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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 FRITZNER JUNIOR AUGUSTIN,
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14 Petitioner,

15 v.

16 CHRISTOPHER LAROSE,
17 *Warden of Otay Mesa Detention Center,*

18 Respondent.
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Case No.: 26-cv-04398-JES-BLM

**RESPONSE TO AMENDED
PETITION**

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

9 Petitioner was previously released from immigration custody on parole issued under
10 8 U.S.C. § 1182(d)(5). Respondents concur with Petitioner that parole terminated in May
11 2025 pursuant to 8 C.F.R. § 212.5(e)(2). ECF No. 8 at 6. It is the government's position
12 that Petitioner is subject to mandatory detention under § 1225(b)(2). Further, *Rodriguez*
13 *Vazquez v. Bostock*, No. 25-6842, --- F.4th ---, 2026 WL 2196424 (9th Cir. July 30, 2026),
14 is inapplicable to Petitioner. *See id.* at *7 ("Unlike with detention under § 1226, detention
15 under both § 1225(b)(1) and (2) is mandatory and affords no opportunity for release on
16 bond.").¹

17 However, the government acknowledges that this Court's prior decisions will
18 control the result here if the Court adheres to its prior decisions. *See, e.g., Noori v. LaRose*,

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20 ¹ Parole under § 1182(d)(5)(A) is "temporar[y] under such conditions as [DHS] may
21 prescribe." Further, parole under § 1182(d)(5)(A) "shall not be regarded as an admission."
22 If such parole expires or is terminated "when the purposes of such parole shall ... have
23 been served," § 1182(d)(5)(A) provides that the alien shall be returned to "the custody from
24 which he was paroled," and the detention authority would accordingly revert to the
25 applicable § 1225(b) provision. 8 U.S.C. § 1182(d)(5)(A) ("[T]he alien shall forthwith
26 return or be returned to the custody from which he was paroled and thereafter his case shall
27 continue to be dealt with in the same manner as that of any other applicant for admission
28 to the United States."); *see Matter of Q. Li*, 29 I. & N. Dec. 66, 69–70 (BIA 2025) (holding
that an alien who is released from detention pursuant to a grant of parole under
§ 1182(d)(5)(A), and whose grant of parole is subsequently terminated, is returned to
custody under § 1225(b) pending the completion of removal proceedings) (citing 8 C.F.R.
§ 212.5(e)(2)(i) (2025)).

807 F. Supp. 3d 1146 (S.D. Cal. 2025); *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, 2025); *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).

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 January 10, 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 in custody. *See Garcia-Juarez v. Blanche*, No. 26-cv-3007-LL-DEB, ECF No. 18 (S.D. Cal. June 30, 2026).

Regarding Petitioner's request for release "due to the erosion of immigration judge neutrality" (ECF No. 8 at 16), Respondents request that the Court note Petitioner presents insufficient evidence that all Immigration Judges' neutrality has been compromised such that immediate release or additional safeguards are necessary. *See, e.g., Gutierrez-Valtierra v. Bondi*, No. 26-cv-01343-BAS-VET, 2026 WL 810066 (S.D. Cal. Mar. 24, 2026).

1 Accordingly,² the Respondents request the Court deny Petitioner's request for
2 immediate release. Respondents do not oppose an order from this Court directing a bond
3 hearing be held pursuant to 8 U.S.C. § 1226(a).³

4 DATED: August 20, 2026

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23 ²Should the Court grant the petition, it need not address due process arguments. *See Nw.*
24 *Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193, 205 (2009) (“normally the Court
25 will not decide a constitutional question if there is some other ground upon which to
dispose of the case” (quotation and citation omitted)).

26 ³ To the extent the Court issues an order directing a bond hearing under 1226(a),
27 considering heavy caseloads and staffing levels, Respondents respectfully request that such
28 order provide the government 14 days from issuance to hold such bond hearing.