



1 Petitioner submits this Traverse and Memorandum to comply with the Court’s order and the  
 2 habeas corpus procedure and to expedite the process.

3 **1225 v. 1226**

4 As a threshold matter, petitioner agrees with respondents Response that conceding that the  
 5 court will hold that petitioner is detained pursuant to 8 U.S.C. § 1226(a). There have been dozens,  
 6 maybe hundreds, of decisions in the Southern District of California reaching this conclusion.  
 7 Despite this wealth of established law in this District, the respondents continue to obstinately detain  
 8 noncitizens on this unlawful basis—including petitioner. Now is what is the proper remedy?

9 **Remedy**

10 In this case, the appropriate relief is an order that respondents immediately release petitioner  
 11 from detention. Petitioner has lived in the USA for over a decade. Petitioner has been regularly  
 12 employed. He has no criminal record. The circumstances of his detention smack of racial profiling.  
 13 He was going to work and was stopped and detained for no apparent reason. Respondents know that  
 14 petitioner was entitled to a bond hearing under 8 U.S.C. § 1226(a) but they are forcing him (and  
 15 everyone else) to file habeas corpus petitions to compel compliance with the law. Finally, there is a  
 16 growing trend or realization that the bond proceedings at the Otay Mesa Immigration Court are not  
 17 fair. The EOIR system has been debased into a deportation machine. The immigration judges  
 18 apparently know that they risk being fired if they do not perform their expected task of denying bonds.  
 19 Respondents’ goal is to oppress noncitizens into hopelessness, despair, and exhaustion so that they  
 20 will abandon their rights. This is not justice.

21 The court should not reward this injustice. Accordingly, some courts are finding that  
 22 immediate release, rather than a bond hearing, is the appropriate remedy. *See E.A. T.-B. v. Wamsley*,  
 23 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (“Although the Government notes that Petitioner  
 24 may request a bond hearing while detained, such a post-deprivation hearing cannot serve as an  
 25 adequate procedural safeguard because it is after the fact and cannot prevent an erroneous  
 26 deprivation of liberty.”); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (“if  
 27 Petitioner is detained, he will already have suffered the injury he is now seeking to avoid”);  
 28 *Domingo v. Kaiser*, Case No. 25-cv-05893 (RFL), 2025 WL 1940179, at \*3 (N.D. Cal. July 14,

1 2025) (“Even if Petitioner[ ] received a prompt post-detention bond hearing under 8 U.S.C. §  
2 1226(a) and was released at that point, he will have already suffered the harm that is the subject of  
3 his motion; that is, his potentially erroneous detention.”).

4 Also, respondents seem to transpose the rules relating to needing a warrant to arrest. The  
5 order would necessarily seem to be (a) get warrant, followed by (b) arrest. Respondents are saying  
6 that the proper order is (a) arrest, followed by (b) get warrant. The warrant presented to the court  
7 was given to petitioner after they had already arrested him.

8 Still, as respondents point out, there are some exceptions to this rule. Officers can arrest  
9 aliens without a warrant for entering the USA in presence violations or if they have reason to  
10 believe the alien is unlawfully present. 8 U.S.C. 1357(a)(2). Here, respondents arrested petitioner at  
11 a 7-11 store here in California. They had no reason to believe that he might be here unlawfully. The  
12 regulation cited by respondents, 8 C.F.R. § 287.3(d) pertains to aliens arrested without a warrant.  
13 Presumably, the arrest of the alien without a warrant was done lawfully. That would bring us full  
14 circle back to the rules in the statute, 8 U.S.C. 1357(a)(2), discussed above. In respondents’ topsy-  
15 turvy world, up is down and down is up. Or, they just refuse to respect the law.

16 So, petitioner seeks the following remedy:

- 17 1. Respondents are ordered to immediately release Petitioner from custody.
- 18 2. The Court orders, prior to any re-detention of Petitioner, that Petitioner shall receive  
19 a hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) to determine whether  
20 detention is warranted. Respondents shall bear the burden of establishing, by clear and convincing  
21 evidence, that Petitioner poses a danger to the community or a risk of flight.

22 DATED: 10 July 2026

23 Respectfully submitted,

24 /s/ William Baker  
25 William Baker (157 906)  
26 MORENO & ASSOCIATES  
27  
28