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10 EFRAIN AGUSTIN PEREZ

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 EFRAIN AGUSTIN PEREZ,

14 Petitioner,

15 vs.

16 CHRISTOPHER LAROSE, ET AL.,

17 Respondents.

Case No.: 25-CV-02323 RMB DEB

**MOTION TO STAY HABEAS
CORPUS PROCEEDINGS
PENDING BOARD OF
IMMIGRATION APPEALS
DECISION**

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20 Efrain Agustin Perez ("Petitioner") respectfully moves this Court for an order
21 staying the instant habeas corpus proceedings until after the resolution of the
22 Department of Homeland Security's appeal of Petitioner's release on bond, which is
23 currently pending before the Board of Immigration Appeals (BIA). This motion is
24 made pursuant to 28 U.S.C. § 2251(a)(1) and the Court's inherent authority to
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1 manage its docket. *Thompson v. Hous. Auth. of L.A.*, 782 F.2d 829, 831 (9th Cir.
2 1986).

3 4 I. INTRODUCTION

5 Petitioner was detained by ICE on July 19, 2025. He then sought a bond
6 redetermination before the Immigration Court. There, the Immigration Judge (“IJ”)
7 held that Petitioner was detained pursuant to 8 U.S.C. section 1226(a) and ordered
8 bond in the amount of \$7500. DHS then appealed the IJ’s decision. That appeal is
9 currently pending before the BIA. While awaiting that decision, Petitioner seeks a
10 stay of his habeas proceedings in this Court. Since Petitioner was granted bond, the
11 BIA issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held
12 that, based on the language of section 235(b)(2)(A) of the Immigration and
13 Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), IJs lack authority both to hear
14 bond requests and to grant bond to aliens who are present in the United States
15 without admission. Because the appeal is before the BIA, that court is likely to
16 revoke Petitioner’s bond based on *Matter of Hurtado*, thus remanding him to
17 detention; Petitioner would then need to refile this same habeas petition as a result.
18 Petitioner respectfully requests that this Court stay his habeas proceedings pending
19 a decision before the BIA. This will further the goals of judicial economy and
20 efficiency by allowing Petitioner to proceed with his habeas claim before the Court
21 should he be re-detained.
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II. STATEMENT OF FACT

Petitioner Efrain Agustin Perez (“Efrain” or “Petitioner”) is a native and citizen of Guatemala, having resided in the United States since 1994. After Petitioner was detained on July 19, 2025, he filed a motion for bond redetermination, which the IJ granted on August 8, 2025. DHS then invoked the automatic stay provision of C.F.R. § 1003.19(i)(2), which stayed the IJ’s order of Petitioner’s release on bond pending DHS’s appeal of the IJ’s bond decision. Counsel for Petitioner filed a habeas corpus petition with this Court on September 3, 2025, to redress his unlawful and ongoing detention by ICE, to preclude ICE from unlawfully re-detaining him at a future date should he be released, and to ask this Court to grant declaratory relief that he is being detained pursuant to 8 U.S.C. 1226(a) per the IJ’s original decision. On September 19, 2025, Petitioner was released from detention. Meanwhile, DHS’s appeal of the IJ’s bond decision is pending before the BIA. For that reason, Petitioner seeks a stay of this Court’s review of his habeas proceedings in order to re-animate those proceedings should DHS successfully appeal Petitioner’s bond decision and choose to re-detain him.

III. LEGAL STANDARD

A federal court may issue “all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651; *see Weidert v. Grounds*, 2014 U.S. Dist. LEXIS 17570, at *6 (N.D. Cal. Feb.

1 10, 2014) (finding that “a district court has discretion to stay a habeas proceeding);
2 *Nken v. Holder*, 556 U.S. 418, 421 (2009) (it “has always been held...that as part of
3 its traditional equipment for the administration of justice, a federal court can stay the
4 enforcement of a judgment pending the outcome of an appeal”). When reviewing an
5 order staying a habeas action, the Ninth Circuit “balance[s] the length of the stay
6 against the strength of the justification given for it.” *Yong v. I.N.S.*, 208 F.3d 1116,
7 1119 (9th Cir. 2000). A stay is appropriate when “the length of the stay is not
8 indefinite” and “the stay will promote efficiency.” *Weidert*, at *6.

12 IV. ARGUMENT

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14 First, the length of the stay Petitioner seeks is not indefinite. DHS’s appeal of
15 Petitioner’s bond will likely issue in the next several months as the briefing schedule
16 has already expired. Here, the Petitioner seeks to stay his habeas proceedings before
17 this court because the outcome of DHS’s appeal is relatively certain – that is, under
18 *Matter of Hurtado*, the BIA is highly likely to revoke Petitioner’s bond, which would
19 thus remand him to detention. Petitioner would then re-file his habeas claims.
20 Petitioner respectfully requests this Court to limit the length of the stay to after
21 DHS’s appeal before the BIA has concluded. Thus, the stay would not be indefinite.

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23 Second, the stay is justified because it will confer substantial benefits to the
24 parties and the courts by decreasing the likelihood of duplicative or unnecessary
25 proceedings and by promoting uniformity in decisions by district courts within this
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1 circuit. *Weidert*, at 7. Because the BIA is likely to reverse Petitioner's bond hearing
2 under *Matter of Hurtado*, absent a stay, Petitioner would need to re-file his habeas
3 claims before this Court to address the legality of his re-detention. In order to
4 promote efficiency in the use of judicial resources, Petitioner respectfully requests
5 for this Court to stay his habeas proceedings before this Court until after the BIA
6 disposes of DHS's appeal.
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10 **V. CONCLUSION**

11 For the foregoing reasons, Petitioner respectfully requests that this Court grant
12 this Motion to Stay Habeas Corpus Proceedings pending resolution of Petitioner's
13 appeal before the Board of Immigration Appeals.
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18 Dated: 9/30/25

Respectfully Submitted,

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22 Mitchell H. Shen, Esq.
23 Attorney for the Petitioner
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