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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF TEXAS**

10 NOU XIONG next friend for V.L.; V.L.,
11 on their own behalf and on behalf of others
12 similarly-situated

13 *Petitioner-Plaintiff,*

14 vs.

15 DONALD J. TRUMP, in his official
16 capacity as President of the United States;
17 PAMELA BONDI, Attorney General of
18 the United States, in her official capacity;
19 KRISTI NOEM, Secretary of the U.S.
20 Department of Homeland Security, in her
21 official capacity; U.S. DEPARTMENT OF
22 HOMELAND SECURITY; PETE
23 HEGSETH, Secretary of the U.S.
24 Department of Defense, in his official
25 capacity; U.S. DEPARTMENT OF
26 DEFENSE; MARCO RUBIO, Secretary of
27 State, in his official capacity; U.S.
28 DEPARTMENT OF STATE; TODD
LYONS, Acting Director of U.S.
Immigration and Customs Enforcement, in
his official capacity; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; JOSH JOHNSON, in
his official capacity as Dallas Field Office
Director for U.S. Immigration and
Customs Enforcement; JIMMY
JOHNSON, in his official capacity as
Warden of the Prairieland Detention
Center; MARCELLO VILLEGAS, in his
official capacity as the Facility
Administrator of the Bluebonnet Detention

Case No.: 4:25-cv-558

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

Center; and DOES 1–10

Respondents-Defendants.

INTRODUCTION

1. Petitioner-Plaintiff Nou Xiong next friend of V.L. (“Nou” individually or “Petitioner” collectively) is a U.S. citizen wife and life partner of V.L. (“V.L.” individually or “Petitioner” collectively), who is Hmong man in immigration custody, and she has their permission to make this filing.

2. Petitioner’s husband is currently held in Prairieland Detention Center in Alvarado, Texas.

3. As of 6AM, we learned he was apparently transferred to Bluebonnet Detention Facility, and then as of now it appears he is back in Prairieland according to an ICE locator function.

4. He was notified with less than 24-hours that he was being removed to Laos or somewhere else other than the United States at 1AM on Sunday, May 25, 2025.

5. It is not clear whether he is in a plane or being bussed around to different detention facilities in Texas.

6. At around 9:08AM, May 25, 2025 counsel called ICE and confirmed that he is still at the Prairieland Detention Center.

7. Counsel and family were not notified at all.

8. Based on information and belief, V.L. is one of among 70 immigrants of Mainland Southeast Asian descent being summarily removed, disappeared, or

1 subjected to extraordinary rendition right now to Laos, Vietnam, Thailand, Myanmar,
2 Malaysian, or Cambodia.

3 9. Friend of Petitioner Nou received a call from V.L. around 2pm on Saturday,
4 May 24, 2025 informing her that he was being removed to Laos at 1AM in the
5 morning of May 25, 2025.

6 10. V.L. is Hmong and was admitted into the United States legally and he had a
7 green card that expired.

8 11. It is not presently clear to counsel exactly what immigration status V.L. has,
9 which would require time and notice to ascertain.

10 12. The Hmong people joined the United States in a war against Laos, which is
11 why they are in the United States for the most part.

12 13. V.L. is one of these Hmong people.

13 14. Removing him to Laos would be a grave danger to his life.

14 15. He has no family or relatives or connections there and is acculturated as an
15 U.S. person.

16 16. He immigrated to the United States as a child.

17 17. He has had no due process, no chance to be heard before an impartial decision
18 maker, and therefore this action violates recent Court orders, especially in *A.A.R.P. v.*
19 *Trump*, No. 24A1007, slip op. at 3 (2025) (per curiam) (citing *The Japanese*
20 *Immigrant Case*, 189 U.S. 86, 98 (1903)), and *J.G.G. v. Trump*, No. 24A931, slip op.
21 at 2 (2025) (per curiam).

22 18. This habeas corpus is filed on an emergency basis to provide that due process
23 and to review his protections, if any, under the law, U.S. Constitution, and treaty
24 provisions involving V.L.

25 19. Petitioner asserts the common law remedy of release pending legitimate
26 government action.

1 20. Petitioner is held in actual or constructive military detention and is being
2 treated as a prisoner of war.

3 ///

4 JURISDICTION AND VENUE

5 21. This case arises under the AEA, 50 U.S.C. §§ 21–24; the Administrative
6 Procedures Act (“APA”), 5 U.S.C. § 702; treaty provisions between the United
7 States, Laos, and/or the Hmong people; Article 3 of the Geneva Convention (III)
8 Relative to the Treatment of Prisoners of War, Aug. 12, 1949, [1955] 6 U.S.T. 3316,
9 3318, T.I.A.S. No. 3364; the Immigration and Nationality Act (“INA”), 8 U.S.C. §
10 1101, *et seq.* as amended by the Refugee Act of 1980 and its implementing
11 regulations; the INA, 8 U.S.C. § 1189 as amended by the USA PATRIOT Act its
12 implementing regulations, notices, and orders, the United Nations Convention
13 Against Torture (“CAT”), *see* FARRA, Pub. L. No. 105-277, div. G, Title XXII, §
14 2242, 112 Stat. 2681, 2681-822 (1998) (codified as Note to 8 U.S.C. § 1231); the All
15 Writs Act, 28 U.S.C. § 1651; the Preamble, Naturalization Clause, Commerce Clause,
16 Necessary and Proper Clause, Emoluments Clause, Guarantee Clause, Supremacy
17 Clause, the First, Fourth, Fifth, Sixth, Ninth, Tenth, Eleventh, and Fourteenth
18 Amendments to the U.S. Constitution; the separation of powers and federalism; and
19 the terms of governmental legitimacy mandated in paragraph two of the Declaration
20 of Independence and referenced as proper objects and ends of government in the
21 Preamble of the U.S. Constitution as they were expounded by the U.S. Supreme
22 Court in *Chisholm v. Georgia*. DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776);
23 *Chisholm v. Georgia*, 2 U.S. 419, 474–75 (1793) (applying the “six objects” of the
24 U.S. Constitution’s preamble as a key to interpret the rest of the constitution).

