

1 ADAM GORDON
United States Attorney
2 LAURA C. SAMBATARO
Assistant United States Attorney
3 Maryland Bar
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: 619-546-9613
Email: laura.sambataro@usdoj.gov

6 Attorneys for Respondents
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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 LUIS CRUZ-RIVAS,
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13 Petitioner,

14 v.

15 MARKWAYNE MULLIN, et al.,
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17 Respondents.
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Case No.: 26-cv-2310-BJC-MMP

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

1 Petitioner has filed an amended habeas petition under 28 U.S.C. § 2241. The
2 government has carefully reviewed this petition and determined that the legal issues
3 presented concern the statutory authority for U.S. Immigration and Customs Enforcement's
4 (ICE) detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving
5 all rights, including the right to appeal, the government respectfully submits this
6 abbreviated response to preserve the legal issues, to conserve judicial and party resources,
7 and to 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 The government acknowledges that this Court's prior decisions will control the
27 result here if the Court adheres to its prior decisions, as the facts are not materially
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1 distinguishable for purposes of the Court's decision, and on that basis the government does
2 not oppose the Court ordering a bond hearing on this petition.¹

3 Petitioner argues that he should be allowed to bypass this process—with the Court
4 ordering his immediate release—"because of newly emerging evidence that the neutrality
5 of Otay Mesa's immigration judges ("IJ") have been compromised." ECF No. 6 at 2. But
6 the "evidence" to support this argument merely consists of (1) news articles relying
7 largely on hearsay, (2) a smattering of inapposite district court cases from other parts of
8 the country, and (3) conclusory testimony from an attorney declaration in a different
9 habeas case stating that, inter alia, "I believe that many immigration judges at Otay Mesa
10 and the Department of Homeland Security ('DHS') have implemented strategies to
11 ensure that persons granted bond hearings via habeas petitions will not have a fair
12 opportunity to seek release." *Elsayed v. Noem*, Case No. 26-CV-368, Dec. 5-2 at ¶ 7 (S.D.
13 Cal. Feb. 9, 2026). That attorney declaration cites no specific case, bond order, or bond
14 hearing transcript which forms the basis for his beliefs. And despite Petitioner's
15 speculative assertions about Otay Mesa immigration judges being "compromised," he
16 cites no habeas cases from this district in which the Court found that an immigration
17 judge had deliberately flouted this Court's order to hold a *bona fide* bond hearing or
18 where DHS failed to comply with an IJ order granting bond following a district court
19 order. On the contrary, there are numerous habeas cases from this district confirming that
20 IJs have complied in good faith with this Court's orders to conduct individualized bond
21 hearings, often on a very quick turnaround, and as recently as last week. *See, e.g. Ramirez*
22 *Ceja v. Divver*, No. 26-CV-254-DMS-DEB, ECF No. 6 (S.D. Cal. Feb. 19, 2026) (Joint
23 Status Report reflecting IJ granting bond at Otay Mesa Immigration Court); *Prabhpreet*
24 *v. LaRose*, No. 26-CV-393-JES-SBC, ECF No. 10 (S.D. Cal Feb. 19, 2026) (same); *I.E.*

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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.

1 v. *Casey*, No. 25-CV-3227-DMS-DDL, ECF No. 10 (S.D. Cal. Dec. 16, 2025) (same for
2 Imperial Regional Detention Facility); *Gautam v. Correctional Corp. of Am.*, No. 25-cv-
3 03600-JES-DEB, ECF No. 8 (S.D. Cal. Jan. 9, 2026) (Notice of Compliance); *Alemanji*
4 v. *Mayorkas*, No. 25-cv-03499-JO-DDL, ECF No. 13 (S.D. Cal. Dec. 23, 2025) (Notice
5 Confirming Bond Hearing). Petitioner cites no case supporting his assertion that DHS has
6 applied for an automatic stay for the purpose of frustrating these post-habeas bond orders.

7 Thus the Court should decline Petitioner's invitation to insert itself into the position
8 of the immigration judge and should order a bond hearing in immigration court, subject
9 to the appropriate standards as set forth in *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir.
10 2011).

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12 DATED: May 4, 2026

ADAM GORDON
United States Attorney

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14 s/ Laura C. Sambataro
15 LAURA C. SAMBATARO
Assistant United States Attorney
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