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11 **IN THE UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 JEPTE FUENTES-GOMEZ

14 Petitioner,

15 v.

Case No. 3:26-cv-03755-LL-MSB

16 JEREMY CASEY, Warden of the Imperial
17 Regional Detention Center; DAVID
18 VENTURELLA, Acting Director of Immigration
19 and Customs Enforcement; MARKWAYNE
20 MULLIN, Acting Secretary of the U.S.
21 Department of Homeland Security; TODD
22 BLANCHE, Attorney General of the United States

23 Respondents.

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**PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS AND
EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER**

I. INTRODUCTION

Respondents' abbreviated response leaves only one issue for this Court to decide: the appropriate remedy.

Respondents acknowledge that the facts presented here are not materially distinguishable from the numerous Southern District of California decisions concluding that similarly situated individuals are detained, if at all, under 8 U.S.C. § 1226(a), rather than § 1225(b). Respondents further expressly state that they "do not oppose the petition and defer[] to the Court on the appropriate relief." Respondents do not contend this Court to deny the petition. They do not argue that Petitioner's detention is lawful. They do not contend that Petitioner should remain detained. Instead, they expressly defer to the Court on the only issue that remains—the appropriate remedy. Under these circumstances, the Court should not prolong Petitioner's detention where the Government itself declines to defend it.

Accordingly, there is no genuine dispute regarding the legal issue that prompted this habeas action. The Government has effectively conceded that, if this Court follows its prior decisions—as Respondents acknowledge it has consistently done—Petitioner is entitled to relief. The only remaining question is whether that relief should consist of immediate release or whether Petitioner should remain incarcerated while awaiting yet another administrative proceeding.

Under the extraordinary facts of this case, immediate release is the only remedy capable of ending Petitioner's ongoing unconstitutional detention.

II. RESPONDENTS DO NOT DEFEND PETITIONER'S CONTINUED DETENTION

Respondents' response is notable not for what it argues, but for what it omits. Rather than defending Petitioner's continued detention, Respondents acknowledge that this Court has repeatedly rejected the Government's position that similarly situated individuals are subject to mandatory detention under 8 U.S.C. § 1225(b). Respondents expressly state that they "do not oppose the petition" and instead defer to this Court regarding the appropriate remedy. Their response therefore leaves no genuine dispute

1 regarding Petitioner's entitlement to habeas relief.

2 Equally significant is what Respondents do not argue. They do not contend that Petitioner poses
3 a danger to the community. They do not contend that Petitioner presents a risk of flight. They do not
4 identify any violation of an immigration obligation, any failure to comply with government directives,
5 or any changed circumstance justifying Petitioner's continued incarceration.
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7 Nor do Respondents dispute the extraordinary facts giving rise to this action. They do not dispute
8 that Petitioner lived continuously in the United States for more than thirty years before his arrest. They
9 do not dispute that he has no criminal history. They do not dispute that he was arrested during a workplace
10 immigration enforcement operation without a preexisting Form I-200 administrative warrant. They do
11 not dispute that Petitioner was removed while his appeal before the Board of Immigration Appeals
12 remained pending, that immigration officials subsequently acknowledged the error, or that Respondents
13 exercised their discretionary parole authority to return Petitioner to the United States.
14

15 Most importantly, Respondents do not attempt to justify why Petitioner remains detained today.
16 Their response identifies no individualized reason why continued detention is necessary, no factual
17 finding supporting incarceration, and no governmental interest that would be undermined by Petitioner's
18 immediate release. Indeed, Respondents never explain why, after deciding that Petitioner should be
19 returned to the United States, they immediately continued his detention without making any
20 individualized custody determination.
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22 That omission is critical. Habeas corpus protects against unlawful restraints on liberty. Once the
23 Government elects not to defend the continued restraint of Petitioner's liberty on individualized grounds,
24 the justification for further detention evaporates. Respondents cannot simultaneously decline to oppose
25 the petition while asking this Court to prolong Petitioner's incarceration without identifying any factual
26 basis demonstrating that continued detention serves a legitimate governmental purpose.
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Accordingly, the only issue remaining before this Court is the appropriate remedy. Under these circumstances, where Respondents do not defend Petitioner's continued detention and identify no individualized basis for keeping him in custody, immediate release—not additional incarceration while awaiting another administrative proceeding—is the remedy most consistent with the Constitution, the purpose of habeas corpus, and the Government's own litigation position. Respondents' silence is particularly significant because they are uniquely positioned to explain why continued detention is allegedly necessary. If Petitioner posed a danger to the community, Respondents could have said so. If he presented a meaningful risk of flight, Respondents could have presented evidence to that effect. If circumstances had materially changed after Petitioner's return to the United States, Respondents could have identified those changes. They did none of those things. Their failure to articulate any individualized justification confirms that Petitioner's continued detention rests on no demonstrated factual necessity.

