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9 **UNITED STATES DISTRICT COURT**

10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 IVAN GARCIA HERNANDEZ,

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13 Petitioner,

14 v.

15 KRISTI NOEM, et al.,

16 Respondents.
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Case No.: 25-cv-3583-JES-AHG

RESPONSE TO PETITION

1 Petitioner entered without inspection around 2002. Petitioner had a DACA grant, but
2 failed to maintain status and therefore, was detained. *See* Petition. On July 8, 2025, the
3 Department of Homeland Security (“DHS”) instituted a notice titled “Interim Guidance
4 Regarding Detention Authority for Applicants for Admission” (the “Notice”) requiring, in
5 general, that anyone arrested in the United States and charged with being inadmissible to
6 be considered an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A), subject to
7 mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8
8 U.S.C. § 1226(a).

9 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d
10 ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the Notice
11 unlawful under the Administrative Procedures Act but did not issue a final judgment. On
12 December 18, 2025, however, the *Bautista* court entered final judgement. *Bautista*, ECF
13 No. 94. Accordingly, Respondents acknowledge that Petitioner is detained under 8 U.S.C.
14 § 1226(a) and is entitled to an order from this Court directing a bond hearing be held
15 pursuant to 8 U.S.C. § 1226(a).

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

18 DATED: December 23, 2025

ADAM GORDON
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