

DISTRICT JUDGE BENJAMIN H. SETTLE
MAGISTRATE JUDGE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CARLOS BARONIO CASTANEDA APONTE,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

No. CV25-02144-BHS-MLP

MR. CASTANEDA APONTE'S REPLY TO RESPONDENTS' RETURN

Opposing counsel advances no legal justification for Mr. Castaneda Aponte's continued detention. Instead, Respondents offer only the declaration of a deportation officer, without endorsement from Respondents' counsel, who states that ICE is detaining Mr. Castaneda Aponte "under INA § 236(c)" because of his purported association with [REDACTED]

[REDACTED] See Dkt. 17 at ¶ 4. But an immigration judge has already rejected that theory and ordered Mr. Castaneda Aponte's release. *Id* at ¶ 17. If Respondents disagreed with that ruling, their remedy was to appeal the immigration judge's ruling, move to reopen the case, or develop the record for re-detention in accordance with its own regulations and the constitutional guarantee of due process. ICE could not simply disregard the immigration judge's release order and re-arrest Mr. Castaneda Aponte without additional cause.

Mr. Castaneda Aponte respectfully asks the Court order his immediate release.

1 **I. BACKGROUND**

2 On April 23, 2023, Border Patrol Officers encountered Mr. Castaneda Aponte
3 near Eagle Pass, Texas. They took him into custody and referred him to immigration
4 proceedings for having entered unlawfully. Dkt. 17 at ¶¶ 5–17.

5 Mr. Castaneda Aponte applied for asylum, explaining that he feared for his life
6 because he had [REDACTED] See Exs. 1 (Asylum
7 Application), 2 (Brief in Support of Asylum) [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 The immigration judge scheduled a bond hearing and DHS filed a brief
16 explaining why it believed Mr. Castaneda Aponte should be detained without bond. *Id.*
17 at ¶ 13. At a second bond hearing scheduled for November 11, 2023, the immigration
18 judge disagreed with DHS’s reasoning and ordered Mr. Castaneda Aponte’s release on
19 \$2,500 bond. *Id.* at ¶ 17. The government did not appeal the immigration judge’s order
20 or challenge the immigration judge’s jurisdiction to order release on bond.

21 From November 11, 2023, through October 11, 2025, Mr. Castaneda Aponte
22 complied with the conditions of release in every respect. He worked six days a week for
23 DoorDash and Uber Eats, attended church on Sundays, and lived with his brother and
24 girlfriend.

25 Beginning in early summer 2025 and continuing to the present, the
26 Administration began militating for increased arrests and detentions of immigrants to

1 the United States, including those who were living lawfully on bond.¹ See Pres.

