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7 Attorneys for Respondents

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

10 JOSE ROBERTO MENJIVAR LOPEZ,

11 Petitioner,

12 v.

13 JEREMY CASEY, Warden of Imperial  
Regional Detention Facility; PATRICK  
14 DIVVER, Field Office Director, San Diego  
Field Office, Immigration and Customs  
15 Enforcement; TODD M. LYONS, Acting  
Director of United States Immigration and  
16 Customs Enforcement; KRISTI NOEM,  
Secretary of the United States Department of  
17 Homeland Security; and PAMELA BONDI,  
Attorney General of the United States,

18 Respondents.  
19

Case No.: 26-cv-0554 CAB (MMP)

**RESPONSE TO PETITION**

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

26 In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp.  
27 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the  
28 Notice unlawful under the Administrative Procedure Act but did not issue a final

1 judgment. On December 18, 2025, however, the *Bautista* court entered final judgement.  
2 *Bautista*, ECF No. 94. Accordingly, Respondents acknowledge that Petitioner is  
3 detained under 8 U.S.C. § 1226(a) and is entitled to an order from this Court directing  
4 a bond hearing be held pursuant to 8 U.S.C. § 1226(a).<sup>1</sup>

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

8 DATED: February 5, 2026

Respectfully submitted,

9 ADAM GORDON  
10 United States Attorney

11 s/ Cindy M. Cipriani  
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13 Assistant United States Attorney  
14 Attorney for Respondents  
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28 <sup>1</sup> To the extent the Court issues an order directing a bond hearing under 1226(a),  
considering heavy caseloads and staffing levels, Respondents respectfully request that  
such order provide the government 14 days from issuance to hold such bond hearing.