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

12 JOSE MAXIMO ARECHIGA
13 GUTIERREZ,

14 Petitioner,

15 v.

16 MARKWAYNE MULLIN, Secretary of
17 the U.S. Department of Homeland Security;
18 *et al.*,

19 Respondents.
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Case No.: 26-cv-02264-TWR-DDL

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, Respondents respectfully submit this abbreviated response to preserve
6 the legal issues, to conserve judicial and party resources, and to expedite the Court’s
7 consideration of this matter.

8 Petitioner was previously ordered removed to Mexico on December 5, 2024.
9 Petitioner was subsequently released from immigration custody on conditional parole
10 issued under 8 U.S.C. § 1226(a). Petitioner has an appeal on the removal order pending at
11 the Board of Immigration Appeals (BIA). Accordingly, it is Respondents’ position that
12 Petitioner is subject to mandatory detention under § 1225(b)(2). However, Respondents
13 acknowledge that this Court, and Courts in this District, have repeatedly reached the
14 opposite conclusion under the same and/or similar facts. *See, e.g., Arias Torres v. Bondi*,
15 No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez*
16 *v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025);
17 *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025);
18 *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-
19 CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v.*
20 *LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025);
21 *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13,
22 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12,
23 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13,
24 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025);
25 *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal.
26 Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931
27 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D.

1 Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D.
2 Cal. Nov. 13, 2025).

3 Respondents acknowledge that this Court’s prior decisions will control the result
4 here if the Court adheres to its prior decisions. However, Respondents are informed and
5 believe Petitioner was arrested for felony domestic violence on March 30, 2026 and placed
6 in ICE’s custody on April 1, 2026.¹ Respondents therefore respectfully request this Court
7 order a bond hearing to be held pursuant to 8 U.S.C. § 1226(a), so that an Immigration
8 Judge can determine Petitioner’s potential flight risk and/or danger to the community.

9
10 DATED: April 17, 2026

ADAM GORDON
United States Attorney

11
12 *s/ Camille Savedra*
CAMILLE SAVEDRA
MICHAEL WALLACE
Assistant United States Attorneys

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14 Attorneys for Respondents
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26 _____
27 ¹ Petitioner was arrested under California Penal Code (PC) 273.5(a), a charge involving
28 the intent to cause serious physical injury to a spouse, cohabitant, or intimate partner.
Petitioner was released from local law enforcement custody on March 31, 2026.