

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA
JORDAN WELLS (SBN 326491)
jwells@lccrsf.org
VICTORIA PETTY (SBN 338689)
vpetty@lccrsf.org
131 Steuart Street # 400
San Francisco, CA 94105
Telephone: 415 543 9444
Attorneys for Petitioner-Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Y.G.H.,*

Petitioner-Plaintiff,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States; ORESTES CRUZ,
in his official capacity, Director for the San
Francisco Immigration and Customs Enforcement
Field Office; PAMELA BONDI, in her official
capacity, Attorney General of the United States;
KRISTI NOEM, in her official capacity, Secretary
of the Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND SECURITY;
TODD LYONS, in his official capacity, Acting
Director U.S. Immigration and Customs
Enforcement; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; MARCO RUBIO,
Secretary of State, in his official capacity; U.S.
STATE DEPARTMENT; and
and TONYA ANDREWS, Facility Administrator
of Golden State Annex Detention Facility,

Respondents-Defendants.

Case No. _____

**PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

* A motion for Petitioner to proceed under pseudonym is being filed on the same day as this petition and complaint.

INTRODUCTION

1. Petitioner Y.G.H., a twenty-two-year-old Venezuelan farmworker in ICE custody, respectfully petitions for a writ of habeas corpus and an immediate order prohibiting his removal from the Eastern District of California pending proceedings on this petition.

2. Petitioner is at imminent risk of removal under the President's Proclamation invoking the Alien Enemies Act ("AEA")—a 1798 wartime authority used only three prior times in our Nation's history (the War of 1812, World War I, and World War II)—which is codified today as follows:

Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies.

at 50 U.S.C. § 21 (emphasis added).

3. There is no credible claim that the predicates for invoking the AEA exist now or have existed at any time relevant to this petition. Nonetheless, a month ago, President Donald Trump signed a Proclamation authorizing the "immediate" removal, without notice or judicial review, of "all Venezuelan citizens 14 years of age or older who are members of ["Tren de Aragua (TdA)"], are within the United States, and are not actually naturalized or lawful permanent residents of the United States."¹

¹ "Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de Aragua" *Available at* <https://perma.cc/ZS8M-ZQHJ>. Although the AEA requires that its invocation be made "public," the Proclamation is dated March 14, 2015, but was not made public until March 15. The government, however, attempted to remove individuals under the Proclamation before it was made public.

1 4. The Proclamation overrides all the procedural and substantive protections afforded by
2 Congress to noncitizens in immigration proceedings, including protection against removal to a
3 place where they will face torture.

4 5. The AEA may not be used against a criminal gang or during peacetime. Nonetheless, on
5 March 15, the government removed at least 137 Venezuelan noncitizens under the Proclamation
6 to one of the world's most notorious prisons in El Salvador, the Terrorism Confinement Center
7 (in Spanish, Centro de Confinamiento del Terrorismo, abbreviated as "CECOT"), where they may
8 remain incommunicado for the rest of their lives according to the Salvadoran President.

9 6. These individuals were sent to this brutal prison without any court having had an
10 opportunity to review the threshold questions of whether a criminal gang can be deemed a
11 "foreign government or nation" within the meaning of the AEA, or whether criminal activity and
12 migration can constitute a military "invasion or predatory incursion" of the "territory of the
13 United States" under the Act.

14 7. These individuals were also given no opportunity to contest their designation as members
15 of the TdA gang, absent which they would not even fall within the Proclamation's scope. And
16 evidence is emerging by the day that many lacked any gang ties.

17 8. That more individuals are not languishing in a Salvadoran prison is the result of a
18 nationwide class Temporary Restraining Order issued by the District of Columbia. *J.G.G. v.*
19 *Trump*, No. 1:25-cv-766-JEB, 2025 WL 825115, at *1 (D.D.C. Mar. 15, 2025). The D.C. Circuit
20 declined to stay the TRO, *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682, at *1 (D.C. Cir. Mar.
21 26, 2025), but the Supreme Court vacated the TRO, *Trump v. J. G. G.*, No. 24A931, 2025 WL
22 1024097, at *1 (U.S. Apr. 7, 2025). However, the Supreme Court made clear that review was
23 available by habeas, that individuals subjected to the Proclamation are entitled to "due process"
24 and must be given "notice . . . within a reasonable time and in such a manner as will allow them
25
26
27
28

1 to actually seek habeas relief in the proper venue before such removal occurs.” *Id.* at *2.