25 22. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 *et seq.*
26 (habeas corpus); art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); 28
27 U.S.C. § 1331; 28 U.S.C. § 1346 (United States as defendant); 28 U.S.C. § 1361
28

(mandamus); 28 U.S.C. § 1651 (All Writs Act), and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367.

23. 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; the APA 5 U.S.C. § 706, and the Court’s inherent equitable powers.

24. The Court has personal jurisdiction over Respondents, because they actually and constructively run, operate, control, direct, or otherwise maintain the detention of Petitioner in ICE detention facilities located in this District and they “can be reached by service of process.” *Rasul v. Bush*, 542 U.S. 466, 478–79 (2004).¹ Respondents have also targeted members of Petitioner’s class to be similarly detained and processed in this District.

25. 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 the Petitioners were detained in the Respondents’ custody within the Northern District of Texas; a substantial part of the events and omissions giving rise to the claim occurred in this district; and Respondents are agencies of the United States or officers of the United States acting in their official capacity.

STANDARD OF REVIEW

¹ Habeas corpus jurisdiction runs to the custodians, not the Petitioner, and Respondents are Petitioner’s actual and constructive custodians. *See Boumediene v. Bush*, 553 U.S. 723, 747 (2008) (“[A] petitioner’s status as an alien was not a categorical bar to habeas corpus relief.” (citing *Somerset’s Case* (1772) 20 How. St. Tr. 1, 8–82 (Eng.))); *id.* at 751 (“[P]rudential barriers . . . are not relevant here.”); *id.* 795 (“[Habeas petitioners] need not exhaust the review procedures in the Court of Appeals before proceeding with their habeas actions in District Court.”); *id.* at 746 (citing *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 499, n.15 (1973)); *Braden*, 410 U.S. at 497 (“[O]verruling . . . *Ahrens*.”); *see also* *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024) (“*Chevron* is overruled.”); *SEC v. Jarkesy*, 603 U.S. 109, 140 (2024) (“When a matter ‘from its nature, is the subject of a suit at the common law,’ Congress may not ‘withdraw [it] from judicial cognizance.’” (quoting *Murray’s Lessee v. Hoboken Land & Improv. Co.*, 59 U.S. 272, 284 (1855))).

1 26. The standard of review is *de novo* review of law and fact, and this Court may
2 make findings of fact and admit exculpatory evidence to support those findings not
3 admitted in any previous or different agency, court, or tribunal including to declare
4 facts that may control other courts and federal agencies under this Court's
5 jurisdiction. *Cone v. Bell*, 556 U.S. 449, 472 (2009) ("[T]he claim is reviewed *de*
6 *novo*."); *Boumediene*, 553 U.S. at 786–87.

7 27. Specifically, under the AEA, Nou Xiong next friend of V.L. is entitled to
8 notice about what legal and constitutional basis V.L. is being removed.

9 28. She also requests a hearing and process to admit and present exculpatory
10 evidence to rebut the allegations against V.L., including that he is an alien enemy and
11 to demonstrate he is a refugee and/or deserves withholding of removal or CAT
12 protection, and also protection of relevant treaty provisions. 8 U.S.C. §
13 1101(a)(42)(A).

14 PARTIES

15 A. *Petitioner-Plaintiff ("Petitioner")*

16 29. Petitioner Nou Xiong is a U.S. citizen wife and life partner of V.L., who is
17 Hmong and seeks immigration relief in the United States.

18 B. *Respondents-Defendants ("Respondents")*

19 30. Respondent Donald Trump is the President of the United States. He is sued in
20 his official capacity. In that capacity, he issued several proclamations and orders
21 including Proclamation 10903 under the AEA and issued related Executive Orders
22 14165 and 14159. Injunctive relief is not sought against the President.

23 31. Respondent Pamela J. Bondi is the U.S. Attorney General at the U.S.
24 Department of Justice, which is a cabinet-level department of the United States
25 government. She is sued in her official capacity.

26 32. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland
27 Security, which is a cabinet-level department of the United States government. She is
28

1 sued in her official capacity. In that capacity, Respondent Noem is responsible for the
2 administration of the immigration laws pursuant to 8 U.S.C. § 1103.

3 33. Respondent U.S. Department of Homeland Security (“DHS”) is a cabinet-level
4 department of the United States federal government. Its components include
5 Immigration and Customs Enforcement (“ICE”). Respondent DHS is a legal
6 custodian of Petitioner.

7 34. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is
8 responsible for ICE’s policies, practices, and procedures, including those relating to
9 the detention of immigrants during their removal procedures. Respondent Lyons is a
10 legal custodian of Petitioner. Respondent Lyons is sued in his official capacity.

