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12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 H.A.,

15
16 Petitioner,

17 v.

18 CHRISTOPHER LAROSE, et al.,

19
20 Respondents.

Case No.: 26-CV-01729-JO-DDL

REPLY IN SUPPORT OF
RESPONDENTS' MOTION TO
RECONSIDER

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22 Petitioner's administrative order of removal is not final. Yet this Court, in
23 granting Petitioner immediate release, identified that "Petitioner has been detained for
24 more than seven months since the August 8, 2025 final removal order" and applied a
25 test for continued detention after a final removal order. *See* April 2 Minute Order, ECF
26 No. 10, ¶ 3. The fact that this erroneous holding relied upon an error in Respondents'
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1 Response to the Petition for Writ of Habeas Corpus, ECF No. 6, does not make it any
2 less a manifest error of law that this Court should exercise its discretion to correct.
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4 Petitioner has no due process right to his release.

5 **I. This Court should correct its clear error of law.**

6 The detention of Petitioner is required under 8 U.S.C. § 1225(b)(1)(B)(ii). In
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8 *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018), the Supreme Court held that the plain
9 meaning of Section 1225(b)(1) mandates detention “until immigration officers have
10 finished ‘consider[ing]’ the application for asylum, § 1225(b)(1)(B)(ii), or until removal
11 proceedings have concluded, § 1225(b)(2)(A).” The Supreme Court in *Jennings*
12 specifically contemplated *Zadvydas v. Davis*, 533 U.S. 678 (2001), and held that the
13 reasoning of *Zadvydas* does not apply to detention under §§ 1225(b)(1) and (b)(2).
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15 *Jennings*, 583 U.S. at 300–301. Yet the only case this Court relied upon in granting
16 Petitioner immediate release was *Zadvydas*. ECF No. 10 ¶ 3. In doing so, the Court
17 incorrectly identified that Petitioner was detained pursuant to a final removal order,
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19 which is also directly in conflict with the Ninth Circuit holding in *Prieto-Romero v.*
20 *Clark*, 534 F.3d 1053, 1059 (9th Cir. 2008) (holding that Section 1231(a) does not
21 provide authority to detain an alien whose administrative removal order is stayed
22 pending review before the court of appeals). Therefore, the April 2 order rests upon a
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24 manifest error of law. *See Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir.
25 2011) (reconsideration may be granted “(1) if such motion is necessary to correct
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27 manifest errors of law or fact upon which the judgment rests. . .”).
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1 Nowhere in Petitioner's Response in Opposition to Respondents' Motion to
2 Reconsider (Opp.) does he contend that his detention after August 8, 2025, was not
3 governed by Section 1225(b)(1). Instead, Petitioner argues that Respondents are
4 improperly seeking for this Court to "address new arguments or evidence that the
5 moving party could have raised before the decision issued." Opp. at 3, quoting *Banister*
6 *v. Davis*, 590 U.S. 504, 507–08 (2020). This characterization is inaccurate. As Petitioner
7 identifies, Respondents' motion argues under the first basis identified in *Allstate Ins.*
8 *Co.*: reconsideration "to correct manifest errors of law or fact upon which the judgment
9 rests." *Allstate Ins. Co.*, 634 F.3d at 1111. Respondents do not contest that the
10 appropriate basis for detention was available to them when they filed their Response to
11 the Petition, ECF No. 6, or that these facts and law could have been raised therein.
12 Acknowledging their role in the Court reaching its holding, the basis for Respondents'
13 motion is rather the manifest error of law discussed above. This error of law exists
14 regardless of Respondents' failure to raise Section 1225(b)(1) and the related Supreme
15 Court and Ninth Circuit precedent until the instant motion.

16 The holding of *Wells Fargo Bank, N.A. v. Mahogany Meadows Ave. Tr.*, 979 F.3d
17 1209, 1218 (9th Cir. 2020), cited to by Petitioner, further demonstrates the distinction
18 between correcting manifest errors of law upon which the judgment rests and raising
19 entirely new arguments. In *Wells Fargo Bank, N.A.*, the plaintiff filed a Rule 59(e)
20 reconsideration motion arguing that a foreclosure sale at issue violated a federal statute.
21 *Id.* The underlying complaint and the district court's judgment had concerned

