

1 Petitioner submits this Traverse and Memorandum to comply with the Court's order and the
2 habeas corpus procedure and to expedite the process.

3 **1225 v. 1226**

4 As a threshold matter, petitioner agrees with respondents non-opposition that petitioner is
5 detained pursuant to 8 U.S.C. § 1226(a). There have been dozens, maybe hundreds, of decisions in
6 the Southern District of California reaching this conclusion. Despite this wealth of established law
7 in this District, the respondent continue to obstinately detain noncitizens on this unlawful basis—
8 including petitioner. But final question is what is the proper remedy?

9 **Remedy**

10 In this case, the appropriate relief is an order that respondents immediately release petitioner
11 from detention. Petitioner has lived in the USA since 2021. He is married with children. Petitioner
12 has been regularly employed. He works in landscaping. He pays his taxes. He does not have any
13 criminal history. The circumstances of his detention smack of racial profiling. The Form I-213 filed
14 as part of the Return reveals a warrantless detention for no specific reason. Then respondents flew
15 petitioner from his home in Florida across the continent here to California. Respondents have
16 detained petitioner for 39 days now. Petitioner is never getting those days of liberty back. Worse,
17 respondents know that petitioner was entitled to a bond hearing under 8 U.S.C. § 1226(a) but they
18 are forcing him (and everyone else) to file habeas corpus petitions to compel compliance with the
19 law. Finally, there is a growing trend or realization that the bond proceedings at the Otay Mesa
20 Immigration Court are not fair. The EOIR system has been debased into a deportation machine. The
21 immigration judges apparently know that they risk being fired if they do not perform their expected
22 task of denying bonds. Respondents' goal is to oppress noncitizens into hopelessness, despair, and
23 exhaustion so that they will abandon their rights.

24 But the court should not countenance this injustice. Accordingly, some courts are finding
25 that immediate release, rather than a bond hearing, is the appropriate remedy. *See E.A. T.-B. v.*
26 *Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) ("Although the Government notes that
27 Petitioner may request a bond hearing while detained, such a post-deprivation hearing cannot serve
28 as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous

1 deprivation of liberty.”); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (“if
2 Petitioner is detained, he will already have suffered the injury he is now seeking to avoid”);
3 *Domingo v. Kaiser*, Case No. 25-cv-05893 (RFL), 2025 WL 1940179, at *3 (N.D. Cal. July 14,
4 2025) (“Even if Petitioner[] received a prompt post-detention bond hearing under 8 U.S.C. §
5 1226(a) and was released at that point, he will have already suffered the harm that is the subject of
6 his motion; that is, his potentially erroneous detention.”).

7 So, petitioner seeks the following remedy:

- 8 1. Respondents are ordered to immediately release Petitioner from custody.
- 9 2. The Court orders, prior to any re-detention of Petitioner, that Petitioner shall receive
10 a hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) to determine whether
11 detention is warranted. Respondents shall bear the burden of establishing, by clear and convincing
12 evidence, that Petitioner poses a danger to the community or a risk of flight.

13 DATED: 9 June 2026

14 Respectfully submitted,

15 /s/ *William Baker*
16 William Baker (157 906)
17 MORENO & ASSOCIATES
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