

LORI B. SCHOENBERG
California State Bar No. 212972
LAW OFFICES OF LORI B. SCHOENBERG
611 Wilshire Boulevard, Suite 1006
Los Angeles, CA 90017
Tel.: (213) 622-2565
Fax: (888) 509-6716
Email: lori.schoenberg.esq@gmail.com

Attorney for Petitioner Jarold Maverich Rueda Padilla

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JAROLD MAVERICH RUEDA
PADILLA, [REDACTED]

Petitioner,

v.

MARK BOWEN, ACTING
WARDEN, ADELANTO ICE
PROCESSING CENTER; ERNESTO
SANTACRUZ, JR., ACTING FIELD
OFFICE DIRECTOR, UNITED
STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT, ICE
LOS ANGELES FIELD OFFICE;
TODD M. LYONS, ACTING
DIRECTOR, UNITED STATES
IMMIGRATION AND CUSTOMS
ENFORCEMENT; KRISTI NOEM,
SECRETARY, UNITED STATES
DEPARTMENT OF HOMELAND
SECURITY; AND PAMELA JO
BONDI, ATTORNEY GENERAL,

Respondents.

Case No. 2:25-cv-10780-CAS-SK

**PETITIONER'S REPLY TO
RESPONDENTS' RETURN ON
ORDER TO SHOW CAUSE**

I.

INTRODUCTION

Petitioner Jarold Maverich Rueda Padilla, through counsel, files the Petitioner's Reply to the Respondents' Return to Order to Show Cause, pursuant to this Court's amended Order of November 14, 2025.

On November 10, 2025, Mr. Rueda Padilla, through counsel, filed a Petition for Writ of Habeas Corpus, Pursuant to 28 U.S.C. § 2241, and Complaint for Declaratory and Injunctive Relief under the Administrative Procedure Act, 5 U.S.C. §§ 702-706, in the above-captioned matter. Mr. Rueda Padilla's Petition and Complaint challenged the Respondents' unjustified revocation of his conditional release and his unlawful detention in the custody of the United States Department of Homeland Security.

Mr. Rueda Padilla argued, through counsel, that the Respondents deprived him of his rights under the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V, when they detained him in ICE custody without finding that he would flee or pose a danger to the community if he remained outside detention. See Pet., ¶¶ 69-79. He contended, through counsel, that the Respondents' revocation of his conditional release and his detention in the Respondents' custody, without notice and a meaningful opportunity to challenge the legality of his confinement, violated his procedural due process rights. See id., ¶¶ 80-97. Mr.

1 Rueda Padilla, through counsel, asserted that section 235(b)(2)(A) of the INA, 8
2 U.S.C. § 1225(b)(2)(A), did not mandate his detention in the Respondents' custody
3 for his removal proceedings because he was not an "applicant for admission" who
4 is "seeking admission" into the United States at or near a border crossing or a Port
5 of Entry, within the meaning of 8 U.S.C. § 1225(b)(2)(A). See id., ¶¶ 98-117.
6
7 Finally, he claimed, through counsel, that the Respondents' unreasoned revocation
8 of his conditional release and his detention in the Respondents' custody amounted
9 to arbitrary and capricious agency conduct under the Administrative Procedure
10 Act. See id., ¶¶ 118-128.

11
12
13
14 On November 14, 2025, this Court ordered the Respondents to show cause
15 "why the Petition for Writ of Habeas Corpus should not be granted" by Tuesday,
16 November 18, 2025, at 5:00 p.m. On November 18, 2025, Government counsel
17 filed the Federal Respondents' Opposition to Petitioner's Complaint for
18 Declaratory and Injunctive Relief in the above-captioned matter. In their
19 Opposition, the Respondents, through counsel, argued that Mr. Rueda Padilla's
20 attempt to seek habeas is defective[]" because they claimed that Mr. Rueda Padilla
21 allegedly challenged the revocation of his parole, when ICE allowed his parole to
22 "expire[] by its own terms." Opp., at pp. 1, 6. They disputed Mr. Rueda Padilla's
23 challenge to his unlawful detention in ICE custody because they claimed that he
24 reverted to "his pre-parole status which was that of a person seeking admission
25
26
27
28

1 under 8 U.S.C. § 1225(b)(2)(A), thus mandating his detention until his removal
2 proceedings have concluded[.]” when his parole ended. Id., at p. 6. They asserted
3 that Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), barred the
4 Immigration Judge from authorizing Mr. Rueda Padilla’s release from detention
5 because he was present in the United States without admission, and was thus an
6 “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) who “must be detained
7 for the duration of [his] removal proceedings.” Id., at p. 1 & n.1.
8
9
10

11 The Respondents contended, through counsel, that section 242(g) of the
12 INA, 8 U.S.C. § 1252(g), divested the Court of jurisdiction over Mr. Rueda
13 Padilla’s challenge to the legality of his detention in the Respondents’ custody, see
14 Id., at pp. 4-5. They asserted that Mr. Rueda Padilla’s challenge to his arrest and
15 detention was “defective” because he allegedly neglected to exhaust administrative
16 remedies before seeking federal judicial review. Id., at pp. 6-8. The Respondents
17 claimed that Mr. Rueda Padilla “fail[ed] to make any evidentiary showing of a
18 putative detention violation that would justify immediate habeas release[.]” Id., at
19 p. 2. Finally, the Respondents, through counsel, stated that the Government’s
20 “compelling interest in the steady enforcement of its immigration laws[.]”
21 warranted the denial of injunctive relief to Mr. Rueda Padilla. Id. at p. 8.
22
23
24
25

26 The Respondents’ arguments are unavailing, for the reasons set forth below.
27
28

II.

ARGUMENT

A. Mr. Rueda Padilla Can Challenge the Respondents’ Revocation of his Conditional Release and his Detention in ICE Custody Under the Due Process Clause in Habeas Corpus Proceedings.

