UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Case No. 25-cv-00941-JLT-HBK

MARCELINO CERRO HUERTA,

Petitioner,

v.

PAMELA BONDI, in her official capacity as Acting Attorney General of the United States; **KRISTI NOEM**, in her official capacity as the Secretary of the U.S. Department of Homeland Security; **TODD M. LYONS**, in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement; **ORESTES CRUZ**, in his official capacity as Field Office Director of U.S. Immigration and Customs Enforcement San Francisco Field Office; **RON MURRAY**, in his official capacity as Warden of the Mesa Verde Immigration and Customs Enforcement Processing Center;

Respondents.
_____/

PETITIONER'S RESPONSE TO MOTION TO DISMISS

Marcelino Cerro Huerta petitioned this Court for habeas corpus relief on August 1, 2025 while detained at the Mesa Verde ICE Processing Center in Bakersfield, California. [ECF No. 1]. He is a noncitizen originally from Mexico who has lived in the United States for more than twenty years. During his residence in the U.S., he did not encounter immigration authorities until June 6, 2025. Upon Mr. Cerro Huerta's motion, on August 7, 2025, this Court issued an *ex parte* order to show cause, [ECF No. 4], directing Respondents to file an answer or motion to dismiss. Respondents filed their motion to dismiss on August 22, 2025. [ECF No. 9]. Mr. Cerro Huerta

hereby responds and registers his opposition to Respondents' motion to dismiss. In summary, Respondents assert that 1) Mr. Cerro Huerta is subject to the mandatory detention provisions of 1225(b)(2)(A), and that 2) the pursuit of an additional administrative remedy—appeal to the Board of Immigration Appeals (BIA)—should be exhausted. [ECF No. 9].

Administrative exhaustion would be a futile gesture certain to cause Mr. Cerro Huerta irreparable harm. An immigration judge has already determined she "would grant bond," i.e, Mr. Cerro Huerta does not pose a danger or a flight risk, meaning that his ongoing detention serves no valid civil purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (recognizing that the only valid interests for civil immigration detention are to mitigate the risks of danger to the community and flight). Mr. Cerro Huerta should not remain separated from his family to pursue an illusory administrative remedy.

Respondents also get it wrong on Mr. Cerro Huerta's statutory detention authority. A key to the entire matter is found in a footnote to Respondents' motion: "Respondents acknowledge that multiple district courts have disagreed with their [Respondents] interpretation of § 1225 as relevant here." [ECF No. 9] at p. 8. These same district court decisions across the country have also roundly rejected Respondents' arguments regarding exhaustion of additional administrative remedies in cases like Mr. Cerro Huerta's where 1225(b)(2)(A) has been erroneously applied as part of a new policy between the Department of Justice (DOJ) and Department of Homeland Security (DHS)[1]. *See Diaz Martinez v. Hyde*, F. Supp. 3d, 2025 U.S. Dist. LEXIS 141724, 2025 WL 2084238 (D. Mass. July 24, 2025); *see also, e.g., Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 2025 WL 1193850 (W.D. Wash. 2025) (holding same); *Gomes v. Hyde*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299 (D. Mass. July 7, 2025) (same).

[1] https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission

This Court should award habeas relief, as Mr. Cerro Huerta has already received a bond hearing where the immigration judge found neither dangerousness nor flight risk to be at issue, but instead, pursuant to this new policy, denied bond on jurisdictional grounds. Mr. Cerro Huerta is also a putative class member in pending litigation in the Central District of California, in which a preliminary injunction has already issued in favor of the named plaintiffs, finding that they are not to be held under 1225(b)(2)(A) mandatory detention. *See Lazaro Maldonado v. Bautista et al v. Ernesto Santacruz Jr. et al.*, No. 25-cv-01873-SSS-BFM, (C.D.Cal. 2025) [D.E. 14]. Mr. Cerro Huerta seeks his immediate release or, in the alternative, a new bond hearing.

