IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Civil Action No. 26-cv-00184-RMR

YAINIER ARANDA GARCIA,

Petitioner,

v.

TODD BLANCHE, in his official capacity as Acting Attorney General of the United States,[1]
MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security,
TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; and
JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility,

Respondents.

RESPONDENTS' MOTION TO ALTER OR AMEND JUDGMENT OR FOR RELIEF FROM ORDER (ECF No. 15) AND FINAL JUDGMENT (ECF No. 17)

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[1] Todd Blanche is substituted, in his official capacity, pursuant to Fed. R. Civ. P. 25(d).

Pursuant to Fed. R. Civ. P. 59(e) and 60(b), Respondents move to amend or for relief from the Court's Order, ECF No. 15, and Final Judgment, ECF No. 17. This relief is justified for two independent reasons.

First, Respondents respectfully submit that the Court's Order and Final Judgment are based on a misapprehension of a key fact and the parties' positions in this case. Petitioner previously filed a habeas suit in Florida, raising essentially the same claims as in this case. The Florida court denied that petition. In the time between that habeas case and this one, only one thing changed: Petitioner was transferred to Colorado. His detention was uninterrupted, and the legal basis remained the same. In granting the petition, this Court rejected the argument it attributed to Respondents that the petition is barred as successive because Petitioner did *not* raise his claims in the Florida case. But Respondents argued the opposite: Petitioner cannot raise the claims in the second petition now because they *were*—or could have been—raised in the prior petition.

The Court also rejected the argument that Petitioner was released via a *de facto* parole under 8 U.S.C. § 1182. But that was not Respondents' argument; it was *Petitioner's*. To the contrary, Respondents explained that Petitioner's prior release was pursuant to an order of release on recognizance—just as the Florida court previously found. The petition should therefore be denied as successive.

Second, the Court ordered that Petitioner be released, which he was. But the Court also permanently enjoined Respondents from re-detaining Petitioner unless they demonstrate at a pre-deprivation bond hearing that he is a flight risk or danger to the community. There are many situations in which the law would *require* Petitioner to be

detained—for example, if he is eventually subject to a final order of removal under § 1231(a), or if he commits a crime that subjects him to mandatory detention under § 1226(c). None of those statutes provide for a pre-deprivation hearing, yet the Order requires one for Petitioner in all circumstances—notwithstanding that he has now been released from custody, and the relief does not relate to any live issue in this case.

Accordingly, Respondents respectfully request amendment of or relief from the Order and the Final Judgment to find in favor of Respondents.

Pursuant to D.C.COLO.LCivR 7.1(a), undersigned counsel for Respondents conferred with counsel for Petitioner, who opposes this motion.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The relevant factual background is set forth in detail in Respondents' response to the petition and Order to Show Cause. *See* ECF No. 7. As relevant here, Petitioner entered the United States unlawfully in 2021 and was apprehended by U.S. Customs and Border Protection shortly after climbing over a border fence into the United States. *See* ECF No. 7-1 ¶ 5. He was later released on an Order of Release on Recognizance ("OREC"). *See id.* ¶ 9. On November 13, 2025, Petitioner was re-detained in Key West, Florida, pending resolution of his removal proceedings. *Id.* ¶ 13. His OREC was terminated. *Id.* Petitioner was initially detained in Florida, before being transferred to the ICE contract detention facility in Aurora, Colorado. *See id.* ¶¶ 1, 13, 17.

Soon after his re-detention in November 2025, Petitioner filed a petition for a writ of habeas corpus with the United States District Court for the Middle District of Florida, where he was then detained. *See Aranda Garcia v. Attorney General*, No. 2:25-cv-

01053-KCD-DNF, ECF No. 1. There, Petitioner argued that his detention pursuant to § 1225(b)(2)(A)—which provides for mandatory detention—is unlawful, and that the Court should instead find that he was detained pursuant to § 1226(a)—which permits a bond hearing. *See* ECF No. 7-2 at 2-5, 13-25, 27-28. He raised several claims, including a statutory claim, a claim under the implementing regulations regarding bond hearings, procedural and substantive due process claims, and a claim under the Administrative Procedure Act. *See id.* at 27-39.