The Respondents, through counsel, contended that Mr. Rueda Padilla’s habeas corpus action is “defective” because he allegedly challenged the revocation of his parole, when it “had expired by its own terms.” Opp., at pp. 1, 2, 6. They argued that Mr. Rueda Padilla’s detention is lawful, even if his parole had not lapsed, because ICE officers properly terminated his parole when they issued a Notice to Appear for removal proceedings under section 240 of the Immigration and Nationality Act (hereinafter “INA”), 8 U.S.C. § 1229a, and thereby “returned him to his pre-parole status which was that of a person seeking admission under 8 U.S.C. § 1225(b)(2)(A), thus mandating his detention until his removal proceedings have concluded.” Id., at p. 6.

The Respondents misconstrue the claims that Mr. Rueda Padilla, through counsel, raised in his Petition and Complaint. Mr. Rueda Padilla did not challenge the Respondents’ revocation of his 2022 parole, but instead contested the Respondents’ unjustified rescission of his “*release on parole*” and his “unlawful, unjustified detention in the custody of the United States Department of Homeland Security.” Pet., ¶ 1 (emphasis added); see also Pet., ¶¶ 2, 10, 11, 44 (same). His

1 Petition and Complaint refers to the Respondents’ “termination of [his] release
2 conditions and his re-detention in federal immigration custody[,]” Pet., ¶ 89, to the
3 Respondents’ decision “revoking his release from federal immigration custody[,]”
4 id., ¶ 90, to the Respondents’ “revocation of his release status and his detention for
5 removal proceedings,” id., ¶ 95, and to the Respondents’ “revocation of his release
6 conditions and his detention in the Respondents’ custody[,]” id., ¶ 96, when he
7 describes the agency actions that he challenges in his habeas corpus action. The
8 Petition and Complaint, as a whole, conveys Mr. Rueda Padilla’s content to
9 challenge his “release” on parole and his consequent detention in the Respondents’
10 custody, not the termination of his 2022 parole status.

15 The Respondents concede that officers of United States Customs and Border
16 Protection (hereinafter “CBP”) initially released Mr. Rueda Padilla on parole on
17 October 9, 2022, [Exh. A, pp. 1, 3, 7],¹ and then maintained him on some form of
18 supervision after his initial parole document expired on December 8, 2022. [Exh.
19 A, pp. 1, 7]. In fact, a document that CBP officers issued to Mr. Rueda Padilla
20 with his October 9, 2022 parole specified that his release from detention was
21 “contingent upon [his] enrollment and successful participation in an Alternatives
22
23
24

25
26
27 ¹ “Exh.” refers to the Exhibits that Mr. Rueda Padilla, through counsel, filed
28 with his Petition and Complaint.

1 to Detention (ATD) program as designated by the U.S. Department of Homeland
2 Security[,]” which would include electronic monitoring and a possible curfew.
3 [Exh. A, p. 6]. CBP officers warned Mr. Rueda Padilla that his failure to comply
4 with the terms of the ATD program “will result in a redetermination of your release
5 conditions or your arrest and detention.” [Exh. A, p. 6]. A “Call-In Letter” that
6 CBP officers issued with Mr. Rueda Padilla’s 2022 parole document stated, “You
7 have been paroled into the United States and are required to attend your
8 immigration court hearings and ICE appointment to ensure that your immigration
9 case moves forward.” [Exh. A, p. 7]. The Call-In Letter warned Mr. Rueda Padilla
10 that his “[f]ailure to report may lead to being taken into custody or placed on
11 additional forms of supervision.” [Exh. A, p. 7]. The Declaration of Jose A.
12 Casillas, a Supervisory Detention and Deportation Officer for United States
13 Immigration and Customs Enforcement (hereinafter “ICE”), which Government
14 counsel filed with the Opposition, states that Mr. Rueda Padilla “was enrolled in
15 alternative to detention program of electronic monitoring[,]” that he reported to an
16 agency office “as instructed[.]” on November 21, 2022, that he had two additional
17 ICE appointments on January 17, 2023 and on June 26, 2025 after he was
18 “terminated from ATD electronic monitoring[,]” and that he reported to the ICE
19
20
21
22
23
24
25
26
27
28

1 Los Angeles Field Office on June 26, 2025, “as previously instructed.” Casillas
2 Decl., ¶¶ 7-10, 12.
3

4 A noncitizen who is released from federal immigration custody maintains a
5 protected liberty interest in remaining free from confinement under the Due
6 Process Clause of the Fifth Amendment, regardless of the manner of his
7 supervision by ICE officers. The Due Process Clause “applies to all persons within
8 the United States, including aliens, whether their presence here is lawful, unlawful,
9 temporary, or permanent.” Zadvydas v. Davis, 533 U.S. 678, 693 (2001); see also
10 A.A.R.P. v. Trump, 605 U.S. 91, 94 (2025) (declaring that “[t]he Fifth Amendment
11 to the United States Constitution ‘entitles aliens to due process of law in the context
12 of removal proceedings[.]’”) (quoting Trump v. J.G.G., 604 U. S. 670, 673 (2025)
13 (per curiam)) (other internal quotation marks omitted). A person’s “[f]reedom
14 from imprisonment – from government custody, detention, or other forms of
15 physical restraint – lies at the heart of the liberty that Clause protects.” Zadvydas,
16 533 U.S. at 690 (2001) (citing Foucha v. Louisiana, 504 U.S. 71, 80 (1992)).
17
18
19
20
21

22 The Government’s detention of a noncitizen “at an earlier time does not
23 eliminate one’s liberty interest in remaining on release, since courts have
24 repeatedly recognized that conditional release from physical restraint gives rise to
25 a protected liberty interest[.]” under the Due Process Clause. Garcia v. Santacruz,
26 U.S.D.C. No. 2:25-cv-10581-MWC-PD, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
27
28

