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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JAROLD MAVERICH RUEDA
PADILLA, [A 

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**

(amended pleading)

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I.

INTRODUCTION

Petitioner Jarold Maverich Rueda Padilla, through counsel, files the foregoing amended Petitioner's Reply to the Respondents' Return to Order to Show Cause, pursuant to this Court's amended Order of November 14, 2025.¹

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.

¹ Petitioner Jarold Maverich Rueda Padilla, through counsel, submits the instant amended Petitioner's Reply to the Respondents' Return to Order to Show Cause, pursuant to Fed. R. Civ. P. 15(a)(1)(A), to add the Table of Contents, Table of Authorities, and Certificate of Compliance required by U.S. Dist. Ct., Civil Local Rules, L.R. 11-6.2 and 11-8 that counsel inadvertently omitted from the original pleading. The amended pleading makes limited, non-substantive changes to remainder of the original filing.

1 Const. amend. V, when they detained him in ICE custody without finding that he
2 would flee or pose a danger to the community if he remained outside detention.
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4 See Pet., ¶¶ 69-79. He contended, through counsel, that the Respondents’
5 revocation of his conditional release and his detention in the Respondents’ custody,
6 without notice and a meaningful opportunity to challenge the legality of his
7 confinement, violated his procedural due process rights. See id., ¶¶ 80-97. Mr.
8 Rueda Padilla, through counsel, asserted that section 235(b)(2)(A) of the
9 Immigration and Nationality Act (hereinafter “INA”), 8 U.S.C. § 1225(b)(2)(A),
10 did not mandate his detention in the Respondents’ custody for his removal
11 proceedings because he was not an “applicant for admission” who is “seeking
12 admission” into the United States at or near a border crossing or a Port of Entry,
13 within the meaning of 8 U.S.C. § 1225(b)(2)(A). See id., ¶¶ 98-117. Finally, he
14 claimed, through counsel, that the Respondents’ unreasoned revocation of his
15 conditional release and his detention in the Respondents’ custody amounted to
16 arbitrary and capricious agency conduct under the Administrative Procedure Act.
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18 See id., ¶¶ 118-128.

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23 On November 14, 2025, this Court ordered the Respondents to show cause
24 “why the Petition for Writ of Habeas Corpus should not be granted” by Tuesday,
25 November 18, 2025, at 5:00 p.m. On November 18, 2025, Government counsel
26 filed the Federal Respondents’ Opposition to Petitioner’s Complaint for
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1 Declaratory and Injunctive Relief in the above-captioned matter. In their
2 Opposition, the Respondents, through counsel, argued that Mr. Rueda Padilla's
3 attempt to seek habeas is defective[]" because they claimed that Mr. Rueda Padilla
4 allegedly challenged the revocation of his parole, when ICE allowed his parole to
5 "expire[] by its own terms." Opp., at pp. 1, 6. They disputed Mr. Rueda Padilla's
6 challenge to his unlawful detention in ICE custody because they claimed that he
7 reverted to "his pre-parole status which was that of a person seeking admission
8 under 8 U.S.C. § 1225(b)(2)(A), thus mandating his detention until his removal
9 proceedings have concluded[]" when his parole ended. *Id.*, at p. 6. They asserted
10 that Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), barred the
11 Immigration Judge from authorizing Mr. Rueda Padilla's release from detention
12 because he was present in the United States without admission, and was thus an
13 "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) who "must be detained
14 for the duration of [his] removal proceedings." *Id.*, at p. 1 & n.1.

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

9 II.

10 ARGUMENT

11 A. Mr. Rueda Padilla Can Challenge the Respondents’ Revocation of his 12 Conditional Release and his Detention in ICE Custody Under the Due 13 Process Clause in Habeas Corpus Proceedings. 14

15 The Respondents, through counsel, contended that Mr. Rueda Padilla’s
16 habeas corpus action is “defective” because he allegedly challenged the revocation
17 of his parole, when it “had expired by its own terms.” *Opp.*, at pp. 1, 2, 6. They
18 argued that Mr. Rueda Padilla’s detention is lawful, even if his parole had not
19 lapsed, because ICE officers properly terminated his parole when they issued a
20 Notice to Appear for removal proceedings under section 240 of the INA, 8 U.S.C.
21 § 1229a, and thereby “returned him to his pre-parole status which was that of a
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1 person seeking admission under 8 U.S.C. § 1225(b)(2)(A), thus mandating his
2 detention until his removal proceedings have concluded.” *Id.*, at p. 6.

3
4 The Respondents misconstrue the claims that Mr. Rueda Padilla, through
5 counsel, raised in his Petition and Complaint. Mr. Rueda Padilla did not challenge
6 the Respondents’ revocation of his 2022 parole, but instead contested the
7 Respondents’ unjustified rescission of his “*release on parole*” and his “unlawful,
8 unjustified detention in the custody of the United States Department of Homeland
9 Security.” Pet., ¶ 1 (emphasis added); see also Pet., ¶¶ 2, 10, 11, 44 (same). His
10 Petition and Complaint refers to the Respondents’ “termination of [his] release
11 conditions and his re-detention in federal immigration custody[,]” Pet., ¶ 89, to the
12 Respondents’ decision “revoking his release from federal immigration custody[,]”
13 *id.*, ¶ 90, to the Respondents’ “revocation of his release status and his detention for
14 removal proceedings,” *id.*, ¶ 95, and to the Respondents’ “revocation of his release
15 conditions and his detention in the Respondents’ custody[,]” *id.*, ¶ 96, when he
16 describes the agency actions that he challenges in his habeas corpus action. The
17 Petition and Complaint, as a whole, conveys Mr. Rueda Padilla’s content to
18 challenge his “release” on parole and his consequent detention in the Respondents’
19 custody, not the termination of his 2022 parole status.

