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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Cristian Minser Perez Garcia, Petitioner, v. Christopher J. LAROSE, et al., Respondents.	Case Number: 3:26-cv-03998-DMS-AHG **PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND INJUNCTIVE RELIEF**

Petitioner Cristian Minser Perez Garcia respectfully submits this Reply to Respondents' Response to the Petition for Writ of Habeas Corpus and Injunctive Relief.

INTRODUCTION

Respondents' Response eliminates any genuine dispute concerning the principal legal issue presented by the Petition.

Respondents expressly acknowledge that Petitioner was previously released from immigration custody pursuant to 8 U.S.C. § 1226(a). Respondents further

acknowledge that this Court and other courts within the Southern District of California have repeatedly rejected the Government's position that individuals in materially similar circumstances are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Most importantly, Respondents concede that the facts of this case are not materially distinguishable from those prior decisions and state that "the government does not oppose the petition and defers to the Court on the appropriate relief." Resp. at 2–3, ECF No. 4.

The remaining issue is therefore the appropriate remedy.

Respondents do not identify any violation of Petitioner's release conditions, new criminal conduct, missed hearing, failure to report, or other materially changed circumstance occurring during Petitioner's approximately thirteen years of successful release. Nor do Respondents defend ICE's decision to revoke that longstanding release without advance notice, a neutral hearing, or a written determination explaining why confinement had become necessary.

Under these undisputed circumstances, the appropriate remedy is restoration of Petitioner's prior conditional release. Alternatively, the Court should order a prompt hearing directed specifically to whether materially changed circumstances justify revocation of that release. Such a hearing should occur within three business days, and Respondents should bear the burden of justifying the renewed deprivation of Petitioner's established conditional liberty.

ARGUMENT

I. RESPONDENTS' CONCESSIONS ESTABLISH THAT PETITIONER'S DETENTION IS GOVERNED BY 8 U.S.C. § 1226(a)

The Petition alleged that Petitioner's immigration proceedings remain pending, that he has no final order of removal, and that he was previously released following a custody determination. Pet. ¶¶ 2, 12–14, ECF No. 1. Respondents now expressly confirm that Petitioner's prior release was issued under § 1226(a). Resp. at 2.

Respondents nevertheless preserve their position that Petitioner could be detained under § 1225(b)(2). But Respondents also acknowledge that this Court and other courts in this District have repeatedly rejected that position under the same or materially similar circumstances. Id. Respondents further concede that the facts presented here are not materially distinguishable from the cases in which that position was rejected. Id. at 3.

Accordingly, the Court should hold that Petitioner's present custody is governed by § 1226(a), not § 1225(b)(2).

That conclusion is consistent with the statutory and constitutional authorities set out in the Petition. Section 1226(a) governs detention pending a decision in removal proceedings and expressly authorizes release on bond or conditional parole. Petitioner was not detained while arriving at a port of entry or seeking admission.

He had lived in the interior of the United States for more than thirteen years, his removal proceedings remained pending, and he had already been granted release under § 1226(a).

Respondents' concessions therefore resolve the principal statutory issue in Petitioner's favor and warrant granting the Petition.

II. IMMEDIATE RESTORATION OF PETITIONER'S PRIOR RELEASE IS THE APPROPRIATE REMEDY

The relief should address the actual constitutional injury presented in this case.

Petitioner does not challenge an initial custody determination. He challenges the summary revocation of an existing conditional liberty interest after approximately thirteen years of successful release in the community.

Conditional liberty, once granted, constitutes a substantial liberty interest even though it remains subject to lawful conditions and revocation. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). The procedures constitutionally required before that liberty is withdrawn depend upon the nature of the interest and the risk of erroneous deprivation. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

Here, the risk of erroneous deprivation is substantial. Petitioner appeared for a required ICE appointment on June 26, 2026, and was detained without advance notice that his longstanding release would be revoked. Pet. ¶¶ 18–20. No neutral

decisionmaker has determined that he violated a release condition, presents a current danger, constitutes a flight risk, or should otherwise be confined. Id. ¶ 21.

Respondents do not dispute those allegations. They identify no new criminal conduct, missed hearing, failure to report, violation of supervision, or other changed circumstance. Their Response provides no factual or individualized justification for revoking the release that had functioned successfully for approximately thirteen years.

Courts applying the authorities cited in the Petition have recognized the due process concerns arising when the Government re-detains a person who has been living under an established release without first demonstrating materially changed circumstances. See *Hernandez v. Sessions*, 872 F.3d 976, 988–91 (9th Cir. 2017); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969–70 (N.D. Cal. 2019); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1056 (N.D. Cal. 2021); *Guillermo M.R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036–37 (N.D. Cal. 2025).