221668, at *14 (C.D. Cal. Nov. 10, 2025) (citing Young v. Harper, 520 U.S. 143,
150-53 (1997), and Morrissey v. Brewer, 408 U.S. 471, 482 (1972)). In
circumstances when “an initial decision to detain or release an individual is
discretionary, the government’s subsequent release of the individual from custody
creates an implicit promise that the individual’s liberty will be revoked only if they
fail to abide by the conditions of their release.” Id. (quoting Calderon v. Kaiser,
U.S.D.C. No. 25-cv-06695-AMO, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
163975, at *5 (N.D. Cal. Aug. 22, 2025)) (other internal citations and quotation
marks omitted). Accordingly, “even when ICE has the initial discretion to detain
or release a noncitizen pending removal proceedings, after that individual is
released from custody [t]he has a protected liberty interest in remaining out of
custody.” Pinchi v. Noem, U.S.D.C. No. 5:25-cv-05632-PCP, __ F.3d __, 2025
U.S. Dist. LEXIS 142213, at *8 (N.D. Cal. July 24, 2025) (citing Romero v. Kaiser,
U.S.D.C. No. 22-cv-02508, __ F. Supp. 3d __, 2022 U.S. Dist. LEXIS 82538, at
*6-*7 (N.D. Cal. May 6, 2022)). Noncitizens’ protected liberty interest in
remaining free from confinement extends to all forms of ICE supervision. See,
e.g., Garcia, 2025 U.S. Dist. LEXIS 221668, at *3-*4, *14-*15 (finding that a
habeas petitioner has a protected liberty interest in remaining outside ICE custody
on an \$8,000 bond); Sequen v. Albarran, U.S.D.C. No. 25-cv-06487-PCP, __ F.
Supp. 3d __, 2025 U.S. Dist. LEXIS 203758, at *19-*20 (N.D. Cal. Oct. 15, 2025)

1 (finding that noncitizens released from immigration detention “on their own
2 recognizance subject to certain conditions[.]” were “entitled to due process under
3 the Fifth Amendment with respect to their protected liberty interest in remaining
4 out of immigration custody”); Espinoza v. Kaiser, U.S.D.C. No. 1:25-CV-01101
5 JLT SKO, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 173694, at *25 (E.D. Cal.
6 Sep. 5, 2025) (finding that a noncitizen who is “placed into parole status after being
7 detained” has “a protected liberty interest” in remaining out of custody).

8
9
10
11 When CBP officers paroled Mr. Rueda Padilla into the United States on
12 October 9, 2022, [Exh. A, pp. 1-3], his discharge “implied a promise that he would
13 not be re-detained so long as he abided by the terms of his release[.]” and “gave
14 him a protected interest in his continued liberty.” Garcia, 2025 U.S. Dist. LEXIS
15 221668, at *16-*17 (citing Salcedo Aceros v. Kaiser, U.S.D.C. No. 25-cv-06924-
16 EMC (EMC), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 179594, at *17 (N.D. Cal.
17 Sept. 12, 2025), and Calderon, 2025 U.S. Dist. LEXIS 163975, at *6) (other
18 internal citations omitted). If due process applies, “[t]he constitution typically
19 requires some kind of a hearing before the State deprives a person of liberty or
20 property, particularly because the loss of liberty ‘cannot be fully compensated after
21 the fact.’” Garcia, 2025 U.S. Dist. LEXIS 221668, at *15-*16 (quoting Salcedo
22 Aceros v. Kaiser, U.S.D.C. No. 25-cv-06924-EMC (EMC), __ F. Supp. 3d __,
23 2025 U.S. Dist. LEXIS 179594, at *14 (N.D. Cal. Sept. 12, 2025) (other internal
24
25
26
27
28

1 citations and quotation marks omitted). Yet, ICE officers did not afford Mr. Rueda
2 Padilla a hearing or any other meaningful opportunity to contest his re-detention
3 when they issued a Notice to Appear and a Warrant of Arrest to him and detained
4 him at the ICE Los Angeles Field Office on June 26, 2025. See Casillas Decl., ¶¶
5 12-13. The Respondents’ failure to give Mr. Rueda Padilla a meaningful
6 opportunity to contest the rescission of his conditional release and the legality of
7 his confinement deprived him of his due process rights, for the reasons set forth in
8 Mr. Rueda Padilla’s Petition and Complaint, see Pet., ¶¶ 80-97, and for the reasons
9 set forth in the Petitioner’s Application for a Temporary Restraining Order, which
10 accompanies this filing.

15 Finally, neither the record evidence nor the INA’s detention provisions
16 supports the Respondents’ argument, here, that the termination of Mr. Rueda
17 Padilla’s 2022 parole “returned him to his pre-parole status which was that of a
18 person seeking admission under 8 U.S.C. § 1225(b)(2)(A)[.]” Opp., at pp. 1, 6.
19 The end of Mr. Rueda Padilla’s prior parole status does not, alone, establish his
20 classification as a noncitizen who faces mandatory detention under 8 U.S.C. §
21 1225(b)(2)(A), as both applicants for admission under 8 U.S.C. §§ 1225(b)(1) and
22 1225(b)(2) and noncitizens who are already inside the United States may be
23 paroled into the country under section 212(d)(5)(A) of the INA, 8 U.S.C. §
24 1182(d)(5)(A). See Jennings v. Rodriguez, 583 U.S. 281, 288 (2018) (citing 8