2 9. Accordingly, Petitioner brings this habeas action given the Supreme Court’s ruling that
3 habeas is the proper mechanism to challenge the Proclamation’s application. Although
4 Petitioner has not been given formal notice of his designation, the government has made clear
5 that they believe he is a member of TdA.
6

7 10. Moreover, the government has stated that they may give as little as 24 hours’ notice to
8 those it designates as a member of the TdA gang, notwithstanding the Supreme Court’s express
9 statement that individuals must be given adequate notice to allow them to seek judicial review.
10 For immigrants that the San Francisco Field Office detains in contract detention centers located
11 in Kern County that afford only limited ability to communicate with counsel (who typically are
12 based many hours away in the San Francisco Bay Area), substantially more notice is necessary to
13 communicate with counsel and prepare the court papers necessary for judicial review.
14

15 11. The Proclamation is unlawful for three principal reasons: It (1) fails to satisfy the
16 statutory predicates of the AEA because the TdA is not a “foreign government or nation” not is it
17 involved in a military “invasion or predatory incursions” of the “territory of the United States;”
18 (2) sweeps away the procedural and substantive protections Congress enacted for the protection
19 of noncitizens subject to removal; and (3) provides no notice or opportunity for judicial review to
20 show that an individual is not in fact a member of the TdA and therefore falls wholly outside of
21 the Proclamation.
22

23 12. This Court’s intervention is necessary to ensure that Petitioner is not unlawfully sent to a
24 Salvadoran prison pursuant to the Proclamation, perhaps for the remainder of his life.

25 13. Since about February 15, 2025 and as of earlier today, April 14, 2025, the ICE Online
26 Detainee Locator System (available at <https://locator.ice.gov/odls/#/search>) listed Petitioner as
27 being held at Golden State Annex in McFarland, California, in the Eastern District of California.
28

1 As of late this afternoon and as of filing, the locator now lists "CALL FIELD OFFICE Visitor
2 Information: (415) 844-5512" as the "Current Detention Facility" and instructs: "Family
3 members and legal representatives may be able to obtain additional information about this
4 individual's case by contacting this ERO office: BAKERSFIELD, CA, IHP, Phone Number:
5 (661) 328-4500." Undersigned counsel placed a phone call to the 415 phone number at 3:15 PM
6 today, April 14, 2025. The call did not go through. Undersigned counsel placed a call to the 661
7 number, and an automatic recording stated "we're sorry, you've reached a number that has been
8 disconnected or is no longer in service. If you feel you have reached this recording in error,
9 please check the number and try your call again." As an additional attempt, at 3:20 PM
10 undersigned counsel called the San Francisco ERO Field Office at the number listed on ICE's
11 website, 415-365-8800 (available at <https://www.ice.gov/contact/field-offices>). An automated
12 recording lists options for the caller to select, one of which relates to callers seeking information
13 about a detainee's location. Upon selection of that option, the recording recommends that the
14 caller using ICE's online detainee locator system and then the line automatically hangs up.

15
16
17 14. Petitioner through this action does not seek release from detention or contest any aspect
18 of his ongoing immigration proceedings.

19
20 **JURISDICTION AND VENUE**

21 15. This case arises under the Alien Enemies Act ("AEA"), 50 U.S.C. §§ 21-24; the
22 Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, et seq. and its implementing
23 regulations; the Convention Against Torture ("CAT"), see Foreign Affairs Reform and
24 Restructuring Act of 1998 ("FARRA"), Pub. L. No. 105-277, div. G, Title XXII, § 2242, 112
25 Stat. 2681, 2681-822 (1998) (codified as Note to 8 U.S.C. § 1231); the All Writs Act, 28 U.S.C.
26 § 1651; and the Fifth Amendment to the U.S. Constitution.

16. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 et seq. (habeas corpus); art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); 28 U.S.C. § 1346 (United States as defendant); 28 U.S.C. § 1361 (mandamus); and 28 U.S.C. § 1651 (All Writs Act).