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21 The Respondents concede that officers of United States Customs and Border
22 Protection (hereinafter “CBP”) initially released Mr. Rueda Padilla on parole on
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1 October 9, 2022, [Exh. A, pp. 1, 3, 7],² and then maintained him on some form of
2 supervision after his initial parole document expired on December 8, 2022. [Exh.
3 A, pp. 1, 7]. In fact, a document that CBP officers issued to Mr. Rueda Padilla
4 with his October 9, 2022 parole specified that his release from detention was
5 “contingent upon [his] enrollment and successful participation in an Alternatives
6 to Detention (ATD) program as designated by the U.S. Department of Homeland
7 Security[,]” which would include electronic monitoring and a possible curfew.
8 [Exh. A, p. 6]. CBP officers warned Mr. Rueda Padilla that his failure to comply
9 with the terms of the ATD program “will result in a redetermination of your release
10 conditions or your arrest and detention.” [Exh. A, p. 6]. A “Call-In Letter” that
11 CBP officers issued with Mr. Rueda Padilla’s 2022 parole document stated, “You
12 have been paroled into the United States and are required to attend your
13 immigration court hearings and ICE appointment to ensure that your immigration
14 case moves forward.” [Exh. A, p. 7]. The Call-In Letter warned Mr. Rueda Padilla
15 that his “[f]ailure to report may lead to being taken into custody or placed on
16 additional forms of supervision.” [Exh. A, p. 7]. The Declaration of Jose A.
17 Casillas, a Supervisory Detention and Deportation Officer for United States
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27 ² “Exh.” refers to the Exhibits that Mr. Rueda Padilla, through counsel, filed
28 with his Petition and Complaint.

1 Immigration and Customs Enforcement (hereinafter “ICE”), which Government
2 counsel filed with the Opposition, states that Mr. Rueda Padilla “was enrolled in
3 alternative to detention program of electronic monitoring[,]” that he reported to an
4 agency office “as instructed[]” on November 21, 2022, that he had two additional
5 ICE appointments on January 17, 2023 and on June 26, 2025 after he was
6 “terminated from ATD electronic monitoring[,]” and that he reported to the ICE
7 Los Angeles Field Office on June 26, 2025, “as previously instructed.” Casillas
8 Decl., ¶¶ 7-10, 12.

12 A noncitizen who is released from federal immigration custody maintains a
13 protected liberty interest in remaining free from confinement under the Due
14 Process Clause of the Fifth Amendment, regardless of the manner of his
15 supervision by ICE officers. The Due Process Clause “applies to all persons within
16 the United States, including aliens, whether their presence here is lawful, unlawful,
17 temporary, or permanent.” Zadvydas v. Davis, 533 U.S. 678, 693 (2001); see also
18 A.A.R.P. v. Trump, 605 U.S. 91, 94 (2025) (declaring that “[t]he Fifth Amendment
19 to the United States Constitution ‘entitles aliens to due process of law in the context
20 of removal proceedings[.]’”) (quoting Trump v. J.G.G., 604 U. S. 670, 673 (2025)
21 (per curiam)) (other internal quotation marks omitted). A person’s “[f]reedom
22 from imprisonment – from government custody, detention, or other forms of
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1 physical restraint – lies at the heart of the liberty that Clause protects.” Zadvydas,
2 533 U.S. at 690 (citing Foucha v. Louisiana, 504 U.S. 71, 80 (1992)).

3
4 The Government’s detention of a noncitizen “at an earlier time does not
5 eliminate one’s liberty interest in remaining on release, since courts have
6 repeatedly recognized that conditional release from physical restraint gives rise to
7 a protected liberty interest[]” under the Due Process Clause. Garcia v. Santacruz,
8 U.S.D.C. No. 2:25-cv-10581-MWC-PD, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
9 221668, at *14 (C.D. Cal. Nov. 10, 2025) (citing Young v. Harper, 520 U.S. 143,
10 150-53 (1997), and Morrissey v. Brewer, 408 U.S. 471, 482 (1972)). In
11 circumstances when ““an initial decision to detain or release an individual is
12 discretionary, the government’s subsequent release of the individual from custody
13 creates an implicit promise that the individual’s liberty will be revoked only if they
14 fail to abide by the conditions of their release.”” Id. (quoting Calderon v. Kaiser,
15 U.S.D.C. No. 25-cv-06695-AMO, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
16 163975, at *5 (N.D. Cal. Aug. 22, 2025)) (other internal citations and quotation
17 marks omitted). Accordingly, “even when ICE has the initial discretion to detain
18 or release a noncitizen pending removal proceedings, after that individual is
19 released from custody []he has a protected liberty interest in remaining out of
20 custody.” Pinchi v. Noem, U.S.D.C. No. 5:25-cv-05632-PCP, __ F.3d __, 2025
21 U.S. Dist. LEXIS 142213, at *8 (N.D. Cal. July 24, 2025) (citing Romero v. Kaiser,