11 35. Respondent ICE is the sub-agency of DHS that is responsible for carrying out
12 removal orders and overseeing immigration detention. Respondent ICE is a legal
13 custodian of Petitioner.

14 36. Respondent Pete Hegseth is the Secretary of Defense at the U.S. Department of
15 Defense. He is sued in his official capacity. Respondent Hegseth is responsible for
16 administering president’s war powers under Article II of the U.S. Constitution, 50
17 U.S.C. § 21, and several presidential orders, proclamations, memoranda, and other
18 executive actions that administer detentions, removals, disappearances, and/or
19 extraordinary renditions of Petitioner and those in Petitioner’s class.

20 37. Respondent U.S. Department of Defense (“DoD”), which is a cabinet-level
21 department of the United States government. DoD is a legal custodian of the
22 Petitioner.

23 38. Respondent Marco Rubio is the Secretary of State at the U.S. Department of
24 State. He is sued in his official capacity. Respondent Rubio is responsible for
25 designating TdA as a terrorist organization under the Immigration and Nationality
26 Act as amended by the USA PATRIOT ACT at 8 U.S.C. § 1189, the Authorizations
27 for Use of Military Force of 2001 and 2002, the AEA, and several executive
28

1 proclamations, orders, memoranda, and other executive actions indicating an invasion
2 and/or predatory incursion by TdA, Venezuela, and immigrants generally.

3 39. Respondent U.S. Department of State, which is a cabinet-level department of
4 the United States government.

5 40. Respondent Josh Johnson is the acting director of ICE's Dallas Field Office,
6 which is responsible for ICE activities in the Prairieland Detention Center. He is sued
7 in his official capacity.

8 41. Respondent Jimmy Johnson is the Warden of the Prairieland Detention Center,
9 which detains individuals suspected of civil immigration violations pursuant to a
10 contract with ICE. Respondent Doe is the immediate physical custodian responsible
11 for the detention of Petitioner. He is sued in his official capacity.

12 42. Respondent Marcello Villegas is the Facility Administrator of the Bluebonnet
13 Detention Center, which detains individuals suspected of civil immigration violations
14 pursuant to a contract with ICE. Respondent Doe is or may become a transitory,
15 immediate physical custodian responsible for the detention of Petitioner. He is sued
16 in his official capacity.

17 **FACTUAL BACKGROUND**

18 ***“Obsta Principiis,” the Separation of Powers, and Habeas Corpus as it Existed in*** 19 ***1789***

20 43. In *Boumediene v. Bush*, the Court unanimously agreed that “‘at the absolute
21 minimum’ the [Suspension] Clause protects the writ as it existed when the
22 Constitution was drafted and ratified.” *Boumediene v. Bush*, 553 U.S. 723, 746
23 (2008) (majority opinion) (quoting *INS v. St. Cyr*, 533 U.S. 289, 301 (2001)); *id.* at
24 815 (Roberts, C.J., dissenting) (“‘[A]t the absolute minimum,’ the Suspension Clause
25 protects the writ ‘as it existed in 1789.’” (quoting *St. Cyr*, 533 U.S. at 301)). This
26 holding was extended and upheld by the U.S. Supreme Court. *DHS v. Thuraissigiam*,
27 591 U.S. 103, 116 (2020) (citing *St. Cyr*, 533 U.S. at 301).

1 44. In 1789, the federal courts were established under Judiciary Act of 1789, which
 2 included the first federal habeas corpus statute in the first All Writs Act in Section 14
 3 of the Judiciary Act of 1789, which is now codified at 28 U.S.C. § 1651 and 28
 4 U.S.C. § 2241 as cited in this petition. Making this the applicable constitutional
 5 minimum here speaks to the Supreme Court's enduring confidence in the
 6 constitutionality of the original habeas corpus statute. *See, e.g., St. Cyr*, 533 U.S. at
 7 305 n.25 ("§ 2241 descends directly from § 14 of the Judiciary Act of 1789 and the
 8 1867 Act. . . . Its test remained undisturbed by either AEDPA or IIRIRA."); *Felker v.*
 9 *Turpin*, 518 U.S. 651, 659 (1996); *see Ex parte Yerger*, 75 U.S. 85, 105 (1868).

10 45. *Ex parte Bollman* is cited as the leading case regarding what the writ of habeas
 11 corpus was as of 1789 as it arose under the Judiciary Act of 1789, § 14 and
 12 discharged the famous German immigrant Erik Bollman into the United States,
 13 defeating Thomas Jefferson's deportation orders to the contrary. *Ex parte Bollman*, 8
 14 U.S. 75, 136–37 (1807), *contradicting* Letter Thomas Jefferson to James Wilkinson
 15 (Feb. 3, 1807) (early access document), *and* Letter from Thomas Jefferson to William
 16 C. C. Claiborne (Feb. 3, 1807) (early access document) (attempting to define secret
 17 presidential orders for "the military arrest & deportation" of "Swartwout, Bollman,
 18 Burr, Blannerhasset, Tyler &c." to exclude U.S. citizens).

19 46. In general, the United States always extended rights to foreigners litigating in
 20 federal court even if they were stateless. *Caignet v. Pettit*, 2 U.S. 234, 235 (1795).

