

1 ADAM GORDON
United States Attorney
2 ANTONIO ESTRADA
Special Assistant U.S. Attorney
3 California Bar No. 321247
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-8664
Facsimile: (619) 546-7751
6 Email: Antonio.Estrada@usdoj.gov

7 Attorneys for Respondents

8

9

10 **UNITED STATES DISTRICT COURT**

11

12 **SOUTHERN DISTRICT OF CALIFORNIA**

13

14 WALTER A. SARCENO RESINO,

Case No.: 26-cv-02326-JES-DEB

15

16 Petitioner,

RESPONSE TO PETITION

17

18 v.

19

20 MARKWAYNE MULLIN, et al.,

21

22 Respondents.

23

24

25

26

27

28

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).¹ While reserving all rights,
5 including the right to appeal, the government respectfully submits this abbreviated
6 response to preserve the legal issues, to conserve judicial and party resources, and to
7 expedite the Court’s consideration of this matter.

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

26 _____
27 ¹ This matter is a paper record of proceedings. A notice to appear has been previously filed.
28 Petitioner’s removal proceedings are currently administratively closed. The Department of Homeland Security has moved to re-calendar Petitioner’s removal proceedings.

1 The government acknowledges that this Court's prior decisions will control the
2 result here if the Court adheres to its prior decisions, as the facts are not materially
3 distinguishable for purposes of the Court's decision, and on that basis the government does
4 not oppose the petition and defers to the Court on the appropriate relief.²

5 DATED: April 17, 2026

ADAM GORDON
United States Attorney

7 *s/ Antonio Estrada*
8 _____
ANTONIO ESTRADA
Special Assistant United States Attorney

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26 _____
27 ² To the extent the Court issues an order directing a bond hearing under 1226(a),
28 considering heavy caseloads and staffing levels, Respondents respectfully request that
such order provide the government 14 days from issuance to hold such bond hearing.