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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 Zamir Faizi,

11 Plaintiff,

12 v.

13 SERGIO ALBARRAN, San Francisco
14 Field Office Director of Enforcement and
15 Removal Operations,
16 SAN FRANCISCO Field Office,
17 Immigration and Customs Enforcement;
18 MARKWAYNE MULLEN, Secretary,
19 U.S. Department of Homeland Security;
20 U.S. DEPARTMENT OF HOMELAND
21 SECURITY;
22 TODD BLANCHE, U.S. Attorney General;
23 EXECUTIVE OFFICE FOR
24 IMMIGRATION REVIEW;
25 TONYA ANDREWS, Warden of
26 California Golden State Annex,

27 Respondents.
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No. 1:26-CV-05112-DAD-SCR

PETITIONERS RESPONSE TO THE ORDER
DIRECTING SUPPLEMENTAL BRIEFING

AND

STATUS UPDATE

PETITIONER'S RESPONSE TO THE ORDER DIRECTING SUPPLEMENTAL BRIEFING

In Response to the court order directing supplemental briefing, the Petitioner files the following response. It is the Respondents burden to prove that the Petitioner falls under mandatory detention since they are alleging that he is detained pursuant to §1226(c). Similar to a bond hearing, the Respondents should be held to the same burden of proof. The Court in *Pinchi* discussed why burden-shifting is warranted for individuals—like Petitioner—who have been paroled from immigration custody after their initial detention, explaining that release “constitute[s] an ‘implied promise’ that her liberty would not be revoked unless she ‘failed to live up to the conditions of her release.’” *Pinchi*, 2025 WL 2084921, at *4 (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). For that reason, it is appropriate that the burden be on the Government to demonstrate at a pre-deprivation hearing that the petitioner has failed to live up to those conditions. *See id.* at *7. “Doing so is logical even for a post-detention custody hearing[.]” *M.R.R.*, 2025 WL 3265446, at *14. “Since it is the government that initiated re-detention, it follows that the government should be required to bear the burden of providing a justification for the re-detention.” *Id.* *SAGAR PHOGAT, Petitioner, v. CHRISTOPHER CHESTNUT, et al., Respondents.*, No. 1:26-CV-04258-NW, 2026 WL 1831905, at *5 (E.D. Cal. June 25, 2026)

“[T]he Ninth Circuit recently noted that it is the government that bears the burden of proof at a bond hearing where the petitioner is detained pursuant to § 1226(c).” *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024) (reviewing an IJ's public safety risk determination); see also *Carballo v. Andrews*, No. 1:25-cv-00978-KES-EPG (HC), 2025 WL 2381464, at *8 (E.D. Cal. Aug. 15, 2025) (ordering the government to provide a post-deprivation bond hearing § 1226(c) detainee where the government bears the burden of proof).

In *Cajina v. Wofford*, this Court ordered the immediate release of the Petitioner despite the pending DUI charges that the Petitioner had in Contra Costa County. (“On June 23, 2024, petitioner was arrested by the Concord Police Department and subsequently charged with driving under the influence and on a suspended license in violation of California Vehicle Code §§ 23152(a), 23152(b), and 14601.5(a). (Id. at 6.) Petitioner pled not guilty, and those charges

1 remain pending against him in the Contra Costa County Superior Court.”) (Id.) (*Cajina v.*
2 *Wofford*, No. 1:25-CV-01566-DAD-AC (HC), 2025 WL 3251083, at *1 (E.D. Cal. Nov. 21, 2025).
3 In *Andrews Guevara Moran v. Andrews*, the court held, “In light of petitioner’s prior release on
4 bond, the court incorporates and adopts the reasoning set forth in its prior order *Ayala Cajina v.*
5 *Wofford*, No. 1:25-cv-01566-DAD-AC (HC), 2025 WL 3251083 (E.D. Cal. Nov. 21, 2025), in
6 which the court concluded that the petitioner’s prior release by immigration authorities created a
7 liberty interest in his continued release.” ANDRES GUEVARA MORAN, Petitioner, v. TONYA
8 ANDREWS, et al., Respondents. Additional Party Names: United States Immigr. & Customs
9 Enft, No. 1:26-CV-04891-DAD-AC, 2026 WL 1893581, at *2 (E.D. Cal. June 30, 2026). The
10 Court ordered immediate release in the case of *Andrews*, even where there was a felony littering
11 violation and a charge with possession of controlled substance with intent to sell violation
12 because there was no record that the Respondent had suffered any criminal convictions. *Id.*

13 **STATUS UPDATE**

14 The Petitioner’s EOIR hearing is scheduled for July 21, 2026 at 1pm at Adelanto, CA.

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