1 constitutional takings and due process arguments. *Id.* at 1213. As the plaintiff was
2 raising a statutory argument for the first time, the Ninth Circuit properly concluded that
3 it did not need to consider whether plaintiff's interpretation of the statute was correct
4 and denied the motion. *Id.* at 1218. There was no error to correct because no statutory
5 argument provided the legal basis upon which the judgment rested. *Allstate Ins. Co.*,
6 634 F.3d at 1111.
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9 Here, the Court order at issue explicitly applied the wrong standard due to
10 analyzing Petitioner's detention under the incorrect detention authority. This is
11 precisely the kind of clear error Fed. R. Civ. P. 59(e) encompasses. *See Banister*, 590
12 U.S. at 521 ("a Rule 59(e) motion is a one-time effort to bring alleged errors in a just-
13 issued decision to a habeas court's attention, before taking a single appeal"). While
14 "clear error for the purposes of a Rule 59(e) motion is a very exacting standard," *Walker*
15 *v. Bonta*, 2023 WL 2815356, at *2 (S.D. Cal. April 6, 2023), that standard is met here
16 because the Court's Order is "more than just maybe or probably wrong"—it is in direct
17 contradiction with on-point, binding precedent out of the Supreme Court and Ninth
18 Circuit. *Compare id.* at *3 (no clear error where circuit precedent has "some tension"
19 with a Supreme Court case but is not overruled) *with Kaufmann v. Kijakazi*, 32 F.4th
20 843, 850 (9th Cir. 2022) (clear error when district court overlooked full explanation of
21 an administrative law judge (ALJ) before holding that the ALJ erred).
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26 Petitioner correctly identifies that this Court has considerable discretion to grant
27 Rule 59(e) motions in order to correct its own errors. *Opp.* at 5; *see also Kaufmann*, 32
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1 F.4th at 850. While Petitioner contends that this discretion should weigh in his favor,
2 the opposite is true. As noted in Respondents' motion, the Ninth Circuit in *Kaufmann*
3 encouraged judges to grant Rule 59(e) motions once they conclude they have erred. *See*
4 *also id.* at 851 ("Conservation of judicial resources supports a court's confessing error
5 before the issue reaches us."). In its April 2 Order setting a briefing schedule on this
6 motion, this Court noted the "potential validity of the constitutional, statutory, and
7 procedural issues presented." Minute Order, ECF No. 22. Nothing in Petitioner's
8 Opposition addresses the fundamental error of law made by Respondents then relied
9 upon and incorporated into the Court's Order. Therefore, this Court should recognize
10 its clear error and find Petitioner is properly subject to mandatory detention under
11 Section 1225(b)(1) pending the conclusion of his removal proceedings.
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16 **II. Petitioner is not entitled to immediate release.**

17 Alternatively, Petitioner contends that his release should still be granted under
18 the due process clause of the U.S. Constitution even if this Court correctly concludes
19 that Section 1225(b)(1) applies. Opp. at 6. This argument fails. Petitioner is subject to
20 mandatory detention pursuant to Section 1225(b)(1). This Section mandates his
21 detention until his removal order becomes administratively final, and his due process
22 rights are only coextensive with those statutory rights Congress has provided. *Guerrier*
23 *v. Garland*, 18 F.4th 304, 310 (9th Cir. 2021). The sole discretionary parole exception
24 to mandatory detention "implies that there are no *other* circumstances under which
25 aliens detained under § 1225(b) may be released." *Jennings*, 583 U.S. at 300. Therefore,
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1 Petitioner has no entitlement to due process relief. While Plaintiffs identify district court
2 decisions which have held to the contrary, Opp. at 6, the Ninth Circuit has not yet
3 weighed in on this precise issue and there are also persuasive in-district court decisions
4 recognizing that petitioners detained under Section 1225(b)(1) have limited due process
5 rights. *See e.g., Zelaya-Gonzalez v. Matuszewski*, No. 23-CV-151-JLS-KSC, 2023 WL
6 3103811, at *4 (S.D. Cal. Apr. 25, 2023) (“Binding Ninth Circuit and Supreme Court
7 precedents are clear that Petitioner lacks any rights beyond those conferred by statute,
8 and no statute entitles Petitioner to a bond hearing.”); *Mendoza-Linares v. Garland*, No.
9 21-CV-1169-BEN-AHG, 2024 WL 3316306, at *2 (S.D. Cal. June 10, 2024) (same).

13 Furthermore, even if this Court finds that Petitioner is entitled to some form of
14 due process relief, immediate release is not supported by Section 1225 case law.
15 Petitioner has not cited a single case which supports immediate release of similarly
16 situated individuals detained pursuant to Section 1225(b)(1)(B)(ii). *See, e.g., Gao v.*
17 *LaRose*, 805 F.Supp.3d 1106, 1112 (S.D. Cal. 2025) (denying immediate release after
18 due process violation during Section 1225(b) detention and directing respondents to
19 arrange an individualized bond hearing); *Cong v. Noem*, No. 25-CV-3730-GPC-DEB,
20 2026 WL 76566, at *7 (S.D. Cal. Jan. 9, 2026) (same). Petitioner points to four cases
21 in which courts granted immediate release. Opp. at 8. They fail to be persuasive because
22 in none did the court recognize valid Section 1225 detention authority. *E.A. T.-B. v.*
23 *Wamsley*, 795 F. Supp. 3d 1316, 1324 (W.D. Wash. 2025) (ICE agents arrested
24 petitioner under 8 U.S.C. § 1226); *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW,