2 Donald Trump, @realDonaldTrump, Truth Social (June 15, 2025, 5:43pm) (“ICE

3 ¹ Courts have held that these re-arrests without cause are illegal in a number of different
 4 circumstances and under several different theories. *E.g.*, *Khim v. Bondi*, No. CV25-
 5 02383-RSL, 2025 WL 3653724 (W.D. Wash. Dec. 17, 2025); *Vo v. Bondi*, No. CV25-
 6 02244-DGE-GJL, 2025 WL 3653722 (W.D. Wash. Dec. 17, 2025); *E.A. T.-B. v.*
 7 *Wamsley*, 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025) (rearrest violated due
 8 process); *Ledesma Gonzalez v. Bostock*, No. CV25-01404-JNW-GJL, 2025 WL
 9 2841574, (W.D. Wash. Oct. 7, 2025); *Tang v. Bondi*, No. CV25-01473-RAJ-TLF, 2025
 10 WL 2637750, at *4 (W.D. Wash. Sep. 11, 2025); *Nguyen v. Scott*, No. CV25-01398,
 11 2025 WL 2419288, at *1 (W.D. Wash. Aug. 21, 2025); *Nguyen v. Hyde*, No. CV25-
 12 11470-MJJ, 2025 WL 1725791, *4 (D. Mass. June 20, 2025); *Calderon v. Kaiser*, No.
 13 CV25-06695-AMO, 2025 WL 2430609, at *3 (N.D. Cal. Aug. 22, 2025) (same); *Arias*
 14 *Gudino v. Lowe*, --- F.Supp.3d ----, 2025 WL 1162488 (M.D. Pa. Apr. 21, 2025)
 15 (same); *Arzate v. Andrews*, No. CV25-00942-KES-SKO (HC), 2025 WL 2230521
 16 (E.D. Cal. Aug. 4, 2025); *Lopez Benitez v. Francis*, No. CV25-5937-DEH, 2025 WL
 17 2371588, at *1 (S.D.N.Y. Aug. 13, 2025) (same); *Ceesay v. Kurzdorfer*, --- F.Supp.3d -
 18 ---, 2025 WL 1284720 (W.D.N.Y. May 2, 2025) (same); *Chipantiza-Sisalema v.*
 19 *Francis*, No. CV25-5528, 2025 WL 1927931 (S.D.N.Y. July 13, 2025) (same);
 20 *Domingo v. Kaiser*, No. CV25-05893-RFL, 2025 WL 1940179 (N.D. Cal. July 14,
 21 2025) (same); *Dos Santos v. Noem*, No. CV25-12052, 2025 WL 2370988 (D. Mass.
 22 Aug. 14, 2025) (same); *Garcia v. Andrews*, No. CV25-01884-TLN-SCR, 2025 WL
 23 1927596 (E.D. Cal. July 14, 2025) (same); *Gomes v. Hyde*, CV25-11571-JEK, 2025
 24 WL 1869299, at *5 (D. Mass. July 7, 2025) (Respondents violated Administrative
 25 Procedures Act); *Guillermo M. R. v. Kaiser*, 2025 WL 1983677 (N.D. Cal. July 17,
 26 2025) (Respondents violated due process); *Maldonado v. Olson et al*, No. CV25-3142,
 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (same); *M'Bagoyi v. Barr*, 423 F. Supp.
 3d 99 (M.D. Penn. 2019); *Maklad v. Murray*, No. CV25-00946 JLT SAB, 2025 WL
 2299376 (E.D. Cal. Aug. 8, 2025); *Martinez v. Hyde*, No. CV25-11613, 2025 WL
 2084238 (D. Mass. July 24, 2025); *Mata Velasquez v. Kurzdorfer*, CV25-493-LJV,
 2025 WL 1953796 (W.D.N.Y. July 16, 2025); *Morales Jimenez v. Bostock*, CV25-
 00570-MTK (D. Or. May 13, 2025); *OJM v. Bostock*, CV25-00944-AB (D. Or. July 14,
 2025); *Ortega v. Kaiser*, 2025 WL 2243616 (N.D. Cal. Aug. 6, 2025); *Pablo Sequen v.*
Kaiser, --- F.Supp.3d ----, 2025 WL 2203419 (N.D. Cal. Aug. 1, 2025) ; *Pinchi v.*
Noem, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Ramirez-Clavijo v. Kaiser*, No.
 CV25-06248-BLF 2025 WL 2097467 (N.D. Cal. July 25, 2025); *Rosado v. Figueroa*,
 No. CV25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Singh v. Andrews*, 2025
 WL 1918679 (E.D. Cal. July 11, 2025); *Valdez v. Joyce*, CV25-4627-GBD, 2025 WL
 1707737 (S.D.N.Y. June 18, 2025) (granted habeas on due process grounds); *Y-Z-L-H*
v. Bostock, --- F. Supp. ---, 2025 WL 1898025 (D. Or. July 7, 2025) (re-arrest violates
 APA).

1 Officers are herewith ordered, by notice of this TRUTH, to do all in their power to
2 achieve the very important goal of delivering the single largest Mass Deportation
3 Program in History.”); José Olivares, *US immigration officers ordered to arrest more*
4 *people even without warrants*, The Guardian (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>
5 [https://perma.cc/X2Q7-GEQE]. The most aggressive version of this policy involved
6 sending Border Patrol officers, rather than ICE officers or HSI agents, into cities to
7 sweep up immigrants. *See* “Trump Administration Plans to Send Border Patrol to
8 Charlotte and New Orleans,” *The New York Times* (Nov. 11, 2025),
9 [https://www.nytimes.com/2025/11/11/us/trump-border-patrol-charlotte-new-](https://www.nytimes.com/2025/11/11/us/trump-border-patrol-charlotte-new-orleans.html)
10 [orleans.html](https://www.nytimes.com/2025/11/11/us/trump-border-patrol-charlotte-new-orleans.html) [https://perma.cc/2MGT-SKG9]. Federal judges have criticized those
11 efforts, noting a large number of unconstitutional seizures and uses of force. *See, e.g.,*
12 *Chicago Headline Club v. Noem*, No. 25 C 12173, 2025 WL 3240782, at *1 (N.D. Ill.
13 Nov. 20, 2025); *United Farm Workers v. Noem*, 785 F. Supp. 3d 672 (E.D. Cal. 2025).

14
15 On October 21, 2025, without prior notice or apparent cause, Border Patrol
16 agents, dressed in black, without identifying insignia, and with their lower faces
17 covered, found Mr. Castaneda Aponte near his home. They chased him into his
18 apartment, arrested him, and then moved him to the NWIPC. When Mr. Castaneda
19 Aponte petitioned this Court for release, Respondents moved him out of the NWIPC to
20 the El Valle Detention Facility. Dkt. 17 at ¶ 23.

