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UNITED STATES DISTRICT COURT FOR THE

CENTRAL DISTRICT OF CALIFORNIA

JORGE GONZALO SAMANIEGO

Petitioner(s),

vs.

Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; Todd BLANCHE, Acting U.S. Attorney General; David VENTURELLA, Acting Director, Immigration and Customs Enforcement; WARDEN, Adelanto ICE Processing Center / Desert View Facility; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; IMMIGRATION AND CUSTOMS ENFORCEMENT; UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (USCIS); and U.S. DEPARTMENT OF HOMELAND SECURITY,

Respondent(s).

Case No.: 5:26-cv-03709-KS

PETITIONER'S REPLY IN SUPPORT OF - OPPOSED - FIRST EX PARTE APPLICATION (DKT. NO. 13); RESPONSE TO RESPONDENTS' OPPOSITION (DKT. NO. 14); SUPPLEMENTAL DECLARATION OF ALEJANDRO BARAJAS RE LOCAL RULE 7-19.1

Hon. Karen L. Stevenson
United States Magistrate Judge

I. INTRODUCTION

Respondents' Opposition (Dkt. No. 14) rests on a procedural objection that has now been cured, on merits arguments that have been fully briefed and submitted since July 13, 2026, and on a mischaracterization of the relief Petitioner seeks. What the Opposition conspicuously does not contain is any evidence (no declaration, no medical record, no exhibit) disputing the facts set out in the Supplemental Declaration of Celia Margarita Samaniego: that the internal surgical hardware in Petitioner's left hand has come loose; that he suffers severe pain, numbness, a bleeding wound beneath a cast he is forbidden to remove, and a growing lump; that revision surgery was approved and recommended by medical staff but has not been signed off by ICE officials; and that he has been told he is "not a priority." Those facts stand unrebutted, and they warrant prompt action on the fully submitted Petition or, in the alternative, interim release.

II. ANY DEFECT UNDER LOCAL RULE 7-19.1 HAS BEEN CURED, AND RESPONDENTS SUFFERED NO PREJUDICE

Respondents first ask the Court to deny the Application because counsel's pre-filing notice was written rather than oral. (Dkt. No. 14 at 1–2.) On July 23, 2026, the day before filing, counsel served written notice of the date and substance of the Application on all three of Respondents' email addresses of record, including that of Assistant United States Attorney Nithya Senra. Respondents did not respond. (Dkt. No. 13 at 3 & Decl. ¶¶ 2–4.) On July 24, 2026, promptly after the Opposition raised the absence of oral notice, the undersigned telephoned

AUSA Senra and spoke with her directly regarding the Application, its substance, and the relief requested. The parties conferred in good faith but were unable to reach agreement, and the Application remains opposed. (Suppl. Decl. of Counsel ¶¶ 3–5.)

The purpose of Local Rule 7-19.1 is to ensure that opposing counsel receives actual notice of an ex parte application and a fair opportunity to oppose it. Respondents received both: they had written notice the day before filing, and they filed a seven-page substantive opposition within hours of the Application being docketed. Respondents identify no prejudice from the notice having been written rather than oral; nor could they, given the completeness of their same-day opposition. The oral conferral the rule contemplates has now occurred, and it confirmed what the Application already disclosed: the parties disagree, and the dispute is ripe for decision. Where the rule's purpose has been fully served and any technical defect promptly cured, denying emergency medical relief on this ground would elevate form over substance at the cost of Petitioner's hand.

III. THE APPLICATION SEEKS CORE HABEAS RELIEF, NOT A CONDITIONS-OF-CONFINEMENT INJUNCTION

Respondents next recast the Application as a challenge to the conditions of Petitioner's confinement lying outside habeas jurisdiction. (Dkt. No. 14 at 3–4.) That is not what the Application seeks. Its primary request is an order expediting the Court's ruling on the Petition itself, which has stood fully submitted since July 13, 2026. Section 2243 directs a habeas court to act "forthwith" and to "dispose of

the matter as law and justice require." 28 U.S.C. § 2243. Nothing in *Pinson*, *Nettles*, or *Preiser* suggests that a district court lacks jurisdiction to promptly decide a habeas petition that is already fully briefed and submitted. Asking the Court to rule on its own docket is not a "conditions" claim under any authority.

The alternative request, interim release pending adjudication, likewise lies at the historic core of the writ. The line *Pinson* draws is between claims whose success would necessarily lead to release and claims seeking only changed conditions of ongoing custody. *Pinson v. Carvajal*, 69 F.4th 1059, 1072–73 (9th Cir. 2023). Petitioner seeks release, the quintessential habeas remedy, not an injunction directing Adelanto to alter his medical care. And the Ninth Circuit has squarely held that a district court entertaining a § 2241 petition brought by civil immigration detainees may order release where the circumstances of detention violate due process. *Roman v. Wolf*, 977 F.3d 935, 941–44 (9th Cir. 2020). Respondents' authorities (*Badea*, *Nettles*, *Hill*, and *Preiser*) all involved convicted criminal prisoners seeking to change the circumstances of their custody while remaining in it. Petitioner, by contrast, is a civil immigration detainee held under no punitive sentence, the very posture in which *Roman* recognized release as an available remedy.Petitioner's medical emergency is not a freestanding conditions claim; it is the changed circumstance that supplies the urgency for deciding the already-submitted Petition and the irreparable-harm showing for interim release under *Winter*.

