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8 **UNITED STATES DISTRICT COURT**

9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 GILBERT ESHAYA ESHAYA,

12 Petitioner,

13 v.

14 TODD BLANCHE, et al.,

15 Respondents.
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Case No.: 26-cv-03247-TWR-MMP

RESPONSE TO PETITION

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20 Respondents, by and through counsel, hereby respond to the Petition for Writ of
21 Habeas Corpus. Petitioner is subject to a final order of removal and detained under 8
22 U.S.C. § 1231(a). *See* Exhibit 1 (IJ Removal Order). Due to being unable to execute that
23 removal order, Petitioner was released on an Order of Supervision (OSUP).¹ On May 7,
24 2026, Petitioner was encountered by Immigration and Customs Enforcement (ICE) San
25 Diego Criminal Apprehension Program (CAP) at the San Diego Central Jail pursuant to
26 a pending criminal matter. *See* Exhibit 2 (I-213); *see also* Exhibit 3 (FBI RAP Sheet). On
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28 ¹ This assertion is based on information conveyed to Respondents' Counsel by ICE Counsel.

1 May 8, 2026, Petitioner was provided with the OSUP revocation paperwork, and an
2 informal interview. *See* Exhibit 4 (OSUP Revocation and Informal Interview).

3 However, at this time, undersigned counsel is unable to ascertain sufficient facts at
4 this time to establish that there is a significant likelihood of removal in the reasonably
5 foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). The government
6 therefore acknowledge that Petitioner is entitled to be released from custody subject to
7 conditions of supervision. *See* 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.13(h)(1); *Ba v.*
8 *Lyons*, No. 25-cv-2871-CAB-BJW, 2026 WL 218936, at *1 (S.D. Cal. Jan. 27, 2026)
9 (“The habeas statute does not empower courts to manage ICE supervision programs.”)
10 (citing 28 U.S.C. § 2241(c)(3)); *Khachikian v. Casey*, No. 25-cv-3737-GPC-JLB, ECF
11 No. 13 (S.D. Cal. Jan. 13, 2026) (“Ultimately, ICE has discretion to impose conditions
12 on release.”).

13 DATED: June 4, 2026

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