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5 UNITED STATES DISTRICT COURT
6 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

7 JOSE ROBERTO MENJIVAR
8 LOPEZ,

Case No. 3:26-cv-00554-CAB-MMP

9 Petitioner,

PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE TO
PETITION

10 v.

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

17 Respondents.
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1 Petitioner submits this reply to the response filed by Respondents on February
2 5, 2026.

3 Petitioner reiterates his position that Respondents arrested and are detaining
4 Petitioner based on an unlawful interpretation of 8 U.S.C. §§ 1225(b)(2) and 1226(a).
5 Accordingly, he should be released immediately. Further, Petitioner's detention, in
6 the absence of any pre-detention demonstration by Respondents that Petitioner poses
7 a risk of flight or a danger to the community, constitutes a violation of due process.
8 Accordingly, Petitioner should be released immediately.

9 Petitioner reiterates his position that, if the Court does not order his immediate
10 release but orders that he should be provided a bond hearing, then the Court should
11 also issue an order that any bond order issued by an Immigration Judge shall be
12 effective immediately upon Petitioner's posting of bond, such that Respondents
13 cannot prevent Petitioner's release by invoking the automatic stay provision of 8
14 C.F.R. § 1003.19(i)(2).

15 Petitioner objects to Respondents' request for a 14 day delay in scheduling a
16 bond hearing due to Respondents' "heavy caseloads." The caseloads Respondents
17 refer to are the result of their own decisions and actions to detain individuals at
18 historically high levels, in the absence of any pre-detention process for determining
19 whether the individuals they are detaining pose any risk of flight or danger to the
20 community, based on statutory interpretations that Petitioner argues are unlawful.
21 Petitioner – and his family members who rely on him – should not suffer any
22 additional time in order to ease the administrative burden that Respondents have
23 elected to impose upon themselves.

1 Dated: February 5, 2026

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3 Respectfully submitted,
4 s/ Andrew M. Kaufman

5 ANDREW M. KAUFMAN

6 Attorney for Petitioner

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