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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DASNEY MADRID VELASQUEZ, Petitioner, v. JEREMY CASEY, Respondents.	Case No.: 26-cv-03451-DMS-AHG **RESPONSE TO PETITION**

Petitioner has filed a habeas petition under 28 U.S.C. § 2241. On July 30, 2026, the Ninth Circuit held and clarified that unadmitted aliens present in the interior of the United States are subject to 8 U.S.C. § 1226 and not subject to 8 U.S.C. § 1225. *Rodriguez Vazquez v. Bostock*, No. 25-6842, --- F.4th ---, 2026 WL 2196424 (9th Cir. July 30, 2026). As Petitioner is an unadmitted alien present in the interior of the United States, the government acknowledges that Petitioner is subject to detention under 8 U.S.C. § 1226(a).

Under § 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. By regulation, immigration officers can release aliens upon the alien demonstrating that he "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8). An alien can also request a custody redetermination (i.e., a bond hearing) by an immigration judge at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

Accordingly,[1] Respondents do not oppose the petition and defers to the Court on the appropriate relief.[2]

DATED: August 25, 2026

Respectfully submitted,

ADAM GORDON
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s/ Jacob T. Metzger
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[1] Petitioner also challenges their detention citing violations of due process. Should the Court grant the petition, it should decline to address these additional arguments. *See Nw. Austin Mun. Util. Dist. No. One v. Holder*, 557 U.S. 193, 205 (2009) ("normally the Court will not decide a constitutional question if there is some other ground upon which to dispose of the case" (quotation and citation omitted)); *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

[2] 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. 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).