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11 **UNITED STATES DISTRICT COURT**
12
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 DYLAN ADOLFO MATHEU-YANCOR,

15 Petitioner,

16 v.

17 WARDEN, *Otay Mesa Detention Center, et*
18 *al.*,

19 Respondents.
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Case No.: 26-cv-02350-RSH-MMP

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

1 **I. Introduction**

2 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. The government has
3 carefully reviewed this petition and determined that the legal issues presented concern
4 the statutory authority for U.S. Immigration and Customs Enforcement's (ICE) detention
5 of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving all rights,
6 including the right to appeal, the government respectfully submits this abbreviated
7 response to preserve the legal issues, to conserve judicial and party resources, and to
8 expedite the Court's consideration of this matter. Petitioner was previously released from
9 immigration custody on conditional parole issued under 8 U.S.C. § 1226(a). However,
10 it is the government's position that Petitioner is subject to mandatory detention under §
11 1225(b)(2). The government acknowledges that this Court, and Courts in this District,
12 have repeatedly reached the opposite conclusion under the same and/or similar facts.
13 However, Respondents note that Petitioner's re-detention was prompted by his arrest for
14 alien smuggling under 8 U.S.C. § 1324 and the Court should weigh this against
15 Petitioner's arguments that re-detention violated the APA and his right to due process
16 under the Fifth Amendment.

17
18 **II. Petitioner's due process and APA claims in favor of immediate release should**
19 **be denied, as Petitioner engaged in alien smuggling, a criminal activity in**
20 **violation of the terms of his release on conditional parole (OREC).**

21 Further, the Court should not find that Petitioner's re-detention violated his right
22 to due process under the Fifth Amendment as Petitioner was arrested by U.S. Border
23 Patrol for alien smuggling and Petitioner signed an acknowledgement that he would be
24 detained. *See* ECF 6 Exhibit 1 at 1-3, 5-6 (Form I-213). In addition, Petitioner did not
25 request an immigration judge to review his custody determination. *See* Exhibit 2 (Notice
26 of Custody Determination).

27 Regarding Petitioner's other arguments surrounding due process and APA
28 violations, Petitioner's initial order of release on recognizance noted that Petitioner must

1 not violate any laws or ordinances and that he would not associate with known gang
2 members, criminal associates, or be associated with any such activity. *See* Exhibit 3
3 (Order of Release on Recognizance). The Petitioner signed these conditions twice and
4 violated them. *See* Exhibit 3 at 2-3; ECF 6 Exhibit 1 at 1-3, 5-6. The order also notes
5 that violations of these conditions may result in Petitioner being taken into ICE custody
6 and being prosecuted. *Id.* Petitioner knowingly violated these conditions. *Id.*

7 Petitioner was initially arrested by U.S. Border Patrol for alien smuggling and
8 Petitioner clearly recognized his actions were against the law. *See* ECF 6 Exhibit 1 at 1-
9 3, 5-6 (Form I-213). For instance, after Petitioner was warned about U.S. Border Patrol
10 in a message, Petitioner responded by laughing and wrote “La Migra no me va hacer
11 nada, yo soy residente” which U.S. Border Patrol interpreted to mean that Border Patrol
12 was not going to do anything to him as he was a resident. *Id.* After Petitioner was
13 questioned by U.S. Border Patrol regarding the smuggling, Petitioner got emotional and
14 affirmed he was in the area to pick up noncitizens in exchange for \$3,000. *Id.* Petitioner
15 knowingly engaged in criminal behavior when he communicated and collaborated with
16 others to attempt to smuggle noncitizens into the United States.

17 18 **III. Conclusion**

19 Again, it is the government’s position that Petitioner is subject to mandatory
20 detention under § 1225(b)(2). However, the government acknowledges that this Court,
21 and Courts in this District, have repeatedly reached the opposite conclusion under the
22 same and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB,
23 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-
24 2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No.
25 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803
26 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS
27 (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-
28 cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v.*

1 *LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v.*
 2 *LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-*
 3 *Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v.*
 4 *LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-*
 5 *Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19,
 6 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D.
 7 Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D.
 8 Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998
 9 (S.D. Cal. Nov. 13, 2025).

10 The government acknowledges that this Court's prior decisions will control the
 11 result here if the Court adheres to its prior decisions, as the facts are not materially
 12 distinguishable for purposes of the Court's decision, and on that basis the government
 13 does not oppose the petition outside of Petitioner's arguments that Respondents violated
 14 the APA and the Fifth Amendment.¹

15 DATED: June 4, 2026

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17 s/ Hunter Norton
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19 s/ Jacob Metzger
 JACOB T. METZGER
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 27 ¹ 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.