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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

Dilson Joel Graterol Ruiz Petitioner, -against- **Donald J. Trump**, *et al.* Respondents.	Case No.: 2:26-cv-12 District Judge: Honorable Judge Lanthier

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Now comes Petitioner, Dilson Joel Graterol Ruiz ("Mr. Graterol Ruiz" or "Petitioner"), by and through undersigned Counsel, and hereby submits this Reply to Respondents' Opposition to Petition for Writ of Habeas Corpus.

I. Petitioner's Ongoing Detention is Medically Inappropriate and, if Continued, Will Cause Him Irreparable Harm.

The Second Circuit has upheld the Supreme Court's unambiguous finding that "[t]he Fifth Amendment of the Constitution guarantees that civil detainees, including noncitizen detainees, may not be subject to conditions of confinement or denial of medical care that amount to

punishment." *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *46 (internal quotations omitted) (citing *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *Charles v. Orange County*, 925 F.3d 73, 85 (2d Cir. 2019) ("in *Estelle v. Gamble*, … the Supreme Court held that the state has a constitutional obligation to provide medical care to persons it is punishing by incarceration.") (citing *Estelle v. Gamble*, 429 U.S. 97, 103 (1976)). "[W]hen the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—e.g., food, clothing, shelter, **medical care and reasonable safety**—it transgresses the substantive limits on state action set by the Eighth Amendment." *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *46-47 (emphasis added) (citing *Helling v. McKinney*, 509 U.S. 25, 32 (1993); *Charles*, 925 F.3d at 85 (explaining that this principle extends to civil detainees).

The court in *Materano* explained that petitioner in that matter "must make two showings: (1) the existence of a "serious medical need," and (2) that Respondents acted with deliberate indifference to such need." *Id.* (citing *Charles*, 925 F.3d at 85). There, the Court explained that, as the Second Circuit has held, "a medical condition is sufficiently serious if it presents a condition of urgency such as one that may produce death, degeneration, or extreme pain." *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *47 (citing *Charles*, 925 F.3d at 85 (citing *Hathaway v. Coughlin*, 99 F.3d 550, 553 (2d Cir. 1996)). "In assessing whether the condition is sufficiently serious, courts consider facts such as whether a reasonable doctor or patient would find the injury important and worthy of treatment, whether the condition significantly affects an individual's daily activities, and whether it inflicts chronic and substantial pain." (internal quotations omitted). *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *47 (citing *Chance v. Armstrong*, 143 F.3d 698, 702 (2d Cir. 1998)). Deliberate indifference "can be established by either a subjective or

objective standard" and can be demonstrated "by showing that the defendant official recklessly failed to act with reasonable care to mitigate the risk that the condition posed to the pretrial detainee even though the defendant-official knew, or *should have known*, that the condition posed an excessive risk to [the plaintiff's] health or safety." *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *47-48 (internal quotations omitted) (citing *Charles*, 925 F.2d at 87 (emphasis in original) (quoting *Darnell v. Pineiro*, 849 F.3d 17, 35 (2017)).

In the instant matter, Mr. Graterol Ruiz has already undergone multiple invasive surgeries and has been diagnosed with septic arthritis in his right ankle. (Doc. 1, Exh. 1). He faces amputation of his lower right leg if unable to continue his ongoing surgical appointments at Boston Medical Center. The first prong has undisputably been met. As to the second prong, ICE knows about his medical circumstances, though despite this knowledge, denied him access to a scheduled pre-surgical appointment at Boston Medical on January 21, 2026. They denied him his necessary antibiotics for his first day in detention and only provided it after Mr. Graterol pled with the medical staff at Northwest State Correctional Facility ("NWSCF"). Mr. Graterol complains of ongoing pain and inability to sleep as a result of such pain—conditions for which ICE has turned a blind eye to. As his conditions worsen, ICE continues to show a deliberate indifference to Mr. Graterol Ruiz's exigent medical circumstances. Such indifference amounts to a reckless failure to act with reasonable care, thereby presenting an excessive risk to Mr. Graterol Ruiz's health and safety. As was the case in *Materano*, Mr. Graterol Ruiz's conditions of confinement violate the Fifth Amendment. *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *54.

