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

11
12 DUNIESKY MARTINEZ ZAYAS,

13 Petitioner,

14 v.

15 ADAM GORDON, et al,

16 Respondents.
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Case No.: 3:25-cv-00237-BAS-DEB

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.R.D. ----
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, Respondents acknowledge 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: January 26, 2026

ADAM GORDON
United States Attorney

17 *s/Robbin O. Lee*
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Robbin O. Lee
Assistant United States Attorney
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26 ¹ To the extent the Court issues an order directing a bond hearing under 8 U.S.C. § 1226(a),
27 considering the heavy caseloads and staffing levels, Respondents respectfully request that
28 such order provide the Government 14 days from issuance to hold such a bond hearing.