The Florida court denied the petition on December 10, 2025. It held that, because Petitioner was initially detained at the border, he was "squarely under § 1225," and the fact that Petitioner "spent time in the United States after being released on an OREC—and was eventually apprehended in the country—does not change his classification." ECF No. 7-3 at 3. The Florida court also addressed Petitioner's due process claims, determining that they lacked merit. *See id.* at 4-5.

Following the conclusion of the Florida habeas case, Petitioner remained in detention but was transferred to a facility in Colorado. *See* ECF No. 7-1, ¶¶ 13, 17. He then filed a second petition in this Court. *See* ECF No. 1. His allegations were essentially similar to those in the Florida case, but (as relevant here), he now argues his release in 2021 was not via an OREC but was a discretionary parole under 8 U.S.C. § 1182(d)(5)(A). *See, e.g.*, *id.* at 2-4, 10-12; *see also* ECF No. 8 at 1-4 (Petitioner's reply arguing the petition was not successive because it "raises a different claim," premised on Respondents purportedly having released him through parole authority under § 1182(d)(5)(A)). Petitioner argued that his parole was unlawfully revoked, and

that he was entitled to release or a bond hearing. *See* ECF No. 1 at 16-25. In response, Respondents argued (as relevant here) that the petition was barred as successive and Petitioner's *de facto* parole argument was unavailing. *See* ECF No. 7 at 5-10.

The Court granted the petition on March 26, 2026. It held, as relevant here, that the petition was not barred, that Petitioner is subject to discretionary detention under § 1226(a), and that due process compels Petitioner's release. ECF No. 15 at 4-7. The Court ordered Respondents to release Petitioner from detention by March 30, 2026. *See id.* at 8. The Court also ordered:

> Respondents are further ENJOINED AND RESTRAINED from re-detaining Petitioner unless they demonstrate, by clear and convincing evidence at a pre-deprivation bond hearing, that Petitioner is a flight risk or danger to the community such that his physical custody is legally justified. At any such bond hearing, the government shall bear the burden of proof.

Id. at 8-9. Petitioner was released from detention on March 30, 2026. *See* ECF No. 16. Final Judgment entered on March 31, 2026. *See* ECF No. 17.

LEGAL STANDARDS

A motion under Rule 59(e) should not "revisit issues already addressed," but such a motion *is* "appropriate where the court has misapprehended the facts, a party's position, or the controlling law." *Handy v. City & County of Denver*, No. 1:19-cv-02403-RMR-SKC, 2022 WL 20392425, at *1 (D. Colo. Feb. 8, 2022) (Rodriguez, J.); *accord, e.g.*, *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). Courts have taken a similar approach to motions under Rule 60(b). *See, e.g.*, *Sterling Const. Mgmt., LLC v. Steadfast Ins. Co.*, 280 F.R.D. 576, 578 (D. Colo. 2011); *Kirk v. Winn*, 347 F.Supp.3d 918, 920 (D.N.M. 2018).

A litigant who seeks reconsideration by the district court of an adverse judgment may "'file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b).'" *K.C. v. Colvin*, No. 23-cv-02600-LTB, 2025 WL 31070, at *1 (D. Colo. Jan. 3, 2025) (quoting *Van Skiver v. United States*, 952 F.2d 1241, 1243 (10th Cir. 1991)). "Whether a motion is construed as a Rule 59(e) or Rule 60(b) motion depends upon the time in which the motion is filed." *Allender v. Raytheon Aircraft Co.*, 439 F.3d 1236, 1242 (10th Cir. 2006). If the motion is filed within the time prescribed after final judgment under Rule 59(e), it is ordinarily considered under that Rule; if it is filed later, it is considered under Rule 60(b). *See id.* (referring to the 10-day deadline in a prior iteration of Rule 59, which has since been amended to 28 days).[2]

Fed. R. Civ. P. 59(e). A Rule 59(e) motion to alter or amend a judgment may be granted "to correct manifest errors of law or to present newly discovered evidence." *Phelps v. Hamilton*, 122 F.3d 1309, 1324 (10th Cir. 1997) (internal quotation marks and citations omitted).

Fed. R. Civ. P. 60(b). Rule 60(b) provides "[r]elief from a Final Judgment, Order, or Proceeding." "Relief under Rule 60(b) is discretionary and is warranted only in exceptional circumstances," which are shown by satisfying one or more of Rule 60(b)'s six grounds for relief from judgment. *Van Skiver*, 952 F.2d at 1243-44.

