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

10 HAMAD NIAZAI,
11
12 Petitioner,
13
14 v.
15 SIXTO MARRERO, et al.,
16
17 Respondents.

Case No.: 26-cv-02221-RSH-MSB
RESPONSE TO PETITION

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

25 Petitioner was previously released from immigration custody on parole issued under
26 8 U.S.C. § 1182(d)(5) which expired in April 2025. *See* Interim Notice Authorizing Parole,
27 attached as *Exhibit 1* (“Your parole is valid for one year beginning from the date of this
28

1 notice and will automatically terminate . . . at the end of the one-year period[.]”). It is the
2 government’s position that Petitioner is subject to mandatory detention under § 1225(b)(2).
3 However, the government acknowledges that this Court, and Courts in this District, have
4 repeatedly reached the opposite conclusion under the same and/or similar facts. *See, e.g.*,
5 *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18,
6 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal.
7 Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal.
8 Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v.*
9 *LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-*
10 *Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025);
11 *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025);
12 *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025);
13 *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025);
14 *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-*
15 *Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19,
16 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal.
17 Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec.
18 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov.
19 13, 2025).

20 The government acknowledges that this Court’s prior decisions will control the result
21 here if the Court adheres to its prior decisions, as the facts are not materially distinguishable
22 for purposes of the Court’s decision, and on that basis the government does not oppose the
23 petition and defers to the Court on the appropriate relief.¹

24 DATED: April 14, 2026

ADAM GORDON

United States Attorney

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27 ¹ To the extent the Court issues an order directing a bond hearing under 1226(a), considering
28 heavy caseloads and staffing levels, Respondents respectfully request that such order
provide the government 14 days from issuance to hold such bond hearing.

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s/ Allie E. Malone Subke
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