1 U.S.C. §§ 1182(d)(5)(A) and 1226(a) and 8 CFR §§ 212.5(b) and 235.3; see also
2 id. (noting that section 236(a) of the INA authorizes the Attorney General to release
3 “an alien detained under [8 U.S.C.] § 1226(a) ‘on bond...or conditional parole[.]’”)
4 (quoting 8 U.S.C. § 1226(a)). The Respondents’ claim that Mr. Rueda Padilla is
5 properly detained in their custody as an “applicant for admission” under section
6 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), because he is a noncitizen who
7 is present in the United States without admission, in conformity with Matter of
8 Yajure Hurtado, see Opp., at p. 1, “(1) disregards the plain meaning of section
9 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and 1226; (3)
10 would render a recent amendment to section 1226(c) superfluous; and (4) is
11 inconsistent with decades of prior statutory interpretation and practice[.]” Lepe v.
12 Andrews, U.S.D.C. No. 1:25-cv-01163-KES-SKO (HC), __ F. Supp. 3d __, 2025
13 U.S. Dist. LEXIS 187233, at *9 (E.D. Cal. Sep. 23, 2025), for the reasons set forth
14 in Mr. Rueda Padilla’s Petition and Complaint, and in the accompanying
15 Application for a Temporary Restraining Order and its associated briefing.
16
17
18
19
20
21

22 **B. Section 242(g) of the INA, 8 U.S.C. § 1252(g), Does Not Bar the Court**
23 **from Adjudicating Mr. Rueda Padilla’s Challenge to the Respondents’**
24 **Revocation of his Conditional Release and his Detention in the**
25 **Respondents’ Custody under 8 U.S.C. § 1225(b)(2)(A).**

26 The Respondents argue that section 242(g) of the INA bars the Court’s
27 review of the claims that Mr. Rueda Padilla raised in his habeas corpus action. See
28

1 Opp, at p. 4-5. Section 242(g) of the INA states, in part, that “no court shall have
2 jurisdiction to hear any cause or claim on behalf of any alien arising from the
3 decision or action by the Attorney General to commence proceedings, adjudicate
4 cases, or execute removal orders against any alien.” 8 U.S.C. § 1252(g).
5

6
7 The Supreme Court has rejected the “unexamined assumption that [8
8 U.S.C.] § 1252(g) covers the universe of deportation claims - that it is a ‘zipper’
9 clause that says ‘no judicial review in deportation cases unless this section provides
10 judicial review[.]’” Reno v. American-Arab Anti-Discrimination Comm., 525 U.S.
11 471, 482 (1999). Rather, it has emphasized that the language of 8 U.S.C. § 1252(g)
12 “is much narrower,” and “applies only to three discrete actions that the Attorney
13 General may take: [a] ‘decision or action’ to ‘commence proceedings, adjudicate
14 cases, or execute removal orders.’” Id. (quoting 8 U.S.C. § 1252(g)). While the
15 Court’s majority noted that “[t]here are of course many other decisions or actions
16 that may be part of the deportation process -- such as the decisions to open an
17 investigation, to surveil the suspected violator, to reschedule the deportation
18 hearing, to include various provisions in the final order that is the product of the
19 adjudication, and to refuse reconsideration of that order[.]” it deemed “implausible”
20 the notion that “the mention of three discrete events along the road to deportation
21 was a shorthand way of referring to all claims arising from deportation
22 proceedings.” Id. A broad construction of the enumerated decisions or actions
23
24
25
26
27
28

1 within 8 U.S.C. § 1252(g), the Court determined, was “incompatible with the need
2 for precision in legislative drafting[,]” and was inconsistent with the sweeping
3 language that Congress usually employed to impose a “general jurisdictional
4 limitation” upon judicial review of immigration matters in the same statutory
5 scheme. *Id.* at 482-83 (citing 8 U.S.C. § 1252(b)(9)).

8 After Reno v. American-Arab Anti-Discrimination Committee, courts have
9 narrowly construed the jurisdictional bar at 8 U.S.C. § 1252(g). See Ibarra-Perez
10 v. United States, U.S.C.A. No. No. 24-631, 154 F.4th 989, 995, 2025 U.S. App.
11 LEXIS 22089, at *16-17 (9th Cir. Aug. 27, 2025) (other internal citations
12 omitted); Kwai Fun Wong v. INS, 373 F.3d 952, 964 (9th Cir. 2004). In
13 Department of Homeland Security v. Regents of the University of California, the
14 Supreme Court discerned that section 242(g) of the INA “limits review of cases
15 ‘arising from’ decisions “‘to commence proceedings, adjudicate cases, or execute
16 removal orders.’” Department of Homeland Security v. Regents of the University
17 of California, 591 U.S. 1, 19 (2020) (quoting 8 U.S.C. § 1252(g)). The Court noted
18 that it “‘previously rejected as ‘implausible’ the Government’s suggestion that [8
19 U.S.C.] § 1252(g) covers ‘all claims arising from deportation proceedings’ or
20 imposes ‘a general jurisdictional limitation.’” *Id.* (quoting AAADC, 525 U.S. at
21 482). The Court found that the United States Department of Homeland Security’s
22 rescission of the Deferred Action for Childhood Arrivals program, “which revokes
23
24
25
26
27
28

1 a deferred action program with associated benefits, is not a decision to ‘commence
2 proceedings,’ much less to ‘adjudicate’ a case or ‘execute’ a removal order[,]” and
3 therefore falls outside section 242(g)’s jurisdictional bar. *Id.* (quoting 8 U.S.C.
4 §1252(g)). In *Jennings v. Rodriguez*, which concerned a legal and constitutional
5 challenge to a noncitizen’s prolonged detention in federal immigration custody, the
6 Supreme Court cautioned reviewing courts against construing phrases like “arising
7 from” in 8 U.S.C. § 1252(g) with “‘uncritical literalism’ leading to results that ‘no
8 sensible person could have intended.’” *Jennings*, 583 U.S. at 293-94 (quoting
9 *Gobeille v. Liberty Mut. Ins. Co.*, 577 U. S. 312, 319 (2016)) (other internal
10 citations and quotation marks omitted). The Court noted that it did not construe
11 the text of section 242(g) of the INA “to sweep in any claim that can technically
12 be said to ‘arise from’ the three listed actions of the Attorney General[,]” but
13 instead “read the language to refer to just those three specific actions themselves.”
14 *Id.* at 294 (quoting 8 U.S.C. § 1252(g), and citing *AAADC*, 525 U.S. at 482-83).