1 U.S.D.C. No. 22-cv-02508, __ F. Supp. 3d __, 2022 U.S. Dist. LEXIS 82538, at
2 *6-*7 (N.D. Cal. May 6, 2022)). Noncitizens’ protected liberty interest in
3 remaining free from confinement extends to all forms of ICE supervision. See,
4 e.g., Garcia, 2025 U.S. Dist. LEXIS 221668, at *3-*4, *14-*15 (finding that a
5 habeas petitioner has a protected liberty interest in remaining outside ICE custody
6 on an \$8,000 bond); Sequen v. Albarran, U.S.D.C. No. 25-cv-06487-PCP, __ F.
7 Supp. 3d __, 2025 U.S. Dist. LEXIS 203758, at *19-*20 (N.D. Cal. Oct. 15, 2025)
8 (finding that noncitizens released from immigration detention “on their own
9 recognizance subject to certain conditions[]” were “entitled to due process under
10 the Fifth Amendment with respect to their protected liberty interest in remaining
11 out of immigration custody”); Espinoza v. Kaiser, U.S.D.C. No. 1:25-CV-01101
12 JLT SKO, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 173694, at *25 (E.D. Cal.
13 Sep. 5, 2025) (finding that a noncitizen who is “placed into parole status after being
14 detained” has “a protected liberty interest” in remaining out of custody).

15
16 When CBP officers paroled Mr. Rueda Padilla into the United States on
17 October 9, 2022, [Exh. A, pp. 1-3], his discharge “implied a promise that he would
18 not be re-detained so long as he abided by the terms of his release[,]” and “gave
19 him a protected interest in his continued liberty.” Garcia, 2025 U.S. Dist. LEXIS
20 221668, at *16-*17 (citing Salcedo Aceros v. Kaiser, U.S.D.C. No. 25-cv-06924-
21 EMC (EMC), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 179594, at *17 (N.D. Cal.

1 Sept. 12, 2025), and Calderon, 2025 U.S. Dist. LEXIS 163975, at *6) (other
2 internal citations omitted). If due process applies, “[t]he constitution typically
3 requires some kind of a hearing before the State deprives a person of liberty or
4 property, particularly because the loss of liberty ‘cannot be fully compensated after
5 the fact.’” Garcia, 2025 U.S. Dist. LEXIS 221668, at *15-*16 (quoting Salcedo
6 Aceros, 2025 U.S. Dist. LEXIS 179594, at *14) (other internal citations and
7 quotation marks omitted). Yet, ICE officers did not afford Mr. Rueda Padilla a
8 hearing or any other meaningful opportunity to contest his re-detention when they
9 issued a Notice to Appear and a Warrant of Arrest to him and detained him at the
10 ICE Los Angeles Field Office on June 26, 2025. See Casillas Decl., ¶¶ 12-13. The
11 Respondents’ failure to give Mr. Rueda Padilla a meaningful opportunity to contest
12 the rescission of his conditional release and the legality of his confinement
13 deprived him of his due process rights, for the reasons set forth in Mr. Rueda
14 Padilla’s Petition and Complaint, see Pet., ¶¶ 80-97, and for the reasons set forth
15 in the Petitioner’s Application for a Temporary Restraining Order, which
16 accompanies this filing.

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18 Finally, neither the record evidence nor the INA’s detention provisions
19 supports the Respondents’ argument, here, that the termination of Mr. Rueda
20 Padilla’s 2022 parole “returned him to his pre-parole status which was that of a
21 person seeking admission under 8 U.S.C. § 1225(b)(2)(A)[.]” Opp., at pp. 1, 6.

1 The end of Mr. Rueda Padilla's prior parole status does not, alone, establish his
2 classification as a noncitizen who faces mandatory detention under 8 U.S.C. §
3 1225(b)(2)(A), as both applicants for admission under 8 U.S.C. §§ 1225(b)(1) and
4 1225(b)(2) and noncitizens who are already inside the United States may be
5 paroled into the country under section 212(d)(5)(A) of the INA, 8 U.S.C. §
6 1182(d)(5)(A). See Jennings v. Rodriguez, 583 U.S. 281, 288 (2018) (citing 8
7 U.S.C. §§ 1182(d)(5)(A) and 1226(a) and 8 CFR §§ 212.5(b) and 235.3); see also
8 id. (noting that section 236(a) of the INA authorizes the Attorney General to release
9 "an alien detained under [8 U.S.C.] § 1226(a) 'on bond...or conditional parole[]'"
10 (quoting 8 U.S.C. § 1226(a)). The Respondents' claim that Mr. Rueda Padilla is
11 properly detained in their custody as an "applicant for admission" under section
12 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), because he is a noncitizen who
13 is present in the United States without admission, in conformity with Matter of
14 Yajure Hurtado, see Opp., at p. 1, "(1) disregards the plain meaning of section
15 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and 1226; (3)
16 would render a recent amendment to section 1226(c) superfluous; and (4) is
17 inconsistent with decades of prior statutory interpretation and practice[.]" Lepe v.
18 Andrews, U.S.D.C. No. 1:25-cv-01163-KES-SKO (HC), __ F. Supp. 3d __, 2025
19 U.S. Dist. LEXIS 187233, at *9 (E.D. Cal. Sep. 23, 2025), for the reasons set forth
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1 in Mr. Rueda Padilla's Petition and Complaint, and in the accompanying
2 Application for a Temporary Restraining Order and its associated briefing.
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4 **B. Section 242(g) of the INA, 8 U.S.C. § 1252(g), Does Not Bar the Court**
5 **from Adjudicating Mr. Rueda Padilla's Challenge to the Respondents'**
6 **Revocation of his Conditional Release and his Detention in the**
7 **Respondents' Custody under 8 U.S.C. § 1225(b)(2)(A).**