III. THIS CASE PRESENTS EXTRAORDINARY CIRCUMSTANCES WARRANTING IMMEDIATE RELEASE

This case is unlike the ordinary detention challenge.

Petitioner lived openly in the United States for more than three decades before Respondents arrested him during a workplace immigration enforcement operation on June 10, 2025. At the time of his arrest, Respondents had not issued a Form I-200 Warrant for Arrest of Alien. The administrative warrant was not issued until approximately thirty-one days later.

Petitioner thereafter pursued relief from removal, timely appealed the Immigration Judge's decision to the Board of Immigration Appeals, and nevertheless was removed from the United States while that appeal remained pending.

After counsel notified Respondents of the pending appeal, Respondents acknowledged the issue, coordinated Petitioner's return for months, exercised discretionary parole authority to facilitate his return

1 to the United States, and ultimately returned him on June 25, 2026.

2 Yet despite acknowledging the circumstances requiring Petitioner's return, Respondents
3 immediately continued his detention without making any individualized custody determination.

4 Accordingly, this case does not involve a routine dispute concerning the statutory basis for
5 detention. Rather, it concerns a continuous course of executive detention that began with Petitioner's
6 worksite arrest, continued through his removal while his appeal remained pending, and persists today
7 despite Respondents' own decision to return him to the United States.
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9 These extraordinary circumstances warrant extraordinary relief. Few habeas petitioners appear
10 before this Court after the Government has acknowledged an error requiring their return to the United
11 States, successfully coordinated that return, and nevertheless continued detention without explaining why
12 incarceration remains necessary. Those unusual facts distinguish this case from the ordinary § 1226(a)
13 detention challenge and strongly favor immediate judicial intervention.
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15 **IV. IMMEDIATE RELEASE IS THE ONLY REMEDY THAT FULLY REDRESSES THE**
16 **ONGOING DEPRIVATION OF LIBERTY**
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18 Respondents request that, if relief is granted, this Court instead order a custody hearing within
19 fourteen days. That proposed remedy is inadequate.

20 The injury in this case is not merely the denial of a bond hearing. The injury is Petitioner's
21 continuing confinement.

22 Every additional day Petitioner remains incarcerated constitutes another day of lost liberty. That
23 injury cannot be undone by a future administrative hearing conducted weeks after the Court determines
24 that Petitioner's present detention is unlawful.
25

26 Federal courts possess broad habeas authority to order release where continued detention violates
27 federal law or the Constitution. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008). Habeas corpus exists to
28

1 remedy unlawful restraints on liberty, not merely to postpone judicial review until additional detention
2 has already occurred.

3 Respondents ask this Court to require Petitioner to remain imprisoned for at least fourteen
4 additional days while ICE schedules another administrative proceeding. Yet Respondents never explain
5 why Petitioner's continued incarceration is necessary during that period.

6 They identify no governmental interest that would be harmed by Petitioner's immediate release.
7 They identify no individualized reason why Petitioner should remain detained. They identify no evidence
8 suggesting that Petitioner presents a danger or flight risk.

9 Instead, they ask the Court simply to prolong Petitioner's detention while another hearing is
10 arranged.

11 Under these circumstances, continued detention serves no legitimate purpose. Indeed,
12 Respondents identify no governmental interest that would be prejudiced by Petitioner's immediate
13 release. Their requested fourteen-day delay is therefore not tied to any public-safety concern, any risk of
14 flight, or any operational necessity. It serves only one function—to prolong Petitioner's detention after
15 Respondents have declined to defend its legality. Habeas corpus exists to end unlawful restraints on
16 liberty, not to extend them.

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20 **V. RESPONDENTS' OWN CONDUCT DEMONSTRATES THAT CONTINUED**
21 **DETENTION IS UNNECESSARY**

22 Respondents' own actions confirm that immediate release is appropriate.

23 After acknowledging that Petitioner had been removed while his administrative appeal remained
24 pending, Respondents spent months coordinating Petitioner's return to the United States. Throughout that
25 process, Respondents instructed Petitioner where to travel, directed him to remain available near the
26 border, coordinated with U.S. Customs and Border Protection, and relied entirely upon Petitioner's
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1 voluntary compliance.

2 Petitioner complied with every instruction. He remained available whenever requested. He
3 appeared as directed. He cooperated fully throughout the return process.

4 If Respondents genuinely believed Petitioner posed a danger to the community or a meaningful
5 risk of flight, they would not have relied upon his voluntary compliance for months in order to accomplish
6 his return.

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8 Respondents cannot plausibly contend that incarceration suddenly became indispensable the
9 moment Petitioner crossed the border when, only moments earlier, they had successfully relied upon his
10 complete cooperation to facilitate that very return.