Mr. Graterol Ruiz therefore humbly moves this Court to grant his immediate release from detention, such that he may seek the medical care that he urgently needs but is not being provided by ICE. This Court has found such relief to be appropriate and accordingly granted it in similar

circumstances. *See Aparicio-Deras v. Turek*, 2:25-cv-726 (D. Vt. 2025) (similar case where petitioner was denied consistent access to prescribed antibiotics in the weeks leading up to a pre-scheduled surgery). So too should the Court here find that Mr. Graterol Ruiz's continued detention is inappropriate, given his exigent medical circumstances, coupled with ICE's demonstrably deliberate indifference to his health and safety.

II. The Government's Attempt to Apply § 1225 or Mandatory Detention to a Noncitizen Inside the Country and Not Subject to § 1226(c) Exclusionary Criminal Conduct is Contrary to Congressional Design.

Under the system that Congress created, two statutes govern the detention of noncitizens in removal proceedings, without final removal orders—namely §§ 1225 and 1226. The former provides for inspection of arriving noncitizens who are applicants for admission or otherwise seeking admission to the United States, and subject to certain exclusions, mandates detention for such persons. The latter provides for both a framework for discretionary release and for mandatory detention upon conviction of certain exclusionary crimes. Here, the Government posits that the mandatory framework of § 1225 broadly applies to all noncitizens present in the United States without admission. If this interpretation were correct, § 1226 would have no meaningful application whatsoever. As this Court has held, "if all applicant[s] for admission are also seeking admission, then the words seeking admission would be surplusage." *Piedrahita-Sanchez v. Turek*, 2:25-cv-875, at *9 (D. Vt. Nov. 11, 2025) (citing *Ortiz v. Freden*, No. 25-cv-960-LJV, U.S. Dist. LEXIS 217654, 2025 WL 3085032, at *15-16 (W.D.N.Y. Nov. 4, 2025) ("After all, Congress simply could have said 'if the examining immigration officer determines that *an applicant for admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained.'" (emphasis in original))).

If, as Respondents now argue, § 1225 should be applied to Mr. Graterol Ruiz, who was initially detained and released on parole and is not subject to any § 1226(c) crimes mandating detention, § 1226(c) becomes entirely meaningless. *Piedrahita-Sanchez v. Turek*, 2:25-cv-875, at *10-11 ("It is unlikely that Congress passed the Laken Riley Act to add Subsection (c) (1) (E) to the mandatory detention scheme under Section 1226(c) if those individuals were already covered by mandatory detention under Section 1225(b)(2)."). Similarly, the Government's "expansive reading of § 1225(b)(2) would render § 1226(a) exceedingly narrow in scope, applying only to people who entered the United States legally but who are now subject to removal". *Lopez v. Trump*, No. 2:25-cv-863, 2025 U.S. Dist. LEXIS 233128, 2025 WL 3264151, at *10 (D. Vt. Nov. 17, 2025). "Presumably, if Congress had wanted to subject millions of people to mandatory detention, it would have said so more clearly." *Id.* (citing *Puerto Rico v. Franklin Cal. Tax-Free Tr.*, 579 U.S. 115, 127 (2016) (holding that courts should generally presume that Congress does not "hide elephants in mouse holes").

It would thus fly in the face of Congressional intent, as demonstrated through statutory construction, to hold that § 1225 could properly govern Mr. Graterol Ruiz's detention. As the Supreme Court recognized in *Jennings v. Rodriguez*, for either noncitizens who were inadmissible at the time of their entry, or noncitizens who have been convicted of certain criminal offenses since admission, "Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal … Section 1226(a) sets out the default rule…" *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). *Piedrahita-Sanchez,* 2:25-cv-875, *5 n.3. Accordingly, were a lawful basis for his current detention to exist, the authority for such detention could only plausibly be governed by § 1226(a).