Argument

I. Exhaustion of Administrative Remedies Would be Futile and Would Cause Irreparable Injury

Exhaustion of administrative remedies is a prudential requirement that may be waived where "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981)).

A. Requiring Exhaustion Would Cause Mr. Cerro Huerta Irreparable Injury

Administrative exhaustion should be deemed waived due to the irreparable injury Mr. Cerro Huerta suffers every day he remains detained and separated from his family. He has two dependent children, ages 18 and 10, from whom he has been separated for nearly three months. He has also been separated from his spouse of more than two decades during his confinement. *See Hamdi v. Rumsfeld*, 542 507, 529, 124 S. Ct. 2633, 159 L. Ed 2d 578 (2004) ("[T]he interest in being free from physical detention by one's own government" is "the most elemental of liberty interests."); *See Ferrara v. United States*, 370 F. Supp. 2d 351, 360 (D. Mass. 2005) ("Obviously,

the loss of liberty is a . . . severe form of irreparable injury."). The Ninth Circuit has recognized that irreparable injury is an independent basis for waiving additional exhaustion of administrative remedies. *See Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). What is more, courts have repeatedly waived the exhaustion requirement in similar cases involving the prospect of prolonged confinement. *Lopez Benitez v. Francis*, F. Supp. 3d, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (waiving exhaustion for habeas petitioner erroneously categorized as subject to 1225(b)(2)(6)); *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025) (same); *Rosado v. Bondi*, 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (same), *report and recommendation adopted without objection*, 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025);) (same); *dos Santos v. Lyons*, 2025 U.S. Dist. LEXIS 157488, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (same).

B. Constitutional Challenges to Detention Do Not Require Exhaustion

Requiring Mr. Cerro Huerta to exhaust administrative remedies should not be required "because [EOIR] does not have jurisdiction to adjudicate constitutional issues." *Vargas v. INS*, 831 F.2d 906, 908 (9th Cir. 1987); *see also Tall v. Mukasey*, 517 F.3d 1115, 1120 (9th Cir. 2008).

In addressing Mr. Cerro Huerta's claims, Respondents assert that 1225 and 1226 differ in terms of "the specific over the general," [ECF No. 9] at p. 7, which implies that either statute may conceivably apply to Mr. Cerro Huerta's detention, at Respondents' discretion. This suggestion of potential overlap immediately triggers a due process problem if the government is able to turn due process and immigrants' constitutional liberty interests on and off like a light switch. *See Rodrigues De Oliveira v. Joyce*, 2025 U.S. Dist. LEXIS 125776, 2025 WL 1826118 (D. Me. July 2, 2025) (recognizing disagreement as to the detention statutes and granting habeas petition on due process grounds). Furthermore, this argument misunderstands the requirements of section 1226,

which applies only where a noncitizen is arrested "[o]n a warrant . .. pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Thus, section 1226 does not apply either: 1) where there is no warrant; or 2) where the individual is not facing "remov[al] from the United States," *i.e.*, where detention is pending a decision on whether the person can be *let into* the United States. In those cases, where otherwise appropriate, section 1225 can apply. It is therefore simply incorrect to say that section 1225 is more "specific" than section 1226.

Rather, these statutes are "mutually exclusive," as the Government has acknowledged in at least one other case. *Lopez Benitez*, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at *4. Indeed, as the Attorney General has previously recognized, section [1225] (under which detention is mandatory) and section [1226] (under which detention is permissive) can be reconciled only if they apply to different classes of aliens." *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019); *Romero v. Hyde*, 2025 U.S. Dist. LEXIS 160622, *25-26. Mr. Cerro Huerta here has asserted that this approach results in arbitrary deprivation of liberty and due process as well as a statutory violation, which means that the Board of Immigration Appeals could not address it. *See Duong v. INS*, 118 F. Supp 2d 1059 (S.D. Cal 2000). Exhaustion of administrative remedies is not required because there was no statutory language mandating it. *Id.* Further, constitutional challenges to detention do not require administrative exhaustion. *Id.* Exhaustion cannot be required when the petitioner seeks to vindicate substantive due process rights, as such claims do not implicate the INA or involve review of a deportation order. *See Truong Thanh v. INS*, 14 F. Supp. 2d 1184. (S.D. Cal 2000).

