

1 ADAM GORDON
United States Attorney
2 ALLIE E. MALONE
Assistant U.S. Attorney
3 MO. State Bar No. 70688
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-9397
Facsimile: (619) 546-7751
6 Email: allie.malone.subke@usdoj.gov

7 Attorneys for Respondents

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

10 MOATAZ M A FROUKH,

11 Petitioner,

12 v.

13 CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center, et al.,

14 Respondent.

Case No.: 26-cv-0350 RSH VET

RESPONSE TO PETITION

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

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

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

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18 DATED: February 2, 2026

Respectfully submitted,

19 ADAM GORDON
20 United States Attorney

21 s/ Allie E. Malone
22 ALLIE E. MALONE
23 Assistant United States Attorney
24 Attorneys for Respondents

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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.