Respondents' reliance on *Jennings* in asserting that anyone "who is an applicant for admission shall be detained for full removal proceeding pursuant to 8 U.S.C. § 1229a, if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted" (Doc. 12, at ¶ 8) is misplaced. Respondents' interpretation of *Jennings* hinges on both the Southern District of New York's widely criticized decision in *Chen v. Almodovar*, 2025 U.S. Dist. LEXIS 251605, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025) along with the Board of Immigration Appeals' administrative decisions in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), which posited a novel re-interpretation of the statutory framework surrounding immigration detention. *See Piedrahita-Sanchez v. Turek*, 2:25-cv-875, at *5-6 (citing *Martinez v. Hyde*, No. 25-11613-BEM, 2025 U.S. Dist. LEXIS 141724, 2025 WL 2084238, at *12 (D. Mass. July 24, 2025) (describing "novel interpretation"). As to the administrative 'authority' cited, this Court "need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024). Rather, "courts must exercise their independent judgement in deciding whether an agency has acted within its statutory authority, as the APA requires" and ensure that the agency acts within constitutional limits relative to such authority. *Id.* As to *Chen*, Respondents cite to a minority opinion which strays from the overwhelming majority and norm within both the Second Circuit and the nation. *See Y-C- v. Genalo*, 25-cv-06558 (NCM), 2025 U.S. Dist. LEXIS 261121, 2025 WL 3653496, at *6 (E.D.N.Y. Dec. 17, 2025) ("As of November 26, 2025, the central issue in this case – the administration's new position … has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty district courts…. More broadly, throughout the Second

Circuit, around two dozen district courts have considered the issue and all but two have sided with the view of the overwhelming majority of courts nationwide."). The law is resoundingly clear on this issue. The Government's application of § 1225 to Mr. Graterol Ruiz is unlawful, contrary to congressional design, and incongruent with a plain reading of the statutory provisions governing the civil detention of noncitizens in this country.

III. Respondents' Interpretation of § 1225 is Contrary to Both Congressional Intent and Norms of Statutory Construction.

Respondents explain their position by incorrectly suggesting that, in enacting the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"), Congress created what is now § 1225, and through that statute, intended for mandatory detention of any noncitizen present in the United States who has not been admitted. As stated above, District Courts across the country and the Second Circuit have rejected this interpretation. *Id.*; *See also Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503, at *30-32 (N.D. Cal. Sept. 12, 2025); *see also Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, *30 n.5 (D.N.J. Sept. 26, 2025) ("The Court need not consider the legislative history because it finds the statute is clear and simply notes that Congress' stated goal was to put certain noncitizens seeking entry on more equal footing with noncitizens who were present in the United States with respect to their removal proceedings. The cited legislative history does not suggest that Congress also intended to subject all noncitizens who entered the United States without inspection to mandatory detention during their removal proceedings." (emphasis in original)); *see also Romero v. Hyde*, No. 25-11631-BEM, U.S. Dist. LEXIS 160622, 2025 WL 2403827, at *29 (D. Mass. Aug. 19, 2025) (Congressional intent was not expressed as to *detention* pending the outcome of the immigration proceedings, and "[r]ealistically speaking, if Congress' intention was so clear, why did it take thirty years to notice?").

Here, the Government's argument reflects a novel re-interpretation of the well-established statutory framework relative to detention throughout removal proceedings, as posited by the Board of Immigration Appeals in *Matter of Yajure Hurtado*, 29 I&N 216 (BIA 2025). The District of Arizona's analysis of this position in *Echevarria v. Bondi* is worth discussing. There, the court explained that "Respondents' narrow focus on the language of § 1225(a) fails to take account of the entirety of the statutory scheme." *Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 U.S. Dist. LEXIS 196174, 2025 WL 2821282, at *27 (D. Az. 2025). The court explained that, while the Government's interpretation of § 1225 was intuitive when read in isolation, when "considered alongside its § 1226 companion, this comparison demonstrates that the most natural interpretation of § 1225 is that it applies to aliens encountered as they are attempting to enter the United States or shortly after they gained entry without inspection." *Id.*, at 27-28 (internal quotations omitted). "Given that an immigrant submits an 'application for admission' at a distinct point in time, stretching the phrase 'at the time of application for admission' to refer to a period of years would push the statutory text beyond its breaking point." *Id.*, at 18. This Court has reached the same conclusion relative to the proper interpretation of § 1225(b)(2), rejecting the Department of Homeland Security's and Board of Immigration Appeal's new interpretation. *Lopez v. Trump*, No. 2:25-cv-863, at *5. Here, Mr. Graterol Ruiz has resided in the United States since on or around May 2, 2024. To find him an "applicant for admission" who, in January of 2026, is still "seeking admission" would push the statutory text beyond its breaking point. Mr. Graterol Ruiz's detention therefore must, if at all, be governed under the discretionary framework of § 1226(a).

