

ADAM GORDON
United States Attorney
ALLIE E. MALONE
Assistant U.S. Attorney
California State Bar No. 317588
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 674-9225
Facsimile: (619) 546-7751
Email: allie.malone.subke@usdoj.gov

Attorneys for Respondents

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

DAVID JOSUE CARRASCO IZAGUIRRE, Case No.: 26-cv-3455-DMS-MSB

Petitioner,

RESPONSE TO PETITION

v.

WARDEN, OTAY MESA DETENTION
CENTER; DIRECTOR, U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE); SECRETARY OF
THE DEPARTMENT OF HOMELAND
SECURITY; and all other responsible
federal officials,

Respondents.

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

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b)(2). However, the government acknowledges that this Court, and Courts in this District, have repeatedly reached the opposite conclusion under the same and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL

3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

The government acknowledges that this Court's prior decisions will control the result here if the Court adheres to its prior decisions, as the facts are not materially distinguishable for purposes of the Court's decision, and on that basis the government does not oppose the petition and defers to the Court on the appropriate relief.¹

DATED: June 15, 2026

Respectfully submitted,

ADAM GORDON

¹ To the extent the Court issues an order directing a bond hearing under 1226(a), considering heavy caseloads and staffing levels, Respondents respectfully request that such order provide the government 14 days from issuance to hold such bond hearing. Respondents also respectfully note that the Ninth Circuit has confirmed that at a bond hearing under 8 U.S.C. § 1226(a), the burden is on the detainee to demonstrate by a preponderance of the evidence that he is not a flight risk or danger to the community. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022); *see also Dos Santos v. Becerra*, No. 26-cv-01423-GPC-VET, 2026 WL 800201 (S.D. Cal. Mar. 23, 2026).

United States Attorney

s/ Allie E. Malone

ALLIE E. MALONE

Assistant United States Attorney

Attorneys for Respondents

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, CA 92101-8893. I am not a party to the above-entitled action.

I have caused service of the following: **RESPONSE TO PETITION** by causing the foregoing to be mailed by first class mail to the following non-ECF participant at the last known address, at which place there is delivery service of mail from the United States Postal Service on the following parties:

David Josue Carrasco Izaguirre
A# 245147125
Otay Mesa Detention Center
P.O. Box 439049
San Diego, CA 92143-9049

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED: June 15, 2026

s/ Allie E. Malone

ALLIE E. MALONE