Multiple provisions of Rule 60(b) are relevant here. Rule 60(b)(1) authorizes relief

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[2] Here, the Court entered judgment on March 31, 2026. *See* ECF No. 17. Twenty-eight days from that date is today, April 28, 2026. Thus, this Rule 59(e) motion is timely. Nonetheless, Respondents submit that relief would *also* be justified under Rule 60(b).

from a final judgment in the event of "mistake, inadvertence, surprise, or excusable neglect." A court's error of law or fact (even if not obvious) is a "mistake" cognizable on a Rule 60(b)(1) motion. *See Kemp v. United States*, 596 U.S. 528, 530-39 (2022); *Cashner v. Freedom Stores, Inc.*, 98 F.3d 572, 576 (10th Cir. 1996). Additionally, "Rule 60(b)(5) authorizes the Court to relieve a party from a[n] order or judgment where it is no longer equitable that the judgment should have prospective application." *Stauffer v. Hayes*, No. 11-cv-02389-WYD-MJW, 2012 WL 4463693, at *2 (D. Colo. Sept. 26, 2012) (internal quotation marks omitted). Finally, the Court may grant relief from the judgment under Rule 60(b)(6) for "any other reason that justifies relief," "in extraordinary circumstances and only when necessary to accomplish justice." *Cashner v. Freedom Stores, Inc.,* 98 F.3d 572, 579 (10th Cir. 1996).

ARGUMENT

The Court should reconsider its Order, ECF No. 15, and amend the Final Judgment, ECF No. 17, accordingly. First, the Court misapprehended Respondents' position and a material fact of the case, leading to a legally erroneous conclusion. Second, the Court's grant of prospective relief enjoining Respondents from detaining Petitioner in the future without a pre-deprivation hearing was in error because it imposes a requirement not found in various statutory provisions that *require* detention under certain circumstances. And it imposes ongoing prospective injunctive relief notwithstanding that Petitioner has been released, consistent with the Court's Order.

A. The Court misapprehended a key fact and Respondents' positions.

1. Successive habeas petitions

Respondents respectfully submit that the Court misapprehended a material fact in this case—that Petitioner was subject to *continuous* detention, under the *same* legal authority, during the Florida case and this one. The Court also appears to have misunderstood Respondents' position why Petitioner's claims are barred as successive.

As explained in Respondents' response, claims that were—or could have been—raised in a prior habeas petition are subject to the successive-petition bar. *See* ECF No. 7 at 5-6. To overcome the bar for claims that could have been raised in a prior petition, but were not, the petitioner bears the burden "to establish that the omission was not the result of inexcusable neglect in order to proceed on the new claim." *Id.* at 5 (quoting *Stanko v. Davis*, 617 F.3d 1262, 1271 (10th Cir. 2010)). Because the petition here raises claims that were raised in the Florida case—or could have been raised there—this petition should be denied. *See id.* at 6-9.

The Court rejected Respondents' argument that the petition is barred as successive, but its decision rested on an apparent misunderstanding of Respondents' position. The Court stated that "Respondents base their reasoning on the fact that Petitioner did not raise these arguments in his Florida case" and that "Respondents perplexingly argue that Petitioner cannot bring a 'successive petition' without the same arguments." ECF No. 15 at 5. In fact, Respondents argued the opposite: that Petitioner cannot bring this successive petition because his prior petition *did* include (or could have included) the arguments he raises in this case. *See, e.g.*, ECF No. 7 at 1 (the petition is barred as successive because "[s]ome of Petitioner's claims are duplicative of claims previously asserted" or "could have been brought in that prior habeas action"); *id.*

at 5 ("[h]abeas claims that were made in a prior habeas petition are barred as successive," and "[t]he bar on successive petitions extends to claims that *could* have been raised in an earlier petition, but were not").

