

1 ADAM GORDON
United States Attorney
2 LAURA C. SAMBATARO
Assistant United States Attorney
3 Maryland Bar
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: 619-546-9613
Email: laura.sambataro@usdoj.gov

6 Attorneys for Respondents
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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 THOMAS VELASQUEZ GREGORIO,
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13 Petitioner,
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15 v.
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17 MARKWAYE MULLIN, et al.,
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19 Respondents.
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Case No.: 26-cv-2775-RBM-JLB

RESPONSE TO PETITION

1 **I. INTRODUCTION**

2 Petitioner has filed a habeas petition under 28 U.S.C. § 2241, seeking immediate
3 release. The government has carefully reviewed this petition and determined that the legal
4 issues presented concern the statutory authority for U.S. Immigration and Customs
5 Enforcement's (ICE) detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a).

6 **II. FACTUAL BACKGROUND**

7 Petitioner is a native and citizen of Guatemala, who entered the United States
8 without inspection or admission and was apprehended by Border Patrol in Calexico, CA
9 on December 20, 2017. *See* Exh. 1 at 3 (I-213).¹ Petitioner was granted bond by an
10 immigration judge (Exh. 2—IJ Bond Order), and issued a Notice to Appear placing him in
11 removal proceedings. Exh. 3 (2017 NTA). Those proceedings were terminated by the
12 immigration court on August 12, 2021. Exh. 4 (Immigration Judge Order Terminating
13 Proceedings). Immigration and Customs Enforcement (ICE) apprehended Petitioner on
14 April 1, 2026 in Carlsbad, CA. Exh. 1 at 2-3. On the same day, ICE served Petitioner with
15 a Notice to Appear (NTA), charging him with removability under section 212(a)(6)(A)(i)
16 of the Immigration and Nationality Act (INA) and filed it with the Immigration Court. *See*
17 Exh. 5 (2026 NTA).

18 Petitioner has a 2021 arrest for Assault with a Deadly Weapon with Force: Possible
19 GBI and Child Cruelty, which resulted in a conviction for misdemeanor false
20 imprisonment. Exh. 6 (excerpt from RAP Sheet) and Exh. 7 (Probable Cause Declaration).
21 The conduct underlying the 2021 arrest involved strangulation. Exh. 7. On January 21,
22 2026, Petitioner was arrested for Assault with a Deadly Weapon: Not Firearm, in violation
23 of California Penal Code Section 245(a)(1). Exh. 6. That case is pending. Petitioner was
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27 ¹ The attached exhibits are true copies, with few redactions of private information, of
28 documents obtained from ICE counsel.

1 arrested by ICE after being released from state custody in his pending Assault with a
2 Deadly Weapon case.²

3 **III. ARGUMENT**

4 It is the government's position that Petitioner is subject to mandatory detention under
5 § 1225(b)(2). However, the government acknowledges that this Court, and Courts in this
6 District, have repeatedly reached the opposite conclusion under the same and/or similar
7 facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773
8 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025
9 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025
10 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal.
11 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D.
12 Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL
13 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB,
14 ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF
15 No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF
16 No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9
17 (S.D. Cal. Nov. 19, 225); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025
18 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-
19 DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-
20 AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-
21 DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

22 The government acknowledges that this Court's prior decisions will control the
23 result here if the Court adheres to its prior decisions, as the facts are not materially
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27 ² The government does not have sufficient information at this time to assess whether the
28 conduct underlying this arrest subjects Petitioner to mandatory detention pursuant to
Title 8, United States Code Section 1226(c)(1)(E)(ii).

1 distinguishable for purposes of the Court's decision, and does not oppose an order directing
2 a bond hearing at this time.³

3 IV. CONCLUSION

4 For the reasons stated herein, Respondents respectfully request the Court to deny
5 this habeas petition.
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8 DATED: May 13, 2026

ADAM GORDON
United States Attorney

9
10 *s/ Laura C. Sambataro*
11 LAURA C. SAMBATARO
Assistant United States Attorney
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26 ³ Considering heavy caseloads and staffing levels, Respondents respectfully request that
27 such order provide the government 14 days from issuance to hold such bond hearing.
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