21 47. The United States is an anti-Hobbesian experiment in government that opposes
 22 Thomas Hobbes' modern argument for the unity of powers in one globalized dictator-
 23 in-chief known as *Leviathan*. THOMAS HOBBS, *LEVIATHAN* frontispiece (A.R.
 24 Waller ed., 1904), *rejected by* JAMES OTIS, *COLLECTED POLITICAL WRITINGS OF*
 25 *JAMES OTIS* 241 (Richard Samuelson ed., 2015).

26 48. Hobbes' theories of uniting the powers of church, state, king, and people in one
 27 man were deposed in America, where the theories of separated powers championed
 28

1 by Montesquieu and Coke were adopted. Joshua J. Schroeder, *Courting Oblivion Part*
2 *II: How to Revive American Reconstruction by Feigning Forgetfulness*, 73 CLEV. ST.
3 L. REV. 515, 534 (2025).

4 49. In the far-flung empire of a Hobbesian monarch such as the English Crown, the
5 only path forward in America was originally penned by Jeremiah Dummer under the
6 ancient maxim *obsta principiis* (“resist beginnings”). OTIS, *supra*, at 162, 331
7 (“*Obsta Principiis* is a maxim never to be forgot.” (citing JEREMIAH DUMMER, A
8 DEFENCE OF THE NEW-ENGLAND CHARTERS 29 (1765) (1715))).

9 50. The old and great defense of Mr. Dummer on the subject of immigrant rights
10 that inspired the American Revolution and its relation to *obsta principiis* bears
11 repeating here:

12 And to complete the oppression, when they upon their trial claimed the
13 rights of Englishmen, they were scoffingly told, *those things would not*
14 *follow them to the ends of the earth*. Unnatural insult; must the brave
15 adventurer, who with the hazard of his life and fortune, seeks out new
16 climates to enrich his mother country, be denied those common rights,
17 which his countrymen enjoy at home in ease and indolence? Is he to be
18 made miserable, and a slave by his own acquisitions? Is the laborer alone
19 unworthy of his hire, and shall they only reap, who have neither sowed
nor planted? Monstrous absurdity! Horrid inverted order! . . . Burnt
houses may rise against out of their ashes, and even more beautiful than
before, but ‘tis to be feared that *liberty once lost, is lost forever*.

20 DUMMER, *supra*, 23, 44 (emphasis added) (noting that denial of habeas corpus
21 was one of the unnatural insults propagated by the English empire against
22 English immigrants in America).

23
24 51. Following Otis’s lead John Adams later announced: “*Obsta principiis*, nip the
25 shoots of arbitrary power in the bud, is the only maxim which can ever preserve the
26 liberties of any people.” JOHN ADAMS, THE REVOLUTIONARY WRITINGS OF JOHN
27 ADAMS 175 (2000).

52. Founder, framer, and inaugural Justice of the U.S. Supreme Court James Wilson expounded the most fundamental rights of the citizen in America were transplanted with the first British subjects to America by virtue of their most fundamental right to leave the British experiment behind with their rights intact. 2 JAMES WILSON, COLLECTED WORKS OF JAMES WILSON 786 (Kermit L. Hall & Mark David Hall eds., 2007) (“Citizens, who emigrate, carry with them their rights and liberties.”).

53. Upon this right to leave, Wilson interpreted America’s first vindication of the consent of the governed mandated by the Declaration of Independence as a fundamental requirement to any government’s legitimacy. 1 WILSON, *supra*, at 643–44 (citing PENN. CONST. 1790, art. IX, § 25); DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).²

54. During the framing of the U.S. Constitution, during heated debates with Wilson of Pennsylvania, Virginia founder and framer George Mason agreed and coined this policy as “opening a wide door for emigrants.” 1 WILSON, *supra*, at 140.

55. Justice Wilson, moreover, envisioned a system of “unrestrained immigration” according to the ratified Pennsylvania Constitution he himself drafted for all races and genders of people. *Id.* at 643; PENN. CONST. 1790, art. IX, § 25.

56. Justice Wilson ushered this system into reality in *Collet v. Collet*, where his judgement for a liberal and open invitation to immigrants still stands according to his interpretation of the Naturalization Clause, which made the gender and race limitations in the first Naturalization Act a minimum upon which the states could (and did) include new female and non-white citizens, which later became controversial in the decades leading up to the Civil War. *Collet v. Collet*, 2 U.S. 294, 295–96 (D.C.C. Penn. 1792); *cf.* LUCY STONE, WOMAN SUFFRAGE IN NEW JERSEY 12

² This appears to be coeval with Hannah Arendt’s later iteration of a “right to have rights” adopted by a plurality in *Trop v. Dulles*. *Trop v. Dulles*, 356 U.S. 86, 102 (1958) (plurality opinion), *implicitly drawn from* HANNAH ARENDT ORIGINS OF TOTALITARIANISM 315 (1962).

1 (1867) (“In New Jersey, women and negroes voted from 1776 to 1807, a period of
2 thirty-one years.”).³

3 57. According to Wilson, the only apparent restrictions on the immigrant imposed
4 by the founders were the naturalization requirements to serve in Congress and the
5 natural born requirement excluding immigrants from the presidency. 1 WILSON,
6 *supra*, at 639–40.