15
16
17
18
19
20
21 The term “arising from” within 8 U.S.C. § 1252(g) further circumscribes the
22 temporal reach of the enumerated decisions or actions that fall within the statute’s
23 jurisdictional bar. Although Congress did not define the term “arising from” within
24 8 U.S.C. § 1252(g), the term “arise” has been defined as “[t]o spring up, originate,
25 to come into being or notice; to become operative, sensible, visible or audible; to
26 present itself.” *Black’s Law Dictionary* 108 (6th ed. 1990). The use of the term
27
28

1 “arising from” within 8 U.S.C. § 1252(g) suggests that agency actions that fall
2 within the jurisdictional bar must flow from decisions or actions to commence
3 proceedings, adjudicate cases, or execute removal orders against a noncitizen, and
4 not precede them. See Kwai Fun Wong, 373 F.3d at 962 (declaring that “[w]e
5 would defy logic by holding that a claim for relief somehow arises from decisions
6 and actions accomplished only after the injury allegedly occurred”) (quoting
7 Humphries v. Various Fed. USINS Employees, 164 F.3d 936, 944 (5th Cir. 1999)).
8 Accordingly, federal courts have exempted decisions by federal immigration
9 officials that precede the commencement of removal proceedings or the execution
10 of removal orders from section 242(g)’s jurisdictional bar. See id. at 965 (finding
11 that 8 U.S.C. § 1252(g) “does not bar review of the actions that occurred prior to
12 any decision to commence proceedings, if any, against her or to execute her
13 removal order, such as the INS officials’ allegedly discriminatory decisions
14 regarding advance parole, adjustment of status, and revocation of parole[]”) (other
15 internal citations and quotation marks omitted); see also Bello-Reyes v. Gaynor,
16 985 F.3d 696, 700 n.4 (9th Cir. 2021) (finding that section 242(g) of the INA, 8
17 U.S.C. § 1252(g), did not bar federal habeas review of Bello-Reyes’ claim that his
18 immigration arrest and re-detention by federal immigration officials for removal
19 proceedings was retaliation for his protected speech against ICE enforcement
20 activities); Sulit v. Schiltgen, 213 F.3d 449, 452-53 & n.1 (9th Cir. 2000) (holding
21
22
23
24
25
26
27
28

1 that 8 U.S.C. § 1252(g) did not bar noncitizens’ constitutional challenges to the
2 improper seizure of their Permanent Resident Cards without a hearing and their
3 failure to receive notice of their obligation to “surrender for deportation[,]” prior
4 to the execution of their removal orders); Velazquez-Hernandez v. United States
5 Immigration and Customs Enforcement, 500 F. Supp. 3d 1132, 1136, 1140 (S.D.
6 Cal. Nov. 16, 2020) (finding that 8 U.S.C. § 1252(g) did not bar the Plaintiffs’
7 challenge to federal immigration officials’ practice of using appearances at the
8 federal courthouse to conduct warrantless arrests of “noncitizens appearing for
9 court hearings in order to place them in civil deportation proceedings[,]” as those
10 decisions are “collateral to their removal[.]”); Inland Empire – Immigrant Youth
11 Collective v. Nielsen, U.S.D.C. No. EDCV 17-2048 PSG (SHKx), __ F. Supp. 3d
12 __, 2018 U.S. Dist. LEXIS 34871, at *46-*47 (C.D. Cal. Feb. 26, 2018) (exercising
13 jurisdiction to review federal immigration officials’ decision to revoke benefits
14 under the Deferred Action for Childhood Arrivals program on the basis of a Notice
15 to Appear for removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a,
16 because the plaintiffs did not challenge the later commencement of removal
17 proceedings against them); Castellar v. Nielsen, U.S.D.C. No. 17-cv-0491-BAS-
18 BGS2018, __ F. Supp. 3d __, 2018 U.S. Dist. LEXIS 21774, at *19-*30 (S.D. Cal.
19 Feb. 8, 2018) (finding that 8 U.S.C. § 1252(g) did not bar habeas review of the
20 plaintiffs’ constitutional challenge to the Department of Homeland Security’s
21
22
23
24
25
26
27
28

1 alleged policy and practice of unreasonably delaying their first appearance before
2 an Immigration Judge to allow them to seek judicial review of their detention
3 pending their removal because the actions at issue preceded the commencement of
4 their removal proceedings).