8 The Respondents argue that section 242(g) of the INA bars the Court's
9 review of the claims that Mr. Rueda Padilla raised in his habeas corpus action. See
10 Opp, at p. 4-5. Section 242(g) of the INA states, in part, that "no court shall have
11 jurisdiction to hear any cause or claim on behalf of any alien arising from the
12 decision or action by the Attorney General to commence proceedings, adjudicate
13 cases, or execute removal orders against any alien." 8 U.S.C. § 1252(g).
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15 The Supreme Court has rejected the "unexamined assumption that [8
16 U.S.C.] § 1252(g) covers the universe of deportation claims - that it is a 'zipper'
17 clause that says 'no judicial review in deportation cases unless this section provides
18 judicial review[.]'" Reno v. American-Arab Anti-Discrimination Comm., 525 U.S.
19 471, 482 (1999). Rather, it has emphasized that the language of 8 U.S.C. § 1252(g)
20 "is much narrower," and "applies only to three discrete actions that the Attorney
21 General may take: [a] 'decision or action' to 'commence proceedings, adjudicate
22 cases, or execute removal orders.'" Id. (quoting 8 U.S.C. § 1252(g)). While the
23 Court's majority noted that "[t]here are of course many other decisions or actions
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1 that may be part of the deportation process -- such as the decisions to open an
2 investigation, to surveil the suspected violator, to reschedule the deportation
3 hearing, to include various provisions in the final order that is the product of the
4 adjudication, and to refuse reconsideration of that order[.]" it deemed "implausible"
5 the notion that "the mention of three discrete events along the road to deportation
6 was a shorthand way of referring to all claims arising from deportation
7 proceedings." *Id.* A broad construction of the enumerated decisions or actions
8 within 8 U.S.C. § 1252(g), the Court determined, was "incompatible with the need
9 for precision in legislative drafting[.]" and was inconsistent with the sweeping
10 language that Congress usually employed to impose a "general jurisdictional
11 limitation" upon judicial review of immigration matters in the same statutory
12 scheme. *Id.* at 482-83 (citing 8 U.S.C. § 1252(b)(9)).

