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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 EMILIO GAEL PEREZ BUENO,

15 Petitioner,

16 v.

17 JAMES JANECKA, et al.,

18 Respondents.
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No. 5:25-cv-03376-CAS-BFM

**RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. §
2241**

**[Filed concurrently with Exh. 1, Form I-
220A (Order of Release on
Recognizance); Exh. 2, ATD Violations;
& Exh. 3, Form I-213]**

Honorable Brianna Fuller Mircheff
United States Magistrate Judge

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1 **I. INTRODUCTION**

2 On December 13, 2025, Petitioner, through counsel, filed a Petition for Writ of
3 Habeas Corpus (“Petition”) [Dkt. 1] pursuant to 28 U.S.C. § 2241. Within the Petition,
4 Petitioner seeks that Respondents provide him with a constitutionally valid bond hearing
5 before an Immigration Judge (“IJ”). *See* Petition at 25-26. In the alternative, Petitioner
6 seeks injunctive relief ordering Respondents to immediately release Petitioner, enjoining
7 Respondents not to arrest and detain Petitioner, and prohibiting the transfer of Petitioner
8 outside of the jurisdictional limits of this Court. *Id.*

9 Immigration detention decisions made pursuant to 8 U.S.C. § 1226(a) are
10 discretionary, administrative determinations that may reflect operational constraints,
11 enforcement priorities, and the effectiveness of alternatives to detention (“ATD”). A prior
12 discretionary release does not constitute an adjudication of dangerousness or flight risk,
13 does not bind DHS in later custody determinations, and does not preclude re-detention
14 where ATD has proven ineffective. *See Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006);
15 *Prieto-Romero v. Clark*, 534 F.3d 1053, 1061-62 (9th Cir. 2008).

16 Here, the administrative record demonstrates that Petitioner was initially released
17 subject to conditions that explicitly warned that failure to comply could result in
18 revocation and re-arrest. Exh. 1, Form I-220A (Order of Release on Recognizance). DHS
19 exercised less restrictive measures – including electronic monitoring and intensive
20 supervision – before concluding that ATD were no longer effective and re-detaining
21 Petitioner due to his numerous repeated compliance failures. *See* Exh. 2, ATD Violations.
22 The Immigration and Nationality Act (“INA”) does not require DHS to provide advance
23 notice or a pre-re-detention hearing before exercising that authority. *See Demore v. Kim*,
24 538 U.S. 510, 523 (2003); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1062-63 (9th Cir.
25 2008).

26 Moreover, Petitioner appears to be a member of the Bond Eligible Class certified in
27 *Maldonado Bautista v. Santaeruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---,
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1 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). On December 18, 2025, the *Bautista* court
2 entered final judgment as to the Bond Eligible Class. *See Bautista*, ECF No. 94. A notice
3 of appeal was then filed by the *Bautista* defendants on December 18, 2025, ECF No. 95.

4 Accordingly, Respondents acknowledge that Petitioner's claims in this action as to
5 his entitlement to a bond hearing appear to be subject to the *Bautista* judgment and to any
6 applicable appellate proceedings relating to it. To the extent Petitioner seeks an order
7 requiring such a bond hearing here, it should be consistent with what Courts in this District
8 have generally ordered in similar cases, which is to require such a hearing be held within
9 seven (7) days. By contrast, there is no valid claim for immediate release, and the Petition
10 should be denied.

11 **II. FACTUAL BACKGROUND**

12 Petitioner is a native and citizen of Mexico who entered the United States without
13 inspection near Lukeville, Arizona, on March 14, 2024. Exh. 3, Form I-213.

14 The next day, on March 15, 2024, DHS released the Petitioner on his own
15 recognizance pursuant to the INA. Exh. 1, Form I-220A required Petitioner to comply with
16 reporting requirements and expressly warned that failure to comply could result in
17 revocation of release and re-arrest. *Id.*

18 DHS subsequently initiated removal proceedings under INA § 240, charging
19 Petitioner as inadmissible under INA § 212(a). *See* Petition at 34-36.

20 On July 7, 2025, an IJ ordered the Petitioner removed. *Id.* at 28-33. Petitioner timely
21 appealed his removal order, which remains pending with the Board of Immigration
22 Appeals ("BIA"). *Id.* at 38-41.

23 Petitioner violated ATD sixteen times from June 6, 2024, to October 2, 2025. Exh.
24 2. Petitioner missed an in-person check-in with DHS after receiving his removal order. *Id.*
25 Despite the documented ATD violations, "Petitioner asserts that he had not violated any
26 condition of his parole and his release of recognizance and has fully complied with the
27 ISAP monitoring and reporting." *See* Petition at 8.