5
6 AAADC further clarified that 8 U.S.C. § 1252(g) was “directed against a
7 particular evil: attempts to impose judicial constraints upon prosecutorial
8 discretion.” AAADC, 525 U.S. at 944 n.9. The Supreme Court noted that federal
9 immigration officials routinely exercised discretion to “abandon” the deportation
10 process and to defer the removal of certain noncitizens for “humanitarian reasons
11 or simply for its own convenience” when it enacted 8 U.S.C. § 1252(g). See id. at
12 483-84. The Court discerned that Congress designed 8 U.S.C. § 1252(g) to accord
13 “some measure of protection to ‘no deferred action’ decisions and similar
14 discretionary determinations, providing that if they are reviewable at all, they at
15 least will not be made the bases for separate rounds of judicial intervention outside
16 the streamlined process that Congress has designed.” Id. at 485. Section 1252(g)
17 does not bar the Court’s review of “a ‘purely legal question’ that ‘does not
18 challenge the Attorney General’s discretionary authority[,]’” even when “‘the
19 answer to that legal question...forms the backdrop against which the Attorney
20 General later will exercise discretionary authority.’” Ibarra-Perez, 2025 U.S. App.
21 LEXIS 22089, at *17-*18 (quoting United States v. Hovsepian, 359 F.3d 1144,

1 1155 (9th Cir. 2004)) (other internal citations omitted)). Likewise, section 242(g)
2 does not preclude the Court from reviewing “challenges to unlawful practices
3 merely because they are in some fashion connected to removal orders[,]” including,
4 as relevant here, “due process claims.” Ibarra-Perez, 2025 U.S. App. LEXIS 22089,
5 at *21 (citing Sulit, 213 F.3d at 453, and Walters v. Reno, 145 F.3d 1032, 1052-53
6 (9th Cir. 1998)).
7

9 Mr. Rueda Padilla, through counsel, challenges the Respondents’ unlawful,
10 unjustified rescission of his conditional release and his detention in the United
11 States Department of Homeland Security under the Due Process Clause. He
12 contests the Respondents’ position that section 235(b)(2)(A) of the INA, 8 U.S.C.
13 § 1225(b)(2)(A), mandates his detention in ICE custody for the duration of his
14 removal proceedings because he is a noncitizen who is present in the United States
15 without admission. The Respondents’ revocation of Mr. Rueda Padilla’s
16 conditional release and their decision to detain him are not decisions to commence
17 proceedings, adjudicate his case, or to execute a removal order, within the meaning
18 of section 242(g) of the INA, 8 U.S.C. § 1252(g). While ICE officers apparently
19 issued Mr. Rueda Padilla’s Notice to Appear concurrently with his Warrant of
20 Arrest, see Casillas Decl., ¶ 12, their decision to detain him did not arise from the
21 commencement of his removal proceedings, as ICE officers did not file Mr. Rueda
22 Padilla’s Notice to Appear with the Immigration Court until June 30, 2025, four
23
24
25
26
27
28

1 days after his detention. [Exh. D, pp. 10-14]. See 8 C.F.R. § 1003.14(a) (2025)
2 (stating that “[j]urisdiction vests, and proceedings before an Immigration Judge
3 commence, when a charging document is filed with the Immigration Court” by the
4 United States Department of Homeland Security). As the Respondents’ rescission
5 of Mr. Rueda Padilla’s conditional release and his detention preceded the
6 institution of removal proceedings against him, that decision cannot “arise from”
7 one of the specified actions listed in 8 U.S.C. § 1252(g). See Kwai Fun Wong, 373
8 F.3d at 962.
9

12 Finally, the claims raised by Mr. Rueda Padilla concern purely legal
13 questions, which do not implicate the Respondents’ discretionary authority over
14 the specified actions in 8 U.S.C. § 1252(g). As was noted before, Mr. Rueda
15 Padilla argues, in part, the Respondents’ unlawful, unjustified rescission of his
16 conditional release and their decision to detain him, without a legitimate
17 government purpose and without a meaningful opportunity to contest the legality
18 of his confinement, deprived him of due process. Section 242(g) of the INA does
19 not bar the Court from reviewing Mr. Rueda Padilla’s claim that the Respondents’
20 rescission of his conditional release and his detention deprived him of due process,
21 merely because those decisions are “in some fashion” connected to the
22 commencement of removal proceedings against him. Ibarra-Perez, 2025 U.S. App.
23 LEXIS 22089, at *19, *21 (finding that 8 U.S.C. § 1252(g) does not bar federal
24
25
26
27
28

1 judicial review of Ibarra-Perez's claim that the Due Process Clause conferred a
2 "right to meaningful notice and an opportunity to present a fear-based claim before
3 he was removed to Mexico[]"). Likewise, 8 U.S.C. § 1252(g) does not preclude
4 the Court from reviewing Mr. Rueda Padilla's claim, in habeas corpus proceedings,
5 that he was not an "applicant for admission" who must be detained in immigration
6 custody for his removal proceedings, within the meaning of section 235(b)(2)(A)
7 of the INA, 8 U.S.C. § 1225(b)(2)(A). See *id.* at *19 (holding that 8 U.S.C. §
8 1252(g) did not bar federal judicial review of Ibarra-Perez's claim that ICE lacked
9 "the statutory authority to remove him to Mexico without having first given him
10 an opportunity to present a fear-based claim[]" under 8 U.S.C. § 1231(b)(3)). As
11 Mr. Rueda Padilla does not contest the Respondents' discretionary authority to
12 commence his removal proceedings, adjudicate his case, or to execute a removal
13 order against him, the Court must conclude that 8 U.S.C. § 1252(g) does not bar
14 the Court from reviewing the claims that he raised in his Petition and Complaint.
15
16
17
18
19
20

21 **C. Mr. Rueda Padilla Was Not Required to Exhaust Administrative**
22 **Remedies Before Seeking Relief from the Respondents' Unlawful**
23 **Rescission of his Conditional Release and his Detention in the**
24 **Respondents' Custody.**

25 The Respondents further assert that Mr. Rueda Padilla's alleged failure to
26 exhaust administrative remedies before he challenged the legality of his
27 confinement in habeas corpus proceedings warrants a decision by this Court to
28

1 deny him relief from his detention. See Opp., at pp. 6-8. The Court should reject
2 the Government’s invitation to impose a prudential exhaustion requirement in the
3 above-captioned matter, as Mr. Rueda Padilla raises purely legal challenges to the
4 Respondents’ rescission of his conditional release and his detention in federal
5 immigration custody. The Government’s unwavering position that Matter of
6 Yajure Hurtado precludes federal Immigration Judges from considering bond
7 requests for noncitizens who are present in the United States without admission,
8 like Mr. Rueda Padilla, suggests that any attempt to exhaust administrative
9 remedies would be futile, and would exacerbate the harm that Mr. Rueda Padilla
10 is already experiencing in detention.
11
12
13
14