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14 After Reno v. American-Arab Anti-Discrimination Committee, courts have
15 narrowly construed the jurisdictional bar at 8 U.S.C. § 1252(g). See Ibarra-Perez
16 v. United States, U.S.C.A. No. No. 24-631, 154 F.4th 989, 995, 2025 U.S. App.
17 LEXIS 22089, at *16-*17 (9th Cir. Aug. 27, 2025) (other internal citations
18 omitted); Kwai Fun Wong v. INS, 373 F.3d 952, 964 (9th Cir. 2004). In
19 Department of Homeland Security v. Regents of the University of California, the
20 Supreme Court discerned that section 242(g) of the INA "limits review of cases
21 'arising from' decisions "to commence proceedings, adjudicate cases, or execute
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1 removal orders.” Department of Homeland Security v. Regents of the University
2 of California, 591 U.S. 1, 19 (2020) (quoting 8 U.S.C. § 1252(g)). The Court noted
3 that it “previously rejected as ‘implausible’ the Government’s suggestion that [8
4 U.S.C.] §1252(g) covers ‘all claims arising from deportation proceedings’ or
5 imposes ‘a general jurisdictional limitation.’” Id. (quoting AAADC, 525 U.S. at
6 482). The Court found that the United States Department of Homeland Security’s
7 rescission of the Deferred Action for Childhood Arrivals program, “which revokes
8 a deferred action program with associated benefits, is not a decision to ‘commence
9 proceedings,’ much less to ‘adjudicate’ a case or ‘execute’ a removal order[,]” and
10 therefore falls outside section 242(g)’s jurisdictional bar. Id. (quoting 8 U.S.C. §
11 1252(g)). In Jennings v. Rodriguez, which concerned a legal and constitutional
12 challenge to a noncitizen’s prolonged detention in federal immigration custody, the
13 Supreme Court cautioned reviewing courts against construing phrases like “arising
14 from” in 8 U.S.C. § 1252(g) with “‘uncritical literalism’ leading to results that ‘no
15 sensible person could have intended.’” Jennings, 583 U.S. at 293-94 (quoting
16 Gobeille v. Liberty Mut. Ins. Co., 577 U. S. 312, 319 (2016)) (other internal
17 citations and quotation marks omitted). The Court noted that it did not construe
18 the text of section 242(g) of the INA “to sweep in any claim that can technically
19 be said to ‘arise from’ the three listed actions of the Attorney General[,]” but
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1 instead “read the language to refer to just those three specific actions themselves.”
2 Id. at 294 (quoting 8 U.S.C. § 1252(g), and citing AAADC, 525 U.S. at 482-83).
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4 The term “arising from” within 8 U.S.C. § 1252(g) further circumscribes the
5 temporal reach of the enumerated decisions or actions that fall within the statute’s
6 jurisdictional bar. Although Congress did not define the term “arising from” within
7 8 U.S.C. § 1252(g), the term “arise” has been defined as “[t]o spring up, originate,
8 to come into being or notice; to become operative, sensible, visible or audible; to
9 present itself.” Black’s Law Dictionary 108 (6th ed. 1990). The use of the term
10 “arising from” within 8 U.S.C. § 1252(g) suggests that agency actions that fall
11 within the jurisdictional bar must flow from decisions or actions to commence
12 proceedings, adjudicate cases, or execute removal orders against a noncitizen, and
13 not precede them. See Kwai Fun Wong, 373 F.3d at 962 (declaring that “[w]e
14 would defy logic by holding that a claim for relief somehow arises from decisions
15 and actions accomplished only after the injury allegedly occurred”) (quoting
16 Humphries v. Various Fed. U.S. I.N.S. Employees, 164 F.3d 936, 944 (5th Cir.
17 1999)). Accordingly, federal courts have exempted decisions by federal
18 immigration officials that precede the commencement of removal proceedings or
19 the execution of removal orders from section 242(g)’s jurisdictional bar. See id.
20 at 965 (finding that 8 U.S.C. § 1252(g) “does not bar review of the actions that
21 occurred prior to any decision to commence proceedings, if any, against her or to
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1 execute her removal order, such as the INS officials’ allegedly discriminatory
2 decisions regarding advance parole, adjustment of status, and revocation of
3 parole[.]”) (other internal citations and quotation marks omitted); see also Bello-
4 Reyes v. Gaynor, 985 F.3d 696, 700 n.4 (9th Cir. 2021) (finding that section 242(g)
5 of the INA, 8 U.S.C. § 1252(g), did not bar federal habeas review of Bello-Reyes’
6 claim that his immigration arrest and re-detention by federal immigration officials
7 for removal proceedings was retaliation for his protected speech against ICE
8 enforcement activities); Sulit v. Schiltgen, 213 F.3d 449, 452-53 & n.1 (9th Cir.
9 2000) (holding that 8 U.S.C. § 1252(g) did not bar noncitizens’ constitutional
10 challenges to the improper seizure of their Permanent Resident Cards without a
11 hearing and their failure to receive notice of their obligation to “surrender for
12 deportation[.]” prior to the execution of their removal orders); Velazquez-
13 Hernandez v. United States Immigration and Customs Enforcement, 500 F. Supp.
14 3d 1132, 1136, 1140 (S.D. Cal. Nov. 16, 2020) (finding that 8 U.S.C. § 1252(g)
15 did not bar the Plaintiffs’ challenge to federal immigration officials’ practice of
16 using appearances at the federal courthouse to conduct warrantless arrests of
17 “noncitizens appearing for court hearings in order to place them in civil deportation
18 proceedings[.]” as those decisions are “collateral to their removal[.]”); Inland
19 Empire – Immigrant Youth Collective v. Nielsen, U.S.D.C. No. EDCV 17-2048
20 PSG (SHKx), __ F. Supp. 3d __, 2018 U.S. Dist. LEXIS 34871, at *46-*47 (C.D.
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1 Cal. Feb. 26, 2018) (exercising jurisdiction to review federal immigration officials’
2 decision to revoke benefits under the Deferred Action for Childhood Arrivals
3 program on the basis of a Notice to Appear for removal proceedings under section
4 240 of the INA, 8 U.S.C. § 1229a, because the plaintiffs did not challenge the later
5 commencement of removal proceedings against them); Castellar v. Nielsen,
6 U.S.D.C. No. 17-cv-0491-BAS-BGS2018, __ F. Supp. 3d __, 2018 U.S. Dist.
7 LEXIS 21774, at *19-*30 (S.D. Cal. Feb. 8, 2018) (finding that 8 U.S.C. § 1252(g)
8 did not bar habeas review of the plaintiffs’ constitutional challenge to the
9 Department of Homeland Security’s alleged policy and practice of unreasonably
10 delaying their first appearance before an Immigration Judge to allow them to seek
11 judicial review of their detention pending their removal because the actions at issue
12 preceded the commencement of their removal proceedings).

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18 AAADC further clarified that 8 U.S.C. § 1252(g) was “directed against a
19 particular evil: attempts to impose judicial constraints upon prosecutorial
20 discretion.” AAADC, 525 U.S. at 944 n.9. The Supreme Court noted that federal
21 immigration officials routinely exercised discretion to “abandon” the deportation
22 process and to defer the removal of certain noncitizens for “humanitarian reasons
23 or simply for its own convenience” when it enacted 8 U.S.C. § 1252(g). See id. at
24 483-84. The Court discerned that Congress designed 8 U.S.C. § 1252(g) to accord
25 “some measure of protection to ‘no deferred action’ decisions and similar
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1 discretionary determinations, providing that if they are reviewable at all, they at
2 least will not be made the bases for separate rounds of judicial intervention outside
3 the streamlined process that Congress has designed.” *Id.* at 485. Section 1252(g)
4 does not bar the Court’s review of “a ‘purely legal question’ that ‘does not
5 challenge the Attorney General’s discretionary authority[,]’” even when “‘the
6 answer to that legal question...forms the backdrop against which the Attorney
7 General later will exercise discretionary authority.’” *Ibarra-Perez*, 2025 U.S. App.
8 LEXIS 22089, at *17-*18 (quoting *United States v. Hovsepian*, 359 F.3d 1144,
9 1155 (9th Cir. 2004)) (other internal citations omitted)). Likewise, section 242(g)
10 does not preclude the Court from reviewing “challenges to unlawful practices
11 merely because they are in some fashion connected to removal orders[,]” including,
12 as relevant here, “due process claims.” *Id.* at *21 (citing *Sulit*, 213 F.3d at 453,
13 and *Walters v. Reno*, 145 F.3d 1032, 1052-53 (9th Cir. 1998)).

