUAL CIRCUMSTANCES SUPPORT RELEASE

Petitioner has lived in the United States since 2001, maintains a home in Gastonia, is married, has five children, worked as a restaurant manager, and managed the finances of the family construction business. She appeared in immigration court, conceded the charges, and is pursuing cancellation of removal. Those ties and the pending application provide powerful incentives to appear.

She is also the primary caregiver for a seventeen-year-old U.S.-citizen daughter with serious mental-health conditions who requires medication, appointments, and therapy. Conditional release would restore essential care while preserving ICE supervision and the Immigration Court's authority. The Response offers no reason less restrictive conditions would be inadequate.

IX. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court:

(1) GRANT the Petition and DECLARE that 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), governs Petitioner's detention;

(2) ORDER Respondents to RELEASE Petitioner within forty-eight hours under reasonable conditions of supervision;

(3) IN THE ALTERNATIVE ONLY, ORDER a § 1226(a) hearing within seven calendar days, prohibit denial of jurisdiction or bond based on § 1225(b)(2)(A), require consideration of ability to pay and less restrictive alternatives, and order release if the deadline is missed;

(4) PRESERVE Petitioner's access to counsel and prohibit transfer outside this District until release or completion of the ordered hearing absent Court approval or reasonable advance notice; and

(5) GRANT such other relief as law and justice require.

Respectfully submitted,
Dated: July 24, 2026

//s// John Wells
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