

1 ADAM GORDON
United States Attorney
2 JULIET M. KEENE
Assistant U.S. Attorney
3 New Mexico State Bar No. 126365
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-6768
Facsimile: (619) 546-7751
6 Email: juliet.keene@usdoj.gov

7 Attorneys for Respondents

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 ADRIANA FABURRIETA CRUZ,
11 Petitioner,

12 v.

13 CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center, in
14 their official capacities, *et al.*,
15 Respondents.

Case No.: 26-cv-00517-CAB-DEB

RETURN TO PETITION

17 Petitioner entered the United States at an unknown date and time and was not
18 inspected or detained. On July 8, 2025, the Department of Homeland Security (“DHS”)
19 instituted a notice titled “Interim Guidance Regarding Detention Authority for
20 Applicants for Admission” (the “Notice”) requiring, in general, that anyone arrested in
21 the United States and charged with being inadmissible to be considered an “applicant
22 for admission” under 8 U.S.C. § 1225(b)(2)(A), subject to mandatory detention under
23 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8 U.S.C. § 1226(a).

24 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp.
25 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the
26 Notice unlawful under the Administrative Procedures Act but did not issue a final
27 judgment. On December 18, 2025, however, the *Bautista* court entered final judgement.
28 *Bautista*, ECF No. 94. Accordingly, Respondents acknowledge that Petitioner is

1 detained under 8 U.S.C. § 1226(a) and is entitled to an order from this Court directing
2 a bond hearing be held pursuant to 8 U.S.C. § 1226(a).¹

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

6 DATED: February 11, 2026

Respectfully submitted,

8 ADAM GORDON
9 United States Attorney

10 s/ Juliet M. Keene
11 JULIET M. KEENE
12 Assistant United States Attorney
13 Attorney for Respondents
14
15
16
17
18
19
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 extremely heavy caseloads and staffing levels, Respondents respectfully
request that such order provide the government 14 days from issuance to hold such bond
hearing.