1 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (“Petitioner’s detention under § 1225
2 rather than § 1226 likely constitutes a violation of procedural due process.”); *Lepe v.*
3 *Andrews*, 801 F. Supp. 3d 1104, 1119 (E.D. Cal. 2025) (“Given that the government
4 does not assert any other basis [than Section 1225] for petitioner’s detention . . . the
5 appropriate remedy is petitioner’s immediate release.”); *Mendoza v. Blanche*, No. 2:26-
6 CV-00011-JAD-MDC, 2026 WL 1383273, at *5 (D. Nev. May 18, 2026) (concluding
7 that Section 1226 governs the petitioner’s detention). Therefore, the decisions rest on
8 the petitioners not receiving a pre-deprivation or bond hearing as provided for by
9 Section 1226. *See, e.g., Mendoza*, 2026 WL 1383273, at *5 (holding that a petitioner
10 released on bond then re-arrested under claimed Section 1225 authority may not be
11 further restrained without holding an appropriate Section 1226 bond revocation
12 hearing).

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14 Here, there is no question that Section 1225(b)(1)(B)(ii) rightfully applies to
15 Petitioner. *See* ECF 20-1, Declaration of Denise Barroga, ¶¶ 4–7 (Petitioner was
16 encountered by U.S. Border Patrol upon unlawfully entering, applied for asylum, and
17 received a credible fear determination). Petitioner does not contest this fact in his
18 Opposition. Petitioner was not entitled to a bond hearing under Section 1226 and has
19 not been granted temporary parole from Section 1225(b) detention by the Attorney
20 General. 8 U.S.C. § 1182(d)(5)(A). Therefore, Section 1225(b) requires his mandatory
21 detention. If this Court concludes due process relief is merited due to the length of
22 detention, it should go no further than established Ninth Circuit precedent on Section
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1 1225 and deny immediate release. *See Banda v. McAleenan*, 385 F.Supp.3d 1099, 1120
2 (“The Court thus concludes that petitioner's continued mandatory detention under §
3 1225(b) has become unreasonable and that due process requires the Government to
4 provide him with a bond hearing.”).

5
6 Finally, Petitioner’s circumstances are not “extraordinary” such that this Court
7 should depart from previous precedent to grant immediate release. Petitioner contends
8 that he should not have to be returned to custody after release due to a mistake of the
9 government. *Opp.* at 9. However, estoppel against the government is strongly
10 disfavored. *Heckler v. Community Health Services of Crawford Cnty., Inc.*, 467 U.S.
11 51, 60 (1984). The Supreme Court is clear that “[w]hen the Government is unable to
12 enforce the law because the conduct of its agents has given rise to an estoppel, the
13 interest of the citizenry as a whole in obedience to the rule of law is undermined.” *Id.*
14 To be sure, Petitioner’s release under an incorrect statutory authority is due to
15 Respondents’ error, but the Court may not prevent Respondents from re-detaining
16 Petitioner under the correct statutory authority as an exercise of estoppel due to that
17 error.
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20 Respondents timely filed their Motion to Reconsider within 11 days of the
21 Court’s Order (the tenth day fell on a weekend) and are making every effort to correct
22 that mistake. Furthermore, even if his release were proper, Petitioner could at any point
23 become subject to a new mandatory detention authority under Section 1231(a)(2) upon
24 affirmation by the Ninth Circuit of Petitioner’s removal order. Additionally, cursory
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1 claims that Petitioner was not given adequate care in detention do not arise to due
2 process grounds for habeas relief. *See Roman v. Wolf*, 977 F.3d 935, 943 (9th Cir. 2020)
3 (setting forth a four-factor test for violations of the government's Fifth Amendment
4 duty to provide conditions of reasonable health and safety to people in its custody).
5 Petitioner requested an MRI but was instead given an X-ray. Opp. at 9. Based on the
6 provided facts, Petitioner has not demonstrated that the governments' conduct was
7 objectively unreasonable or akin to reckless disregard. *Id.* Altogether, Petitioner's
8 circumstances do not provide any basis for this Court to grant immediate release.
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11 In conclusion, the Court should grant Respondents' Motion to Reconsider.
12 Respondents' regret their error in failing to identify the applicable statutory detention
13 authority and relevant case law, a manifest error upon which the Court's April 2 Order
14 then rested. The Court should vacate its Order in the entirety and find Petitioner is
15 properly subject to mandatory detention pending the conclusion of his removal
16 proceedings; or in the alternative, if the Court concludes that Petitioner's detention
17 violated due process, requiring Respondents to hold a bond hearing following his
18 redetention is the only appropriate relief.
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22 DATED: June 11, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2026, I filed this document with the Clerk of the Court through the CM/ECF system, which will provide electronic notice and an electronic link to this document to all counsel of record.

Respectfully submitted,
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