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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

POPE SOW,

Petitioner,

v.

OTAY MESA DETENTION CENTER
WARDEN, et al.,

Respondents.

Civil Case No.: 26-cv-02398-AGS-MMP

PETITIONER'S TRAVERSE

On May 7, 2026, Mr. Sow filed an amended habeas petition challenging his continued detention after an immigration judge denied bond based on flight risk. Under *Martinez v. Clark*, this Court may review whether an immigration detainee poses a flight risk or danger to the community. 124 F.4th 775, 779 (9th Cir. 2024). "Under an abuse of discretion standard, [courts] cannot reweigh evidence but can only determine whether the BIA applied the correct legal standard." *Id.* at 785.

Contrary to the assertions in the government's return, courts do have jurisdiction to undertake this abuse-of-discretion review, as dangerousness is a "reviewable mixed question" of law and fact. *Id.* at 784. Under 28 U.S.C. § 1252(g), only "discretionary decisions are shielded from review." *Ibarra-Perez v. United States*, 154 F.4th 989, 999 (9th Cir. 2025). But because the flight risk or dangerousness finding is not "fully discretionary," it "is reviewable." *Martinez*, 124 F.4th at 784.

1 Finally, exhaustion is merely prudential in these circumstances, and courts
2 have excused immigrants from exhausting remedies in appropriate cases. *See, e.g.,*
3 *Miri v. Bondi*, No. 5:26-CV-00698-MEMF-MAR, 2026 WL 622302, at *10 (C.D.
4 Cal. Mar. 5, 2026); *Perez v. Wolf*, 445 F. Supp. 3d 275, 286 (N.D. Cal. 2020).

5 Counsel received from the government and reviewed the audio recording
6 of Mr. Sow's bond hearing and attached the transcription to the amended
7 petition. Counsel can make the recording available to the court if necessary.

8 With these additions, counsel submits that the issues in this case are
9 adequately presented for decision.

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13 Respectfully submitted,

14 Dated: May 22, 2026

s/ Fernanda Ezquerro

Fernanda Ezquerro

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