

1 ADAM GORDON
United States Attorney
2 ALLIE MALONE SUBKE
Assistant United States Attorney
MO SBN 70688
3 Office of the U.S. Attorney
880 Front Street, Room 6293
4 San Diego, CA 92101-8893
Telephone: (619) 674-9225
5 Email: Allie.Malone.Subke@usdoj.gov

6 Attorneys for Respondents
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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 EGIT TABAK,

11 Petitioner,

12 v.
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14 SIXTO MARRERO, et al.,

15 Respondents.
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Case No.: 26-cv-1441-BAS-DEB

**RETURN TO PETITION FOR
WRIT OF HABEAS CORPUS**

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

9 It is the government’s position that Petitioner is subject to mandatory detention
10 under § 1225(b), because Petitioner was present in the United States without being
11 admitted or paroled. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA
12 2025); *see also See, e.g., Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330
13 (5th Cir. 2026); *Valencia v. Chestnut*, --- F. Supp. 3d ---, 2025 WL 3205133 (E.D. Cal.
14 Nov. 17, 2025); *Alonzo v. Noem*, --- F. Supp. 3d ----, 2025 WL 3208284 (E.D. Cal. Nov.
15 17, 2025); *Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331 (S.D. Tex. Nov.
16 13, 2025); *Altamirano Ramos v. Lyons*, --- F. Supp. 3d ---, 2025 WL 3199872 (C.D.
17 Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 313942
18 (E.D. Mo. Nov. 10, 2025); *Silva Oliveira v. Patterson*, No. 6:25-cv-01463, 2025 WL
19 3095972 (W.D. La. Nov. 4, 2025); *Barrios Sandoval v. Acuna*, No. 6:25-cv-01467,
20 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Cirrus Rojas v. Olson*, No. 25-cv-1437-
21 bhl, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025); *Vargas Lopez v. Trump*, --- F. Supp.
22 3d ----, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, --- F. Supp. 3d -
23 ---, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Pena v. Hyde*, No. 25-11983-NMG,
24 2025 WL 2108913 (D. Mass. July 28, 2025).

25 However, the government acknowledges that Courts in this District have
26 repeatedly reached the opposite conclusion. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-

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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 2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v.*
2 *LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025);
3 *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025);
4 *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No.
5 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel*
6 *v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025);
7 *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13,
8 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12,
9 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov.
10 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19,
11 225); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D.
12 Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL
13 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL,
14 ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025
15 WL 3182998 (S.D. Cal. Nov. 13, 2025).

16 On the legal issue of which statute governs Petitioner’s detention here—whether
17 it is 8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b)—the government acknowledges that this
18 District’s prior decisions would control the result here if the Court adheres to its prior
19 decision, as the facts are not materially distinguishable for purposes of the Court’s
20 decision on the legal issue of which statutory provision authorizes Petitioner’s
21 detention.

22 Thus, while the government does not consent to issuance of the writ and reserves
23 all rights, including the right to appeal, and to conserve judicial and party resources
24 while expediting the Court’s consideration of this case, the government hereby relies
25 upon, and incorporates by reference, the legal arguments it presented in those cases
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1 previously adjudicated by the Court,² and submits fully herein.³

2 DATED: March 16, 2026

Respectfully submitted,

3 ADAM GORDON
4 United States Attorney

5 s/Allie Malone Subke
6 ALLIE MALONE SUBKE
7 Assistant United States Attorney
8 Attorneys for Respondents

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

³ Petitioner also challenges his detention citing violations of the Administrative Procedure Act, Due Process, and the Fifth Amendment. Should the Court grant the petition, it should decline to address these additional 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.”).