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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Rene CRUZ PENA, Petitioner, v. Christopher J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center, et. al., Respondents.	Case No.: 3:26-cv-02706-BJC-MSB Agency File No.: A[redacted] **PETITIONER'S TRAVERSE**

Petitioner Rene Cruz Pena is in receipt of Respondents' Response to the Petition, in which Respondents concede that Respondent "appears to be a member of the Bond Eligible Class certified in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), amended and superseded on reconsideration by 813 F.Supp.3d 1084 (C.D.Cal. 2025)." Respondents therefore "do not oppose an order from this Court directing a bond hearing be held pursuant to 8 U.S.C. §1226(a)."

Respondents' concession does not moot Petitioner's primary claim for release from custody, and Petitioner respectfully contends that the Court should order his immediate release. Petitioner has been detained since April 21, 2026, without any meaningful opportunity to have his request for release considered by the Immigration Court, in violation of the *Maldonado Bautista* court's order. Continued detention would perpetuate the very violation habeas relief is meant to cure.

Accordingly, Respondents' concession that § 1226(a) applies does not resolve the Petitioner's claims. Section 1226(a) authorizes discretionary detention only so long as it comports with constitutional due process. Where it does not, continued custody is unlawful and the appropriate habeas remedy is release. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1080–81 (9th Cir. 2006).

If the Court does order Petitioner's release, to ensure that the Court's habeas relief is effective and not immediately nullified, Petitioner further requests that the Court order that Respondents may not re-detain Petitioner based on the same custody authority and factual predicate absent a pre-deprivation hearing that comports with due process.

Accordingly, the Court should order Petitioner's immediate release from custody.

Dated: May 8, 2026

Signature: /s/ Sandra Gotlaufa Orozco
By: Sandra Gotlaufa-Orozco
Attorney for Petitioner