The Court found what it construed to be Respondents' position at odds with the government's argument in another habeas case, *I.M.F. v. Baltazar*, No. 1:25-cv-03475-RMR. *See* ECF No. 15 at 4-5. As the Court noted, the petitioner in that case was initially detained in Colorado, then released and re-detained in Texas. *See id.* at 4. The government argued there—and the Court agreed—that a petitioner in that situation must file any habeas claim challenging the "new basis" for his new detention in the jurisdiction where he is currently in custody. *See id.* (citing *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004), for the proposition that "for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement"). But that case was different from this one in a material respect: Petitioner here was *not* released and then re-detained after he filed his first habeas petition, which could have created a "new basis for detention" that would permit him to "seek[] new relief." *Id.* Petitioner was instead subject to *continuous* detention from the time he was detained in November 2025, throughout his habeas case in Florida, his transfer to Colorado, and his second habeas case in this Court. *See* ECF No. 7-1, ¶¶ 13, 17. And the legal basis for his detention during that entire period was unchanged: the government contended in the Florida litigation, as here, that Petitioner is subject to mandatory detention under § 1225(b). *See* ECF No. 7-2 at 1-5, 13-25, 27-28 (Florida petition challenging Petitioner's detention under § 1225(b)); ECF No. 7-3 (order in Florida case finding

detention proper under that statute); ECF No. 7-1, ¶ 14 (declaration in this case stating that Petitioner is detained under § 1225(b)). Thus, as Respondents explained in their response, Petitioner's claims are subject to the bar on successive petitions. *See* ECF No. 7 at 5-9; *Hill v. Daniels*, 504 F. App'x 683, 684, 686-87 (10th Cir. 2012) (affirming denial of successive petition where petitioner filed multiple prior, duplicative petitions "[a]s [he] moved to different prisons during his sentence").

The key difference between the Florida case and this one is that Petitioner raises a new theory—that his 2021 release must have been a parole under § 1182(d)(5)(A). As Respondents explained, that theory was available to Petitioner when he filed the Florida case, and he is barred from raising it now. *See* ECF No. 7 at 5-9.

Respondents recognize that a word used in their response may have caused confusion. Specifically, the response referred to the fact that Petitioner did not include his argument about *de facto* parole in the Florida petition as an "omission." *See* ECF No. 7 at 6-7. Respondents used that word because it appears in the key case on point, *Stanko v. Davis*, which stated that "[u]nder the abuse of the writ doctrine, if a second or subsequent petition raises a claim that could have been raised in an earlier petition, the petitioner must establish that the omission was not the result of inexcusable neglect in order to proceed on the new claim." 617 F.3d 1262, 1271 (10th Cir. 2010). In referring to Petitioner's "omission" of the *de facto* parole argument in the prior habeas petition, Respondents did not argue that Petitioner was required to *include* that argument in the prior case if he wanted to raise it in a successive petition. That is contrary to statute and well-established precedent. *See* 8 U.S.C. § 2244(a) ("No circuit or district judge shall be

required to entertain an application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court of the United States if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus . . . ."); *Stanko*, 617 F.3d at 1269-71 (Section 2244 codified preexisting principles authorizing courts "to decline to consider a habeas petition presenting a claim that was previously raised and adjudicated in an earlier habeas proceeding" unless it determines that hearing the claim would serve the ends of justice); *Newton v. Davis*, No. 07-cv-02040-BNB, 2008 WL 2831217, at *2 (D. Colo. Mar. 28, 2008) ("Absent a showing of cause and prejudice or a fundamental miscarriage of justice, the court may not address the merits of successive habeas claims."[3] (citing *Schlup v. Delo*, 513 U.S. 298, 318-23 (1995), and *George v. Perrill*, 62 F.3d 333, 334-35 (10th Cir. 1995), *superseded in part on other grounds*)).

Rather, Respondents argued that, though Petitioner omitted the *de facto* parole argument from his petition in the Florida case, it was nonetheless *available* to him when he filed that petition, and he is thus barred from raising it in this second habeas case. *See* ECF No. 7 at 7-8 (explaining this theory was available to Petitioner previously); *id.* at 8-9 (noting that "[t]hough Petitioner did not include his new theory (the purported *de facto* parole termination) in his prior habeas petition, the core of that argument—a complaint about lack of procedural and substantive due process—is *not* new" and explaining the overlap between the due process claims in the Florida case and here); *id.*

[3] Respondents' response to the petition inadvertently misattributed this quotation to a different case. *See* ECF No. 7 at 6. Undersigned counsel apologizes for this error.

at 9 (stating that Petitioner's due process claims were previously raised in the Florida case, so "[t]hose claims are therefore barred as successive"); *see also id.* at 5-6 (explaining that "[h]abeas claims that were made in a prior habeas petition are barred as successive," and that bar "extends to claims that *could* have been raised in an earlier petition, but were not" (citing *Stanko*, 617 F.3d at 1269-71)).

