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

JOSUE JONATHAN POLANCO-GARCIA,	Case No.: 26-cv-3662-RBM-AHG
Petitioner,	RESPONSE TO PETITION
v.	
WARDEN, JEREMY CASEY,	
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.

Petitioner was previously released from immigration custody on conditional parole issued under 8 U.S.C. § 1226(a). 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*

1 *Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30,
2 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4,
3 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina v.*
4 *LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D. Cal. Oct. 24, 2025);
5 *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal.
6 Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D.
7 Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF No. 7 (S.D.
8 Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9
9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D.
10 Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL
11 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-
12 DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-
13 AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-
14 DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

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

19
20 ¹ Petitioner also challenges his detention citing violations of the Administrative
21 Procedure Act and Due Process Clause. Should the Court grant the petition, it should
22 decline to address these additional arguments. *INS v. Bagamasbad*, 429 U.S. 24, 25
(1976) ("As a general rule courts and agencies are not required to make findings on
23 issues the decision of which is unnecessary to the results they reach.").

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

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Respectfully submitted,

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s/ Allie E. Malone
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