

1 Petitioner submits this Traverse and Memorandum to comply with the Court's order and the
2 habeas corpus procedure and to expedite the process.

3 **1225 v. 1226**

4 As a threshold matter, petitioner agrees with respondents that part of this petition has been
5 resolved in another court case. For instance, petitioner appears to be a member of the Bond Eligible
6 Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d
7 ---, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). The *Baustista* court has now entered a final
8 judgment in that case. The final judgment essentially overrules the BIA case of *Yajure-Hurtado*. So,
9 the Otay Mesa Immigration Court appears to accept that it now has jurisdiction to consider
10 petitioner's bond request on the merits.

11 Still, the Otay Mesa OPLA attorneys have apparently been ordered to defy the *Bautista*
12 judgment by continuing to argue there is no bond jurisdiction and reserving appeal. This seems
13 petty and spiteful, as well as apparent contempt of court. The office of the United States Attorney
14 and the office of OPLA Otay Mesa should coordinate and have a consistent policy.

15 Petitioner still requests an order that petitioner is detained under 1226 because despite the
16 *Bautista* Judgment the OPLA trial attorneys at Otay Mesa Immigration Court continue to argue that
17 noncitizens like petitioner are detained under 1225.

18 **Re-Detention**

19 Petitioner also requests that he be released to the street. He should not have to request a
20 bond at the immigration court because he was unlawfully re-detained. Can the DHS just arbitrarily
21 re-detain a noncitizen with no change in circumstances? Multiple district courts have said no.

22 District courts have concluded that the DHS cannot just arbitrarily re-detain an individual
23 without any explanation or change in circumstances. For instance, in *Pinchi v. Noem*, No. 5:25-CV-
24 05632-PCP, ___ F. Supp. 3d ___, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025), the court
25 reached this conclusion relying on the Due Process Clause:

26 **... even when ICE has the initial discretion to detain or release a noncitizen pending removal**
27 **proceedings, after that individual is released from custody she has a protected liberty interest**
28 **in remaining out of custody.** See *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2

1 (N.D. Cal. May 6, 2022) (“[T]his Court joins other courts of this district facing facts similar to the
2 present case and finds Petitioner raised serious questions going to the merits of his claim that due
3 process requires a hearing before an IJ prior to re-detention.”); *Jorge M. F. v. Wilkinson*, No. 21-cv-
4 01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-
5 5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega*, 415 F. Supp. 3d at 969 (“Just as
6 people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen
7 released from immigration detention] have a liberty interest in remaining out of custody on bond.”).
8 *Id.* (emphasis added). Other courts, including this Court, have held similarly. *Doe v. Becerra*, No.
9 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025); *see also Padilla v.*
10 *U.S. Immigr. & Customs Enf’t*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) (“The Supreme
11 Court has consistently held that non-punitive detention violates the Constitution unless it is strictly
12 limited, and, typically, accompanied by a prompt individualized hearing before a neutral
13 decisionmaker to ensure that the imprisonment serves the government’s legitimate goals.”).

14 The DHS initially detained petitioner in 2023 but released him on his own recognizance.
15 Petitioner’s release on OR was a concession that he was not a danger to the community or flight
16 risk. Petitioner filed an asylum application. Petitioner was stunned when the DHS officers detained
17 him in October 2025 and sent him to the immigration jail for no reason.

18 Notably, the respondent’s Return also provides no explanation or justification for the re-
19 detention after his OR release. This occurred based upon the whim of the respondents, apparently in
20 a strenuous effort to boost the President’s deportation numbers. The re-detention was a malicious
21 and unlawful violation of Due Process. Petitioner should be released to the street on the same
22 conditions as had previously been set.

23 DATED: 29 December 2025

24 Respectfully submitted,

25 /s/ William Baker
26 William Baker (157 906)
27 MORENO & ASSOCIATES
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