The court in Southern District of New York aptly analogized the fatal flaw in the Government's current interpretation of § 1225 as such: "[t]his understanding accords with the plain, ordinary meaning of the words seeking and admission. For example, someone who enters a

movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as seeking admission to the theater. Rather, that person would be described as already present there. Even if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as seeking admission (or seeking lawful entry) at that point—one would say that they had entered unlawfully but now seek a lawful means of remaining there. As § 1225(b)(2)(A) applies only to those noncitizens who are actively seeking admission to the United States, it cannot, according to its ordinary meaning, apply to Mr. Lopez Benitez, because he has already been residing in the United States for several years." *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at *21 (S.D.N.Y. Aug. 13, 2025). This Court has relied upon the Southern District of New York's analysis in *Benitez* to reach the same conclusion. *Piedrahita-Sanchez v. Turek*, 2:25-cv-875, at *9; *Walizada v. Trump*, No. 2:25-cv-768, U.S. Dist. LEXIS 256630, 2025 WL 3551972 at *20; *Luis v. Trump*, No. 2:25-cv-921, 2025 U.S. Dist. LEXIS 267391, 2025 WL 3763397, at *12 (D. Vt. Dec. 30, 2025); *Lopez v. Trump*, No. 2:25-cv-863, at *5.

This Court has further expressed skepticism at the notion that, a parolee who has resided in the United States for years, may perpetually be considered an "arriving alien." *Walizada v. Trump*, No. 2:25-cv-768, 2025 U.S. Dist. LEXIS 256630, at *33-38 (D. Vt. Dec. 11, 2025) (analyzing and agreeing with the District of Columbia's decision in *Coalition for Humane Immigrant Rights v. Noem*, 2025 U.S. Dist. LEXIS 148615, 2025 WL 2192986 (D.D.C. Aug. 1, 2025) (squarely rejecting the proposition that parolees who have resided in the United States for years are perpetually considered "arriving aliens" due to their initial parole and are accorded less favorable treatment than noncitizens who are found in the United States after entering illegally). While this Court recognized the Second Circuit's holding in *Ibragimov*, it noted that "it is not clear

whether the court would have reached the same conclusion without *Chevron* deference." *Walizada*, No. 2:25-cv-768, at 38; *Id.* at 33 ("courts must exercise independent judgment in determining the meaning of statutory provisions") (quoting *Loper v. Bright*, 603 U.S. 369, 394 (2024)). In *Walizada*, this Court stated that if "[f]aced with a blank slate, [it] would adopt [the District of Colombia's] approach in determining whether [Petitioner] is statutorily considered an "arriving alien" under the INA." *Walizada*, No. 2:25-cv-768, at *38.

IV. Respondents' Revocation of Parole Violated His Right to Due Process and Was Contrary to the Government's Own Rules and Regulations.

Numerous courts, including those in the Second Circuit, have recognized that parole can only be terminated with "notice and an individualized hearing before an appropriate official." *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *31 (S.D.N.Y. Sep. 9, 2025) ("the Court finds that Respondents violated [Petitioner's] Fifth Amendment rights by … revoking his parole, and arresting him pursuant to § 1225, without providing him notice or an opportunity to be heard."); *J-C-R-M v. Wamsley*, No. 3:25-cv-990-SI, 2025 U.S. Dist. LEXIS 254498, 2025 WL 3527108, at *24-25 (D. Or. Dec. 9, 2025); *Rodriguez Cabrera v. Mattos*, No. 2:25-cv-01551-RFB-EJY, 2025 U.S. Dist. LEXIS 216258, 2025 WL 3072687, at *3 (D. Nev. 2025) ("If an immigration judge has determined the noncitizen should be released, DHS may not re-arrest that noncitizen absent a change in circumstances."); 8 C.F.R. § 212.5(e)(2)(i). Mr. Graterol Ruiz was provided with neither, thereby violating his right to due process under the Fifth Amendment.

V. Petitioner's Detention Without Individualized Review Violates the Due Process Clause of the Fifth Amendment.

Respondents incorrectly rely on *Dept' of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020) to support the legal fiction that a noncitizen, whether arriving at a port of entry or paroled in the country for years pending removal, has no right to due process other than "those rights

regarding admission that Congress has provided by statute." (Doc. 12, at ¶ 13). This Court and many others "have interpreted *Thuraissigiam* as limited to its facts." *Walizada v. Trump*, No. 2:25-cv-768, at *42. Unlike the petitioner in *Thuraissigiam*, Mr. Graterol Ruiz seeks release from confinement due to both his conditions of confinement, the impermissibly punitive nature of such conditions, and the unavailability of administrative review relative to his custody. *See Gomes v. US Dep't of Homeland Sec.*, 561 F.Supp.3d 198, 201 (D. NH. 2020). The Supreme Court has consistently upheld the notion that "the Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). *Thuraissigiam* specifically only limited the application of due process rights where a person was not residing in the United States but rather had been arrested a mere 25 yards into U.S. territory, apparently moments after he crossed the border and was hence still "on the threshold." *Thuraissigiam*, 591 U.S. at 104. Respondents' argument that Petitioner, who has resided within the United States for years, is not protected by the rights afforded to all persons within our borders under the U.S. Constitution, is not only without merit, but quite frankly, a disconcerting suggestion.

