

1 ADAM GORDON
United States Attorney
2 HUNTER V. NORTON
Assistant United States Attorney
3 Washington, D.C. Bar No. 1780736
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-8592
Email: Hunter.Norton2@usdoj.gov

6 Attorneys for Respondents
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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11

12 JIMMY LOPEZ LOPEZ,

13 Petitioner,

14 v.

15 PATRICK DIVVER, Field Office Director
16 of Enforcement and Removal Operations,
17 San Diego Field Office, Immigration and
Customs Enforcement;
18 et al.,

19 Respondents.
20
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Case No.: 26-cv-03768-JAO-SBC

**RETURN TO PETITION FOR
WRIT OF HABEAS CORPUS**

22 Petitioner has filed a habeas petition under 28 U.S.C. § 2241 solely “to seek
23 enforcement of [his] rights as member[] of the Bond Denial Class certified in *Maldonado*
24 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.).” ECF No. 1 at ¶ 1.
25 Specifically, the petition contains a single cause of action alleging Petitioner is entitled
26 to an individualized bond hearing because he is a member of the Bond Eligible Class as
27 defined in *Bautista. Id.* at ¶ 27-30. Petitioner is not a member of the Bond Eligible Class,
28

1 however, rendering his habeas petition legally infirm.

2 On November 25, 2025, the *Baustista* court certified a nationwide class of detained
3 noncitizens, which the *Baustista* court described as the “Bond Eligible Class.” *Bautista*,
4 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). To be a member of the Bond Eligible
5 Class, a person must (1) have entered the United States without inspection, (2) not have
6 been apprehended upon arrival, and (3) not be detained under 8 U.S.C. § 1126(c), 8
7 U.S.C. § 1125(b)(1) or 8 U.S.C. § 1231 at the time the Department of Homeland Security
8 made its initial custody determination. *Id.* at *9.

9 Here, Petitioner was detained at time of entry on November 26, 2020, and released
10 from immigration custody on conditional parole issued under 8 U.S.C. § 1226(a). Given
11 these facts, Petitioner is not a member of the Bond Eligible Class because he was
12 apprehended upon arrival. Accordingly, Petitioner’s habeas petition is legally infirm and
13 should be denied. *See Rodriguez v. Jeffreys, et al.*, No. 8:25CV714, 2025 WL 3754411,
14 *16 (D. Neb. Dec. 29, 2025) (rejecting *Bautista* as basis for relief and denying habeas
15 petition because, among other things, “there is ‘a bright-line rule’ applicable in [these]
16 circumstances”) (citations omitted).

17 Furthermore, it is the government’s position that Petitioner is subject to mandatory
18 detention under § 1225(b)(2). However, the government acknowledges that this Court, and
19 Courts in this District, have repeatedly reached the opposite conclusion under the same
20 and/or similar facts. *See, e.g., Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL
21 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG,
22 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB,
23 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D.
24 Cal. 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361
25 (S.D. Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025 WL
26 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB,
27 ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No. 25-cv-3043-BJC-VET, ECF

1 No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF
2 No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9
3 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025
4 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-
5 DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-
6 AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-
7 DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

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

12 DATED: July 6, 2026

ADAM GORDON
United States Attorney

14 s/ Hunter Norton
HUNTER V. NORTON
Assistant United States Attorney

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23 ¹ 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).