7 58. In *Henfield’s Case*, the rights of the immigrant to travel were put to the test
8 when Citizen Genêt appealed from the President to the people, attempting to stoke
9 another revolution in government. *Henfield’s Case*, 11 F. Cas. 1099, 1120 (C.C.D.
10 Pa. 1793) (No. 6360).

11 59. Genêt opened prize courts up and down the Eastern seaboard, where he
12 enlisted U.S. citizens to fight as mercenaries in French wars with the world, including
13 against Great Britain. William R. Casto, *The Early Supreme Court Justices’ Most*
14 *Significant Opinion*, 29 OHIO N.U.L. REV. 173, 176 (2002).

15 60. Then President Washington opposed U.S. participation in wars with nations the
16 United States was at peace with, and issued his Proclamation of Neutrality in
17 response. *Id.* at 193; *cf.* *Glass v. The Betsey*, 3 U.S. 6, 16 (1794) (closing Genêt’s
18 prize courts).

19 61. A U.S. citizen named Gideon Henfield was successfully conscripted by Genêt
20 into French service, and the United States arrested and charged Henfield with treason
21 under Washington’s proclamation. *Henfield’s Case*, 11 F. Cas. at 1110.

22 62. Justice Wilson presided over the case, where Henfield claimed a right to
23 immigrate as a defense of treason. *Id.*

24 63. The District Attorney argued:
25

26 ³ In fact, Pennsylvania’s open door to Black immigrants from the South fleeing slavery, became the
27 issue upon which the Civil War was fought after *Prigg v. Pennsylvania* erroneously struck down the
28 Pennsylvania sanctuary law to deport Black citizens back into slavery in the South. *Prigg v.*
Pennsylvania, 41 U.S. 539 (1842).

1 That the emigration from one country and the reception in another must
2 be substantially and definitively effected before the acts of hostility. Let
3 it not be said that this doctrine violates the rights of man. It is on the
rights of man that it is established.

4 *Id.* at 1118.

5 64. In response, Wilson clearly maintained: “Emigration is, undoubtedly, one of
6 the natural rights of man.” *Id.* at 1120.

7 65. However, Wilson appeared to deny that by offering himself as a mercenary to
8 France that Henfield emigrated, upholding the common law treason suit. *Id.*

9 66. The jury, nevertheless, acquitted Henfield and Genêt stoked a terrorist
10 movement against Justice Wilson and President Washington that eventually
11 foundered. *Id.* at 1122; Letter from Thomas Boylston Adams to Abigail Adams (Aug.
12 10, 1793), in 9 THE ADAMS PAPERS 443–44 (C. James Taylor et al. eds., 2009)
13 (noting how Americans went “raving mad” with French politics and that during this
14 time handbills were “distributed representing the President and Judge Willson with
15 their heads under the Guillotine”).

16 67. Then, the French Terror took hold and demolished the political party that sent
17 Genêt as an emissary of France. MME. ROLAND, THE PRIVATE MEMOIRS OF MADAME
18 ROLAND 113, 371 (1901) (“O my friends! May propitious fate conduct you to the
19 United States, the only asylum of freedom!”).

20 68. After this, Genêt himself—a self-avowed French *Terroriste*—applied for and
21 was granted asylum in the United States. 26 THOMAS JEFFERSON, THE PAPERS OF
22 THOMAS JEFFERSON 685–92 (John Catanzariti ed., 1995).

23 69. Many other controversial figures were granted the benefits of the United
24 States’ open door to the immigrant including Erik Bollman, who was deported by
25 Thomas Jefferson into the United States from the Louisiana Territory to stand trial for
26 aiding and abetting Aaron Burr’s allegedly treasonous expedition to revolutionize
27 Mexico. *See* Letter Thomas Jefferson to James Wilkinson (Feb. 3, 1807) (early access
28

document); Letter from Thomas Jefferson to William C. C. Claiborne (Feb. 3, 1807) (early access document). Bollman's petition for writ of habeas corpus was granted to defeat Jefferson's deportation orders and Bollman was released into the United States. *Ex parte Bollman*, 8 U.S. 75, 136–37 (1807).

70. The habeas corpus petition of George Holmes, a man wanted for murder in Canada, was granted by the Supreme Court of Vermont, according to Chief Justice Taney's opinion above, releasing him into the United States. *Ex parte Holmes*, 12 Vt. 631, 641–42 (1840), *extending* *Holmes v. Jennison*, 39 U.S. 540, 561 (1840) (Opinion of Taney, C.J.).

71. Chief Justice Taney's decision in *Holmes* was extended in *The Amistad* to release former Black slaves of that ship into the United States as immigrants rather than deporting them as traitors or replevining them as property to face slavery and death in Cuba. *United States v. The Amistad*, 40 U.S. 518, 552–53 (1841) (quoting *Holmes*, 39 U.S. at 569 (Opinion of Taney, C.J.)).

72. According to several fundamental holdings of the U.S. Supreme Court spanning centuries, V.L. is entitled to habeas corpus as it existed in 1789, which is symbolized by the writs granted to the Africans of *The Amistad*, George Holmes, and Erik Bollman who were all released *into* the United States, and the asylum given to the self-acclaimed terrorist Citizen Genêt—a man who led mobs who threatened to drag President Washington out of his house to apparently kill him. *See* Letter from John Adams to Thomas Jefferson (June 30, 1813) (early access document) (describing “the terrorism of a former day . . . excited by Genet, in 1793, when ten thousand People in the Streets of Philadelphia, day after day, threatened to drag Washington out of his House, and effect a Revolution in government”).

