

1 ADAM GORDON
United States Attorney
2 TOM MERRITT
Assistant U.S. Attorney
3 Washington State Bar No. 27723
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-7632
6 Facsimile: (619) 546-7751
Email: thomas.merritt@usdoj.gov

7 Attorneys for Respondents

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 KATYA ALEXANDRA GARCIA-
12 HENRIQUEZ,

13
14 Petitioner,

15 v.

16
17 DIRECTOR, OTAY MESA
18 DETENTION CENTER, *et al*,

19 Respondents.
20
21
22

Case No.: 26-cv-00249-RBM-BJW

**RETURN TO PETITION FOR WRIT
OF HABEAS CORPUS**

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

1 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp.
2 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the
3 Notice unlawful under the Administrative Procedures Act but did not issue a final
4 judgment. On December 18, 2025, however, the *Bautista* court entered final judgement.
5 *Bautista*, ECF No. 94. Accordingly, Respondents acknowledge that Petitioner is
6 detained under 8 U.S.C. § 1226(a) and is entitled to an order from this Court directing
7 a bond hearing be held pursuant to 8 U.S.C. § 1226(a).¹

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

11
12 Dated: January 23, 2026

Respectfully submitted,

13 ADAM GORDON
14 United States Attorney

15
16 s/ Tom Merritt
17 TOM MERRITT
18 Assistant United States Attorney
19 Attorney for Respondents
20
21
22
23
24
25
26

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