By arbitrarily subjecting Mr. Graterol Ruiz to mandatory civil detention sans opportunity for administrative review, the Government deprives him of his constitutionally protected right to due process. Indeed, "[t]he Supreme Court has been unambiguous that executive detention orders, which occur without the procedural protections required in courts of law, call for the most searching review." *Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *33 (S.D.N.Y. Sep. 9, 2025). In *Mathews v. Eldridge*, the Supreme Court put forth a three-prong test applied by the Second Circuit and this Court when determining the adequacy of process relative to civil

immigration detention. 424 U.S. 319, 335 (1976); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020); *Piedrahita-Sanchez*, 2:25-cv-875, at *12. Under *Mathews*, the three factors are: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

As to the first prong, Mr. Graterol Ruiz's private interest in freedom from imprisonment weighs heavily. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) ("the most significant liberty interest there is-the interest in being free from imprisonment."). Mr. Graterol Ruiz was detained without any pre-detention individualized determination as to whether he posed a flight risk or any risk of dangerousness, and sans any material change in circumstances triggering his sudden arrest and detention; rather, "it appears [Mr. Graterol Ruiz] was detained simply because" he was readily identified by Respondents as a noncitizen in the process of petitioning for asylum as a legal means to remain in the United States. *Hyppolite v. Noem*, No. 25-cv-4304, 2025 U.S. Dist. LEXIS 197628, 2025 WL 2829511, at *34-35 (E.D.N.Y. Oct. 6, 2025) (similar case wherein petitioner was detained upon appearing for a previously scheduled conference in immigration court).

The second prong similarly weighs heavily in Mr. Graterol Ruiz's favor. "[t]he purpose of a bond hearing employed when the government seeks to exercise its discretion in detaining a noncitizen under § 1226(a) is to provide procedures which will better ensure that people who are, in fact, a risk of flight or a danger to the community are the people [who] are ultimately detained." *Id.* Respondents' position that Mr. Graterol Ruiz and millions of other similarly situated noncitizens, however, precludes any possibility for such procedural safeguards in the form of a

bond hearing. *See Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 U.S. Dist. LEXIS 190052, 2025 WL 2753496, at *29-30 (D.N.J. Sept. 26, 2025) ("the first and second *Mathews* factors weigh heavily in petitioner's favor, as she has been deprived of her liberty, erroneously subjected to mandatory detention under § 1225 during her removal proceedings, and denied due process protections, including the right to seek bond."). Mr. Graterol Ruiz has been assessed for neither risk of flight nor perceived dangerousness. This amounts to a lack of procedure, thereby increasing his risk of erroneous deprivation of his right to due process.

The third prong of *Mathews* militates against Mr. Graterol Ruiz's continued detention, as the Government simply does not have a significant or legitimate interest in such detention. His detention is, as this Court has recognized, not authorized by § 1225, and serves no legitimate purpose. *See Benitez*, 2025 U.S. Dist. LEXIS 157214, at *36 ("The Attorney General's discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate governmental purpose such as ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community.") (cleaned up). Either a federal bail or a bond hearing satisfies the Government's interest in ensuring noncitizens "do not commit crimes or evade law enforcement," and will thereby "permit the Immigration Court to consider those interests while also safeguarding Petitioner's significant private interests in personal liberty and due process." *Adonay E.M. v. Noem*, No. 25-cv-3975, 2025 U.S. Dist. LEXIS 222247, at *26 (D. Minn. Nov. 12, 2025).

