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

11 EVELIO JAVIER SILVESTRE-
12 SILVESTRE,

13 Petitioner,

14 v.

15 CHRISTOPHER J. LAROSE; et al.,
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17 Respondents.
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Case No.: 26-cv-1471-DMS-MSB

RESPONSE TO PETITION

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

8 Petitioner was previously released from immigration custody and prior to his re-
9 detention Petitioner was enrolled in an alternative to detention (ATD) program. On January
10 23, 2026, Petitioner was brought back into immigration custody for ATD violations. *See*
11 Exhibit 1 (Form I-213). It is the government's position that Petitioner is subject to
12 mandatory detention under § 1225(b)(2). However, the government acknowledges that this
13 Court, and Courts in this District, have repeatedly reached the opposite conclusion under
14 the same and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB,
15 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-
16 JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-
17 LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v Noem*, 803 F. Supp. 3d
18 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL
19 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB,
20 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-
21 TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-
22 BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-
23 2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-
24 RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-
25 2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*,
26 No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v.*

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28 ¹ Counsel for Respondents respectfully apologizes for filing this response untimely.

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

3 The government acknowledges that this Court's prior decisions will control the
4 result here if the Court adheres to its prior decisions. Accordingly, the government does
5 not oppose the petition and asserts the appropriate relief is an order from this Court
6 directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).²

7 DATED: April 9, 2026

ADAM GORDON
United States Attorney

9 *s/ Erin Dimbleby*
10 ERIN DIMBLEBY
Assistant United States Attorney
Attorney for Respondents

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26 _____
27 ² To the extent the Court issues an order directing a bond hearing under 1226(a),
28 considering heavy caseloads and staffing levels, Respondents respectfully request that
such order provide the government 14 days from issuance to hold such bond hearing.