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

11 CARLOS AUGUSTO TINEO
12 HERNANDEZ,

13 Petitioner,
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15 v.

16 CHRISTOPHER LAROSE, et al.,

17 Respondents.
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Case No.: 26-cv-2898-CAB-GC

RESPONSE TO PETITION

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

8 The INA governs the detention and release of noncitizens during and following
9 their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021).
10 Under the INA, ICE may choose to release a person on parole. The decision is
11 discretionary and is made on a case-by-case basis. An immigrant who has been detained
12 at the border, may be paroled for humanitarian reasons or due to it providing a significant
13 public benefit (8 U.S.C. § 1182(d)(5)(A))) or she may be conditionally released (8 U.S.C.
14 § 1226(a)). These are distinct procedures. A person on conditional parole is usually
15 released on their own recognizance subject to certain conditions such as reporting
16 requirements. To be released on conditional parole, there must be a finding by ICE that
17 the immigrant does not pose a risk of flight or danger to the community. *See Ortega-*
18 *Cervantes v. Gonzalez*, 501 F.3d 1111, 1115 (9th Cir. 2007).

19 ICE has statutory and regulatory authority to revoke its parole decisions and initiate
20 removal proceedings. No immigration court or hearing is required for revocation under
21 that authority. Parole decisions may be made for broad and practical reasons related to
22 public benefit, as well as for humanitarian reasons—i.e., while ICE’s decision
23 incorporates flight risk and danger assessment, it is not limited to those criteria. ICE’s
24 discretionary decisions concerning detention and release are, in this respect, distinct from
25 an immigration court bond hearing.

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

10 Regulations for such revocation exist, but they grant broad authority to make the
11 decision to revoke release decisions. “While the regulation provides the detainee some
12 opportunity to respond to the reasons for revocation, it provides no other procedural and
13 no meaningful substantive limit on this exercise of discretion as it allows revocation
14 ‘when, in the opinion of the revoking official ... [t]he purposes of release have been served
15 ... [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release would
16 no longer be appropriate.” *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009),
17 *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010), citing §§ 241.4(l)(2)(i),
18 (iv) (emphasis in original).

19 Here, Petitioner was previously released from immigration custody on conditional
20 parole issued under 8 U.S.C. § 1226(a). Exhibit 1 (OREC grant). The order lists several
21 conditions with which the Petitioner was required to comply. *Id.* Petitioner violated the
22 conditions of his release on several occasions. Ex. 2 (I-213). He was therefore detained on
23 May 7, 2026. *Id.* It is the government’s position that Petitioner is subject to mandatory
24 detention under § 1225(b)(2). However, the government acknowledges that this Court, and
25 Courts in this District, have repeatedly reached the opposite conclusion under the same
26 and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL
27 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG,

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1 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB,
2 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D.
3 Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361
4 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL
5 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB,
6 ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF
7 No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF
8 No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9
9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025
10 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-
11 DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-
12 AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-
13 DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

14 The government acknowledges that this Court's prior decisions will control the
15 result here if the Court adheres to its prior decisions, as the facts are not materially
16 distinguishable for purposes of the Court's decision, and on that basis the Respondents do
17 not oppose the petition. The Respondents aver that the appropriate remedy is a bond
18 hearing pursuant to 8 U.S.C. §1226(a) at which Petitioner bears the burden to demonstrate
19 by clear and convincing evidence that they are not a danger to the community or a flight
20 risk. 8 C.F.R. § 1003.19(h)(3).¹ In this case, ICE appropriately provided notice of the
21 reason for the revocation of his prior conditional release based on his repeated violations
22 of the conditions of his release. For these reasons, Respondents do not oppose the grant of
23 a bond hearing.²

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26 ¹ To the extent the Court issues an order directing a bond hearing under 1226(a),
27 considering heavy caseloads and staffing levels, Respondents respectfully request that
28 such order provide the government 14 days from issuance to hold such bond hearing.

² Petitioner is currently in removal proceedings and has a master calendar hearing on May 28, 2026.

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DATED: May 19, 2026

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United States Attorney

s/ Michael D. Wallace

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