11 Their own conduct demonstrates that Petitioner's continued detention is not driven by any
12 individualized assessment of necessity. The Government cannot rely upon Petitioner's trustworthiness
13 and complete compliance to accomplish his return while simultaneously insisting that he must remain
14 incarcerated without identifying any individualized reason why detention is necessary.
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16 **VI. RESPONDENTS' DISCUSSION OF A FUTURE BOND HEARING DOES NOT**
17 **ADDRESS THE RELIEF PETITIONER SEEKS**
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19 Respondents devote the final portion of their response to the procedures that should govern a
20 future bond hearing, including the burden of proof recognized in *Rodriguez Diaz v. Garland*.

21 That discussion misses the point. Petitioner is not asking this Court to order a bond hearing.
22 Petitioner seeks immediate release.

23 Accordingly, the Government's discussion regarding the burden applicable during a future
24 custody hearing has no bearing on the relief presently requested.
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26 **VII. THIS COURT HAS AUTHORITY TO ORDER IMMEDIATE RELEASE**

27 Respondents' response appears to assume that the appropriate remedy is to remand this matter for
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1 yet another administrative custody determination. That assumption is incorrect.

2 Federal courts possess broad equitable authority in habeas proceedings to fashion relief that fully
3 remedies unlawful restraints on liberty. The "historic and the most common remedy" in habeas corpus is
4 an order directing the petitioner's release from unlawful custody. *Boumediene v. Bush*, 553 U.S. 723, 779
5 (2008). Where continued detention violates the Constitution or exceeds statutory authority, a federal
6 court is not limited to ordering additional administrative proceedings if those proceedings would fail to
7 remedy the ongoing deprivation of liberty.
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9 That principle applies with particular force here. Respondents do not oppose the petition. They
10 identify no individualized basis for Petitioner's continued detention. They do not contend that Petitioner
11 poses a danger to the community, presents a risk of flight, or has violated any condition imposed by
12 immigration authorities. Nor do they identify any governmental interest that would be prejudiced by
13 Petitioner's immediate release. Instead, Respondents simply request additional time to conduct a future
14 custody hearing while Petitioner remains incarcerated.
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16 Under these circumstances, remanding this matter for another administrative proceeding would
17 merely prolong the very injury this Court has been asked to remedy. Every additional day Petitioner
18 remains detained constitutes a continuing deprivation of his physical liberty. A delayed custody hearing
19 cannot restore the days of liberty already lost, nor can it justify continued incarceration where
20 Respondents themselves decline to defend the necessity of that detention.
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22 The equities further support the exercise of this Court's habeas authority. Petitioner lived in the
23 United States for more than thirty years before his arrest. He has no criminal history. He was arrested
24 during a workplace immigration enforcement operation without a preexisting administrative warrant,
25 removed while his administrative appeal remained pending, and returned to the United States only after
26 Respondents acknowledged that removal had occurred in error. Even after correcting that error,
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1 Respondents continued Petitioner's detention without making any individualized custody determination
2 and without identifying any factual basis requiring his continued incarceration.

3 This Court is not required to prolong an unlawful detention simply because Respondents propose
4 an additional administrative proceeding. Habeas corpus exists to restore liberty when continued detention
5 is unlawful. Because Respondents have identified no individualized justification for Petitioner's
6 continued confinement and expressly defer to the Court regarding the appropriate remedy, immediate
7 release is the only relief that fully vindicates Petitioner's constitutional rights and ends the ongoing
8 deprivation of liberty.
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10 Accordingly, the Court should exercise its equitable habeas authority to grant the Petition and
11 order Petitioner's immediate release from ICE custody.
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13 **VIII. CONCLUSION**

14 Respondents have effectively conceded the dispositive legal issue presented by this habeas
15 petition. They acknowledge that the facts are not materially distinguishable from the numerous Southern
16 District decisions rejecting the Government's detention theory and expressly state that they do not oppose
17 the petition, leaving only the appropriate remedy for this Court's determination.
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19 Under these extraordinary facts, immediate release is the only remedy that fully vindicates
20 Petitioner's constitutional and statutory rights.

21 Petitioner has now endured more than a year of detention following his June 10, 2025 worksite
22 arrest. He was removed while his administrative appeal remained pending, returned only after
23 Respondents acknowledged that error, and nevertheless continues to be incarcerated despite
24 Respondents' failure to identify any individualized reason why continued detention is necessary.
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26 Because Respondents identify no danger, no flight risk, no violation of any release condition, and
27 no legitimate governmental interest requiring Petitioner's continued incarceration, this Court should grant
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1 the Petition for Writ of Habeas Corpus and order Petitioner's immediate release from ICE custody. This
2 case no longer presents a dispute over whether Petitioner is entitled to relief. Respondents have
3 effectively conceded that question. The only issue before the Court is whether Petitioner should remain
4 incarcerated despite the Government's decision not to defend his continued detention. Because
5 Respondents identify no individualized reason requiring further confinement and because every
6 additional day of detention inflicts an irreparable deprivation of liberty, the Court should grant the
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8 Petition and order Petitioner's immediate release forthwith.

9 Dated this 6th day of July, 2026.

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11 /s/ Gurpreet Kaur
12 Gurpreet Kaur, Esq.
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