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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 SANTO FERNANDO NUNEZ-BARON,  
11

12 Petitioner,

13 v.

14 CHRISTOPHER LAROSE, *Warden of*  
15 *Otay Mesa Detention Center*, et al.,

16 Respondents.  
17  
18

Case No.: 3:26-cv-03822-AGS-JLB

19 RESPONSE TO PETITION

20 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. ECF No. 1. The  
21 government has carefully reviewed this petition and determined that the legal issues  
22 presented concern the statutory authority for U.S. Immigration and Customs Enforcement's  
23 (ICE) detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving  
24 all rights, including the right to appeal, the government respectfully submits this  
25 abbreviated response to preserve the legal issues, to conserve judicial and party resources,  
26 and to expedite the Court's consideration of this matter.

27 Petitioner was previously released from immigration custody on conditional parole  
28 issued under 8 U.S.C. § 1226(a). ECF No. 1, ¶ 26, ECF 1-2, Page ID 17. It is the

1 government's position that Petitioner is subject to mandatory detention under § 1225(b)(2).  
 2 However, the government acknowledges that this Court, and Courts in this District, have  
 3 repeatedly reached the opposite conclusion under the same and/or similar facts. *See, e.g.,*  
 4 *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18,  
 5 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D.  
 6 Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837 (S.D.  
 7 Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025); *Esquivel-Ipina*  
 8 *v. LaRose*, 812 F. Supp. 3d 1073 (S.D. Cal. 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-  
 9 3022-RSH-JLB, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*,  
 10 No. 25-cv-3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No.  
 11 25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No.  
 12 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-  
 13 2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-  
 14 cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v.*  
 15 *Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer*  
 16 *v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v.*  
 17 *Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

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

22  
 23 <sup>1</sup> The Petition asserts claims sounding in violation of Due Process and the Administrative  
 24 Procedure Act. ECF 1, Page ID 10-12. Should the Court grant the petition on statutory  
 25 grounds, it should decline to address these additional arguments. *INS v. Bagamasbad*,  
 26 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make  
 findings on issues the decision of which is unnecessary to the results they reach.").

27 <sup>2</sup> To the extent the Court issues an order directing a bond hearing under 1226(a),  
 28 considering heavy caseloads and staffing levels, Respondents respectfully request that  
 such order provide the government 14 days from issuance to hold such bond hearing.

1 DATED: July 9, 2026

2 Respectfully submitted,

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4 United States Attorney

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6 Roger G. Wright  
7 Special Assistant U.S. Attorney  
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25 Respondents also respectfully note that the Ninth Circuit has confirmed that at a bond  
26 hearing under 8 U.S.C. § 1226(a), the burden is on the detainee to demonstrate by a  
27 preponderance of the evidence that he is not a flight risk or danger to the community. *See*  
28 *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).