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10 **UNITED STATES DISTRICT COURT**

11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 KEVIN DARIO LOPEZ RAMIREZ,

13 Petitioner,

14 v.

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16 CHRISTOPHER LAROSE, *Warden, Otay*
Mesa Detention Center, et al.,

17
18 Respondents.
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Case No.: 26-cv-02419-AGS-DDL

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

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

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 The Court should deny Petitioner's petition to the extent he asserts claims
20 regarding his Notice to Appear and the commencement of removal proceedings. An
21 individual may seek habeas relief under 28 U.S.C. § 2241 if he is "in custody" under
22 federal authority "in violation of the Constitution or laws or treaties of the United States."
23 28 U.S.C. § 2241(c). But habeas relief is available to challenge only the legality or
24 duration of confinement. *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023);
25 *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979); *Dep't of Homeland Security v.*
26 *Thraissigiam*, 591 U.S. 103, 117 (2020) (The writ of habeas corpus historically
27 "provide[s] a means of contesting the lawfulness of restraint and securing release."). The
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1 Ninth Circuit squarely explained how to decide whether a claim sounds in habeas
2 jurisdiction: “[O]ur review of the history and purpose of habeas leads us to conclude the
3 relevant question is whether, based on the allegations in the petition, release is *legally*
4 *required* irrespective of the relief requested.” *Pinson*, 69 F.4th at 1072 (emphasis in
5 original); *see also Nettles v. Grounds*, 830 F.3d 922, 934 (9th Cir. 2016) (The key inquiry
6 is whether success on the petitioner’s claim would “necessarily lead to immediate or
7 speedier release.”). Here, a review of such claims would not automatically entitle him to
8 release from detention. *See Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL
9 2300873, at *1 (S.D. Cal. Aug. 8, 2025) (finding petitioners’ claims did not arise under
10 § 2241 because they were not arguing they were unlawfully in custody and receiving the
11 requested relief would not entitle them to release); *Giron Rodas v. Lyons*, No. 25cv1912-
12 LL-AHG, 2025 WL 2300781, at *3 (S.D. Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court
13 lacks jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as
14 attacking ‘the legality or duration of confinement.’”) (quoting *Pinson*, 69 F.4th at 1065).

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

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20 DATED: April 24, 2026

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22
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25 Attorney for Respondents

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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.