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8 **UNITED STATES DISTRICT COURT**
9
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 DIONISIO ISAIAS FUNES PEREZ,

12 Petitioner,

13 v.

14 CHRISTOPHER J. LAROSE, *Senior*
15 *Warden Otay Mesa Detention Center, in*
16 *their official capacities, et al.,*

17 Respondents.

Case No.: 3:26-cv-03839-BJC-DEB

RESPONSE TO PETITION

18
19 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. ECF No. 1. The
20 government has carefully reviewed this petition and determined that the legal issues
21 presented concern the statutory authority for U.S. Immigration and Customs Enforcement's
22 (ICE) detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a). While reserving
23 all rights, including the right to appeal, the government respectfully submits this
24 abbreviated response to preserve the legal issues, to conserve judicial and party resources,
25 and to expedite the Court's consideration of this matter.

26 It is the government's position that Petitioner is subject to mandatory detention under
27 § 1225(b)(2). However, the government acknowledges that based upon the allegations in
28

1 the petition (ECF No. 1, ¶¶ 26-27) Petitioner appears to be a member of the Bond Eligible
 2 Class certified in *Maldonado Bautista v. Santacruz*, 813 F. Supp. 3d 1084 (C.D. Cal. 2025).
 3 *See Id.* at 1127 (describing bond eligible class to include noncitizens who enter without
 4 inspection, not apprehended on arrival, and not subject to detention under 8 U.S.C. §§
 5 1225(b)(1), 1226(C), or 1231 at the time of initial custody determination). The United
 6 States Court of Appeals for the Ninth Circuit has stayed application of the *Maldonado*
 7 *Bautista* class certification except in the Central District of California. *See Maldonado*
 8 *Bautista v. U.S. Department of Homeland Security*, No. 26-1044, Order, Docket Entry #17,
 9 (9th Cir. Mar. 31, 2026) (granting stay pending appeal of district court’s December 18,
 10 2025, class certification order insofar as it extends beyond Central District of California).

11 However, Respondents acknowledge the prior orders from this District directing
 12 bond hearings pursuant to 8 U.S.C. § 1226(a) in similar cases.¹ Respondents therefore do
 13 not oppose an order from this Court directing a bond hearing be held pursuant to 8 U.S.C.
 14 § 1226(a).²

15 To the extent the Petition can be construed to seek immediate release due to lack of
 16 issuance of an administrative warrant (ICE Form I-200) (ECF 1, ¶ 24), Respondents
 17 respectfully oppose. Petitioner was served with an administrative warrant (I-200) on June
 18

19 ¹ The petition asserts a claim sounding in Due Process. ECF 1, ¶¶ 3335. Should the Court
 20 grant the petition on statutory interpretation grounds, it should decline to address this
 21 argument. *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“As a general rule courts and
 22 agencies are not required to make findings on issues the decision of which is unnecessary
 to the results they reach.”).

23 ² 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 such
 25 order provide the government 14 days from issuance to hold such bond hearing. The Ninth
 26 Circuit has confirmed that at a bond hearing under 8 U.S.C. § 1226(a), the burden is on the
 27 detainee to demonstrate by a preponderance of the evidence that he is not a flight risk or
 28 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).

1 17, 2026. See Exhibit 1 (redacted). Further, Respondents note that 8 U.S.C. § 1357(a)(2)
2 authorizes warrantless arrests and 8 C.F.R. § 287.3(d) provides the government 48 hours
3 to issue a warrant if it determines that the noncitizen will remain in custody. *See Garcia-*
4 *Juarez v. Blanche*, No. 26-cv-3007-LL-DEB, ECF No. 18 (S.D. Cal. June 30, 2026).

5 DATED: July 9, 2026

6 Respectfully submitted,

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12 Attorney for Respondents
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