IV. RESPONDENTS' MERITS ARGUMENTS CONFIRM THE NEED FOR PROMPT ADJUDICATION

Sections D and E of the Opposition, arguing that detention is lawful under 8 U.S.C. § 1226(a) and that Petitioner's remedy is a bond hearing, restate the arguments in Respondents' Response to the Petition (Dkt. No. 10). Those arguments were fully briefed when Petitioner filed his reply on July 13, 2026, and the matter stood submitted that day under General Order 26-05. They are reasons the Court can rule now; they are not reasons to delay ruling. Petitioner will not re-argue the merits here and rests on the Petition and reply (Dkt. Nos. 1, 12), which are incorporated by reference.

Two observations are nonetheless warranted. First, Respondents concede that detention under § 1226(a) is discretionary, not mandatory. (Dkt. No. 14 at 4.) There is thus no statutory command, only an unexercised discretion, weighing against the interim release of a lawful permanent resident of fifteen years whose 2018 conviction resulted in a sentence of two days' time served and probation. Second, the availability of a bond hearing before the same agency whose officials have declined to sign off on surgery that its own medical staff approved and recommended (Suppl. Decl. of C.M. Samaniego ¶ 5) is no answer to a time-sensitive risk of permanent physical injury. The Petition challenges the lawfulness of Petitioner's detention and is submitted; administrative bond procedures do not relieve the Court of its duty under § 2243 to dispose of the matter "as law and justice require."

V. THE GENERAL ORDER SUPPORTS, RATHER THAN BARS, THIS APPLICATION

Respondents' final argument treats the Application as a "TRO Application" barred by the General Order. (Dkt. No. 14 at 5–6.) It is not a TRO application. Petitioner's only TRO application, which sought to restrain his transfer out of the District, was resolved on July 13, 2026, when the Court stayed the transfer and denied the application as moot. (Dkt. No. 11.) The present Application seeks an expedited ruling on the submitted Petition, precisely the "prompt resolution to habeas petitions" the General Order exists to secure. Petitioner is not seeking to "go to the head of the line" past other litigants awaiting briefing; his case has already completed the expedited briefing the General Order prescribes.

Respondents' authorities are inapposite for the same reason. In *Tang*, *Argueta*, *Liu*, *Chen*, and *Hernandez-Gomez*, petitioners sought TRO relief at the outset of their cases, in place of the expedited briefing schedule. Here, briefing is complete and the schedule has run its course; the harm arises from post-submission delay, which the briefing schedule by definition cannot address. Nor does *Franco*, which involved bronchitis, coughing fits, and a nosebleed, resemble this record: loosened internal surgical hardware, a bleeding wound beneath a cast Petitioner is forbidden to remove, numbness, a growing lump, and a risk of permanent loss of hand function, at a facility already operating under the preliminary injunction in *L.T. v. U.S. Immigration & Customs Enforcement*, No. 5:26-cv-00322-SSS-SP (C.D. Cal. July 16, 2026), requiring timely treatment of urgent and emergent cases.

Both *Mission Power* requirements are met: Petitioner faces irreparable prejudice if relief must await a noticed-motion schedule, and the need for ex parte relief arose from a post-submission deterioration that is no fault of Petitioner or counsel.

VI. THE MEDICAL FACTS STAND UNREBUTTED

Finally, the Opposition's silence is telling. Respondents acknowledge Petitioner's changed medical circumstances "relating to his need for medical treatment and surgery on his hand" (Dkt. No. 14 at 3), and then dispute none of them. They offer no declaration from Adelanto medical staff, no treatment records, and no explanation for why surgery that medical staff approved and recommended remains unperformed. On this record, the Supplemental Declaration of Celia Margarita Samaniego stands unrebutted, and the equities it establishes are uncontested.

VII. CONCLUSION

For the foregoing reasons and those stated in the Application, Petitioner respectfully requests that the Court (1) expedite its ruling on the fully submitted Petition; or, in the alternative, (2) order Petitioner's interim release pending adjudication; and (3) grant such further relief as law and justice require.

Dated: July 27, 2026

Respectfully submitted,

/s/ Alejandro Barajas

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SUPPLEMENTAL DECLARATION OF ALEJANDRO BARAJAS

I, Alejandro Barajas, declare as follows:

1. I am an attorney licensed to practice before this Court and counsel of record for Petitioner Jorge Gonzalo Samaniego. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently to them. I submit this declaration to supplement the record concerning Local Rule 7-19.1 in connection with Petitioner's First Ex Parte Application (Dkt. No. 13).

2. As stated in my declaration accompanying the Application, on July 23, 2026, I served written notice of the date and substance of the Application by email on counsel for Respondents at USACAC.Habeas@usdoj.gov, oil-dcs.cacd@usdoj.gov, and nithya.senra@usdoj.gov. Respondents did not respond to that notice before the Application was filed.

3. On July 24, 2026, after Respondents filed their Opposition (Dkt. No. 14) asserting that counsel had not made oral efforts to advise Respondents' counsel of the Application, I telephoned Assistant United States Attorney Nithya Senra, counsel of record for Respondents, and spoke with her directly by telephone.

4. During that telephone conferral, I advised AUSA Senra of the substance of the Application and the relief requested, and the parties discussed their respective positions. The parties conferred in good faith but were unable to reach agreement regarding the relief requested. Respondents maintain their opposition, and the Application accordingly remains OPPOSED.

5. I respectfully submit that the purpose of Local Rule 7-19.1, to ensure opposing counsel receives notice of an ex parte application and an opportunity to respond, has been fully served, both by the written notice served before filing and by the oral conferral described above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on July 27, 2026, at Los Angeles, California.

Dated: July 27, 2026

Respectfully submitted,

/s/ Alejandro Barajas

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