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

10 Victorino MENDEZ BENITEZ,
11
12 Petitioner,

Case No.: 3:26-cv-02126-LL-BJW

Agency File No. 

13 v.

PETITIONER'S TRAVERSE

14 Christopher J. LAROSE, in his official
15 capacity as Warden of Otay Mesa
16 Detention Center; et. al.,
17 Respondents

1 Petitioner Victorino MENDEZ BENITEZ is in receipt of Respondents'
2 Response to the Petition, in which Respondents concede that Petitioner is a
3 member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*,
4 No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal.
5 Nov. 25, 2025). Respondents therefore “do not oppose an order from this Court
6 directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).”
7

8 Respondents’ concession does not moot Petitioner’s primary claim for
9 immediate release from custody, and Petitioner respectfully contends that the Court
10 should order his immediate release. Petitioner has been detained since October 17,
11 2025 (almost six months) without any meaningful opportunity to have his request
12 for release considered by the Immigration Court. Continued detention would
13 perpetuate the very violation habeas relief is meant to cure.
14
15

16 Accordingly, Respondents’ concession that § 1226(a) applies does not
17 resolve the Petitioner’s claims. Section 1226(a) authorizes discretionary detention
18 only so long as it comports with constitutional due process. Where it does not,
19 continued custody is unlawful and the appropriate habeas remedy is release. *See*
20 *Nadarajah v. Gonzales*, 443 F.3d 1069, 1080–81 (9th Cir. 2006).
21
22

23 If the Court does order Petitioner’s release, to ensure that the Court’s habeas
24 relief is effective and not immediately nullified, Petitioner further requests that the
25 Court order that Respondents may not re-detain Petitioner based on the same
26

1 custody authority and factual predicate absent a pre-deprivation hearing that
2 comports with due process.

3 Accordingly, the Court should order Petitioner's immediate release from
4 custody.
5

6
7 Dated: April 15, 2026

Signature: /s/ Sandra Gotlaufa Orozco

8 By: Sandra Gotlaufa-Orozco
9 *Attorney for Petitioner*