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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

LANDA ZARAGOZA, MATEO
HITZIL CRUZ, DAVID
PETITIONERS,

vs.

CHRISTOPHER CHESTNUT, WARDEN,
CALIFORNIA CITY DETENTION FACILITY; DAVID J.
VENTURELLA, ACTING DIRECTOR OF UNITED
STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;
MARKWAYNE MULLIN, SECRETARY OF THE
UNITED STATES DEPARTMENT OF HOMELAND
SECURITY, TODD BLANCHE, ACTING
ATTORNEY GENERAL OF THE UNITED STATES,
ACTING IN THEIR OFFICIAL CAPACITIES,

RESPONDENTS.

CASE No.: 1:26-cv-05294-EJD

**PETITIONER'S REPLY TO
GOVERNMENT'S OPPOSITION
AND IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING
ORDER**

INTRODUCTION

1 The Government's opposition ignores the crux of Petitioners' claim: Petitioners were
2 arrested without warrants in violation of their Fourth Amendment rights and U.S.C. §
3 1357(a)(2). Petitioners warrant immediate release.
4

5 The Government has waived any meaningful response to the Fourth Amendment and 8
6 U.S.C. § 1357(a)(2) claims that form the core of Petitioners' habeas petition and TRO motion.
7 The Government does not claim in their response that Petitioners were ever served with
8 warrants of removal or arrest. Their opposition does not engage- at all- with Petitioners'
9 showing that no warrant was served at or before the arrest, and that immigration officers did
10 not (and could not) satisfy § 1357(a)(2)'s probable-cause-of-flight-risk requirement. By failing
11 to join those issues, the Government has forfeited them.
12

13 The Government's only argument—that Petitioners are subject to mandatory detention
14 under 8 U.S.C. § 1225(b)(2)—has been rejected by *almost all judges of this Court* to have
15 considered it on materially similar facts, and by a wave of post-*Castellanos* decisions involving
16 long-term interior residents arrested by ICE. As a Court in this circuit recently explained:

17
18 Mr. Garcia has been in the United States since childhood, has lived here for decades,
19 and was arrested in Northern California on the way to work. Courts addressing similar
20 circumstances have repeatedly held that detention in such cases is governed by §
1226(a), not § 1225(b)(2), *and that due process demands immediate release and a
hearing prior to any further detention.*

21 *Garcia v. Albarran*, No. 26-CV-04839, 2026 WL 1454512, at *2 (N.D. Cal. May 21, 2026)
22 (emphasis added); *Bernal v. Albarran*, No. 25-CV-09772-RS, 2025 WL 3281422, at *6 (N.D.
23 Cal. Nov. 25, 2025); *Bautista Pico v. Noem*, No. 25-cv-8002, 2025 WL 3295382, at *2 (N.D.
24 Cal. Nov. 26, 2025).
25

26 The Court should grant the TRO, order Petitioners' immediate release, and bar their
27 removal or transfer outside the District during the pendency of this action.
28

ARGUMENT

I. THE GOVERNMENT HAS FORFEITED ANY DEFENSE TO PETITIONERS' FOURTH AMENDMENT AND § 1357(a)(2) CLAIMS.

Petitioner's habeas petition and TRO motion devotes the bulk of its analysis to a discrete legal violation: ICE's warrantless street arrest of the Petitioners without the individualized flight-risk finding that 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii) requires, and the resulting violation of the Fourth Amendment. The Government's response does not address the issue. Based on the foregoing, the Government's non-response does not engage with- and therefore concedes- each of the following points:

- (a) the absence of reasonable suspicion justifying the initial traffic stop;
- (b) the Government failed to serve any warrant before or during Petitioners' arrests;
- (c) immigration officers did not—and on this record could not—make the individualized determination of probable cause to believe any of the Petitioners were “likely to escape” that § 1357(a)(2) requires for any warrantless interior arrest.

Arguments not raised in opposition to a motion are forfeited. That principle has particular force here. It is the Government's burden to justify a custodial seizure, and that burden is heightened when the seizure is warrantless. The Government's total failure to engage with Petitioners' Fourth Amendment and § 1357(a)(2) arguments is itself a sufficient ground to grant the TRO.

