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

13 HENRY ATUD MBAH,

14 Petitioner,

15 v.

16 OTAY MESA DETENTION CENTER, *et*
17 *al.*,

18 Respondents.
19

Case No.: 3:26-cv-02407-LL-MSB

RESPONSE TO PETITION

20
21 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. The government has
22 carefully reviewed this petition and determined that the legal issues presented concern the
23 statutory authority for U.S. Immigration and Customs Enforcement's (ICE) detention of
24 Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving all rights, including
25 the right to appeal, the government respectfully submits this abbreviated response to
26 preserve the legal issues, to conserve judicial and party resources, and to expedite the
27 Court's consideration of this matter.
28

1 Petitioner was previously released from immigration custody on conditional parole
 2 issued under 8 U.S.C. § 1226(a).¹ It is the government's position that Petitioner is subject
 3 to mandatory detention under § 1225(b)(2). However, the government acknowledges that
 4 this Court, and Courts in this District, have repeatedly reached the opposite conclusion
 5 under the same and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-
 6 MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-
 7 cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No.
 8 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F.
 9 Supp.3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, 812 F.Supp.3d 1073 (S.D. Cal.
 10 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal.
 11 Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D.
 12 Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal.
 13 Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal.
 14 Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov.
 15 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D.
 16 Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL
 17 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF
 18 No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL
 19 3182998 (S.D. Cal. Nov. 13, 2025).

20 The government acknowledges that this Court's prior decisions will control the
 21 result here if the Court adheres to its prior decisions, as the facts are not materially
 22 distinguishable for purposes of the Court's decision, and on that basis the government does
 23

24
 25 ¹ The Declaration attached to the Amended Petition states Petitioner was "paroled" into
 26 the United States. ECF 4-1 at ¶ 2, Page ID 32. Upon information and belief, on or about
 27 28 January 2022, Petitioner was issued a Form I-220A (Order of Release on
 28 Recognizance). *See Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007)
 (construing own recognizance release as conditional parole under 8 U.S.C. § 1226(a)).

1 not oppose the petition and defers to the Court on the appropriate relief.² In accordance
2 with the directive set forth in the Court's Order entered 16 April 2026 (ECF 2),
3 Respondents respectfully submit that an evidentiary hearing is unnecessary.

4 DATED: May 1, 2026
5

6 Respectfully submitted,

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11 Michael D. Wallace
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12 Attorneys for Respondents
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26 ² To the extent the Court issues an order directing a bond hearing under 1226(a),
27 considering heavy caseloads and staffing levels, Respondents respectfully request that
28 such order provide the government 14 days from issuance to hold such bond hearing.