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

MATEO GARCIA GAVILAN,
Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, CHRISTOPHER LAROSE,
Warden at Otay Mesa Detention Center,
Respondents.

Civil Case No.: 26-cv-2794-BAS-AHG

**Traverse in Support of
Petition for Writ
of
Habeas Corpus**
**[Civil Immigration Habeas,
28 U.S.C. § 2241]**

1 In his second amended petition for a writ of habeas, Mr. Garcia Gavilan
2 made two arguments. He first argued that he was eligible for relief as a class
3 member of *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM,
4 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). ECF 8 at 3–8. In their
5 Return, Respondents state that they “do not oppose an order from this Court
6 directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).” ECF 10 at 1–2.
7 Thus, this Court, at the very least, should order that Mr. Garcia Gavilan receive a
8 bond hearing.

9 But Mr. Garcia Gavilan made another argument in his second amended
10 petition: he argued that because he was improperly detained without Respondents
11 ever issuing an administrative warrant as required by § 1226, this Court should
12 order his immediate release. ECF 8 at 8–9. The government wholly ignores this
13 second argument in their return. *See* ECF 10.

14 Mr. Garcia Gavilan first cites to a recent decision in this district that
15 determined “a noncitizen may only be arrested and detained pending a decision on
16 removal ‘[o]n a warrant issued by the Attorney General.’” *Cruz Pedraza v.*
17 *Larose*, No. 26-cv-2697-LL-MSB, ECF 12 at 1 (S.D. Cal. May 27, 2026) (quoting
18 8 U.S.C. § 1226(a)). This decision further determined that when the government
19 violates this requirement, “a petitioner’s immediate release is justified.” *Id.*
20 (quotations and alterations omitted). Other courts have reached the same
21 conclusion. *See Eslid. B.G. v. Bondi*, No. 26-cv-5020-RAL, 2026 WL 734992, *6
22 (D.S.D. Mar. 16, 2026) (collecting cases); *see also JAACP v. Wofford*, No. 25-cv-
23 1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025); *Diaz v.*
24 *Albarran*, No. 25-cv-9837-JSC, 2025 WL 3214972 (N.D. Cal. Nov. 18, 2025);
25 *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL 788263, *2 (D. Minn. Mar.
26 20, 2026) (collecting cases ordering immediate release in the absence of a
27 warrant).

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