A. The remedy for an unlawful warrantless arrest is immediate release.

When a habeas petitioner shows that the Government is detaining him without a “legal basis to do so,” the only constitutionally adequate remedy is release. *Bernal v. Albarran*, No. 25-CV-09772-RS, 2025 WL 3281422, at *6 (N.D. Cal. Nov. 25, 2025) (“[T]he government may never detain an individual that enjoys the protection of the Due Process Clause without a

1 legal basis to do so.”). See also more recently, *Jose Daniel Carbajal Torres v. Fereti Semaia et*
2 *al*, 5:2026-cv-03091 (C.D. Cal. June 29, 2026) (Petitioner ordered released after they were
3 never shown a warrant and was not told at the time of the arrest that there was a warrant).

4 **II. PETITIONERS ARE NOT SUBJECT TO MANDATORY DETENTION**
5 **UNDER § 1225(b)(2)(A); THEIR DETENTION IS GOVERNED BY § 1226(a), AND**
6 **DUE PROCESS REQUIRES IMMEDIATE RELEASE.**
7

8 The Government’s only affirmative legal argument is its renewed invocation of 8
9 U.S.C. § 1225(b)(2) as a basis for mandatory detention of two long-term interior residents.
10 Resp. at page 2. The Government fails to acknowledge that the majority of the district courts
11 addressing this issue, have similarly rejected Respondents’ position.

12 Specifically, the Court has rejected the same argument in *Castellanos v. Albarran*, No.
13 25-cv-7962, 2025 WL 4109737 (N.D. Cal. Oct. 14, 2025), and that “[e]very court in this
14 district to have considered these questions” has rejected it as well. Resp. at 5 (quoting *Bautista*
15 *Pico v. Noem*, No. 25-cv-8002, 2025 WL 3295382, at *2 (N.D. Cal. Nov. 26, 2025)). Nothing
16 has changed. The Court should adhere to its prior reasoning. The government cites
17 *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) which is not binding on this Court.
18

19 Courts have repeatedly held that ICE may not bypass § 1226(a)’s
20 individualized-determination requirement by invoking § 1225(b)(2)(A) to summarily detain
21 long-resident noncitizens arrested in the interior. As a Court in the Northern District recently
22 explained, where a noncitizen “has been in the United States since childhood, has lived here for
23 decades, and was arrested in Northern California on the way to work[,] [c]ourts addressing
24 similar circumstances have repeatedly held that detention in such cases is governed by §
25 1226(a), not § 1225(b)(2), and that due process demands immediate release and a hearing prior
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27
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1 to any further detention.” *Garcia v. Albarran*, No. 26-CV-04839, 2026 WL 1454512, at *2
2 (N.D. Cal. May 21, 2026); *accord Cuy Comes v. DeLeon*, No. 25-cv-09283 (AT), 2025 WL
3 3206491, at *3–5 (S.D.N.Y. Nov. 14, 2025); *Bernal v. Albarran*, No. 25-CV-09772-RS, 2025
4 WL 3281422, at *6 (N.D. Cal. Nov. 25, 2025), *appeal dismissed sub nom. Hernandez Bernal v.*
5 *Albarran*, No. 26-484, 2026 WL 1133189 (9th Cir. Feb. 25, 2026); *Lepe v. Andrews*, 801 F.
6 Supp. 3d 1104 (E.D. Cal. 2025) (preliminary injunction and immediate release where
7 noncitizen likely to succeed on claim that he was not subject to mandatory detention).

8 The Government’s position is governed by the consistent precedent of this District and
9 Circuit, and there is no warrant for departing from it now.

10 CONCLUSION

11 The Fourth Amendment’s core purpose, to protect individuals from precisely the kind
12 of arbitrary Governmental seizure that occurred here, is the main issue of this matter. For the
13 foregoing reasons, Petitioners respectfully request that this Court (1) order their immediate
14 release from Respondents’ custody, restoring the *status quo ante*; (2) enjoin Respondents from
15 transferring Petitioners out of this District or removing them from the United States pending
16 these proceedings; (3) enjoin Respondents from re-detaining Petitioners without further order
17 of this Court.
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19 DATED: July 14, 2026

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