15 Exhaustion of administrative remedies “can be either statutorily required or
16 judicially imposed as a matter of prudence.” Puga v. Chertoff, 488 F.3d 812, 815
17 (9th Cir. 2007) (citing Noriega-Lopez v. Ashcroft, 335 F.3d 874, 881 (9th Cir.
18 2003)). Exhaustion is a prudential requirement for a petition for writ of habeas
19 corpus under 28 U.S.C. § 2241. See Hernandez v. Sessions, 872 F.3d 976, 988
20 (9th Cir. 2017) (citing Singh v. Holder, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011))
21 (other internal citations omitted). A court may require prudential exhaustion when
22 “(1) agency expertise makes agency consideration necessary to generate a proper
23 record and reach a proper decision; (2) relaxation of the requirement would
24 encourage the deliberate bypass of the administrative scheme; and (3)
25
26
27
28

1 administrative review is likely to allow the agency to correct its own mistakes and
2 to preclude the need for judicial review.” *Id.* (citing *Puga*, 488 F.3d at 815). Even
3 if those factors apply, a court may nonetheless waive a prudential exhaustion
4 mandate if ““administrative remedies are inadequate or not efficacious, pursuit of
5 administrative remedies would be a futile gesture, irreparable injury will result, or
6 the administrative proceedings would be void.”” *Id.* (quoting *Laing v. Ashcroft*,
7 370 F.3d 994, 1000 (9th Cir. 2004)).

11 “An exception to the exhaustion requirement has been carved for
12 constitutional challenges to...[DHS] procedures.” *Iraheta-Martinez v. Garland*,
13 12 F.4th 942, 949 (9th Cir. 2021) (quoting *Sola v. Holder*, 720 F.3d 1134, 1135
14 (9th Cir. 2013) (per curiam) (other internal citations omitted)). Mr. Rueda Padilla,
15 through counsel, contests the Respondents’ rescission of his conditional release
16 and his detention in the Respondents’ custody under the Fifth Amendment’s Due
17 Process Clause. Neither an Immigration Judge nor the Board of Immigration
18 Appeals has the authority to decide the constitutionality of immigration statutes.
19 See *Padilla-Padilla v. Gonzales*, 463 F.3d 972, 977 (9th Cir. 2006) (citing *Liu v.*
20 *Waters*, 55 F.3d 421, 425 (9th Cir. 1995)); *Matter of G.K.*, 26 I. & N. Dec. 88, 96-
21 97 (BIA 2013) (explaining that “[n]either the [BIA] nor the Immigration Judges
22 have the authority to rule on the constitutionality of the statutes we administer[.]”).
23 Since those tribunals could not address Mr. Rueda Padilla’s constitutional
24
25
26
27
28

1 challenge to the legality of his detention under the INA, the Court cannot require
2 him to exhaust those claims before seeking habeas relief. See Padilla-Padilla, 463
3 F.3d at 977 (excusing the petitioners from exhausting a “constitutional due process
4 claim” in the Board of Immigration Appeals because the Board could not resolve
5 the claim) (citing Liu, 55 F.3d at 426, and Garcia-Ramirez v. Gonzales, 423 F.3d
6 935, 938 (9th Cir. 2005)).

9 Mr. Rueda Padilla, through counsel, challenges the Respondents’ judgment
10 that 8 U.S.C. § 1225(b)(2)(A) mandates his detention in federal immigration
11 custody for the duration of his removal proceedings, as a noncitizen who is present
12 in the United States without admission. An administrative record is not necessary
13 to resolve the “purely legal question” of statutory interpretation presented in this
14 case – whether 8 U.S.C. § 1225(b)(2)(A) authorizes his detention by the
15 Respondents. See Hernandez, 872 F.3d at 989 (finding that “an administrative
16 appellate record is not necessary to resolve the purely legal questions presented by
17 Plaintiffs’ challenge to the government’s policy of refusing to require ICE and IJs
18 to consider financial circumstances and alternative conditions of release in bond
19 determinations[.]”); (citing Singh, 638 F.3d at 1203 n. 3).

20 The Court’s decision to waive the prudential exhaustion requirement will
21 not “encourage the deliberate bypass of the administrative scheme” in future
22 cases. Hernandez, 872 F.3d at 989 (quoting Puga, 488 F.3d at 815). The instant
23

1 case concerns the legality of Mr. Rueda Padilla's detention by the Respondents
2 under the Due Process Clause and 8 U.S.C. § 1225(b)(2)(A). When this Court
3 determines the legality of Mr. Rueda Padilla's confinement, the disputed issue
4 "should cease to arise." Id. (quoting Singh, 638 F.3d at 1203 n.3.). While
5 "similarly situated individuals" may "desire to raise similar appeals in the district
6 courts[,] a "resolution of this question of law at the district court level might
7 provide expedient clarity and guidance to the IJs and BIA, obviating the need for
8 similar, subsequent bypassing of administrative remedies." Bautista v. Santacruz,
9 U.S.D.C. No. 5:25-cv-01873-SSS-BFM, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
10 171364, at *21 (C.D. Cal. July 28, 2025).

