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

11 CARLOS ANTONIO ARAGON LOPEZ,

12 Petitioner,

13 vs.
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15 CHRISTOPHER LAROSE, Senior
Warden, Otay Mesa Detention Center;
16 PATRICK DIVVER, Director, San Diego
17 Field Office, U.S. Immigration and
Customs Enforcement;
18 TODD LYONS, Acting Director, U.S.
19 Immigration and Customs Enforcement;
20 MARKWAYNE MULLIN, Secretary of
the U.S. Department of Homeland Security;
21 and
22 TODD BLANCHE, Acting U.S. Attorney
General, in their official capacities,
23

24 Respondents.
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Case No.: 3:26-cv-02293-LEK-GC

**PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE**

1 Petitioner, by and through undersigned counsel, respectfully submits this
2 Reply in response to Respondents' Response. Dkt. No. 7.

3 **ARGUMENT**

4 **A. This Court Should Order Petitioner's Outright Release.**

5 Petitioner's immediate release from the Department of Homeland Security's
6 (DHS) custody is warranted here. Respondents' legal authority to continue
7 detaining Petitioner shifted from 8 U.S.C. § 1231(a)(2)(A) to § 1226(a) upon the
8 reopening of his removal proceedings on October 23, 2025. Dkt. No. 1 at 10–13.
9 Despite this shift to 8 U.S.C. § 1226(a) – under which Petitioner became entitled to
10 a bond hearing to demonstrate he is neither a danger nor a flight risk, 8 C.F.R. §§
11 236.1(c)(8), (d)(1); §§ 1236.1(c)(8), (d)(1); *see also Diaz v. Garland*, 53 F.4th 1189,
12 1196 (9th Cir. 2022) – he was not afforded such an opportunity. In fact, when
13 Petitioner sought a bond hearing through his counsel in February 2026, an
14 immigration judge dismissed the request for lack of jurisdiction even though Courts
15 in this District have “repeatedly” held that noncitizens in Petitioner's position are
16 detained under 8 U.S.C. § 1226(a) and are thus entitled to an individualized bond
17 hearing. Dkt. No. 7 at 2 (emphasis added). To obtain Respondents' correct, albeit
18 tardy, concession that “this Court's prior decisions” in cases with “materially
19 [un]distinguishable” facts mandate a bond hearing, *id.*, Petitioner was forced to
20 endure weeks of additional, unlawful confinement in DHS custody.

21 Indeed, many Courts in this District and across the country have ordered
22 immediate release of noncitizens such as Petitioner. *See, e.g., Pablo v. Divver*, 2026
23 WL 1075687 (S.D. Cal. Apr. 20, 2026) (finding immediate release is the appropriate
24 remedy, citing, among other cases, *E.A.T.-B v. Wamsley*, 795 F.Supp.3d 1316, 1324
25 (W.D. Wash. 2025) (“Although the Government notes that Petitioner may request
26 a bond hearing while detained, such a post-deprivation hearing cannot serve as an
27 adequate procedural safeguard because it is after the fact and cannot prevent an
28 erroneous deprivation of liberty.”)); *Rodas-Dieiguez v. Noem*, 2026 WL 549910, at

1 *1 (S.D. Cal. Feb. 26, 2026) (same); *Zheng v. Casey*, 2026 WL 559780, at *1 (S.D.
2 Cal. Feb. 27, 2026) (same); *Ramirez v. Mullin*, 2026 WL 962658, at *2 (S.D. Cal.
3 Apr. 9, 2026) (same); *Maciel v. Noem*, 2026 WL 496948, at *5 (E.D. Cal. Feb. 23,
4 2026) (“Because Respondents do not assert any alternative basis for Petitioner’s
5 detention, and do not provide any extenuating circumstances that would warrant
6 Petitioner’s continued unlawful detention pending a bond hearing, the court finds
7 that the appropriate relief is Petitioner’s immediate release.” (citing *Lepe v.*
8 *Andrews*, 801 F.Supp.3d 1104, 1119 (E.D. Cal. 2025)); *Lomeli-Rodriguez v. Mullin*,
9 2026 WL 1045657, at *2 (C.D. Cal. Apr. 13, 2026) (finding that immediate release
10 is the appropriate remedy). Petitioner respectfully submits that the same outcome is
11 warranted here.

12 CONCLUSION

13 For the foregoing reasons, and the reasons stated in his petition, Petitioner
14 respectfully requests this Court to find he is currently detained under 8 U.S.C. §
15 1226(a) and order his immediate release. Alternatively, Petitioner respectfully asks
16 that this Court order a bond hearing before an immigration judge under § 1226(a)
17 where the government bears the burden of establishing, by clear and convincing
18 evidence, that Petitioner poses a flight risk or a danger to the community.

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20 Date: April 28, 2026

21 Respectfully submitted,
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23 By his attorneys,
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