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

10
11 ABDOULAYE BARRY.

12 Petitioner,

13 v.

14 JEREMY CASEY, et al.,

15 Respondents.
16

Case No.: 26-cv-1408-BAS

**RETURN TO HABEAS PETITION
AND NOTICE OF NON-
OPPOSITION**

Judge: Hon. Cynthia Bashant

17 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. The government
18 has carefully reviewed this petition and determined that the legal issues presented
19 concern the statutory authority for U.S. Immigration and Customs Enforcement's (ICE)
20 detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), and whether
21 Petitioner is entitled to a bond hearing. While reserving all rights, including the right to
22 appeal, the government respectfully submits this abbreviated response to preserve the
23 legal issues, to conserve judicial and party resources, and to expedite the Court's
24 consideration of this matter.¹

25 It is DHS's position that Petitioner is subject to mandatory detention under
26 § 1225(b), because Petitioner was present in the United States without being admitted
27

28 ¹ To the extent the Court prefers a more formal response, the government respectfully
requests an opportunity to submit within a reasonable timeframe.

1 or paroled. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025); *see*
2 *also See, e.g., Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir.
3 2026); *Valencia v. Chestnut*, --- F. Supp. 3d ---, 2025 WL 3205133 (E.D. Cal. Nov. 17,
4 2025); *Alonzo v. Noem*, --- F. Supp. 3d ----, 2025 WL 3208284 (E.D. Cal. Nov. 17,
5 2025); *Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov. 13,
6 2025); *Altamirano Ramos v. Lyons*, --- F. Supp. 3d ---, 2025 WL 3199872 (C.D. Cal.
7 Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 313942
8 (E.D. Mo. Nov. 10, 2025); *Silva Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL
9 3095972 (W.D. La. Nov. 4, 2025); *Barrios Sandoval v. Acuna*, No. 6:25-cv-01467,
10 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437-
11 bhl, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Vargas Lopez v. Trump*, --- F. Supp.
12 3d ----, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, --- F. Supp. 3d -
13 ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Pena v. Hyde*, No. 25-11983-NMG,
14 2025 WL 2108913 (D. Mass. July 28, 2025).

15 However, DHS acknowledges that Courts in this District have repeatedly reached
16 the opposite conclusion. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB,
17 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-
18 2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No.
19 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803
20 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS
21 (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-
22 cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v.*
23 *LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v.*
24 *LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-*
25 *Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S.*
26 *v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 225); *Prieto-*
27 *Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov.
28 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931

1 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7
2 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL
3 3182998 (S.D. Cal. Nov. 13, 2025).

4 To conserve judicial and party resources while expediting the Court’s
5 consideration of this case, the government hereby relies upon, and incorporates by
6 reference, the legal arguments it presented in those cases previously adjudicated by the
7 Court,² and does not oppose an order requiring a bond hearing for Petitioner.³

8 DATED: March 13, 2026

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10 s/Juliet Keene
JULIET M. KEENE
Assistant United States Attorney

11
12 DATED: March 13, 2026

Respectfully submitted,

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18 ² Specifically, the government incorporates by reference all arguments raised in its prior
19 oppositional brief. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, ECF
20 No. 15 (S.D. Cal. Nov. 5, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG,
ECF No. 7 (S.D. Cal. Oct. 21, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, ECF
21 No. 6 (S.D. Cal. Oct. 9, 2025); *Garcia v. Noem*, No. 25-cv-2180-DMS-MMP, ECF No.
5 (S.D. Cal. Aug. 27, 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM),
22 ECF No. 5 (S.D. Cal. Oct. 15, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-
JLB, ECF No. 4 (S.D. Cal. Nov. 20, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-
TWR-JLB, ECF No. 4 (S.D. Cal. Nov. 12, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-
23 BJC-VET, ECF No. 5 (S.D. Cal. Nov. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-
2968-JO-JLB, ECF No. 8 (S.D. Cal. Nov. 7, 2025); *A.S. v. LaRose*, No. 25-cv-2876-
RBM-VET, ECF No. 6 (S.D. Cal. Nov. 7, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-
24 2824-CAB-DDL, ECF No. 11 (S.D. Cal. Nov. 14, 2025); *Lagarda-Vega v. Noem*, No.
25 25-cv-2970-GPC-DDL, ECF No. 3 (S.D. Cal. Nov. 8, 2025); *Nayyer v. LaRose*, No. 25-
26 cv-3111-AGS-DDL, ECF No. 4 (S.D. Cal. Nov. 20, 2025); *Amaya v. Noem*, No.
25cv2892-BTM-DEB, ECF No. 4 (S.D. Cal. Nov. 6, 2025).

27 ³ Petitioner also challenges his detention citing violations of the Fifth Amendment.
Should the Court grant the petition, it should decline to address these additional
28 arguments. *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“As a general rule courts and
agencies are not required to make findings on issues the decision of which is unnecessary
to the results they reach.”).