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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Martin FLORES DELGADO,

Petitioner,

v.

CHRISTOPHER J. LAROSE; ET AL.,

Respondents.

CASE NO.: 26-cv-04112-RSH-DDL

AGENCY NO. [redacted]

PETITIONER'S TRAVERSE

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

Petitioner respectfully asks the Court to order immediate release from custody. Petitioner was unlawfully arrested without a warrant as is required under § 1226(a). ECF No 1 at ¶¶ 2, 72. No valid exception to warrant requirement existed. Respondents did not make a required custody determination as to whether Petitioner constitutes a flight risk or danger to the community. Respondents did not contest any of these facts in their response. Respondents swept Petitioner, a longtime resident of the United States with considerable family ties, off the street

and whisked him to a detention center where they now claim to hold him pursuant to INA § 1225(b). ECF No 4 at 2.

Respondents' filing confirms that this case presents the same legal and factual circumstances that have repeatedly led courts in this District to conclude that detention is governed by 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b). Indeed, Respondents expressly acknowledge that "the facts are not materially distinguishable" from the numerous cases cited in their Return. *Id.*

Respondents now indicate they do not oppose an order from this Court directing a bond hearing to be held but that if such bond hearing is directed, that respondents need at least 14 days to hold such bond hearing. *Id.* at FN2. Respondents' self-inflicted problem of having too many detainees and not enough judges or staff to hold statutorily required hearings does not warrant continued detention in violation of the laws and Constitution of the United States.

Furthermore, there is significant reporting and case law supporting allegations that Respondents have made it impossible for an immigration judge to provide a truly adequate and neutral custody hearing. A hearing before a financially and professionally threatened adjudicator does not comport with Constitution or the law. *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 872 (2009); *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001); *Concrete Pipe & Products of Cal., Inc. v. Construction Laborers Pension Trust for Southern Cal.*, 508 U.S. 602,

617-618 (1993) (As against these supposed threats to the trustees' neutrality, due process requires a "neutral and detached judge in the first instance,{...]").

As such, Petitioner respectfully ask that the Court order his immediate release. If immediate release is not granted, Petitioner asks that if the Court orders that Respondents should provide a bond hearing before an immigration judge, that the court order that the judge must not deny release on the ground that § 1225(b)(2) is applicable, and that such hearing occur no more than 7 days from the date of this Court's order (unless Petitioner requests continuance) but that Petitioner be provided with at least 3 days notice in advance of any scheduled hearing so as to be able to adequately prepare and to secure evidence and witness availability.

DATED this 24th of July, 2026

By: /s/ Priscilla Merida

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