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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DAMION CLARKE, Petitioner, v. JEREMY CASEY, et al., Respondents.	Case No.: 26-cv-3511-BAS-SBC **RESPONSE TO PETITION**

Petitioner has filed a habeas petition under 28 U.S.C. § 2241. Petitioner's late filing of an appeal of his removal order to Jamica was accepted by the Board of Immigration Appeals on July 20, 2026 and remains pending. As a result, there is no administratively final removal order. Petitioner was convicted on March 31, 2025, in the Middle District of Florida for Conspiracy to Possess with the Intent to Distribute and Distribute a Mixture and Substance Containing a Detectable Amount of Cocaine and sentenced to 15 months of confinement followed by three years of supervised release. Petitioner is therefore subject to mandatory detention under 8 U.S.C. § 1226(c).

The government acknowledges that courts in this District have repeatedly inferred a

constitutional right against prolonged mandatory detention. Taking into consideration those prior rulings and the length of time Petitioner has been in custody, the government concedes that this Court should order that Petitioner receive an individualized bond hearing before an immigration judge. *See Lopez v. Garland*, 631 F. Supp. 3d 870, 882-83 (E.D. Cal. 2022); *Sibomana v. LaRose*, No. 22-cv-933-LL-NLS, 2023 WL 3028093 (S.D. Cal. April 20, 2023); *Durand v. Allen*, No. 3:23-cv-00279-RBM-BGS, 2024 WL 711607 (S.D. Cal. Feb. 21, 2024) (detained over two-and-a-half years).

DATED: August 31, 2026

ADAM GORDON
United States Attorney

s/ Michael D. Wallace
MICHAEL D. WALLACE
Assistant United States Attorney