17. The Court may grant relief pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 2243; the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.; the All Writs Act, 28 U.S.C. § 1651; and the Court's inherent equitable powers. *Cf. I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001) (“[A]t its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.”).

18. Venue is proper in this District under 28 U.S.C. § 2241; 28 U.S.C. § 1391(b); and, 28 U.S.C. § 1391(e)(1) because at the time of filing Petitioner was detained in the Respondents' custody within the Eastern District of California; a substantial part of the events and omissions giving rise to the claim occurred in this district; Respondent Andrews resides in this district; and Respondents are agencies or officers of the United States acting in their official capacity.

PARTIES

19. Petitioner Y.G.H. is a twenty-two-year-old Venezuelan national who entered the United States at a port of entry, presented his Venezuelan identification card to Customs and Border Protection, and was paroled into the United States on or around September 13, 2023, for a two-year period and placed into removal proceedings. Prior to his detention, he was performing agricultural work in California's Central Valley. His next immigration court hearing is scheduled for May 8, 2025 before the Adelanto Immigration Court in California. He has not yet been able to retain immigration counsel. He is eligible for asylum and withholding of removal and, on information and belief, has viable claims based on violence perpetrated against his family by gang members in Venezuela. On or around March 25, some forty days after taking Y.G.H. into ICE custody, the agency touted its detention of him as a “TdA ARREST” and superimposed

1 those words over a photo of him on Facebook, along with his name and a reference to charges
2 that, upon information and belief, are pending against him in Fresno County for robbery and
3 assault with a firearm. Y.G.H. is tattooed.

4 20. Respondent Orestes Cruz is the Field Office Director for the San Francisco Field Office
5 of ICE Enforcement and Removal Operations ("ERO"). As such, Respondent Cruz is the federal
6 official most directly responsible for overseeing Golden State Annex. He is the local ICE
7 official who exercises day-to-day control over Petitioner's custody. He is named in his official
8 capacity.
9

10 21. Defendant-Respondent ("Respondent") Donald Trump is the President of the United
11 States. He is sued in his official capacity. In that capacity, he issued the Proclamation under the
12 Alien Enemies Act. Injunctive relief is not sought against the President.
13

14 22. Respondent Pamela Bondi is the Attorney General of the United States and the head of
15 the Department of Justice ("DOJ"), which encompasses the Board of Immigration Appeals
16 ("BIA") and immigration judges as part of its sub-agency, the Executive Office for Immigration
17 Review ("EOIR"). She is empowered to oversee the adjudication of removal and bond hearings
18 and by regulation has delegated that power to the nation's immigration judges and the BIA. She
19 is named in her official capacity.
20

21 23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security
22 ("DHS") and is responsible for overseeing the Department and its sub-agency, ICE. She has
23 ultimate responsibility for the detention of noncitizens in civil immigration custody. She is
24 named in her official capacity.

25 24. Respondent U.S. Department of Homeland Security ("DHS") is a cabinet-level
26 department of the United States federal government. Its components include Immigration and
27 Customs Enforcement ("ICE"). Respondent DHS is a legal custodian of Petitioner.
28

25. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement (“ICE”). Respondent Lyons is responsible for ICE’s policies, practices, and procedures, including those relating to the detention of immigrants. He is named in his official capacity.

26. Respondent ICE is the subagency of DHS that is responsible for carrying out removal orders and overseeing immigration detention. Respondent ICE is a legal custodian of Petitioner.

27. Respondent Marco Rubio is the Secretary of State at the U.S. Department of State. He is sued in his official capacity.

28. Respondent U.S. Department of State is a cabinet-level department of the United States government.

29. Respondent Tonya Andrews is the Facility Administrator (and *de facto* warden) of Golden State Annex in McFarland, California.² She oversees operations at Golden State Annex, where Petitioner is detained. She is a corporate employee of The GEO Group, Inc. (“GEO”), a private prison company that contracts with U.S. Immigration and Customs Enforcement to operate Golden State Annex.

BACKGROUND

The Alien Enemies Act

30. The AEA is a wartime authority enacted in 1798 that grants the President specific powers with respect to the regulation, detention, and deportation of enemy aliens.

