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

12 ANDREIVER ALFREDO MUNOZ,
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14 Petitioner,

15 v.

16 WARDEN, OTAY MESA DETENTION
17 CENTER,

18 Respondents.
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Case No.: 26-cv-03655-RBM-VET

RESPONSE TO PETITION

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

9 Petitioner was previously released from immigration custody on conditional parole
10 issued under 8 U.S.C. § 1226(a). It is the government's position that Petitioner is subject
11 to mandatory detention under § 1225(b)(2). However, the government acknowledges that
12 this Court, and Courts in this District, have repeatedly reached the opposite conclusion
13 under the same and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-
14 MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-
15 cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No.
16 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F.
17 Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM),
18 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-
19 RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-
20 cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-
21 3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-
22 cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-
23 RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-
24 2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*,
25 No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v.*
26 *LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v.*
27 *Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

1 The government acknowledges that this Court's prior decisions will control the
2 result here if the Court adheres to its prior decisions, as the facts are not materially
3 distinguishable for purposes of the Court's decision,¹ and on that basis the government
4 does not oppose the petition and defers to the Court on the appropriate relief.²

5 DATED: July 7, 2026

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10 Attorney for Respondents

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¹ Petitioner also challenges his detention citing violations of Due Process, Should the
20 Court grant the petition, it should decline to address these additional arguments. *INS v.*
21 *Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not
22 required to make findings on issues the decision of which is unnecessary to the results
they reach.").

23 ² To the extent the Court issues an order directing a bond hearing under 1226(a),
24 considering heavy caseloads and staffing levels, Respondents respectfully request that
25 such order provide the government 14 days from issuance to hold such bond hearing.
26 Respondents also respectfully note that the Ninth Circuit has confirmed that at a bond
27 hearing under 8 U.S.C. § 1226(a), the burden is on the detainee to demonstrate by a
28 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).