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10 UNITED STATES DISTRICT COURT

11 SOUTHERN DISTRICT OF CALIFORNIA

12 M.R.¹,

13 Petitioner-Plaintiff,

14 vs.

15 CHRISTOPHER J. LAROSE, Senior
16 Warden, Otay Mesa Detention Center,
17 et al.,

18 Respondents-Defendants.

Case No.: Case No.: 25-CV-3710 JLS
(BLM)

**PETITIONER’S TRAVERSE IN
SUPPORT OF PETITION FOR
WRIT OF HABEAS CORPUS**

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26 ¹ Petitioner will move this Court for leave to proceed under a pseudonym (using
27 the initials M.R.).

TRAVERSE

I. 8 U.S.C. § 1252(g) does not deprive this Court of jurisdiction over Ms. M.R.’s Petition.

Respondent’s contention that this Court lacks jurisdiction under 8 U.S.C. § 1252(g) is misplaced. *See* ECF No. 4, at 2. Ms. M.R. is challenging her unlawful detention without due process regardless of the Attorney General’s statutory authority to “commence proceedings, adjudicate cases, or execute removal orders” 8 U.S.C. § 1252(g). This is permissible because, “[a]lthough the INA precludes direct review of discretionary decisions, it does not bar [courts] from reviewing predicate legal questions.” *Gebhardt v. Nielsen*, 879 F.3d 980, 985 (9th Cir. 2018). Thus, “a decision to detain Petitioner does not fall within the three discrete actions identified in § 1252(g) and, thus, would not deprive the Court’s jurisdiction.” *Sayed Naser Noor v. Christopher LaRose, et al.*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *7 (S.D. Cal. Oct. 1, 2025). The Court may, therefore, order Petitioner’s release from unlawful civil immigration detention. *See also Tercero Briones v. Christopher J. LaRose, Senior Warden Otay Mesa Det. Ctr., et al.*, No. 3:25-CV-03421-RBM-AHG, 2026 WL 18787, at *2 (S.D. Cal. Jan. 2, 2026) (“As a threshold matter, this Court has consistently rejected Respondents’ argument that similarly situated petitioners’ claims are jurisdictionally barred under 8 U.S.C. § 1252(g) and § 1252(b)(9)”); *Kirboga v.*

1 *Christopher LAROSE, Senior Warden, Otay Mesa Det. Ctr., et al.*, No. 25-CV-
2 3706-GPC-DDL, 2025 WL 3779426, at *5 (S.D. Cal. Dec. 31, 2025) (“Further, a
3 decision to detain Petitioner does not fall within the three discrete actions
4 identified in § 1252(g) and, thus, would not deprive the Court's jurisdiction.”).

6 **II. The *Maldonado Bautista* Judgement is binding on Respondents.**

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8 Respondents cite to the November 20, 2025, Order in the *Maldonado*
9 *Bautista* litigation to argue that the decision is not a binding judgment. See ECF
10 No. 4, at 1-2. However, the declaratory judgment issued on December 18, 2025, in
11 *Maldonado Bautista* is not an advisory opinion; it is a binding federal court order
12 with the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a);
13 *Maldonado Bautista, et al. v. Noem, et al.*, No. 5:25-CV-01873-SSS-BFM, 2025
14 WL 3678485, ECF No. 94, at *1 (C.D. Cal. Dec. 18, 2025). As parties to the
15 *Maldonado Bautista* litigation, Respondents are unequivocally bound by its
16 holding. The judgment legally obligates Respondents to cease their unlawful
17 policy of subjecting class members, including Petitioner, to mandatory detention
18 under § 1225(b).

22 **III. Petitioner Has Established a Liberty Interest Weighing in Favor of**
23 **Release.**

24 Further, *Mathews v. Eldridge* factors all favor Ms. M.R. *Mathews v.*
25 *Eldridge*, 424 U.S. 319, 334-35 (1976). Respondents do not contest this, and they
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1 do not address those arguments from the Petition. *See generally* ECF No. 4. The
2 government’s interest in keeping Ms. M.R. in detention without a due process
3 hearing is low, and when weighed against Ms. M.R. significant private interest in
4 her liberty, the scale tips sharply in favor of releasing Ms. M.R. from custody. *See*
5 *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal.
6 July 24, 2025) (noting a “significant” liberty interest held by a noncitizen after
7 release on recognizance). Moreover, as immigration detention is civil, it can have
8 no punitive purpose. The government’s only interests in holding an individual in
9 immigration detention can be to prevent danger to the community or to ensure a
10 noncitizen’s appearance at immigration proceedings. *See Zadvydas v. Davis*, 533
11 U.S. 678, 690 (2001). The government cannot plausibly assert that it had a sudden
12 interest in detaining Ms. M.R. as she dutifully attended an immigration court
13 hearing in 2025, and it cannot show changed circumstances justifying re-
14 detention.
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20 CONCLUSION

21 For the foregoing reasons, the Court should find that the continued detention
22 of Ms. M.R. is unlawful and order Ms. M.R.’s immediate release from
23 Respondents’ custody.
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26 Dated: January 2, 2026

27 Respectfully Submitted,

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/s/ Mihret Getabicha

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