² Pursuant to the Ninth Circuit’s recent decision in *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024), Tonya Andrews is named as a respondent because she is the *de facto* warden of the facility at which Petitioner was detained. A petition for *en banc* rehearing is pending in that case. The other respondents are named herein to ensure effective relief and continued jurisdiction in this case.

1 31. The AEA, as codified today, provides that “[w]henever there is a declared war between
2 the United States and any foreign nation or government, or any invasion or predatory incursion is
3 perpetrated, attempted, or threatened against the territory of the United States by any foreign
4 nation or government, and the President makes public proclamation of the event, all natives,
5 citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen
6 years and upward, who shall be within the United States and not actually naturalized, shall be
7 liable to be apprehended, restrained, secured, and removed as alien enemies.” 50 U.S.C. § 21.

9 32. The AEA can thus be triggered in only two situations. The first is when a formal
10 declared war exists with a foreign nation or government. The second is when a foreign nation or
11 government perpetrates, attempts, or threatens an invasion or predatory incursion against the
12 territory of the United States.

13 33. To trigger the AEA, the President must make a public proclamation of the declared war,
14 or of the attempted or threatened invasion or predatory incursion. *Id.*

15 34. The AEA also provides that noncitizens must be permitted the full time to depart as
16 stipulated by any treaty between the United States and the enemy nation, unless the noncitizen
17 has engaged in “actual hostility” against the United States. If no such treaty exists, the President
18 may declare a “reasonable time” for departure, “according to the dictates of humanity and
19 national hospitality.” *Id.* § 22. Noncitizens who “refuse or neglect to depart” are subject to
20 removal. *Id.* § 21.

21 35. The Act has been used only three times in American history, all during actual or
22 imminent wartime.

23 36. The AEA was first invoked several months into the War of 1812, but President Madison
24 did not use the AEA to remove anyone from the United States during the war.

1 37. The AEA was invoked a second time during World War I by President Wilson. Upon
2 information and belief, there were no removals effectuated pursuant to the AEA during World
3 War I.

4 38. The AEA was used again during World War II, though it was never used as a widespread
5 method of removal.

6
7 39. On December 7, 1941, after the Japanese invaded Hawaii in the attack on Pearl Harbor,
8 President Roosevelt proclaimed that Japan had perpetrated an invasion upon the territory of the
9 United States. The president issued regulations applicable to Japanese nationals living in the
10 United States. The next day Congress declared war on Japan.

11 40. On the same day, President Roosevelt issued two separate proclamations stating that an
12 invasion or predatory incursion was threatened upon the territory of the United States by
13 Germany and Italy. The president incorporated the same regulations that were already in effect
14 as to Japanese people for German and Italian people. Three days later Congress voted
15 unanimously to declare war against Germany and Italy.

16
17 41. Congress declared war against Hungary, Romania, and Bulgaria on June 5, 1942. Just
18 over a month later, President Roosevelt issued a proclamation recognizing that declaration of war
19 and invoking the AEA against citizens of those countries.

20 42. Under these proclamations, the United States infamously interned noncitizens from
21 Japan, Germany, Italy, Hungary, Romania, and Bulgaria (with U.S. citizens of Japanese descent
22 subject to a separate order that did not rely on the AEA).

23
24 43. It was not until the end of hostilities that the President provided for the removal of alien
25 enemies from the United States under the AEA. On July 14, 1945, President Truman issued a
26 proclamation providing that alien enemies detained as a danger to public peace and safety "shall
27 be subject upon the order of the Attorney General to removal from the United States." The
28

1 Department of Justice subsequently issued regulations laying out the removal process. *See* 10
2 Fed. Reg. 12,189 (Sept. 28, 1945). The regulations required, *inter alia*, notice of the removal
3 order to be served on the designated alien enemy and that the alien enemy had thirty (30) days
4 thereafter to depart—during which time they could seek judicial review of the removal order. *Id.*

5 **Systemic Overhaul of Immigration Law in 1952**

6
7 44. Following the end of World War II, Congress consolidated U.S. immigration laws into a
8 single text under the Immigration and Nationality Act of 1952 (“INA”).