In a subparagraph entitled "C. Due Process," Respondents response to Petitioner's claim that his due process rights have been violated is to assert that a bond hearing would be appropriate if exhaustion is waived and 1225 is found to govern Mr. Cerro Huerta's detention. [ECF No. 9] at

p. 8. Respondents therefore appear to acknowledge that Mr. Cerro Huerta's continued deprivation of liberty based on the erroneous application of a statute implicates Mr. Cerro Huerta's due process rights. This is a constitutional claim that cannot be redressed by the Board of Immigration Appeals. *See Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (per curiam) ("the inability of the INS to adjudicate the constitutional claim completely undermines most, if not all, of the purposes underlying exhaustion.").

C. Appeal to the BIA Would Be a Futile Gesture

Administrative exhaustion is likewise futile because the outcome of any BIA appeal is pre-ordained. A habeas petitioner need not exhaust administrative remedies to challenge a policy that the BIA had already announced and reaffirmed, where the government's bond redetermination decisions were legally incorrect. *Singh* at 1009. Here, Respondents have not denied that on July 8, 2025, DOJ and DHS jointly sought to reinterpret the INA such that mandatory detention would drastically increase.[2] And Respondents (including the Attorney General) are arguing in unison that Mr. Cerro Huerta is not entitled to an individualized bond hearing. It would be entirely unavailing to pursue administrative review from the BIA, which is a sub-agency of the DOJ, when the BIA has already issued a decision favoring the expansive application of 1225(b)(2)(A) mandatory detention.[3] Further, exhaustion of an additional administrative remedy—appeal to the BIA—is not required here because there is no statutory language mandating it. *Duong v. INS* at 1059. A District Court in Massachusetts sums up the futility of a BIA appeal for Mr. Cerro Huerta in an analogous case:

> "Respondents themselves argue that Petitioner's case is foreclosed by BIA precedent. *See, e.g.*, Dkt. 30 at 5, 15 (citing *Matter of Q. Li*, 29 I. & N. Dec. 66 (B.I.A. 2025)). The BIA, as part of the Executive Office for Immigration Review ("EOIR"), operates under DOJ

[2] https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.
[3] 59-1 ex A decision.pdf

> authority. *See* 8 C.F.R. § 1003.1. In another pending lawsuit dealing with this precise issue, where the Attorney General and EOIR are named defendants, the DOJ has taken the position that an individual in Petitioner's position is not entitled to an individualized bond hearing…Just last month, DHS issued an internal memorandum, "in coordination with the Department of Justice (DOJ)," affirming that section 1225 "is the applicable immigration detention authority for all applicants for admission." It is further worth noting that a former Immigration Judge from the Chelmsford Immigration Court—the court that denied Petitioner's bond request, *see* Compl. at 17—recently stated in an interview that he 'was told to rule in a certain way' by his superiors, who 'also had pressure from above.' The Court need not wring its hands too hard over this last point—after all, this Court is likewise bound to rule according to the decisions of its superiors, and immigration courts' authority ultimately derives from the executive branch, rather than the judicial. By the same token, however, the prospect of an unaffected decisionmaker seems unrealistically thin, and the Court finds little to be gained, in terms of insight into the Executive's point of view, from making Petitioner go through the vain exercise of getting denied once again [at the BIA]."

Romero v. Hyde, 2025 U.S. Dist. LEXIS 160622, *12-14 (D. Mass. August 19, 2025).

