



determination from the government. ECF No. 1-3. Indeed, ICE is simultaneously insisting that Mr. Martinez-Orellana is subject to mandatory detention under § 1225(b)(2) and refusing to provide a corresponding custody determination to an immigration judge so that an immigration judge may issue a determination in a custody redetermination hearing. *See* ECF No. 1, Counts 1, 2. Respondents' actions in this regard justify outright release.

Respondents entirely fail to address the arguments unique to this case in its response to the Court's Show Cause Order. Because Respondents have waived any challenge to Mr. Martinez-Orellana's argument that he is entitled to outright release—not a bond hearing before an immigration judge—this Court should grant the petition. 28 U.S.C. § 2243 (requiring a “respondent to show cause why the writ should not be granted” and “certify[] the true cause of the detention”); *Bland v. California Dep't of Corr.*, 20 F.3d 1469, 1474 (9th Cir. 1994) (“When the State's return fails to dispute the factual allegations contained in the petition and traverse, it essentially admits those allegations.”), overruled on other grounds by *Schell v. Witek*, 218 F.3d 1017 (9th Cir. 2000); *Ihor D., v. Noem*, No. 26-CV-351 (JMB/DTS), 2026 WL 146507, at \*1 (D. Minn. Jan. 20, 2026) (“Respondents do not oppose the Petition, and on that basis alone, and considering the factual showings made by Petitioner as recounted above, the Court grants the Petition); *see also Burnette v. Northside Hosp.*, 342 F. Supp. 2d 1128, 1140 (N.D. Ga. 2004) (“Failure to respond to the opposing party's summary judgment arguments regarding a claim constitutes an abandonment of that claim and warrants the entry of summary judgment for the opposing party.”); *Brown v. Ramsay*, 785 F. Supp. 3d 1214, 1229 (S.D. Fla. 2025) (finding defendant waived challenge to plaintiff's declaratory judgment claim where “in three briefs submitted to the Court over the course of briefing the two Motions, [defendant] never addressed [the claim] despite [plaintiff]'s Motion specifically arguing the issue.”); *A.L. v. Jackson Cnty. Sch.*

*Bd.*, 635 F. App'x 774, 787 (11th Cir. 2015) (It is axiomatic that a party “waive[s] their claims by failing to brief them, failing to respond to the [opposing party’s] motion for summary judgment, and failing to bring to the court's attention evidence that supported their claims”). Alternatively, Mr. Martinez-Orellana requests an opportunity to file a reply brief to explain why release is the appropriate remedy, including explaining the difference between the factual and legal circumstances in this case and the cases that Respondents suggest are identical. *See* ECF No. 7 (noting that “the Court will determine whether it will require a Reply from the Petitioner.”).

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Respectfully submitted,

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