9 45. The INA, and its subsequent amendments, provide for a comprehensive system of
10 procedures that the government must follow before removing a noncitizen from the United
11 States. The INA now provides the exclusive procedure by which the government may determine
12 whether to remove an individual. 8 U.S.C. § 1229a(a)(3).

13
14 46. In addition to laying out the process by which the government determines whether to
15 remove an individual, the INA also enshrines certain forms of humanitarian protection.

16 47. First, the INA provides that “[a]ny alien who is physically present in the United States or
17 who arrives in the United States (whether or not at a designated port of arrival . . .), irrespective
18 of such alien’s status,” may apply for asylum. 8 U.S.C. § 1158(a)(1). To qualify for asylum, a
19 noncitizen must show a “well-founded fear of persecution” on account of a protected ground,
20 such as race, nationality, political opinion, or religion. 8 U.S.C. § 1101(a)(42)(A).

21
22 48. Second, save for certain limited exceptions, Congress has barred the removal of an
23 individual to a country where it is more likely than not that he would face persecution on one of
24 these protected grounds. 8 U.S.C. § 1231(b)(3). That protection implements this country’s
25 obligations under the 1951 Refugee Convention and the 1967 Protocol relating to the Status of
26 Refugees. The relevant form of relief, known as “withholding of removal,” requires the
27
28

1 applicant to satisfy a higher standard with respect to the likelihood of harm than asylum, but this
2 form of relief is mandatory if the standard is met.

3 49. Third, the Convention Against Torture (“CAT”) prohibits the government from returning
4 a noncitizen to a country where it is more likely than not that he would face torture. *See* 8 U.S.C.
5 § 1231 note. That protection implements the Foreign Affairs Reform and Restructuring Act of
6 1998 (“FARRA”), Pub. L. No. 105-277, div. G, Title XXII, § 2242. As with withholding of
7 removal, CAT relief also requires the applicant to satisfy a higher standard with respect to the
8 likelihood of harm than asylum and relief is mandatory if that standard is met. There is no
9 exception to CAT relief.
10

11 **President Trump’s Proclamation Invoking the AEA**

12 50. On March 14, the President signed the AEA Proclamation at issue here. It provides that
13 “all Venezuelan citizens 14 years of age or older who are members of TdA [Tren de Aragua], are
14 within the United States, and are not actually naturalized or lawful permanent residents of the
15 United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies.”
16 *See* Invocation of the Alien Enemies Act Regarding the Invasion of the United States by Tren de
17 Aragua (Mar. 15, 2025).³
18

19 51. Although the AEA calls for a “public proclamation,” 50 U.S.C. § 21, the administration
20 did not make the invocation public until around 3:53 PM EDT on March 15, despite making
21 extensive preparations and attempts to remove class members under the Act.
22

23 52. The Proclamation claims that the TdA gang is engaged in an invasion and predatory
24 incursion into the United States, and that the gang should be considered a “foreign government.”
25
26
27

28 ³ Available at: <https://perma.cc/ZS8M-ZQHJ>.

53. The Proclamation thus states that all Venezuelan citizens ages fourteen or older alleged to be members of TdA who are not U.S. citizens or lawful permanent residents are alien enemies.

54. The Proclamation provides no means or process for individuals to contest that they are members of the TdA and do not therefore fall within the terms of the Proclamation. Nor does it provide individuals with the statutory grace period in which they can both seek judicial review or arrange their affairs and leave voluntarily.

55. Instead, the Proclamation invokes the statutory exception to the “reasonable notice” requirement by claiming that the individuals subject to the Proclamation are “chargeable with actual hostility,” and pose “a public safety risk,” making them subject to immediate apprehension, restraint, and removal.

56. The government employs a standardized check list, the “Alien Enemy Validation Guide,” to determine who is an “alien enemy” subject to the Proclamation. An ICE officer completes the form, tallying points for different categories of alleged TdA membership characteristics.

57. The checklist’s methodology relies heavily on a number of dubious criteria, including physical attributes like tattoos, hand gestures, symbols, logos, graffiti, and manner of dress. Experts who study the TdA have explained how none of these physical attributes are reliable ways of identifying members of the TdA.

58. Noncitizens subject to the Proclamation are not afforded the procedural or substantive protection under the INA, including under Convention Against Torture.