The rule the Court's Order suggests—that petitioners can file duplicative, successive habeas petitions so long as they file them in the current district of confinement—could exponentially increase the volume of habeas litigation. The rule would presumably apply not only to immigration detainees but also to Bureau of Prisons inmates—who are often transferred between institutions, and who would predictably attempt to re-litigate arguments courts have previously rejected if such successive petitions are not barred. *See, e.g.*, *Hill*, 504 F. App'x at 684, 686-87 (rejecting successive petition by inmate who had filed three prior petitions in different places of confinement); *Crooker v. Hollingsworth*, No. 15–2266 (NLH), 2015 WL 1954599, at *1-3 (D.N.J. Apr. 29, 2015) (denying habeas for inmate who first filed a petition in Maryland then filed a second, duplicative petition in New Jersey after his transfer there); *Spencer v. Watson*, No. 17-CV-3999 (SRN/LIB), 2019 WL 296780, at *1-3 (D. Minn. Jan. 22, 2019) (discussing inmate who repeatedly filed successive habeas petitions in his new district of confinement after being transferred). As discussed, such a rule would run counter to the habeas statute and applicable precedent.

2. *De facto* parole

The Court next held that Petitioner's release in 2021 was not a discretionary

parole under § 1182(d)(5)(A), and that the record "clearly proves Petitioner was released on his own recognizance pursuant to 8 U.S.C. § 1226 . . . ." The Court stated that Respondents had argued Petitioner's 2021 release was a parole, *see id.* at 6; in fact, it was *Petitioner* who made that argument. *See* ECF No. 1 at 2-4, 10-12, 18-19, 22-24 (arguing Petitioner must have been released via parole under § 1182(d)(5)(A)); ECF No. 8 at 2-4 (arguing Respondents' "detention theory necessarily impl[ies] that Petitioner's prior release must have occurred through parole authority under 8 U.S.C. § 1182(d)(5)(A)," and that raises "a different legal question": whether that parole was terminated in accordance with its related regulation). The Court correctly found Petitioner was *not* paroled, but it misapprehended which party made that argument.

It matters that the *de facto* parole theory was Petitioner's rather than Respondents' because, as discussed below, arguments about Petitioner's release via OREC were already squarely presented to and rejected by the Florida court. Without the new *de facto* parole theory Petitioner raised in this petition, he lacks grounds to argue that the instant petition is not successive.[4]

3. The petition in this case should be denied as successive

Because the Court (rightly) rejected the argument that Petitioner's release was a *de facto* parole, it based its decision granting the petition on the circumstances surrounding Petitioner's release on an OREC and the OREC's eventual termination.

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[4] Petitioner also argued in this case that he is entitled to relief as a member of the nationwide class in *Bautista v. Santacruz*, 813 F.Supp.3d 1084 (C.D. Cal. Dec. 18, 2026). The Ninth Circuit stayed operation of that order outside the Central District of California pending appeal, *see Bautista v. Santacruz*, No. 25-7958, Dkt. 14 (9th Cir. Mar. 31, 2026), so Petitioner is not entitled to relief based on that decision.

See ECF No. 15 at 6-7. But Petitioner previously presented those same circumstances and arguments to the Florida court—which considered and rejected them. *See* ECF No. 7-2 at 23-26 and Exhibit E (petition in the Florida case discussing and attaching the OREC and arguing Petitioner was not properly detained under § 1225(b) because he was "processed and released under 8 U.S.C. § 1226"); ECF No. 7-3 at 2-4 (Florida court's decision noting that Petitioner was released via OREC, and ultimately holding he was properly detained under § 1225(b)). In other words, there are now conflicting decisions from two different federal district courts about the legality of Petitioner's detention, based on the same facts and arguments.

