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

10 Emaddin A Ali KABLAN,

11 Petitioner,

Case No. 26-CV-02083-DMS-MSB

12 v.

**PETITIONER'S REPLY TO
13 RESPONDENT'S RESPONSE
14 TO PETITION**

15 Markwayne MULLIN, Secretary, U.S.
16 Department of Homeland Security; Pamela
17 BONDI, U.S. Attorney General; Todd LYONS,
18 Acting Director, Immigration and Customs
19 Enforcement; Daniel BRIGHTMAN, Director,
20 San Diego Field Office, Immigration and
21 Customs Enforcement, Enforcement and
22 Removal Operations; Christopher J. LAROSE,
23 Warden, Otay Mesa Detention Center;
24 U.S. DEPARTMENT OF HOMELAND
25 SECURITY; IMMIGRATION AND
26 CUSTOMS ENFORCEMENT and
27 EXECUTIVE OFFICE FOR IMMIGRATION
28 REVIEW,

Name of Judicial Officer:
The Honorable Dana M. Sabraw
United States District Judge

Respondents.

1 Mr. Kablan hereby submits this traverse in response to the Respondents' response
2 to his petition. Respondents did not address Petitioner's claims under the Administrative
3 Procedure Act or the Fifth Amendment in their response. Failure to respond to
4 Petitioner's arguments in support of his claims for relief constitutes waiver. *See United*
5 *States v. Cabrera*, 796 F. Supp. 3d 660, 664 (S.D. Cal. 2025) (finding that "[g]enerally, a
6 party waives argument when it fails to respond to an argument made to the court," and
7 ruling that this alone constituted grounds to grant immediate release) (*citing United States*
8 *v. Caceres-Olla*, 738 F.3d 1051, 1053 n.1 (9th Cir. 2013)).

9 In this traverse, Mr. Kablan expands on (1) his request for immediate release as the
10 appropriate remedy and (2) his request that this Court enjoin the Respondents from re-
11 detaining him without notice and a pre-deprivation hearing before a neutral
12 decisionmaker, where Respondents bear the burden of proving by clear and convincing
13 evidence that circumstances have materially changed.

14 **I. Immediate release to the status quo ante is the appropriate remedy.**

15 In this traverse, Mr. Kablan reiterates that immediate release is the proper remedy
16 here, because it would return him to status quo ante, meaning "the last uncontested status
17 which preceded the pending controversy." *Doe v. Noem*, 778 F. Supp. 3d 1151, 1166
18 (W.D. Wash. 2025). Respondents have produced *no evidence* that Mr. Kablan is a
19 danger to the community or a flight risk. On the contrary, Respondents considered Mr.
20 Kablan's facts and circumstances in November 2024 and determined that he was not a
21 flight risk or danger to the community, and thus released him on a \$4,000 bond. The
22 Respondents have presented *no evidence* of any changes to the facts that justify this
23 revocation of bond and re-detention; moreover, they have completely failed to
24 substantiate the alleged violations that purportedly triggered Mr. Kablan's re-detention.

25 Mr. Kablan has established that his re-detention without notice and a pre-
26 deprivation hearing violates procedural due process, *see* ECF 1, ¶¶ 75-85, and therefore,
27 he must be immediately released. *See Espinoza Palacios v. Hermosillo*, No. 2:26-cv-
28 491-JNW, 2026 WL 686138, at *8 (W.D. Wash. Mar. 11, 2026) (ordering immediate

1 release of noncitizen re-detained without a pre-deprivation hearing where the
2 Government failed to substantiate alleged violations of ISAP requirements); *see*
3 *Maconel-Arguello v. Chestnut*, No. 1:25-cv-01588-KES-EPG-HC, 2026 WL 114252, at
4 *6 (E.D. Cal. Jan. 16, 2026) (ordering immediate release where there was “nothing before
5 [the] Court demonstrating that Petitioner violated her conditions of release” and
6 “Respondents [did] not allege any violations nor [did] they contend that Petitioner [was]
7 a flight risk or a danger to the community.”); *see also Lesic v. LaRose*, No. 3:25-cv-
8 02746-LL-BJW, 2025 WL 3158675, at *2-3 (S.D. Cal. Nov. 12, 2025) (ordering
9 immediate release where bond was revoked without any “material or individualized
10 change in circumstance for Petitioners”); *Pinchi v. Noem*, No. 25-CV-05632-RMI (RFL),
11 2025 WL 1853763, at *3 (N.D. Cal. July 4, 2025) (ordering immediate release of
12 noncitizen unlawfully re-detained without a pre-deprivation hearing) (internal citations
13 omitted); *Chancely Fanfan, et al. v. Noem*, No. 25-cv-3291, 2025 WL 3563739, at *5
14 (S.D. Cal. Dec. 12, 2025) (ordering immediate release); *Sphabmixay v. Noem*, No. 25-cv-
15 2648-LL-VET, 2025 WL 3034071 (S.D. Cal Oct. 30, 2025) (ordering immediate release);
16 *Tran v. Noem*, No. 25-cv-02391-BTM-BLM, 2025 WL 3005347 (S.D. Cal Oct. 27, 2025)
17 (same); *McSweeney v. Warden*, No. 3:25-cv-02488-RBM-DEB, 2025 WL 2998376 (S.D.
18 Cal Oct. 24, 2025) (same); *Phan v. Noem*, No. 3:25-cv-02422-RBM-MSB, 2025 WL
19 2898977 (S.D. Cal Oct 10, 2025) (same); *Constantinovici v. Bondi*, 806 F.Supp.3d 1155,
20 (S.D. Cal 2025) (same).