59. Multiple judges have already found that the Proclamation is likely unlawful. *See J.G.G.*, 2025 WL 914682, at *5–10 (Henderson, J., concurring) (AEA predicates of “invasion” or “predatory incursion” not met); *id.* at *13 (Millett, J., concurring) (“The Constitution’s demand of due process cannot be so easily thrown aside.”); *J.G.G. v. Trump*, No. CV 25-766 (JEB), 2025

1 WL 890401, at *2 (D.D.C. Mar. 24, 2025) (Boasberg, J.) (“before plaintiffs may be deported,
2 they are entitled to individualized hearings to determine whether the Act applies to them at all”).

3 60. As a result of the Proclamation, countless Venezuelans—including Petitioner—are at
4 imminent risk of removal pursuant to the Proclamation without any hearing or meaningful
5 review, regardless of the absence of any ties to TdA or the availability of claims for relief from
6 and defenses to removal.
7

8 **CAUSES OF ACTION**⁴

9 **FIRST CLAIM FOR RELIEF**

10 ***Ultra Vires, Violation of 50 U.S.C. § 21, et seq.***
11 **(All Respondents)**

12 61. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

13 62. The AEA does not authorize the removal of noncitizens from the United States absent a
14 “declared war” or a “perpetrated, attempted, or threatened” “invasion or predatory incursion”
15 against the “territory of the United States” into the United States by a “foreign nation or
16 government.” *See* 50 U.S.C. § 21.

17 63. The Proclamation and its implementation do not satisfy these statutory preconditions.

18 64. Additionally, the AEA permits removal only where noncitizens alleged to be “alien
19 enemies” “refuse or neglect to depart” from the United States. 50 U.S.C. § 21. The AEA also
20 requires the government to afford noncitizens alleged to be “alien enemies” sufficient time to
21 settle their affairs and to depart the United States. *See* 50 U.S.C. § 22.
22
23
24
25
26

27 ⁴ Insofar as a cause of action seeks to enjoin Respondents, Petitioner does not seek such relief
28 against the President.

65. However, Petitioner is being subject to forced removal without being afforded the privilege of voluntary departure, let alone any notice or an opportunity to respond to the designation of alien enemy.

66. The application of the AEA Process to Petitioner is therefore *ultra vires*.

SECOND CLAIM FOR RELIEF

Violation of 8 U.S.C. § 1101, *et seq.* (All Respondents)

67. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

68. The INA provides that a removal proceeding before an immigration judge under 8 U.S.C. § 1229a is “the sole and exclusive procedure” by which the government may determine whether to remove an individual, “[u]nless otherwise specified” in the INA. 8 U.S.C. § 1229a(a)(3).

69. The INA’s “exclusive procedure” and statutory protections apply to any removal of a noncitizen from the United States, including removals authorized by the AEA.

70. The AEA Process creates an alternative removal mechanism outside of the immigration laws set forth by Congress in Title 8.

71. Because the AEA Process provides for the removal of Petitioner without the procedures specified in the INA, it violates the INA.

THIRD CLAIM FOR RELIEF

Violation of 8 U.S.C. § 1158, Asylum (All Respondents)

72. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

73. The INA provides, with certain exceptions, that “[a]ny alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien’s status, may apply for asylum in

1 accordance with this section or, where applicable, section 1225(b) of this title.” 8 U.S.C. §
2 1158(a)(1).

3 74. Respondents’ application of the AEA Process to Petitioner prevents him from applying
4 for asylum in accordance with 8 U.S.C. § 1158(a)(1) and is therefore contrary to law.

5
6 **FOURTH CLAIM FOR RELIEF**

7 **Violation of 8 U.S.C. § 1231(b)(3), Withholding of Removal**
8 **(All Respondents)**

9 75. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

10 76. With certain limited exceptions, the “withholding of removal” statute, INA § 241(b)(3),
11 *codified at* 8 U.S.C. § 1231(b)(3), bars the removal of noncitizens to a country where it is more
12 likely than not that they would face persecution.

13 77. Respondents’ AEA Process violates the withholding of removal statute because it does
14 not provide adequate safeguards to ensure that Petitioner is not returned to a country where it is
15 more likely than not that he would face persecution. As a result, Respondents’ actions against
16 Petitioner are contrary to law.

