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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Joan Alberto CHIRINOS URANGA,

Petitioner,

v.

Patrick DIVVER, et al,

Respondents

Case No. 3:26-cv-02437-BAS-DEB

PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE TO
PETITION

I. INTRODUCTION

Petitioner respectfully submits this Reply in support of his Petition for Writ of Habeas Corpus and requested emergency relief.

Respondents state that they do not oppose the petition because controlling authority in this District requires relief under materially indistinguishable facts. Although Respondents preserve their position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), they acknowledge that this Court and courts in this District have repeatedly reached the opposite conclusion. Under

that governing precedent, Petitioner is entitled to relief. The only issue remaining before the Court is the appropriate form and timing of that relief.

Petitioner seeks immediate release based on the undisputed record. Respondents do not contest any of the material facts underlying Petitioner's detention. They do not contest that Petitioner was arrested without a warrant; has been detained without any individualized custody determination; that no immigration court proceedings had been initiated against him at the time of his re-detention; that DHS did not file the Notice to Appear with the Immigration Court until the day after he was taken into custody; that he has no criminal history; and that he has lived at liberty in the United States for over two and a half years with strong community ties. Nor do Respondents identify any changed circumstances that would justify his continued detention.

Respondents contend that Petitioner was previously released from immigration custody on parole under 8 U.S.C. § 1182(d)(5), and that the filing of a new Notice to Appear ("NTA") on March 18, 2026, automatically terminated that parole pursuant to 8 C.F.R. § 212.5(e)(2)(i). That assertion is unsupported by the record. Respondents have produced no evidence that Petitioner was ever granted parole. Instead, the record reflects that Petitioner was issued an NTA on August 14, 2023, and released on his own recognizance pending removal proceedings, which DHS did not file with the Immigration Court until the day after Petitioner's re-detention. Absent any evidence of parole, Respondents cannot rely on parole termination regulations to justify Petitioner's detention.

Even assuming *arguendo* that Petitioner was released on parole, Respondents' argument still fails, as they do not state any materially changed circumstances that would justify revoking Petitioner's liberty.

The complete absence of factual dispute or evidentiary support distinguishes this case from those in which courts have ordered bond hearings as an initial remedy. This case arises from the government's abrupt revocation of Petitioner's long-settled liberty without justification or due process.

Respondents request that, if the Court orders a bond hearing under 8 U.S.C. § 1226(a), it allow fourteen days to conduct that hearing. That request should be rejected. Where, as here, Respondents acknowledge that controlling authority requires relief and offer no factual or evidentiary basis to justify continued detention, a delayed bond hearing would only prolong the very constitutional violation this Court is asked to remedy. Petitioner has already been subjected to ongoing detention without constitutionally adequate process, and each additional day of confinement constitutes irreparable harm.

Courts in this District - including this Court - have rejected requests to limit relief to a bond hearing and instead ordered immediate release where the government fails to justify re-detention. See, e.g., *Garcia v. Noem*, No. 3:25-cv-03759-LL-BLM, Order at 6–7 (S.D. Cal. Jan. 26, 2026) (ordering immediate release where respondents “do not directly address Petitioner’s claims” and failed to identify any changed circumstances justifying detention, and concluding that “[t]he proper remedy for the unlawful detention is Petitioner’s immediate release”); *Barreras Granado v. Casey*, No. 3:26-cv-01377-LL-DEB, Order at 3–4 (S.D. Cal. Mar. 19, 2026) (rejecting the government’s request for a bond hearing and ordering

immediate release). The same is true here. Respondents have not identified any individualized basis to justify Petitioner's detention and have not attempted to do so.

At a minimum, Respondents' request for fourteen days to provide a bond hearing is unsupported. Administrative burden and staffing constraints do not justify continued detention in violation of the Constitution. If the Court determines that a custody hearing is appropriate, such relief should be ordered on an expedited basis and within a matter of days - not weeks - and with the burden placed on Respondents to demonstrate that Petitioner poses a flight risk or danger to the community.

Because Respondents do not oppose the petition under controlling authority, do not dispute the material facts, and have offered no justification for Petitioner's continued detention, the Court should grant the petition and order Petitioner's immediate release. In the alternative, the Court should order a prompt and constitutionally adequate custody determination.

Dated: April 24, 2026

Respectfully submitted,

/s/ Rose M. Thompson

Rose M. Thompson

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