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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

EZEQUIEL PAULINO MARCELINO, Petitioner, v. CHRISTOPHER J. LAROSE, *et al.*, Respondents.	Case No.: 26-cv-04098-RBM-SBC **RESPONSE TO PETITION**

Petitioner has filed a habeas petition under 28 U.S.C. § 2241. The government has carefully reviewed this petition and determined that the legal issues presented concern the statutory authority for U.S. Immigration and Customs Enforcement's (ICE) detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving all rights, including the right to appeal, the government respectfully submits this abbreviated response to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter.

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b)(2). However, the government acknowledges that Petitioner appears to be a

member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, 813 F. Supp. 3d 1084 (C.D. Cal. 2025). The Ninth Circuit has stayed application of the Order beyond the Central District of California. However, Respondents acknowledge the prior orders from this District directing bond hearings pursuant to 8 U.S.C. § 1226(a) in similar cases.[1] Respondents therefore do not oppose an order from this Court directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).[2]

To the extent Petitioner requests immediate release because of a lack of an administrative warrant, Respondents respectfully oppose. Petitioner was issued an administrative warrant on July 7, 2026. *See* Exhibit 1. Further, Respondents note that 8 U.S.C. § 1357(a)(2) authorizes warrantless arrests and 8 C.F.R. § 287.3(d) provides the government 48 hours to issue a warrant if it determines that the noncitizen will remain custody. *See Garcia-Juarez v. Blanche*, No. 26-cv-3007-LL-DEB, ECF No. 18 (S.D. Cal. June 30, 2026).

DATED: July 22, 2026

Respectfully submitted,

ADAM GORDON
United States Attorney

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[1] Petitioner also challenges their detention citing violations of due process and the INA. 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.").

[2] 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. 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).

s/ Jacob T. Metzger
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