21 Counsel for Respondents elected not to make a legal argument for Mr. Castaneda
22 Aponte’s continued detention. Dkt. 16. Respondents instead provided a deportation
23 officer’s declaration “to aid the Court in its consideration of Castaneda Aponte’s
24 petition.” *Id.*

1 **II. ARGUMENT**

2 **A. ICE unlawfully disregarded the immigration judge's release order.**

3 Title 8 U.S.C. § 1226(a) gives immigration judges the authority to set bail and
4 conditions of release. That authority inherently includes the ability to determine the
5 immigration judge's own jurisdiction. *See Matter of Joseph*, 22 I&N Dec. 799 (BIA
6 1999) (holding that IJs and the BIA are not bound by DHS's assertion that a person is in
7 a mandatory detention category that would deprive EOIR of jurisdiction to redetermine
8 bond); *Immigration Court Practice Manual*, ch. § 9.3(b) ("an Immigration Judge has
9 jurisdiction to rule on whether he or she has jurisdiction to conduct a bond hearing"). If
10 a party disagrees with the Immigration Judge's assessment, the party's remedy is to
11 appeal to the Board of Immigration Appeals. *See BIA Practice Manual*, ch. § 7.2(b)(3),
12 ("The Board has jurisdiction to rule on whether an Immigration Judge has jurisdiction
13 to make a bond determination."). It should go without saying, but the law does not
14 permit the government to simply disregard the immigration judge's release order.

15 Nonetheless, that is exactly what ICE did here. After considering the
16 government's mandatory detention arguments, the immigration judge ordered release
17 over ICE's objections. The government did not appeal. Then, two years later, after
18 Mr. Castaneda Aponte had established a home, work, and record of perfect compliance
19 with his release conditions, border patrol officers arrested Mr. Castaneda Aponte
20 without seeking revocation of the immigration judge's bond. The deportation officer's
21 only justification is the claim that Mr. Castaneda Aponte is subject to mandatory
22 detention under INA § 236(c) (8 U.S.C. § 1226(c)). But that is the same that was
23 rejected by the immigration judge, then abandoned by ICE counsel, and is not now
24 advanced by respondents' counsel.

25 Respondents' refusal to follow the law makes Mr. Castaneda Aponte's re-arrest
26 and subsequent detention unlawful. *See Coal. for Humane Immigrant Rts. v. Noem*, No.

1 25-CV-872 (JMC), 2025 WL 2192986, at *2 (D.D.C. Aug. 1, 2025) (“This case’s
2 underlying question, then, asks whether parolees who escaped oppression will have the
3 chance to plead their case within a system of rules. Or, alternatively, will they be
4 summarily removed from a country that—as they are swept up at checkpoints and
5 outside courtrooms, often by plainclothes officers without explanation or charges[]—
6 may look to them more and more like the countries from which they tried to escape?”).
7 He respectfully asks the Court to order his immediate release.

8 **B. Mr. Castaneda Aponte’s re-arrest violated the Administrative**
9 **Procedures Act.**

10 **1. The APA limits an agency’s ability to exceed its statutory**
11 **authority, abuse its discretion, or act arbitrarily and**
12 **capriciously.**

13 “The APA ‘sets forth the procedures by which federal agencies are accountable
14 to the public and their actions subject to review by the courts.’” *Regents of the Univ. of*
15 *Cal.*, 591 U.S. at 16 (quoting *Franklin v. Massachusetts*, 505 U.S. 788, 796 (1992)).
16 The APA “requires agencies to engage in ‘reasoned decisionmaking,’” and agency
17 actions are to be “‘set aside’ if they are ‘arbitrary’ or ‘capricious.’” *Id.* (quoting
18 *Michigan v. EPA*, 576 U.S. 743, 750 (2015), and 5 U.S.C. § 706(2)(A)).

19 For an agency action to survive arbitrary and capricious review, it must have
20 “articulated a satisfactory explanation for its action including a rational connection
21 between the facts found and the choice made.” *Alliance for the Wild Rockies v. Petrick*,
22 68 F.4th 475, 493 (9th Cir. 2023) (citation modified). Furthermore, “an administrative
23 agency is not allowed to change direction without some explanation of what it is doing
24 and why.” *Int’l Union, UAW v. NLRB*, 802 F.2d 969, 973-74 (7th Cir. 1986). An
25 “unexplained inconsistency between agency actions” is a reason for holding an
26 agency’s action “to be an arbitrary and capricious change.” *Organized Vill. Of Kake v.*
U.S. Dep’t of Agric., 795 F.3d 956, 966 (9th Cir. 2015) (quotation marks omitted).

1 **2. Agencies must follow their own rules.**

2 Agencies must follow their own rules that affect the fundamental rights of
3 individuals, even self-imposed policies and procedures. *See Morton v. Ruiz*, 415 U.S.
4 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon
5 agencies to follow their own procedures . . . even where the internal procedures are
6 possibly more rigorous than otherwise would be required.”).