II. Mr. Cerro Huerta is Subject to Discretionary Detention Under 1226(a)

Respondents' I-213 Record of Deportable Alien, (ECF No. 9-1) at p. 6, indicates that Mr. Cerro Huerta was arrested at a traffic stop in Statesboro, Georgia, on June 6, 2025, with a notation on the bottom right hand corner indicating a "disposition" of "warrant of arrest/notice to appear." The I-213 notates no record of Mr. Cerro Huerta seeking admission into the United States, nor does it reflect any extant record of criminal history, much less any that would disqualify him from bond eligibility under 8 U.S.C. 1226(c). see id. By reference alone to the Respondents' own internal documentation, Mr. Cerro Huerta's detention would fall under 8 U.S.C. § 1226(a) as he was issued a "warrant of arrest" and then "arrested and detained pending a decision on whether the is to be removed from the United States." *See* U.S.C. § 1226(a). However, at Mr. Cerro Huerta's bond hearing, DHS argued successfully that a different statute—1225(b)(2)(A)—mandated his detention. Such novel post-hoc justifications for Mr. Cerro Huerta's detention should not be credited. *Cf. Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 22, 24 (2020) (holding that, under arbitrary and capricious review in the administrative law context,

"[t]he basic rule here is clear: An agency must defend its actions based on the reasons it gave when it acted," not on "impermissible post hoc rationalizations.").

Mr. Cerro Huerta requests that the Court, sitting in habeas, evaluate whether he is being detained pursuant to the erroneous application of the Immigration and Nationality Act (INA). *See INS v. St. Cyr*, 533 U. S. 289, 302 (2001) (citations and footnote omitted) (habeas is "not limited to challenges to the jurisdiction of the custodian, but encompassed detentions based on errors of law, including the erroneous application or interpretation of statutes.") This habeas petition arose because of the erroneous interpretation of two detention statutes in the INA: 8 U.S.C. § 1226(a) and § 1225(b). The distinction between the two is critical. Noncitizens subject to § 1226(a) are arrested "[o]n a warrant," and once detained, the statute allows ICE to release a person on bond or conditional parole, *see* 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 236.1(c)(8). If release is denied, the person can seek a custody redetermination—better known as a bond hearing—before an IJ. *See* 8 C.F.R. § 1236.1(d).

The difference between these two statutes reflects immigration law's longstanding distinction in the detention structure for noncitizens arrested *after* entering the country and those arrested when *attempting to enter* the country:

> Our immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality. In the latter instance, the Court has recognized additional rights and privileges not extended to those in the former category.

Leng May Ma v. Barber, 357 U.S. 185, 187, 2 L. Ed. 2d 1246, 78 S. Ct. 1072 (1958).

Prior to passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), the statutory authority for custody determinations was found at 8 U.S.C. § 1252(a). That statute provided for a noncitizen's detention during "deportation" proceedings, as well as

authority to release them on bond. *See* 8 U.S.C. § 1252(a) (1994). Those "deportation" proceedings governed the detention of anyone in the United States, regardless of manner of entry. *Id.* IIRIRA maintained the same basic detention authority and access to release on bond in the provisions now codified at 8 U.S.C. § 1226(a).

Contrary to Respondents' new policy of reclassifying all persons who entered without inspection as subject to mandatory detention, application of § 1226(a)—a discretionary detention statute—does not turn on whether someone has been previously admitted or paroled. Instead, the plain text of 8 U.S.C. § 1226(a)—which affords access to bond—includes people who are inadmissible. In fact, in implementing IIRIRA's detention authority, the former Immigration and Naturalization Service clarified that—just as had occurred before IIRIRA—people who entered the United States without inspection and were not apprehended while "arriving" in the country would continue to be detained under the same detention authority they always had been: § 1226(a) (previously § 1252(a)). *See* Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("[I]nadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge . . . . This procedure maintains the status quo.") Section 1226(a)—the INA's default detention authority—therefore applies to a person who is detained "pending a decision on whether the [noncitizen] is to be removed from the United States." *Id.* § 1226(a).