Petitioner also raised procedural and substantive due process claims in the Florida case that are virtually identical to those in this case. *Compare* ECF No. 7-2 at 28-31 (Florida habeas claim titled "Violation of Fifth Amendment Right to Procedural Due Process – Unlawful Detention Without a Pre-Deprivation Hearing") *with* ECF No. 1 at 16-19 (claim in this case titled "Violation of Fifth Amendment Right to Procedural Due Process – Unlawful Revocation of Parole"); *compare* ECF No. 7-2 at 31-32 (Florida claim titled "Violation of Fifth Amendment Right to Substantive Due Process") *with* ECF No. 1 at 19-20 (claim in this case with the same title). His due process claims in both cases are the same—except that the instant petition adds a few words to refer to "terminating" or "revoking" his purported parole without written notice. The Florida court considered and rejected those due process arguments. *See* ECF No. 7-3 at 4-5.

In sum, this Court rejected Petitioner's new argument—that he was released via *de facto* parole (which also could have been raised in the Florida case). The remaining

claims are duplicative of claims raised in the Florida case. The petition should thus be denied as successive. *See* 28 U.S.C. § 2244(a); *Stanko*, 617 F.3d at 1270.

B. The Court's Order enjoining Respondents from re-detaining Petitioner absent a pre-deprivation hearing does not relate to a live issue and is contrary to statute.

The Court's Order requiring a pre-deprivation hearing (at which Respondents bear the burden of proof) before Petitioner can be re-detained amounts to an award of permanent, prospective injunctive relief. It should be vacated because it is unconnected to any live controversy, and it is contrary to statute.

First, Petitioner's claims challenging his detention are moot because he has been released from detention. *See Rio Grande Silvery Minnow v. Bureau of Reclamation*, 601 F.3d 1096, 1110 (10th Cir. 2010) ("The crucial question is whether granting a *present* determination of the issues offered will have some effect in the real world." (emphasis in original)). "For a habeas petition to continue to present a live controversy after the petitioner's release . . . there must be some remaining 'collateral consequence' that may be redressed by success on the petition." *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). There is no evidence Petitioner faces such a consequence—indeed, this prospective injunctive relief was not sought in the petition nor briefed by either party.[5]

Second, the Court found Petitioner is subject to discretionary detention under

[5] If, theoretically, Petitioner were detained in future and wished to challenge that detention, he must file a separate habeas action in the district of his confinement. That is consistent with the Court's decision in *I.F.M.*, where the petitioner was released and then re-detained, with a new basis for detention. *See* No. 1:25-cv-03475-RMR, ECF No. 35. Here, Petitioner has been released, and if he is re-detained (for example) on entry of a final order of removal, the basis for that new detention under § 1231(a) would plainly be different than the detention he challenged in the Florida case and here.

§ 1226(a). *See* ECF No. 15 at 6-7. But Petitioner could be detained under other provisions of the Immigration and Nationality Act—under which detention would be *mandatory*. For example, 8 U.S.C. § 1226(c) requires detention of noncitizens who have committed certain crimes and does not provide for a bond hearing. Similarly, § 1231(a)(2)(A) requires detention of noncitizens following the entry of a final order of removal and does not provide for a bond hearing. Section 1225(b)(1) provides for detention of individuals who are subject to expedited removal proceedings and does not provide for a bond hearing. Even § 1226(a) authorizes the government to take aliens into custody *prior* to a bond hearing.[6] The Order would require that Petitioner receive a bond hearing before being detained, even if he is detained under any of these other sections. The Court did not explain the basis for that ruling, but Respondents assume it is tied to its finding of a due process violation. The Court's order thus effectively holds that Sections 1226(c), 1231, 1225(b)(1), and 1226(a) are unconstitutional, though this case does not present questions about the constitutionality of those provisions.

The Court should vacate its Order enjoining Respondents from re-detaining Petitioner absent a pre-deprivation bond hearing.

CONCLUSION

The Court should reconsider and amend the Order granting the petition and enjoining Respondents from re-detaining Petitioner absent a pre-deprivation hearing, and amend the Final Judgment in favor of Respondents.

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[6] The Order applies to all Respondents, including the Attorney General, who has ultimate oversight of multiple federal law enforcement agencies that may have cause to detain Petitioner if he commits a crime, for reasons unrelated to immigration.

Dated: April 28, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on April 28, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/Jane Bobet Rejko
United States Attorney's Office