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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 JOSE LUIS DIAZ OVEIDO,

13 Petitioner,

14 v.

15 MARKWAYNE MULLIN, *U.S.*
16 *Department of Homeland Security, et al.,*

17 Respondents.
18
19

Case No.: 26-CV-02299-JLS-VET

**RETURN TO PETITION FOR
WRIT OF HABEAS CORPUS**

20 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. The government has
21 carefully reviewed this petition and determined that the legal issues presented concern the
22 statutory authority for U.S. Immigration and Customs Enforcement's (ICE) detention of
23 Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving all rights, including
24 the right to appeal, the government respectfully submits this abbreviated response to
25 preserve the legal issues, to conserve judicial and party resources, and to expedite the
26 Court's consideration of this matter.
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1 It is the government's position that Petitioner is subject to mandatory detention under
2 § 1225(b)(2). However, the government acknowledges that this Court, and Courts in this
3 District, have repeatedly reached the opposite conclusion under the same and/or similar
4 facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773
5 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025
6 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025
7 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal.
8 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D.
9 Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL
10 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB,
11 ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF
12 No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF
13 No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9
14 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025
15 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-
16 DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-
17 AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-
18 DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

19 To the extent Petitioner asserts claims under the Fourth Amendment, he fails to
20 explain why release is the remedy for such alleged violations. *United States v. Crews*,
21 445 U.S. 463, 474 (1980) (noting, in the criminal context, that Fourth Amendment's
22 "exclusionary principle" "delimits what proof the Government may offer against the
23 accused at trial, closing the courtroom door to evidence secured by official lawlessness,"
24 but an individual "is not himself a suppressible 'fruit'"); *Cruz v. Barr*, 926 F.3d 1128,
25 1146 (9th Cir. 2019) (releasing petitioner on Fourth Amendment grounds because fruits
26 of the regulatory violation were the only evidence of petitioner's alienage).

Moreover, Fourth Amendment claims related to alienage “belong in front of an Immigration Judge, not a federal district court.” *See Marvan v. Slaughter*, No. CV 25-49-H-DLC, 2025 WL 1940043, at *3 (D. Mont. July 15, 2025) (denying habeas petition challenging detention based on Fourth Amendment violations for lack of subject matter jurisdiction). Petitioner cannot simply “bypass the immigration courts and proceed directly to district court. Instead, [he] must exhaust the administrative process before [he] can access the federal courts.” *Id.* at *4 (quoting *J.E.F.M.*, 837 F.3d at 1029). To the extent Petitioner desires to bring such claims, this district court does not have jurisdiction. Under 8 U.S.C. § 1252(b)(9), “[j]udicial review of all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section.” Further, judicial review of a final order is available only through “a petition for review filed with an appropriate court of appeals.” 8 U.S.C. § 1252(a)(5).

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

DATED: April 20, 2026

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