By contrast, through IIRIRA, Congress enacted new detention and removal authorities for people who are apprehended upon arriving in the United States. *See* 8 U.S.C. § 1225(b)(1)–(2). These individuals can be placed in special expedited removal proceedings (where DHS officers issue administrative removal orders without any hearings), or regular removal proceedings (before

IJs). Either way, such persons are subject to mandatory detention. See 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV), (b)(2)(A

The statutes' overall structure and context make it clear that the mandatory detention provisions of 1225(b)(2)(A) do not apply to Mr. Cerro Huerta, who, although he is present without admission, was arrested within the interior of the United States more than twenty years after his arrival. Subsection 1226(a) provides the general right to seek release on bond. Subsection 1226(c) then carves out discrete categories of noncitizens from being released (primarily those convicted of certain crimes) and subjects them to mandatory detention instead. Furthermore, legislative history post-enactment of IIRIRA has logical consequences that are irreconcilable with Respondents' arguments. Indeed, recent amendments to § 1226(c)—a mandatory detention statute—reinforce this point by explicitly *including* people under mandatory detention who are inadmissible for being present without admission, i.e., for having entered without inspection, if they have also been arrested for or committed certain crimes. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). As explained *infra*, such legislation would be entirely superfluous if all persons who entered without inspection and are therefore "present without admission" could be placed in mandatory detention under 1226(b)(2)(A) anyway.

Pursuant to these amendments, people charged as inadmissible under §1182(a)(6)(A)(i) (the inadmissibility ground for entry without inspection) or (a)(7) (the inadmissibility ground for lacking valid documentation to enter the United States) and who have been arrested, charged with, or convicted of certain crimes are subject to § 1226(c)'s mandatory detention provisions. See 8 U.S.C. § 1226(c)(1)(E). By including such individuals under § 1226(c), Congress reaffirmed by logical necessity that § 1226(a) covers persons charged under § 1182(a)(6)(A) or (a)(7). "[W]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those

exceptions, the statute generally applies." *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (quoting *Shady Grove*, 559 U.S. at 400); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025) (similar); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238, at *7 (D. Mass. July 24, 2025) (similar).

These carve-outs include specifying that noncitizens who are inadmissible for entering without inspection and who meet certain other crime-related criteria are subject to mandatory detention. *See id.* § 1226(c)(1)(E). Because § 1226(c)'s exception expressly applies to people who entered without inspection (like Mr. Cerro Huerta) but who must meet certain other criteria, it reinforces the default rule that § 1226(a)'s general detention authority must apply to Mr. Cerro Huerta unless he was arrested or convicted of one of the enumerated crimes in 1226(c). *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010).

Several canons of interpretation reinforce this understanding. First, the canon against rendering text superfluous or meaningless applies here. *See, e.g., Shulman v. Kaplan*, 58 F.4th 404, 410–11 (9th Cir. 2023). Notwithstanding the plain text noted above, DHS and the DOJ (which encompasses EOIR, the immigration court system) now believe that anyone present in the United States without being admitted is subject to mandatory detention under § 1225(b)(2)(A). This interpretation "would render significant portions of Section 1226(c) meaningless." *Rodriguez Vazquez*, 2025 WL 1193850, at *13. As the Rodriguez Vazquez court explained, this is so because if "Section 1225 . . . and its mandatory detention provisions apply to all noncitizens who have not been admitted, then it would render superfluous provisions of Section 1226 that apply to certain categories of inadmissible noncitizens." *Id.* at *14 (citation modified). Second, "[w]hen Congress acts to amend a statute, [courts] presume it intends its amendment to have real and substantial effect." *Gieg v. Howarth*, 244 F.3d 775, 776 (9th Cir. 2001) (citation omitted). That presumption

applies here, given the LRA's recent amendments to § 1226. *See Rodriguez Vazquez*, 2025 WL 1193850, at *14 (quoting *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995)).