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19 Mr. Rueda Padilla, through counsel, challenges the Respondents’ unlawful,
20 unjustified rescission of his conditional release and his detention in the United
21 States Department of Homeland Security under the Due Process Clause. He
22 contests the Respondents’ position that section 235(b)(2)(A) of the INA, 8 U.S.C.
23 § 1225(b)(2)(A), mandates his detention in ICE custody for the duration of his
24 removal proceedings because he is a noncitizen who is present in the United States
25 without admission. The Respondents’ revocation of Mr. Rueda Padilla’s
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1 conditional release and their decision to detain him are not decisions to commence
2 proceedings, adjudicate his case, or to execute a removal order, within the meaning
3 of section 242(g) of the INA, 8 U.S.C. § 1252(g). While ICE officers apparently
4 issued Mr. Rueda Padilla's Notice to Appear concurrently with his Warrant of
5 Arrest, see Casillas Decl., ¶ 12, their decision to detain him did not arise from the
6 commencement of his removal proceedings, as ICE officers did not file Mr. Rueda
7 Padilla's Notice to Appear with the Immigration Court until June 30, 2025, four
8 days after his detention. [Exh. D, pp. 10-14]. See 8 C.F.R. § 1003.14(a) (2025)
9 (stating that "[j]urisdiction vests, and proceedings before an Immigration Judge
10 commence, when a charging document is filed with the Immigration Court" by the
11 United States Department of Homeland Security). As the Respondents' rescission
12 of Mr. Rueda Padilla's conditional release and his detention preceded the
13 institution of removal proceedings against him, that decision cannot "arise from"
14 one of the specified actions listed in 8 U.S.C. § 1252(g). See Kwai Fun Wong, 373
15 F.3d at 962.

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22 Finally, the claims raised by Mr. Rueda Padilla concern purely legal
23 questions, which do not implicate the Respondents' discretionary authority over
24 the specified actions in 8 U.S.C. § 1252(g). As was noted before, Mr. Rueda
25 Padilla argues, in part, the Respondents' unlawful, unjustified rescission of his
26 conditional release and their decision to detain him, without a legitimate
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1 government purpose and without a meaningful opportunity to contest the legality
2 of his confinement, deprived him of due process. Section 242(g) of the INA does
3 not bar the Court from reviewing Mr. Rueda Padilla's claim that the Respondents'
4 rescission of his conditional release and his detention deprived him of due process,
5 merely because those decisions are "in some fashion" connected to the
6 commencement of removal proceedings against him. Ibarra-Perez, 2025 U.S. App.
7 LEXIS 22089, at *19, *21 (finding that 8 U.S.C. § 1252(g) does not bar federal
8 judicial review of Ibarra-Perez's claim that the Due Process Clause conferred a
9 "right to meaningful notice and an opportunity to present a fear-based claim before
10 he was removed to Mexico[]"). Likewise, 8 U.S.C. § 1252(g) does not preclude
11 the Court from reviewing Mr. Rueda Padilla's claim, in habeas corpus proceedings,
12 that he was not an "applicant for admission" who must be detained in immigration
13 custody for his removal proceedings, within the meaning of section 235(b)(2)(A)
14 of the INA, 8 U.S.C. § 1225(b)(2)(A). See id. at *19 (holding that 8 U.S.C. §
15 1252(g) did not bar federal judicial review of Ibarra-Perez's claim that ICE lacked
16 "the statutory authority to remove him to Mexico without having first given him
17 an opportunity to present a fear-based claim[]" under 8 U.S.C. § 1231(b)(3)). As
18 Mr. Rueda Padilla does not contest the Respondents' discretionary authority to
19 commence his removal proceedings, adjudicate his case, or to execute a removal
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1 order against him, the Court must conclude that 8 U.S.C. § 1252(g) does not bar
2 the Court from reviewing the claims that he raised in his Petition and Complaint.
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4 **C. Mr. Rueda Padilla Was Not Required to Exhaust Administrative**
5 **Remedies Before Seeking Relief from the Respondents' Unlawful**
6 **Rescission of his Conditional Release and his Detention in the**
7 **Respondents' Custody.**

