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

11
12 ABANOUB YOUSSEF SHAFIK AWAD,

13 Petitioner,

14 v.

15 WARDEN, OTAY MESA DETENTION
16 CENTER,

17 Respondent.
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Case No.: 25-cv-3545-TWR-DDL

RESPONSE TO PETITION

1 On July 8, 2025, the Department of Homeland Security (“DHS”) instituted a notice
2 titled “Interim Guidance Regarding Detention Authority for Applicants for Admission”
3 (the “Notice”) requiring, in general, that anyone arrested in the United States and charged
4 with being inadmissible to be considered an “applicant for admission” under 8 U.S.C.
5 § 1225(b)(2)(A), subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not
6 subject to detention under 8 U.S.C. § 1226(a).

7 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d
8 ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the Notice
9 unlawful under the Administrative Procedures Act but did not issue a final judgment. On
10 December 18, 2025, however, the *Bautista* court entered final judgement. *Bautista*, ECF
11 No. 94. Accordingly, Respondent acknowledges that Petitioner is detained under 8 U.S.C.
12 § 1226(a) and is entitled to an order from this Court directing a bond hearing be held
13 pursuant to 8 U.S.C. § 1226(a).¹

14 Respondents reserve the right to supplement this response in the event of a stay of
15 enforcement of the *Bautista* final judgment, appellate relief, or a change in DHS policy.

16 DATED: December 30, 2025

ADAM GORDON
United States Attorney

18 *s/Erin M. Dimbleby*
19 ERIN M. DIMBLEBY
Assistant U.S. Attorney

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26 ¹ To the extent the Court issues an order directing a bond hearing under 1226(a),
27 considering current and forthcoming federal holidays, heavy caseloads, and staffing levels,
28 Respondent respectfully requests that such order provide the government 14 days from
issuance to hold such bond hearing.