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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Eugene Division

M-J-M-A-; VICTOR CRUZ GAMEZ,
Plaintiffs,

v.

JULIO HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); DAVID VENTURELLA, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and TODD BLANCHE, Attorney General of the United States, Defendants.

Case No. 6:25-cv-02011-MTK

PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO ENFORCE PRELIMINARY INJUNCTION

ORAL ARGUMENT REQUESTED
HEARING September 21, 2026

After the close of evidence, the Defendants appeared to assert that the arrest of J.C.C.V. on June 19, 2026, was outside the scope of the preliminary injunction because there was already an executed warrant for his arrest from 2023 which allowed the Defendants to arrest him again. *See* Defs. Ex. 502; *cf.* Pls. Ex. 107 (I-200 field warrant). The Defendants asserted a principle of law that an I-200 administrative warrant for arrest, even though executed, remains valid and can be re-used to arrest someone at any time, and for any reason (or with no reason at all) again and again. Defendants misstate the law. Indeed, their reading of the rule would be unconstitutional.

A. Civil immigration warrants

The power to arrest an individual for civil immigration violations is narrowly construed and tightly regulated. Warrants for arrest under 8 U.S.C. § 1226(a) may issue only upon a showing of probable cause to a neutral and detached responsible official. *Abel v. United States*, 362 U.S. 217, 236-37 (1960); *Gonzalez v. U.S. Immigr. & Customs Enf't*, 975 F.3d 788, 824-826 (9th Cir. 2020). The application for a warrant must be supported by reliable evidence that affirmatively indicates the subject of investigation is removable from the United States and it must be issued only in conjunction with, or subsequent to, a charging document initiating removal proceedings. U.S. Const. IV amend.; 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(b)(1) (prescribing the timing and sequencing of an arrest warrant as "[a]t the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are complete…"). Once a warrant of arrest is executed, a new warrant for arrest is required, which again, must be based on probable cause determined by a neutral and detached examiner. 8 C.F.R. § 236.1(b)(1). There is only one exception to this rule. 8 U.S.C. § 1226(b). If the subject of the warrant is released from custody, he or she may be *re-arrested* on the original warrant only *after* his or her release is properly

revoked. 8 U.S.C. § 1226(b). Revocation of release requires an individualized determination. 8 U.S.C. § 1226(b); U.S. Const. V amend.

B. The Defendants assert an arbitrary arrest power unrecognized by law.

The Defendants' perpetual and indefinite re-arrest theory is without support in the statute or regulations; indeed, their theory is unconstitutional. Defendants appear to rely on 8 C.F.R. § 236.1(b). The most natural reading of this regulation permits a *single* arrest of a person in removal proceedings on a properly issued and served I-200. Nothing in the text of the regulation suggests that an I-200 can be redeemed multiple times by ICE to arrest an individual over and over again. The regulation clearly speaks of an arrest in the singular.

The statute prohibits the Defendants' asserted arbitrary power to re-arrest. To prevent the arbitrary power Defendants now assert, Congress specifically prohibited the use of an arrest warrant multiple times. 8 U.S.C. § 1226(b). Congress has detailed the sequencing (revocation before re-arrest on the original warrant) and, as literally hundreds and hundreds of district courts around the country, including this district, have found, revocation requires an individualized showing that circumstances have changed. *See Jimenez v. Bostock*, 2025 WL 2430381, *5 (D.Or. 2025); *Ledesma Gonzalez v. Bostock*, 808 F.Supp. 3d 1189, 1198 (W.D. Wash. 2025). In no other circumstance does the statute authorize the original warrant may be used to re-arrest an individual. *See Silvers v. Sony Pictures Entertainment, Inc.*, 402 F.3d 881, 885 (9th Cir. 2005) (when a statute designates a certain manner of operation, all omissions should be understood as exclusions).

The regulations as a whole repudiate the Defendants' arbitrary reading. The regulation contemplates the issuance of a warrant for each time an arrest is necessary. 8 C.F.R. § 236.1(b)(2). If a warrant is issued and a decision is made not to serve it, an authorized officer "may authorize its cancellation." *Id.* The regulations differentiate between executed and unexecuted warrants. 8

C.F.R. § 239.2(e). "When a notice to appear is canceled or proceedings are terminated under this section *any outstanding* warrant of arrest *is* canceled." *Id.* (emphasis added). The regulations mirror the statute in allowing for re-arrest on the original warrant *only* after revocation of release. 8 C.F.R. § 236.1(c)(9).

C. J.C.C.V. was arrested without a warrant in violation of the injunction.

The case of J.C.C.V. proves Defendants' violation of this Court's injunction because his arrest on June 19, 2026 was without a warrant. In his own individual habeas in which the same defendants litigated the issue, the Court granted J.C.V.V.'s petition and ordered his release, finding that his re-detention violated the Fifth Amendment. Ex. 109; *Chacon-Villabona v. Warden*, No. 2:26-cv-02773-JHC at *6 (Sep. 10, 2026). Finding J.C.C.V.'s case to illustrate "precisely why there is a high risk of erroneous deprivation [of J.C.C.V.'s liberty interest]", the district court found the government failed to conclusively establish that J.C.C.V. was arrested with a warrant. *Id.* at *5; *Id.* at Dkt. 8 at Ex. B (Defendants' return with the 2023 warrant).

Dated: September 20, 2026

/s/ *Stephen W Manning*
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