21 **II. The Court should issue the requested injunctive relief and order that the**
22 **Government must follow the law if it re-detains Petitioner.**

23 Mr. Kablan has requested that this Court issue injunctive relief and order that prior
24 to any re-detention, he is entitled to notice of the reasons for revocation of his bond and a
25 pre-detention hearing before an immigration judge to determine whether detention is
26 warranted, and that Respondents bear the burden of establishing, by clear and convincing
27 evidence that he poses a danger to the community or a risk of flight at that hearing. ECF
28

1 1, at p. 18. Mr. Kablan further request that Respondents be enjoined from adding
2 additional requirements to his release conditions. *Id.*

3 Given that Respondents have violated Mr. Kablan’s due process rights, the
4 requested injunctive relief is appropriate. Indeed, “such harm is likely to continue or
5 recur absent injunctive relief against further constitutional violations,” given that “ICE
6 has already detained [Mr. Kablan] without process, and [he] has been identified as [a]
7 target[] for detention.” *Espinoza-Palacios*, 2026 WL 686138, at *10. “Each of the four
8 *eBay* factors supports this conclusion.” *Id.*, citing *eBay Inc. v. MercExchange, L.L.C.*,
9 547 U.S. 388, 391 (2006).

10 First, Mr. Kablan has suffered irreparable harm as a result of being detained in
11 violation of his due process rights, and, as discussed above, such harm is likely to
12 continue or recur absent injunctive relief – indeed, “[a]bsent injunctive relief, Mr. Kablan
13 may be subject to the same due process violation again.” *Id.* “Second, monetary
14 damages are inadequate to remedy the deprivation of liberty, and third, requiring the
15 Government to follow constitutional procedures imposes no undue hardships. Lastly, the
16 public interest favors compliance with the law.” *Id.*

17 Several courts in this district have granted similar relief under comparable
18 circumstances. *See Astafev v. Warden, Otay Mesa Det. Ctr.*, No. 3:26-cv-00313-RBM-
19 AHG, 2026 WL 654247, at *5 (S.D. Cal. Mar. 9, 2026); *Velasquez-Chinga v. Noem*, No.
20 3:26-cv-00105-RBM-KSC, 2026 WL 311507, at *3 (S.D. Cal. Feb 5, 2026); *Perez v.*
21 *LaRose*, No. 25-cv-02620-RBM-JLB, 2025 WL 3171742, at *6 (S.D. Cal. Nov. 13,
22 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL 3063629, at *6 (S.D. Cal.
23 Nov. 3, 2025); *Fanfan*, 2025 WL 3563739, at *5.

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1 **III. Conclusion**

2 Respondents have failed to respond to Petitioner’s claims under the Administrative
3 Procedure Act or the Fifth Amendment in their response, and furthermore they have
4 presented *no evidence* of any changes to the facts that justify this revocation of bond and
5 re-detention.

6 The summary revocation of Mr. Kablan’s bond and re-detention violated his Due
7 Process rights, and the appropriate remedy is to order his immediate release and to enjoin
8 the Respondents from re-detaining him without notice and a pre-deprivation hearing
9 before a neutral decisionmaker, where Respondents bear the burden of proving by clear
10 and convincing evidence that circumstances have materially changed.

11
12 DATED: April 8, 2026

s/ Jan Joseph Bejar
Jan Joseph Bejar, Esq.
For: JAN JOSEPH BEJAR,
A Professional Law Corporation

Attorney for Petitioner