7 **3. Respondents acted extra-lawfully because they did not follow
8 the procedures in 8 C.F.R. § 241.14.**

9 Title 8 C.F.R. § 241.14 (Continued detention of removable aliens on account of
10 special circumstances) sets for the procedures required to detain someone pursuant to
11 INA § 236(c) (8 U.S.C. § 1226(c)).

12 First, *before* a person can be detained pursuant to that section, the government
13 must make a determination *in writing* that the alien falls within one of the qualifying
14 categories, including someone who “has engaged in a terrorist activity,” whose release
15 presents a “significant threat to national security or a significant risk of terrorism,” and
16 for whom “no conditions of release can reasonably be expected to avoid the . . . risk of
17 terrorism.” 8 C.F.R. § 241.14 (d)(1).

18 The Service then must notify the alien of this determination and give him an
19 opportunity to contest the determination. This means that the Service must provide a
20 description of the factual basis for the alien's continued detention; and the alien “shall
21 have a reasonable opportunity to examine evidence against him or her, and to present
22 information on his or her own behalf.” 8 C.F.R. § 241.14 (d)(2).

23 Then, after considering all the evidence, 8 C.F.R. § 241.14 (d)(4), the Service
24 must submit a “written recommendation and make the record available to the Attorney
25 General. If the continued detention is based on a significant risk of terrorism, the
26 recommendation shall state in as much detail as practicable the factual basis for this
determination.” 8 C.F.R. § 241.14 (d)(5).

1 Only after all these steps have been completed may the Attorney General certify
2 that “an alien should continue to be detained on account of . . . terrorism grounds.” 8
3 C.F.R. §241.14 (d)(6).

4 Here, Officer Hubbard’s declaration makes clear that Respondents arrested
5 Mr. Castaneda Aponte before they undertook *none* of the steps that 8 C.F.R. § 241.14
6 requires. Respondents did not create a writing, share it with Mr. Castaneda Aponte,
7 offer an opportunity to respond, or petition to the Attorney General. Because
8 Respondents did not follow the rules designed to protect Mr. Castaneda Aponte’s
9 rights, his detention is unlawful. Mr. Castaneda Aponte asks the Court to order his
10 release on this basis as well.

11 **C. ICE violated Mr. Castaneda Aponte’s right to procedural due**
12 **process when it re-arrested him without cause or notice.**

13 Officer Hubbard simply ignores Mr. Hubbard’s argument that Respondents
14 violated procedural due process by re-arresting him without notice or cause. *See* Dkt. 14
15 at 7–10, 19. That argument, therefore, is conceded. *See* Local Civil Rule 7(b)(2) (“If a
16 party fails to file papers in opposition to a motion, such failure may be considered by
17 the Court as an admission that the motion has merit.”); *Ramirez v. Ghilotti Bros.*, 941 F.
18 Supp. 2d 1197, 1210 & n.7 (N.D. Cal. 2013) (collecting cases holding that a party
19 concedes an argument by failing to respond to it); *Angeles v. U.S. Airways, Inc.*, 2013
20 WL 622032, at *4 (N.D. Cal. Feb. 19, 2013) (“The failure to respond amounts to a
21 concession.”); *Rintoul v. Old Dominion Freight Line, Inc.*, No. 3:21-CV-1733-JR, 2024
22 WL 2974469, at *2 (D. Or. June 13, 2024). *Cf. Hold Sec. LLC v. Microsoft Corp.*, 705
23 F. Supp. 3d 1231, 1245 (W.D. Wash. 2023); *Edwards v. Caliber Home Loans*, No.
24 CV16-1466-JCC, 2016 WL 9185356, at *2 (W.D. Wash. Dec. 12, 2016.) (finding
25 plaintiffs’ failure to respond to portions of defendants’ argument can be construed as
26

1 conceding the argument has merit); *Piacentini v. United States*, No. CV96-5763-RJB,
2 1997 WL 176375, at *2 (W.D. Wash. Jan. 13, 1997) (same).

3 For two years, Mr. Castaneda Aponte built a life in perfect compliance with his
4 conditions of release while he waited for an opportunity to present his case for asylum.
5 He worked six days a week, lived with his brother and girlfriend, and attended church
6 on Sundays. Those ties, and others, created a liberty interest that Respondents could not
7 take away without process. *See* Dkt. 14 at 8.

8 **III. CONCLUSION**

9 Mr. Castaneda-Aponte respectfully asks the Court to order his release.

10 DATED this 19th day of December 2025.

11 Respectfully submitted,

12
13 *s/ Gregory Murphy*
14 Assistant Federal Public Defender
Attorney for Carlos Castaneda Aponte