1 After confirming Petitioner's noncompliance with release conditions, DHS
2 exercised its continuing statutory authority to re-detain Petitioner under the INA. Exh. 3,
3 Form I-213.

4 **III. ARGUMENT**

5 **A. Petitioner Fails to Establish That He Is In Unlawful Detention**

6 Petitioner cannot succeed on his claim that DHS violated the Constitution or federal
7 law by re-detaining him under the INA without providing advance notice or a pre-re-
8 detention hearing, after Petitioner violated the conditions of his release.

9 To be sure, the government has very broad authority to revoke supervised release
10 that it has granted. *Cf. Moran v. U.S. Dep't of Homeland Sec.*, No. 20-00696, 2020 WL
11 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l)
12 [revocation of release] was a violation of their procedural due process rights and noting,
13 "[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to
14 support their contention that they have a protected interest in remaining at liberty in the
15 United States while they have valid removal orders."). "While the regulation provides the
16 detainee some opportunity to respond to the reasons for revocation, it provides no other
17 procedural and no meaningful substantive limit on this exercise of discretion as it allows
18 revocation "when, in the opinion of the revoking official . . . [t]he purposes of release have
19 been served . . . [or] [t]he conduct of the alien, or *any other circumstance*, indicates that
20 release would no longer be appropriate." *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th
21 Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010) (citing §
22 241.4(l)(2)(i), (iv)) (emphasis in original). Indeed, the relevant statute under the INA does
23 not contemplate a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231.

24 Under INA § 236(a), DHS has discretionary authority to arrest and detain an alien
25 pending a decision on whether the alien is to be removed from the U.S. 8 U.S.C. 1226(a).
26 The statute does not require advance notice or a hearing before arrest or re-detention.
27 *Demore v. Kim*, 538 U.S. 510, 523 (2003). Due Process in the § 236(a) context is satisfied
28

1 through post-detention custody review, including the opportunity to seek a bond hearing
2 before an Immigration Judge (“IJ”). *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th
3 Cir. 2008).

4 Petitioner was released under INA § 236(a) subject to express conditions requiring
5 compliance with DHS reporting obligations. Exh 1. The release document expressly
6 warned that failure to comply could result in revocation and re-arrest. *Id.*

7 While Petitioner claims that he complied with all of the conditions of release, DHS
8 records reflect that he has sixteen ATD violations, including a missed in-person check-in
9 after the issuance of his removal order. *See* Petition at 8; Exh. 2.

10 After confirming Petitioner’s noncompliance with release conditions, DHS
11 exercised its continuing statutory authority to re-detain Petitioner under the INA. Exh. 3,
12 Form I-213.

13 Petitioner’s contrary theory relies on an incorrect assumption that Petitioner was
14 fully compliant with ATD before his detention. Because DHS acted within its statutory
15 authority under INA § 236(a) and due process does not require a pre-re-detention hearing,
16 Petitioner cannot demonstrate a likelihood of success on the merits.

17 **B. *Maldonado Bautista* Does Not Authorize Immediate Release**

18 Petitioner appears to be a member of the Bond Eligible Class certified in *Maldonado*
19 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL
20 3288403 (C.D. Cal. Nov. 25, 2025). On December 18, 2025, the *Bautista* court entered
21 final judgment as to the Bond Eligible Class. *See Bautista*, ECF No. 94. A notice of appeal
22 was then filed by the *Bautista* defendants on December 18, 2025, ECF No. 95.

23
24 Respondents acknowledge that Petitioner’s claims in this action as to his entitlement
25 to a bond hearing, prior to his removal order becoming final, appear to be subject to the
26 *Bautista* judgment and to any applicable appellate proceedings relating to it. To the extent
27 Petitioner seeks an order requiring such a bond hearing here, it should therefore be
28

1 consistent with what Courts in this District have generally ordered in similar cases, which
2 is to require such a hearing be held within seven (7) days. Immediate release is not justified
3 under the bond hearing rationale, by contrast.

4 **IV. CONCLUSION**

5 The Petition should be denied.

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7 Dated: December 30, 2025

Respectfully submitted,

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11 First Assistant United States Attorney
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18 /s/ Alfredo J. Bonilla
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22
23 **CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

24 The undersigned, counsel of record for the Federal Respondents, certifies that the
25 memorandum of points and authorities contains 1,617 words, which complies with the
26 word limit of L.R. 11-6.1.

27 Dated: December 30, 2025

28 /s/ Alfredo J. Bonilla
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