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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 XIAO WU,

11 Petitioner,

12 v.

13 PATRICK DIVVER, *et al.*,

14 Respondents.
15
16

Case No.: 26-cv-03836-AGS-DEB

RETURN TO PETITION

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18 Petitioner has filed a habeas petition solely to “to seek enforcement of his rights
19 as [a] member of the Bond [Eligible] Class certified in *Maldonado Bautista v.*
20 *Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)” ECF No. 1 at ¶ 1. Specifically,
21 the petition contains a single cause of action alleging Petitioner is entitled to an
22 individualized bond hearing because he is a member of the “Bond Eligible Class”
23 defined in *Bautista. Id.* at ¶ 22. Petitioner is not a member of the Bond Eligible Class,
24 however, rendering his habeas petition legally infirm.

25 On November 25, 2025, the *Baustista* court certified a nationwide class of
26 detained noncitizens, which the *Baustista* court described as the “Bond Eligible Class.”
27 *Bautista*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). To be a member of the Bond
28 Eligible Class, a person must (1) have entered the United States without inspection, (2)

1 not have been apprehended upon arrival, and (3) not be detained under 8 U.S.C. §
2 1126(c), 8 U.S.C. § 1125(b)(1) or 8 U.S.C. § 1231 at the time the Department of
3 Homeland Security made its initial custody determination. *Id.* at *9.

4 Here, Petitioner entered the United States at or near Tecate, California, on or
5 about June 12, 2019. ECF No. 1 at ¶ 2. He was apprehended almost immediately, issued
6 a Notice to Appear, and placed into § 1229a removal proceedings. *See* Form I-213,
7 attached as Exhibit 1. He was subsequently released from immigration custody and then
8 re-detained on June 1, 2026. At this time, Petitioner is mandatorily detained under 8
9 U.S.C. § 1225(b)(2).

10 Given these facts, Petitioner is not a member of the Bond Eligible Class because
11 he apprehended upon arrival. Accordingly, Petitioner's habeas petition is legally infirm
12 and should be denied. *See Rodriguez v. Jeffreys, et al.*, No. 8:25CV714, 2025 WL
13 3754411, *16 (D. Neb. Dec. 29, 2025) (rejecting *Bautista* as basis for relief and denying
14 habeas petition because, among other things, "there is 'a bright-line rule' applicable in
15 [these] circumstances") (citations omitted).

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17 DATED: July 9, 2026

Respectfully submitted,

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