Mr. Graterol Ruiz's due process rights were violated when the Government revoked his parole without review. They were further violated when the Government arbitrarily re-detained him and now, under the state of current administrative law, denies him any meaningful opportunity for individualized review of his custody. His rights were violated when the Government denied

him the opportunity to attend his pre-operative medical appointment in Boston on January 21, 2026. His rights continue to be violated for every day that he remains in detention without opportunity for review thereof. This Court has the authority to redress this ongoing violation of Mr. Graterol Ruiz's rights and, accordingly, must grant his petition for writ of habeas corpus. *Piedrahita-Sanchez*, 2:25-cv-875, at *16 (citing *Gonzalez v. Joyce*, No. 25-cv-8250, 2025 U.S. Dist. LEXIS 208578, 2025 WL 2961626, at *4 (S.D.N.Y. Oct. 19, 2025) ("Because Respondents' ongoing detention of [Petitioner] with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights,[] the petition must be granted." (internal quotation marks and citations omitted)).

VI. The Government's Overwhelming Record of Order Noncompliance Militates for Petitioner's Immediate Release, or in the Alternative, a Federal Bail Hearing.

The Government's recent overwhelming record of noncompliance with lawful court orders as they pertain to the rights of noncitizens in our country strongly militates for either a grant of immediate release, or in the alternative, *this* Court holding a federal bail hearing on the question of Mr. Graterol Ruiz's custody. As noted by the District of Minnesota, in its order of January 28, 2026, cancelling Todd M. Lyons' scheduled hearing before that court, ICE has violated at least 96 court orders in at least 74 cases since January 1, 2026. *Juan T.R.*, v. Noem, No. 26-CV-107 (PJS/DLM), at *2 (D. Minn. Jan. 28, 2026). The court notes that "ICE has likely violated more court orders in January 2026 than some federal agencies have violated in their entire existence." *Id.* at 2-3. "ICE is not a law unto itself." *Id.* The Government's record in 2025 is no better. The Department of Justice, through the Executive Office for Immigration Review, has been routinely refusing to comply with the Central District of California's lawful Order in *Maldonado-Bautista*

v. Santacruz, No. 5:25-CV-1873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov 25, 2025) or its clarifying Order of Final Judgement issued on December 22, 2025.

Mr. Graterol Ruiz appears before this Court seeking redress from the Government's ongoing violation of his right to due process. The Court has, in recognizing that both immigration courts and the BIA are courts of limited jurisdiction that cannot consider constitutional claims, found that it would be futile to order a bond hearing before an immigration court. *Walizada*, No. 2:25-cv-00768, at *57. In light of the Board's decision in *Hurtado*, 26 I&N Dec. 219, coupled with the Government's recent record of willful noncompliance with lawful court orders, Petitioner respectfully requests that this Court either grant his immediate release, or in the alternative, schedule an individualized *federal bail* hearing, lest he risk the erroneous continuation of the very harm that he seeds redress from – namely, his continued unlawful detention without individualized review.

VII. Conclusion

Mr. Graterol Ruiz's exigent medical circumstances, coupled with ICE's demonstrated indifference to his safety and welfare, strongly militate in favor of this Court ordering that Petitioner be immediately released on conditions this Court deems proper. His detention is medically inappropriate, such that its continuation will lead to his irreparable harm, resulting either from ICE's inability or unwillingness to facilitate both his prior and upcoming medical appointments, or as a result of lapses in the provision of his prescribed antibiotics in the inevitable event of inter-facility transfer.

Should the Court find immediate release inappropriate in the instant matter, Petitioner requests the Court hold a federal bail hearing on the question of his continued custody. ICE's egregious record of Order noncompliance and blatant disregard for the established rule of law

would risk additional harm to Petitioner through any unnecessary extension of his detainment, resulting from ICE's failure to comply with this Court's orders relative to any bond hearing through administrative channels. The administration has made it clear that they do not intend to comply with court orders. It is therefore appropriate for this Court to exercise its inherent authority to hold a federal bail hearing on the question of Petitioner's custody.

Alternatively, should the Court feel assured that ICE will comply with its lawful order to do so, and because Respondents do not object to it, this Court should order a prompt bond hearing with strong procedural protections before an immigration court within **seven** days. Specifically, any such order must require an immigration judge to apply the discretionary framework of § 1226(a) when analyzing Petitioner's custody and consider only his perceived danger to the community and risk of flight. Finally, Petitioner requests that should such an order be issued, any financial bond required to effectuate his release takes into consideration his ability to pay, notwithstanding the ongoing medical bills that Mr. Graterol Ruiz incurs as a result of his surgeries and urgent need for ongoing medical care.

Respectfully submitted on this 1st day of February, 2026.

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