The Neutrality Acts from 1794 to Present Day

73. After *Henfield's Case*, Congress codified the Proclamation of Neutrality into the Neutrality Act of 1794, which was repealed and replaced several times and is now

1 codified at 18 U.S.C. §§ 956–60 and surrounding sections. Neutrality Act of 1794,
2 Pub. L. 3–50, 1 Stat. 381, *repealed and replaced by several laws now codified at 18*
3 *U.S.C. §§ 956–60 et seq.*

4 74. The Neutrality Act of 1794 was initially superseded by the Neutrality Act of
5 1817, 3 Stat. 370, which were both codified and consolidated by the Neutrality Act of
6 1818, 3 Stat. 447, that were subsequently codified. Edward Dumbauld, *Neutrality*
7 *Laws of the United States*, 31 AM. J. INT. L. 258, 263 (1937).

8 75. In response to a series of events on the border of Canada and the United States
9 known as the Canadian Rebellion of 1837, in which several U.S. citizens were killed
10 or wounded on the U.S. side of Niagara Falls, it was difficult to stop U.S. persons
11 from avenging themselves. On January 5, 1838, then President Van Buren issued a
12 Proclamation of Neutrality and two months later March 10, 1838, Congress passed
13 and Act, 5 Stat. 212, which allowed the executive to enforce the Neutrality laws by
14 seizing munitions and vessels about to be used in unlawful hostilities. This act
15 expired after two years. *Id.*

16 76. Several cases arising under the Neutrality Acts were litigated to determine the
17 lawfulness of frequent “[e]xpeditions in aid of Cuban insurgents” and occasional
18 activity “in connection with sporadic revolts in other Latin-American countries.” *Id.*
19 at 264 n.39.

20 77. Eventually, a Joint Resolution was enacted on April 22, 1898 during the
21 Spanish-American War to prohibit exports used in war, which was invoked by
22 President Theodore Roosevelt by proclamation on October 14, 1905. *Id.* at n.40; 30
23 Stat. 739; 30 Stat. 3183.

24 78. This Joint Resolution was amended on March 14, 1912 to make exportation of
25 munitions or arms to any American country pursuant to a duly issued presidential
26 proclamation, which was imposed by President Taft on March 14, 1912 by
27
28

1 proclamation and again by President Wilson on October 19, 1915. Dumbauld, *supra*,
2 at 265; 37 Stat. 630.

3 79. Several cases litigating the neutrality laws arose during and around the time of
4 World War I. *See* Dumbauld, *supra*, at nn.43–44.

5 80. Congress amended the Neutrality Acts by two acts passed on March 4, 1915
6 and June 15, 1917, and a Joint Resolution of January 31, 1922 extended the
7 applicability of provisions enacted in 1912, which resulted in several embargoes
8 directed against exportation of arms to foreign countries. 38 Stat. 1226; 40 Stat. 222;
9 42 Stat. 361; Dumbauld, *supra*, at n.52.

10 81. Congress enacted a Joint Resolution affecting the sale of arms and munitions to
11 “those countries now engaged in armed conflict in Chaco, which was put into effect
12 by President Franklin Delano Roosevelt by proclamation and upheld by the U.S.
13 Supreme Court in *United States v. Curtis-Wright Export Corp.*, 299 U.S. 304 (1936).”
14 *Id.* at 267; 48 Stat. 811; 48 Stat. 1744–45.

15 82. Congress passed Joint Resolutions on August 31, 1935, February 29, 1936, and
16 January 8, 1937 mandating neutrality in several ways. Dumbauld, *supra*, at 268–69;
17 49 Stat. 1081; 49 Stat. 1152; 75th Cong. Pub. No. 1.

18 83. In May of 1937 Congress passed the Neutrality Act of 1937, 50 Stat. 121.
19 Dumbauld, *supra*, at 269.

20 84. After Nazi Germany invaded Czechoslovakia and Poland, on November 4,
21 1939 President Roosevelt signed the Neutrality Act of 1939, which repealed the
22 Neutrality Acts of 1935 and 1937. 54 Stat. 4.

23 85. Due to several events in the months leading up to the U.S. involvement in
24 World War II, several provisions of the Neutrality Act of 1939 were repealed on
25 November 17, 1941 by Joint Resolution. 55 Stat. 764.

26 86. These repeals left several provisions in force including those asserted here: 18
27 U.S.C. §§ 956–60 and other laws designed to criminalize the instigation of wars
28

1 between the United States and other nations whom the United States is presently at
2 peace including, as relevant here, the sovereign nation of Venezuela.

3 ***President Trump's General and Specific Violations of Neutrality and the***
4 ***Separation of Powers***

5 87. On January 20, 2025, President Trump issued his Executive Order 14159
6 entitled "Protecting the American People Against Invasion," alongside his
7 Proclamation 10886 "Declaring a National Emergency at the Southern Border of the
8 United States. Exec. Order No. 14159, 90 Fed. Reg. 8443; Exec. Proc. 10886, 90 Fed.
9 Reg. 8327. This order and proclamation generally described undocumented
10 immigrants as terrorists and enemies of the state according to a theory described by
11 Press Secretary Karoline Leavitt that all undocumented immigrants can be presumed
12 criminals and terrorists without due process and equal protection of law and in
13 violation of the presumption of innocence:

14 [I]f you are an individual, a foreign national, who illegally enters the
15 United States of America, you are, by definition, a criminal. . . .
16 [C]riminal drug dealers, the rapists, the murderers, the individuals who
17 have committed heinous acts on the interior of our country and who have
18 *terrorized* law-abiding American citizens, absolutely, those should be
the priority of ICE. But that doesn't mean that the other illegal criminals
who entered our nation's borders are off the table.