Mr. Cerro Huerta is also not subject to 1225(b)(2)(A) because the term "seeking admission" is not surplusage casually reiterating the meaning of "applicant for admission." Although the generic definition of "applicant for admission" includes persons present without admission or parole, the canon against rendering text superfluous or meaningless applies here. *See Shulman v. Kaplan*, 58 F.4th at 411. "This active construction of the phrase 'seeking admission'" accords with the plain language in § 1225(b)(2)(A) by requiring both that a person be an "applicant for admission" and "also [be] doing something" following their arrival to obtain authorized entry. *Diaz Martinez*, 2025 WL 2084238, at *6–7; *see also Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2267803, at *7 (S.D.N.Y. Aug. 8, 2025) (concluding that this is the "plain, ordinary meaning" of "seeking admission"). In Mr. Cerro Huerta's case, no such pursuit of admission took place. Respondents fail to recognize that the statute in question not only relates back to the prior definition of "applicant for admission" in 1225(a), but adds "if the examining immigration officer determines that an alien *seeking admission* [emphasis added] is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 1225(b)(2)(A).

Lastly, as Respondents acknowledge, district courts across the country have agreed with Mr. Cerro Huerta's analysis and held that persons situated similarly to Mr. Cerro Huerta are subject to permissive detention under 1226(a), not mandatory detention under 1225(b)(2)(A). *See Diaz Martinez v. Hyde*, F. Supp. 3d, 2025 U.S. Dist. LEXIS 141724, 2025 WL 2084238 (D. Mass. July 24, 2025); *see also, e.g., Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 2025 WL 1193850 (W.D. Wash. 2025) (holding same); *Gomes v. Hyde*, 2025 U.S. Dist. LEXIS 128085, 2025 WL

1869299 (D. Mass. July 7, 2025) (same); *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025) (same); *Rosado v. Bondi*, 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (same), *report and recommendation adopted without objection*, 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, F. Supp. 3d , 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (same); *dos Santos v. Lyons*, 2025 U.S. Dist. LEXIS 157488, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (same); *Aguilar Maldonado v. Olson*, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (same); *Escalante v. Bondi*, 2025 U.S. Dist. LEXIS 149926, 2025 WL 2212104 (D. Minn. July 31, 2025) (granting preliminary relief after positively weighing likelihood of success), *report and recommendation adopted sub nom. O. E. v. Bondi*, 2025 U.S. Dist. LEXIS 149939, 2025 WL 2235056 (D. Minn. Aug. 4, 2025); *Arrazola-Gonzalez v. Noem*, 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025) (granting individualized bond hearings on ex parte motion for temporary restraining order after finding likelihood of success); *Garcia Jimenez v. Kramer*, 2025 U.S. Dist. LEXIS 157245, 2025 WL 2374223 (D. Neb. Aug. 14, 2025) (granting relief from stay of bond order pending BIA appeal); *Mayo Anicasio v. Kramer*, 2025 U.S. Dist. LEXIS 157236, 2025 WL 2374224 (D. Neb. Aug. 14, 2025) (same).

This Court should join the chorus of its colleagues to find that Mr. Cerro Huerta is detained under 8 U.S.C. § 1226(a), and that he merits immediate release from civil custody.

September 2, 2025

Respectfully submitted,

s/ Genna Beier
GENNA BEIER (SBN 300505)
San Francisco Public Defender's Office
555 7th Street

s/ Felix A. Montanez
FELIX A. MONTANEZ * (GA Bar No. 534486)
Preferential Option Law Offices, LLC
PO Box 60208

San Francisco, CA, 94103
Telephone: 510-519-4971
Email: genna.beier@sfgov.org

Savannah, GA 31420
Telephone: 912-604-5801
Email: felix.montanez@preferentialoption.com

*pro hac vice motion forthcoming