17
18 **FIFTH CLAIM FOR RELIEF**

19 **Violation of the Foreign Affairs Reform and Restructuring Act of 1998 (“FARRA”),**
20 ***codified at* 8 U.S.C. § 1231 note**
21 **(All Respondents)**

22 78. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

23 79. FARRA prohibits the government from returning a noncitizen to a country where it is
24 more likely than not that he would face torture.

25 80. Respondents’ AEA Process violates FARRA because it does not provide adequate
26 safeguards to ensure that Petitioner is not returned to a country where it is more likely than not
27
28

1 that he would face torture. As a result, Respondents' actions against Petitioner are contrary to
2 law.

3 **SIXTH CLAIM FOR RELIEF**

4 ***Ultra Vires*, Violation of 50 U.S.C. § 22**
5 **(All Respondents)**

6 81. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

7 82. The AEA requires that noncitizens whose removal is authorized by the AEA, unless
8 "chargeable with actual hostility, or other crime against the public safety," be allowed the full
9 time stipulated by treaty to depart or a reasonable time in which to settle their affairs before
10 departing. *See* 50 U.S.C. § 22. The Proclamation on its face denies Petitioner any time under
11 Section 22 to settle their affairs, because it declares everyone subject to the Proclamation to be
12 "chargeable with actual hostility" and to be a "danger to public safety."
13

14 83. The government cannot invoke that exception categorically, without individualized
15 assessments. Each noncitizen must specifically be "chargeable with actual hostility" or a crime
16 against public safety to lose eligibility for voluntary departure.
17

18 84. The AEA Process thus contravenes 50 U.S.C. § 22 and is *ultra vires*.

19 85. The application of the AEA Process to Petitioner is contrary to law.

20 **SEVENTH CLAIM FOR RELIEF**

21 **Violation of Due Process Under the Fifth Amendment**
22 **(All Respondents)**

23 86. All of the foregoing allegations are repeated and realleged as if fully set forth herein.

24 87. The Due Process Clause of the Fifth Amendment provides in relevant part that: "No
25 person shall be deprived of life, liberty, or property, without due process of law." U.S. Const.
26 amend. V.
27
28

88. In denying Petitioner meaningful procedural protections to challenge his removal, the Proclamation violates due process.

EIGHTH CLAIM FOR RELIEF

Violation of Habeas Corpus (All Respondents)

89. Detainees have the right to file petitions for habeas corpus to challenge the legality of their removal under the Proclamation.

90. The summary removal of Petitioner under the Proclamation violates his right to habeas corpus. *See* 28 U.S.C. § 2241; U.S. Const. art. I, § 9, cl. 2 (Suspension Clause).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Immediately enjoin Respondents from transferring Petitioner out of the Eastern District of California during the pendency of this litigation;
- c. If Respondents have transferred Petitioner out of the Eastern District of California, order Respondents to return him to this District.
- d. Enjoin Respondents from removing Petitioner out of the country under the Proclamation during the pendency of this litigation;
- e. Grant a writ of habeas corpus to Petitioner that enjoins Respondents from transferring him to another district, or removing them out of the country pursuant to the Proclamation;
- f. Declare unlawful the Proclamation;
- g. Enjoin Respondents from applying the Proclamation to Petitioner without providing notice of any designation as an alien enemy under the Proclamation and at least 30 days' notice and an opportunity to respond prior to beginning to effectuate removal;

- h. Award Petitioner's counsel reasonable attorneys' fees under the Equal Access to Justice Act, and any other applicable statute or regulation; and
- i. Grant such further relief as the Court deems just, equitable, and appropriate.

Dated: April 14, 2025

By: /s/ Jordan Wells
Jordan Wells

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA
JORDAN WELLS (SBN 326491)
jwells@lccrsf.org
VICTORIA PETTY (SBN 338689)
vpetty@lccrsf.org
131 Steuart Street # 400
San Francisco, CA 94105
Telephone: 415 543 9444
Attorneys for Petitioner-Plaintiff

Verification

I hereby verify that the factual statements made herein are true and correct to the best of my knowledge.

Dated: April 14, 2025

By: /s/ Jordan Wells
Jordan Wells
Attorney for Petitioner