19 *Press Briefing by Press Secretary Karoline Leavitt, WHITE HOUSE (Jan. 29, 2025),*
20 *[https://www.whitehouse.gov/briefings-statements/2025/01/press-briefing-by-press-](https://www.whitehouse.gov/briefings-statements/2025/01/press-briefing-by-press-secretary-karoline-leavitt/)*
21 *secretary-karoline-leavitt/ (using 8 U.S.C. § 1325 to presumptively declare all*
22 *undocumented immigrants criminals without due process or equal protection of the*
23 *law).*

24 88. Executive Order 14159 also directed Secretary of State Marco Rubio to
25 designate immigrant groups as terrorist organizations according the USA PATRIOT
26 Act amended portions of the Immigration and Nationality Act ("INA"), which
27
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1 Secretary Rubio did on February 6, 2025. Public Notices 12671 & 12672, 90 Fed.
2 Reg. 10030–31 (designating TdA a terrorist organization (citing 8 U.S.C. § 1189)).

3 89. On March 14, 2025, President Trump signed his Proclamation 10903 entitled
4 “Invocation of the Alien Enemies Act Regarding the Invasion of the United States by
5 Tren de Aragua.” Exec. Proclamation 10903, 90 Fed. Reg. 13033 (made public the
6 next day on March 15, 2025).

7 90. This Proclamation invoked the AEA for the first time in American history
8 without a declaration of war or actual invasion or predatory incursion. *Id.*, citing
9 AEA, 50 U.S.C. § 21 (1798).

10 91. This Proclamation is actually and constructively a feudal, unconstitutional, and
11 ultra vires declaration of war.

12 92. On May 20, 2025, in a hearing before Congress, Respondent Secretary Noem
13 could not identify the location of the Suspension Clause in the U.S. Constitution.
14 When asked what habeas corpus was, she revealed her belief that “habeas corpus is a
15 constitutional right that the president has to be able to remove people from this
16 country.” Even after being immediately corrected by Senator Margaret Wood
17 Hassan, Respondent Secretary Noem did not admit her error, but boldly asserted her
18 belief that “the President of the United States has the authority under the Constitution
19 to decide if it should be suspended or not.” In several statements, orders,
20 proclamations and other executive actions Respondent President Trump appeared to
21 endorse if not originate Respondent Noem’s views.

22 93. It appears that Proclamation 10903 and the general, arbitrary, and unbounded
23 war powers it invokes and refers to also arises from these dangerous, authoritarian,
24 and tyrannical views that Respondents share with the divinely appointed personal rule
25 of European kings and their sycophants. Against the whims of such kings, asserted as
26 the Crown prerogative to murder and destroy the people at will in the anti-American
27 1774 case *Campbell v. Hall*, Lord Edward Coke wisely defended the people of
28

1 England from their despotic rulers by enacting the first Habeas Statute disbanding the
2 Star Chamber upon his particular invocation of the sacred right to life just before
3 England sank into Civil War. *Compare* Campbell v. Hall (1774) 1 Cowp. 206, 208,
4 211–12 (Eng.), *with* 3 EDWARD COKE, INSTITUTES *181–83 (asserting the original
5 right to life and lambasting all such Star Chamber opinions as a violation of this
6 right). Calling upon this history specifically, the U.S. Supreme Court firmly held that
7 “as assurance against ancient evils, our country, in order to preserve ‘the blessings of
8 liberty’, wrote into its basic law the requirement, among others, that the forfeiture of
9 the lives, liberties or property of people accused of crime can only follow if
10 procedural safeguards of due process have been obeyed.” Chambers v. Florida, 309
11 U.S. 227, 237 n.10 (1940) (citing Lord Coke’s original statute as The Habeas Corpus
12 Act, 1640 (16 Car. 1, c. 10)).

13 94. Proclamation 10903 claimed that a gang called Tren de Aragua invaded the
14 United States on behalf of or as a part of the sovereign nation of Venezuela—a bold
15 assertion that appears to declare a war exists between the United States and
16 Venezuela—a declaration that only Congress can make. Exec. Proclamation 10903,
17 90 Fed. Reg. 13033; U.S. CONST. art. I, § 8, cl. 11; *see* Sarnoff v. Shultz, 409 U.S.
18 929, 930 (1972) (Douglas, J., dissenting) (noting that the constitutionality of
19 presidential war powers without a congressional declaration war remains undecided
20 by the courts (citing *Flast v. Cohen*, 392 U.S. 83 (1968))); *cf.* *Curtiss-Wright*, 299
21 U.S. at 319 (limiting peacetime exertions of the foreign affairs power to executive
22 acts that tend to keep peace); *Little v. Barreme*, 6 U.S. 170, 179 (1804) (similarly
23 denying immunities to privateers following presidential war orders on the high seas
24 without due congressional authorization).

