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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ERIC MARCADO-JULIO,

Petitioner,

v.

TODD BLANCHE, U.S. Attorney General, *et al.*,

Respondents.

Case No.: 26-cv-04094-RSH-GC

RESPONSE TO PETITION

I. Introduction

Pro se Petitioner has filed a habeas petition pursuant to 28 U.S.C. § 2241. The petition so poorly pled that the Court should deny Petitioner's requests for relief and dismiss the petition. In the alternative, the government defers to the Court on the appropriate relief.

II. Factual and Procedural Background

Petitioner is a native and citizen of Venezuela. Exhibit 1 (Notice to Appear). It is alleged that he arrived in the United States on or about November 3, 2023. *Id.* He is charged as removable for being present in the United States without having been admitted or paroled, or for arriving in the United States at any time or placed other than designated by the attorney general INA § 212(a)(6)(A)(i); 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* He was subsequently released.

On June 18, 2026, Petitioner was apprehended at the San Clemente Border Patrol Station. Exh. 2 (Form I-213), page 3. A records check revealed he had failed to report to a kiosk on March 11, 2025. Exh. 2, pages 3-4. He was remanded into custody. *Id* at page 4, *see* also Exh. 3 (Warrant for Arrest). He is currently scheduled for a master hearing before the immigration court on July 23, 2026. Exh 4.

III. Petitioner Fails to Plead Sufficient Information

Petitioner's pro se habeas petition presents contradictory facts, false assertions, and insufficient information for the Court to adjudicate his claims. He claims he "has been in immigration proceedings since 6-16-2026 approximately six months" (*see* Petition at ECF 1, page 1, ¶ 2), he was "remanded in ICE custody continuously since 6-18-2026" (*Id* at page 2, ¶ 9), and that "[m]ore than six months have passed since the apprehension of Petitioner by ICE" (*Id* at page 2, ¶ 12). As of today's date, whether you calculate the date of detention as June 16 or June 18, the Petitioner has a little more than one month in detention, a far cry from the six months he alleges. Indeed, he also states he has been detained "for the past few [w]eeks. . ." *Id* at page 2, ¶ 14.

Petitioner suggests he is being held under "8 U.S.C. 1231(a)" which relates to detention during the removal period. *Id* page 1, ¶ 2. He claims ICE is unable to execute his removal order (*Id*), "ICE has not been able to secure travel documents or deport Petitioner to Venezuela" (*Id* at page 2, ¶ 10), "[t]here is no significant likelihood of removal in the foreseeable future" (*Id* at page 2, ¶ 13), and repeatedly cites *Zadvydas v. Davis*, 533 U.S. 678 (2001) arguing that "post-final order detention beyond six months" is unreasonable (*Id* at page 2, ¶ 16). Such language suggests to the reader that he is subject to a final order and awaiting his removal. Yet, Petitioner contradicts himself claiming he "has an ongoing [i]mmigration case where Petitioner will highly succ[eed] on." Id, page 2, ¶ 8.[1]

[1] The Petition is so poorly pled that, ironically, if the Court accepts Petitioner's argument that he is subject 8 U.S.C. § 1231(a), and that he has only been detained for a

Here, where the facts provided by the Petitioner are so contradictory and the authority so unclear, the Court should deny the petition. *See Alonso Velasquez v. LaRose*, No. 25-cv-3216-JES-AHG, 2025 WL 3473773 (S.D. Cal. Dec. 3, 2025) (dismissing without prejudice habeas petition that failed to allege sufficient factual information).

IV. Petitioner Is Subject to Mandatory Detention Nevertheless the Government Defers

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b)(2). However, the government acknowledges that this Court, and Courts in this District, have repeatedly reached the opposite conclusion under the same and/or similar facts. *See, e.g.*, *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 225); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

If the Court believes this matter has been sufficiently pled, then the government

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few weeks, then his post-detention removal is presumptively reasonable and his Petition should be dismissed. *See Zadvydas v. Davis. supra.*

acknowledges that this Court's prior decisions will control the result here if the Court adheres to its prior decisions, as the facts are not materially distinguishable for purposes of the Court's decision,[2] and on that basis the government defers to the Court on the appropriate relief.[3]

DATED: July 23, 2026

Respectfully submitted,

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s/ Douglas D. Nelson
DOUGLAS D. NELSON
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Attorneys for Respondents

[2] Petitioner also challenges his detention citing violations of Due Process. Should the Court grant the petition, it should decline to address these additional arguments. *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

[3] To the extent the Court issues an order directing a bond hearing under 1226(a), considering heavy caseloads and staffing levels, Respondents respectfully request that such order provide the government 14 days from issuance to hold such bond hearing. 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 preponderance of the evidence that he is not a flight risk or danger to the community. *See 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).