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

10 YONATHAN ANTONIO
ARCINIEGAS CARRILLO,
11
12 Petitioner,

13 v.

14 JEREMY CASEY, Facility Administrator,
Imperial Regional Detention Facility; et al.,
15
16 Respondent.

Case No.: 26-cv-02719-JLS-BJW

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

17
18 **Introduction**

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

26 **Mandatory Detention Under 8 U.S.C. § 1225(b)(2)**

27 It is the government's position that Petitioner is subject to mandatory detention
28 under § 1225(b)(2). However, the government acknowledges that this Court, and

1 Courts in this District, have repeatedly reached the opposite conclusion under the same
2 and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025
3 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-
4 JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No.
5 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803
6 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS
7 (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-
8 cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v.*
9 *LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v.*
10 *LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-*
11 *Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S.*
12 *v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-*
13 *Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov.
14 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931
15 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7
16 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL
17 3182998 (S.D. Cal. Nov. 13, 2025).

18 The government acknowledges that this Court's prior decisions will control the
19 result here if the Court adheres to its prior decisions regarding whether Petitioner is
20 properly detained under 8 U.S.C. § 1225(b)(2).

21 **Petitioner's Parole Under 8 U.S.C. § 1182(d)(5)(A) Expired On April 18, 2025**

22 DHS did not violate Petitioner's right to due process when it exercised its
23 discretion to re-detain him after his parole expired. *See* Exhibit 4; ECF No. 1 at ¶¶ 28-
24 65. Under the Immigration and Nationality Act (INA), Immigration and Customs
25 Enforcement (ICE) may choose to release a person who is otherwise subject to
26 mandatory detention, on parole. 8 U.S.C. § 1182(d)(5)(A). The decision is discretionary
27 and is made on a case-by-case basis. An immigrant who has been detained at the border,
28 may be paroled for humanitarian reasons or due to it providing a significant public

1 benefit (under 8 U.S.C. § 1182(d)(5)(A)), or, he/she may be conditionally released (8
2 U.S.C. § 1226(a)). These are distinct procedures. A person on conditional parole is
3 usually released on their own recognizance subject to certain conditions such as
4 reporting requirements. To be released on conditional parole, there must be a finding
5 by ICE that the immigrant does not pose a risk of flight or danger to the community.
6 *See Ortega-Cervantes v. Gonzalez*, 501 F.3d 1111, 1115 (9th Cir. 2007). No such
7 finding was made here.

8 Furthermore, ICE has statutory and regulatory authority to revoke its parole
9 decisions and initiate removal proceedings. No immigration court or hearing is required
10 for revocation under that authority. Parole decisions may be made for broad and
11 practical reasons related to public benefit, as well as for humanitarian reasons—i.e.,
12 while ICE’s decision may sometimes incorporate flight risk and danger assessment, it
13 is not limited to those criteria. ICE’s discretionary decisions concerning detention and
14 release are, under 8 U.S.C. § 1182(d)(5)(A), the only statutorily provided exception for
15 a person otherwise subject to mandatory detention under 8 U.S.C. § 1225(b).

16 Accordingly, the authority to grant and revoke this discretionary parole is vested
17 in the Secretary of the Department of Homeland Security, who may delegate it. *See* 8
18 U.S.C. § 1226(e) (“No court may set aside any action or decision by the Attorney
19 General under this section regarding the detention of any alien or the revocation or
20 denial of bond or parole.”); *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (“As we
21 have previously explained, § 1226(e) precludes an alien from ‘challeng[ing] a
22 “discretionary judgment” by the Attorney General or a “decision” that the Attorney
23 General has made regarding his detention or release.’ But § 1226(e) does not preclude
24 ‘challenges [to] the statutory framework that permits [the alien’s] detention without
25 bail.’”); 8 U.S.C. § 1226(b) (“The Attorney General at any time may revoke a bond or
26 parole authorized under subsection (a), rearrest the alien under the original warrant, and
27 detain the alien.”).

28 While Petitioner was previously released from custody on temporary

1 humanitarian parole, his parole expired and automatically terminated on April 18, 2025.
2 *See* Exhibit 4. Just because ICE did not immediately detain Petitioner after his parole
3 automatically terminated, does not mean DHS no longer had the statutory authority to
4 re-detain him. This would undermine the entire purpose of temporary humanitarian
5 parole. For example, one reason ICE may release someone subject to mandatory
6 detention on humanitarian parole under § 1182(d)(5), is a lack of bed space availability.
7 8 C.F.R. § 212.5(e)(1). If there was still a lack of bed space after an individual’s parole
8 terminated after one year, DHS may choose not to immediately re-detain and make an
9 existing humanitarian problem worse.

10 Furthermore, there is no basis to order Petitioner’s immediate release from
11 immigration detention because he was not provided written notice of the expiration of
12 his humanitarian parole. *See Omer G. G. v. Kaiser*, No. 1:25-CV-01471-KES-SAB
13 (HC), 2025 WL 3254999, *3 n. 6 (E.D. Cal. Nov. 22, 2025) (“Petitioner’s claim
14 concerning the regulations is without merit because the regulations governing
15 termination of humanitarian parole provide that ‘[p]arole shall automatically be
16 terminated without written notice . . . at the expiration of the time for which parole was
17 authorized’ 8 C.F.R. § 212.5(e)(1). As petitioner’s parole expired on August 28,
18 2025, *see* Doc. 1 at 33, petitioner was not entitled to notice under the regulations.”).
19 Accordingly, the Court should not order Petitioner immediately released based solely
20 on his unsubstantiated claims¹, and effectively compel DHS to grant humanitarian
21 parole. Especially where DHS did provide a Notice of Custody Determination to
22 Petitioner upon re-detaining him. *See* Exhibit 3.

23 Instead, a court may conclude that parole revocation must be supported by an
24 individualized determination, *see, e.g., Noori v. Larose et al.*, 25-cv-1824, 2025 WL

25
26 ¹ While the Petition includes the word “verified” in the caption, it does not include a
27 declaration signed by Petitioner, nor any other evidence, in support of his claims. ECF
28 No. 1 at 1; Here, Petitioner bears the burden of establishing that his detention is unlawful
and, as stated by the Advisory Committee’s Note on Habeas Corpus Rule 4, 28 U.S.C.,
p. 471, “notice pleading is not sufficient, for the petition is expected to state facts that
point to a real possibility of constitutional error.”) (internal quotation marks omitted).

1 2800149, at *7–8 (S.D. Cal. Oct. 1, 2025). Courts have consistently declined to go so
2 far as ordering DHS to actually *grant* humanitarian parole to a noncitizen by ordering
3 his/her immediate release from custody subject to previous parole. In turn, the only
4 cognizable remedy for a petitioner re-detained after the expiration of temporary parole
5 under 8 U.S.C. § 1182, is an order from the Court consistent with *Singh v. Holder*, 638
6 F.3d 1196, 1203 (9th Cir. 2011), directing an individualized bond hearing where the
7 government bears the burden to prove by clear and convincing evidence that the
8 detainee is a flight risk and/or a danger to the community. *See Sadeqi v. LaRose*, No.
9 25-cv-2587-RSH-BJW, 2025 WL 3154520 (S.D. Cal. Nov. 12, 2025); *Gao v. LaRose*,
10 No. 25-cv-2084-RSH-SBC, 2025 WL 2770633 (S.D. Cal. Sept. 26, 2025).

11 DATED: May 7, 2026

Respectfully submitted,

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14 *s/Hunter V. Norton*
15 Hunter V. Norton
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17 Attorneys for Respondents
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