8 The Respondents further assert that Mr. Rueda Padilla's alleged failure to
9 exhaust administrative remedies before he challenged the legality of his
10 confinement in habeas corpus proceedings warrants a decision by this Court to
11 deny him relief from his detention. See Opp., at pp. 6-8. The Court should reject
12 the Government's invitation to impose a prudential exhaustion requirement in the
13 above-captioned matter, as Mr. Rueda Padilla raises purely legal challenges to the
14 Respondents' rescission of his conditional release and his detention in federal
15 immigration custody. The Government's unwavering position that Matter of
16 Yajure Hurtado precludes federal Immigration Judges from considering bond
17 requests for noncitizens who are present in the United States without admission,
18 like Mr. Rueda Padilla, suggests that any attempt to exhaust administrative
19 remedies would be futile, and would exacerbate the harm that Mr. Rueda Padilla
20 is already experiencing in detention.
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25 Exhaustion of administrative remedies "can be either statutorily required or
26 judicially imposed as a matter of prudence." Puga v. Chertoff, 488 F.3d 812, 815
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1 (9th Cir. 2007) (citing Noriega-Lopez v. Ashcroft, 335 F.3d 874, 881 (9th Cir.
2 2003)). Exhaustion is a prudential requirement for a petition for writ of habeas
3 corpus under 28 U.S.C. § 2241. See Hernandez v. Sessions, 872 F.3d 976, 988
4 (9th Cir. 2017) (citing Singh v. Holder, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011))
5 (other internal citations omitted). A court may require prudential exhaustion when
6 “(1) agency expertise makes agency consideration necessary to generate a proper
7 record and reach a proper decision; (2) relaxation of the requirement would
8 encourage the deliberate bypass of the administrative scheme; and (3)
9 administrative review is likely to allow the agency to correct its own mistakes and
10 to preclude the need for judicial review.” Id. (citing Puga, 488 F.3d at 815). Even
11 if those factors apply, a court may nonetheless waive a prudential exhaustion
12 mandate if ““administrative remedies are inadequate or not efficacious, pursuit of
13 administrative remedies would be a futile gesture, irreparable injury will result, or
14 the administrative proceedings would be void.”” Id. (quoting Laing v. Ashcroft,
15 370 F.3d 994, 1000 (9th Cir. 2004)).

16 “An exception to the exhaustion requirement has been carved for
17 constitutional challenges to...[DHS] procedures.” Iraheta-Martinez v. Garland,
18 12 F.4th 942, 949 (9th Cir. 2021) (quoting Sola v. Holder, 720 F.3d 1134, 1135
19 (9th Cir. 2013) (per curiam)) (other internal citations omitted). Mr. Rueda Padilla,
20 through counsel, contests the Respondents’ rescission of his conditional release
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1 and his detention in the Respondents' custody under the Fifth Amendment's Due
2 Process Clause. Neither an Immigration Judge nor the Board of Immigration
3 Appeals has the authority to decide the constitutionality of immigration statutes.
4 See Padilla-Padilla v. Gonzales, 463 F.3d 972, 977 (9th Cir. 2006) (citing Liu v.
5 Waters, 55 F.3d 421, 425 (9th Cir. 1995)); Matter of G.K., 26 I. & N. Dec. 88, 96-
6 97 (BIA 2013) (explaining that "[n]either the [BIA] nor the Immigration Judges
7 have the authority to rule on the constitutionality of the statutes we administer[']").
8 Since those tribunals could not address Mr. Rueda Padilla's constitutional
9 challenge to the legality of his detention under the INA, the Court cannot require
10 him to exhaust those claims before seeking habeas relief. See Padilla-Padilla, 463
11 F.3d at 977 (excusing the petitioners from exhausting a "constitutional due process
12 claim" in the Board of Immigration Appeals because the Board could not resolve
13 the claim) (citing Liu, 55 F.3d at 426, and Garcia-Ramirez v. Gonzales, 423 F.3d
14 935, 938 (9th Cir. 2005)).

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

8 The Court’s decision to waive the prudential exhaustion requirement will
9 not “encourage the deliberate bypass of the administrative scheme” in future
10 cases. Hernandez, 872 F.3d at 989 (quoting Puga, 488 F.3d at 815). The instant
11 case concerns the legality of Mr. Rueda Padilla’s detention by the Respondents
12 under the Due Process Clause and 8 U.S.C. § 1225(b)(2)(A). When this Court
13 determines the legality of Mr. Rueda Padilla’s confinement, the disputed issue
14 “should cease to arise.” Id. (quoting Singh, 638 F.3d at 1203 n.3). While
15 “similarly situated individuals” may “desire to raise similar appeals in the district
16 courts[,]” a “resolution of this question of law at the district court level might
17 provide expedient clarity and guidance to the IJs and BIA, obviating the need for
18 similar, subsequent bypassing of administrative remedies.” Bautista v. Santacruz,
19 U.S.D.C. No. 5:25-cv-01873-SSS-BFM, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
20 171364, at *21 (C.D. Cal. July 28, 2025).

26 While the Court must “consider whether ‘administrative review is likely to
27 allow the agency to correct its own mistakes and to preclude the need for judicial
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1 review[,]” in circumstances ““where the agency’s position on the question at issue
2 appears already set, and it is very likely what the result of recourse to
3 administrative remedies would be, such recourse would be futile and is not
4 required.”” Hernandez, 872 F.3d at 989 (quoting Noriega-Lopez, 335 F.3d at 881,
5 and El Rescate Legal Servs., Inc. v. Exec. Office of Immigration Review, 959 F.2d
6 742, 747 (9th Cir. 1991)) (other internal citations and quotation marks omitted). In
7 Matter of Q. Li, 29 I. & N. Dec. 66 (BIA 2025), the Board of Immigration Appeals
8 held that a noncitizen “who is arrested and detained without a warrant while
9 arriving in the United States, whether or not at a port of entry, and subsequently
10 placed in removal proceedings, is detained under section 235(b) of the INA, 8
11 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under
12 section 236(a) of the INA, 8 U.S.C. § 1226(a)[.]” even when federal immigration
13 officials paroled the noncitizen into the United States. Q. Li, 29 I. & N. Dec. at 69.
14 On July 8, 2025, ICE officers issued a policy memorandum, “Interim Guidance
15 Regarding Detention Authority for Applications for Admission[,]” Francisco T. v.
16 Bondi, U.S.D.C. No. 25-CV-03219 (JMB/DTS), __ F. Supp. 3d __, 2025 U.S. Dist.
17 LEXIS 179562, at *2 n.2 (D. Minn. Aug. 29, 2025), in which it announced that
18 “all noncitizens who entered the United States without inspection shall now be
19 deemed applicants for admission and subject to mandatory detention under 8 U.S.C.
20 § 1225(b)(2)(A).” Garcia v. Noem, U.S.D.C. No. 5:25-cv-02771-ODW (PDx), __