15 While the Court must "consider whether 'administrative review is likely to
16 allow the agency to correct its own mistakes and to preclude the need for judicial
17 review[,]'" in circumstances "'where the agency's position on the question at issue
18 appears already set, and it is very likely what the result of recourse to
19 administrative remedies would be, such recourse would be futile and is not
20 required.'" Hernandez, 872 F.3d at 989 (quoting Noriega-Lopez v. Ashcroft, 335
21 F.3d 874, 881 (9th Cir. 2003), and El Rescate Legal Servs., Inc. v. Exec. Office of
22 Immigration Review, 959 F.2d 742, 747 (9th Cir. 1991)) (other internal citations
23 and quotation marks omitted). In Matter of Q. Li, 29 I. & N. Dec. 66 (BIA 2025),
24 the Board of Immigration Appeals held that a noncitizen "who is arrested and
25
26
27
28

1 detained without a warrant while arriving in the United States, whether or not at a
2 port of entry, and subsequently placed in removal proceedings, is detained under
3 section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent
4 release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)[,]” even when
5 federal immigration officials paroled the noncitizen into the United States. Q. Li,
6 29 I. & N. Dec. at 69. On July 8, 2025, ICE officers issued a policy memorandum,
7 “Interim Guidance Regarding Detention Authority for Applications for
8 Admission[,]” Francisco T. v. Bondi, U.S.D.C. No. 25-CV-03219 (JMB/DTS), __
9 F. Supp. 3d __, 2025 U.S. Dist. LEXIS 179562, at *2 n.2 (D. Minn. Aug. 29, 2025),
10 in which it announced that “all noncitizens who entered the United States without
11 inspection shall now be deemed applicants for admission and subject to mandatory
12 detention under 8 U.S.C. § 1225(b)(2)(A).” Garcia v. Noem, U.S.D.C. No. 5:25-
13 cv-02771-ODW (PDx), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 209286, at *2-
14 3 (C.D. Cal. Oct. 22, 2025) (other internal quotation marks omitted). Subsequently,
15 the Board of Immigration Appeals held that noncitizens “who are present in the
16 United States without admission are applicants for admission as defined under
17 section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained
18 for the duration of their removal proceedings[.]” without bond, even if the
19 noncitizens resided in the United States for a number of years. Yajure Hurtado, 29
20 I. & N. Dec. at 220-21 (citing Jennings, 583 U.S. at 300).

1 Published decisions of the Board of Immigration Appeals “are binding on
2 all officers and employees of DHS or immigration judges in the administration of
3 the immigration laws of the United States[.]” 8 C.F.R. § 1003.1(g)(1) (2025), and
4 “serve as precedents in all proceedings involving the same issue or issues.” 8
5 C.F.R. § 1003.1(g)(2) (2025). The Board’s decisions in Matter of Q. Li and in In
6 re Yajure Hurtado preclude an Immigration Judge from correcting the Board’s
7 mistaken construction and application of 8 U.S.C. § 1225(b)(2)(A). Indeed, the
8 Respondents explicitly rely upon Matter of Yajure Hurtado to argue that
9 “Immigration Judges lack authority to hear bond requests or to grant bond to such
10 aliens who are present in the United States without admission[.]” like Mr. Rueda
11 Padilla, Opp., at p. 1, and later concede that Mr. Rueda Padilla has an
12 “understandable” claim that “the § 1225(b) bond hearing issue does not need
13 further exhaustion, given the BIA’s decision in Matter of Yajure Hurtado[.]” id.,
14 at p. 6, even as they insist that Mr. Rueda Padilla should exhaust his challenges to
15 the legality of the rescission of his conditional release and his confinement in
16 federal immigration custody before the Board of Immigration Appeals as a
17 precondition to seeking federal habeas relief. See id., at pp. 6-7. As the agency’s
18 position on Mr. Rueda Padilla’s detention status is unlikely to change with agency
19 action, the Court must conclude that any attempted exhaustion of administrative
20 remedies in the Immigration Court would be futile. See Vasquez-Rodriguez v.
21
22
23
24
25
26
27
28

1 Garland, 7 F.4th 888, 896 (9th Cir. 2021) (declaring that the Court “will excuse a
2 failure to exhaust if ‘it is very likely what [the Board’s] result would have been[,]’”
3 and “‘recourse to administrative remedies is very likely futile[.]’”) (quoting Szonyi
4 v. Barr, 942 F.3d 874, 891 (9th Cir. 2019), and Sun v. Ashcroft, 370 F.3d 932, 943
5 (9th Cir. 2004)).
6
7

8 Finally, the prospect of irreparable injury to Mr. Rueda Padilla warrants
9 excusing any exhaustion requirement under the present circumstances. While an
10 Immigration Judge or the Board of Immigration Appeals could grant Mr. Rueda
11 Padilla relief from detention in the future, the prolonged adjudication process for
12 Board of Immigration Appeals cases suggests that he would “‘suffer[] potentially
13 irreparable harm every day that he remains in custody without a hearing, which
14 could ultimately result in his release from detention.’” Rodriguez v. Bostock, 779
15 F. Supp. 3d 1239, 1253, 1254-55 (W.D. Wash. 2025) (quoting Cortez v. Sessions,
16 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018)). Accordingly, the Court should
17
18 “‘follow[] the vast majority of other cases which have waived exhaustion based on
19 irreparable injury when an individual has been detained for months without a bond
20 hearing, and where several additional months may pass before the BIA renders a
21 decision on a pending appeal.’” Id. at 1255 (quoting Marroquin Ambriz v. Barr,
22 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019)).
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.

CONCLUSION

For the reasons previously stated in Mr. Rueda Padilla's Petition and Complaint, Mr. Rueda Padilla, through counsel, asks that this Court grant him immediate release from the Respondents' custody.

Respectfully Submitted,

Dated: November 19, 2025

s/ Lori B. Schoenberg

LORI B. SCHOENBERG

LAW OFFICES OF LORI B. SCHOENBERG

611 Wilshire Boulevard, Suite 1006

Los Angeles, CA 90017

Attorney for Petitioner

Jarold Maverich Rueda Padilla