Because Respondents do not defend the revocation and do not identify any changed circumstance that would justify it, the Court should restore Petitioner to the conditions of release and supervision in effect immediately before June 26, 2026, or to substantially similar conditions.

That remedy directly addresses the unlawful withdrawal of Petitioner's conditional liberty and is consistent with the relief requested in the Petition. See

Lopez Buendia v. Chestnut, No. 1:26-cv-00465-DJC-SCR, ECF No. 12, at 4–5 (E.D. Cal. Jan. 28, 2026).

III. AN ORDINARY BOND HEARING FOURTEEN DAYS FROM THE COURT'S ORDER WOULD NOT FULLY REMEDY THE VIOLATION

Respondents request that, if the Court directs a bond hearing under § 1226(a), the Government be allowed fourteen days to conduct that hearing. Resp. at 3 n.1.

That additional delay is unwarranted.

Petitioner has already remained detained since June 26, 2026. Respondents filed an abbreviated Response expressly intended "to expedite the Court's consideration of this matter." Resp. at 2. Respondents simultaneously concede that the Petition is not materially distinguishable from prior cases and state that they do not oppose relief. Id. at 3.

Under those circumstances, requiring Petitioner to remain detained for an additional fourteen days would prolong the very deprivation of liberty that Respondents decline to defend. It would also be inconsistent with the expedited briefing schedule established by the Court.

Moreover, an ordinary initial bond proceeding would not necessarily remedy the constitutional violation alleged here. Petitioner is not asking to establish eligibility for release for the first time. He already received release under § 1226(a)

and successfully remained in the community for approximately thirteen years. The relevant question is whether materially changed circumstances justified taking that liberty away.

Respondents' observation concerning the burden applicable in an ordinary § 1226(a) bond proceeding therefore does not resolve the distinct issue presented by this case. The proceeding required here must evaluate the lawfulness of the revocation of an established release, rather than require Petitioner to prove his eligibility for release anew as though the prior release and thirteen years of compliance had never occurred.

If the Court does not order immediate restoration of release, it should require a hearing within three business days before a neutral decisionmaker authorized to order release. At that hearing, Respondents should be required to establish by clear and convincing evidence:

1. that materially changed circumstances occurred after Petitioner's prior release;

2. that those circumstances establish a present danger to the community or a present risk of flight; and

3. that no less restrictive conditions can reasonably address any identified concern.

See Hernandez, 872 F.3d at 990–91; *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

The decisionmaker should also consider Petitioner's ability to pay and available alternatives to detention. A written decision should be issued promptly, and Petitioner should be released if Respondents do not provide the required hearing and decision within the Court-ordered deadline.

IV. THE COURT MAY RESOLVE THE PETITION ON THE PRESENT RECORD

No material factual dispute prevents the Court from granting relief.

Respondents do not contest Petitioner's prior release under § 1226(a), the absence of a final removal order, the applicability of decisions rejecting mandatory detention under § 1225(b)(2), or the material similarity between this case and those prior decisions.

Respondents also offer no evidence that Petitioner violated his conditions of release or that any new circumstance justified his detention. Instead, Respondents expressly defer to the Court concerning the appropriate relief.

The present record is therefore sufficient for the Court to grant the Petition and order restoration of Petitioner's prior release without further briefing or delay.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the Petition and order his immediate release under the conditions of release and supervision in effect immediately before June 26, 2026, or under substantially similar conditions.

In the alternative, Petitioner requests that the Court order Respondents to provide, within three business days, a hearing before a neutral decisionmaker at which Respondents bear the burden of establishing by clear and convincing evidence that materially changed circumstances justify revocation of Petitioner's prior release and that continued detention is necessary because Petitioner presently constitutes a danger or flight risk.

Petitioner further requests that the decisionmaker consider ability to pay and alternatives to detention, issue a prompt written decision, and order Petitioner's release if the required process is not completed within the Court-ordered deadline.

Petitioner also respectfully requests that the Court retain jurisdiction to enforce its order and maintain the prohibition against transferring Petitioner outside the Southern District of California until Respondents have fully complied with the Court's relief.

Dated: July 23, 2026

Respectfully submitted,

/s/ Mario Salgado
Mario Salgado
Attorney for Petitioner
SALGADO & PERALTA, P.A.

CERTIFICATE OF SERVICE

I, Mario Salgado, am over the age of 18 years and maintain a business address located at 605 Market Street, Suite 1111, in San Francisco, California 94105. I electronically served the **PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND INJUNCTIVE RELIEF** on the United States Attorney's Office for the Southern District of California, Federal Office Building, 880 Front Street, Room 6293, San Diego, California 92101-8807, via the Court's electronic filing system.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

Dated: July 23, 2026

Respectfully submitted,

/s/ Mario Salgado
Mario Salgado
Attorney for Petitioner
SALGADO & PERALTA, P.A.