1 F. Supp. 3d ___, 2025 U.S. Dist. LEXIS 209286, at *2-3 (C.D. Cal. Oct. 22, 2025)
2 (other internal quotation marks omitted). Subsequently, the Board of Immigration
3 Appeals held that noncitizens “who are present in the United States without
4 admission are applicants for admission as defined under section 235(b)(2)(A) of
5 the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their
6 removal proceedings[.]” without bond, even if the noncitizens resided in the United
7 States for a number of years. Yajure Hurtado, 29 I. & N. Dec. at 220-21 (citing
8 Jennings, 583 U.S. at 300).

12 Published decisions of the Board of Immigration Appeals “are binding on
13 all officers and employees of DHS or immigration judges in the administration of
14 the immigration laws of the United States[.]” 8 C.F.R. § 1003.1(g)(1) (2025), and
15 “serve as precedents in all proceedings involving the same issue or issues.” 8
16 C.F.R. § 1003.1(g)(2) (2025). The Board’s decisions in Matter of Q. Li and in In
17 re Yajure Hurtado preclude an Immigration Judge from correcting the Board’s
18 mistaken construction and application of 8 U.S.C. § 1225(b)(2)(A). Indeed, the
19 Respondents explicitly rely upon Matter of Yajure Hurtado to argue that
20 “Immigration Judges lack authority to hear bond requests or to grant bond to such
21 aliens who are present in the United States without admission[.]” like Mr. Rueda
22 Padilla, Opp., at p. 1, and later concede that Mr. Rueda Padilla has an
23 “understandable” claim that “the § 1225(b) bond hearing issue does not need
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1 further exhaustion, given the BIA’s decision in Matter of Yajure Hurtado[,]” id.,
2 at p. 6, even as they insist that Mr. Rueda Padilla should exhaust his challenges to
3 the legality of the rescission of his conditional release and his confinement in
4 federal immigration custody before the Board of Immigration Appeals as a
5 precondition to seeking federal habeas relief. See id., at pp. 6-7. As the agency’s
6 position on Mr. Rueda Padilla’s detention status is unlikely to change with agency
7 action, the Court must conclude that any attempted exhaustion of administrative
8 remedies in the Immigration Court would be futile. See Vasquez-Rodriguez v.
9 Garland, 7 F.4th 888, 896 (9th Cir. 2021) (declaring that the Court “will excuse a
10 failure to exhaust if ‘it is very likely what [the Board’s] result would have been[,]’”
11 and “‘recourse to administrative remedies is very likely futile[.]’”) (quoting Szonyi
12 v. Barr, 942 F.3d 874, 891 (9th Cir. 2019), and Sun v. Ashcroft, 370 F.3d 932, 943
13 (9th Cir. 2004)).
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19 Finally, the prospect of irreparable injury to Mr. Rueda Padilla warrants
20 excusing any exhaustion requirement under the present circumstances. While an
21 Immigration Judge or the Board of Immigration Appeals could grant Mr. Rueda
22 Padilla relief from detention in the future, the prolonged adjudication process for
23 Board of Immigration Appeals cases suggests that he would “‘suffer[] potentially
24 irreparable harm every day that he remains in custody without a hearing, which
25 could ultimately result in his release from detention.’” Rodriguez v. Bostock, 779
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1 F. Supp. 3d 1239, 1253, 1254-55 (W.D. Wash. 2025) (quoting Cortez v. Sessions,
2 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018)). Accordingly, the Court should
3
4 “follow[] the vast majority of other cases which have waived exhaustion based on
5 irreparable injury when an individual has been detained for months without a bond
6 hearing, and where several additional months may pass before the BIA renders a
7 decision on a pending appeal.” Id. at 1255 (quoting Marroquin Ambriz v. Barr,
8 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019)).
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10

11 **III.**

12 **CONCLUSION**

13
14 For the reasons stated above, and for the reasons previously stated in his
15 prior pleadings, Mr. Rueda Padilla, through counsel, respectfully requests that this
16 Court grant him the relief that he has requested in his Petition and Complaint, and
17 in the accompanying Petitioner’s Application for a Temporary Restraining Order.
18

19 Respectfully Submitted,

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21 Dated: November 20, 2025

s/ Lori B. Schoenberg

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**CERTIFICATE OF COMPLIANCE, PURSUANT TO U.S. DIST. CT.
CIVIL LOCAL RULES, L.R. 11-6.2**

The undersigned, counsel of record for Petitioner Jarold Maverich Rueda Padilla, hereby certifies that this brief contains 6,565 words, which complies with the word limit of U.S. Dist. Ct., Civil Local Rules, L.R. 11-6.1.

Respectfully Submitted,

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