25 95. Moreover, President Trump is currently violating a series of court orders
26 instructing him to return individuals disappeared to the controversial super-max
27 prison known as CECOT in El Salvador without due process or equal protection of
28

1 law. *See, e.g.*, Noem v. Abrego Garcia, No. 24A949, slip op. at 2 (2025) (Statement
2 of Sotomayor, J.), *defied by* Exec. Proclamation 10903, 90 Fed. Reg. 13033; *see also*,
3 *e.g.*, J.G.G. v. Trump, No. CV 25-766, 2025 WL 890401, at *2 (D.D.C. Mar. 24,
4 2025) (Boasberg, J.) (“[B]efore plaintiffs may be deported, they are entitled to
5 individualized hearings to determine whether the Act applies to them at all.”); J.A.V.
6 v. Trump, 1:25-cv-072, *36 (S.D. Tex. 2025).

7 96. President Trump has removed and will continue removing individuals with
8 duly granted visas. *See, e.g.*, Am. Assoc. U. Prof. v. Rubio, 25-CV-10685 (U.S. Dist.
9 Mass. 2025).

10 97. Trump has ordered his administration to detain all immigrants to the fullest
11 extent of the law, resulting in indefinite detentions of immigrants without any
12 apparent reason including immigrants who have visas, who have had a successful
13 bond hearing, or who have been granted parole as V.L. had been here. Exec. Order
14 No. 14165, 90 Fed. Reg. 8467, § 5.

15 98. It appears that by naming certain immigrant groups specifically and
16 undocumented immigrants generally as enemies of the state that President Trump has
17 violated the Neutrality Acts including their spirit embodied by President
18 Washington’s Proclamation of Neutrality that was codified in 1794. *Id.*; Exec.
19 Proclamation 10903, 90 Fed. Reg. 13033; Exec. Order No. 14159, 90 Fed. Reg. 8443;
20 Leavitt, *supra*.

21 ***The Alien Enemies Act of 1798***

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

25 100. The AEA was amended only once on April 16, 1918 to include women, as the
26 original text of the AEA clearly indicated that its provisions only applied to adult
27 males above the age of fourteen. 40 Stat. 531.

1 101. The constitutionality of the AEA remains undecided in the U.S. Supreme
2 Court. *Ludecke v. Dulles*, 335 U.S. 160, 163 (1948) (refusing to reach “questions of
3 interpretation and constitutionality”).

4 102. In so far as *Ludecke* resolved the constitutionality of the AEA, it is clearly
5 distinguished from this petition, because V.L. is not a Nazi or enemy of the United
6 States, he is not a “native[], citizen[], denizen[], or subject[]” of TdA or any other
7 terror group, nor can anyone be, there is no declaration of war and no predatory
8 incursion, the president is obstructing and delaying review by the federal courts, and
9 he is defying federal court orders designed to facilitated federal judicial review of
10 Exec. Proclamation 10903, 90 Fed. Reg. 13033. *Id.* at 171 (stating in obiter dicta that
11 the Supreme Court was predisposed to find the AEA constitutional under the
12 circumstances and due to its vintage, but indicating that it only contemplated the
13 statute’s use during “the existence of the ‘declared war,’” not during a time of peace,
14 and because “resort to the courts” was available to question the application of the
15 AEA’s provisions, presuming the president would follow the decisions, findings, and
16 orders of the judiciary); *cf.* Ian Ward, *There’s No Need to Guess. JD Vance Is Ready*
17 *to Ignore the Courts*, POLITICO MAG. (Feb. 11, 2025, 11:18 AM),
18 [https://www.politico.com/news/magazine/2025/02/11/jd-vance-trump-executive-](https://www.politico.com/news/magazine/2025/02/11/jd-vance-trump-executive-power-supreme-court-00203537)
19 [power-supreme-court-00203537](https://www.politico.com/news/magazine/2025/02/11/jd-vance-trump-executive-power-supreme-court-00203537); @JDVance, X (Feb. 9, 2025),
20 <https://x.com/JDVance/status/1888607143030391287> (“Judges aren’t allowed to
21 control the executive’s legitimate power.”).

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

3 104. The AEA can thus be triggered in only two situations. The first is when a
4 formal declared war exists with a foreign nation or government. The second is when a
5 foreign nation or government perpetrates, attempts, or threatens an invasion or
6 predatory incursion against the territory of the United States. *Id.*

7 105. To trigger the AEA, the President must make a public proclamation of the
8 declared war, or of the attempted or threatened invasion or predatory incursion. *Id.*

9 106. The AEA also provides that noncitizens must be permitted the full time to
10 depart as stipulated by any treaty between the United States and the enemy nation,
11 unless the noncitizen has engaged in “actual hostility” against the United States. If no
12 such treaty exists, the President may declare a “reasonable time” for departure,
13 “according to the dictates of humanity and national hospitality.” *Id.* at § 22.

14 107. V.L. has not engaged in actual hostility against the United States or any other
15 crime against the public safety.

16 108. We have not had time to pursue treaty stipulation research. *Cf.* *Chew Heong v.*
17 *United States*, 112 U.S. 536, 560 (1884) (deciding that the U.S.-China Treaty of
18 Peace, Amity, and Commerce was not repealed by the Chinese Exclusion Act).

19 109. Under the AEA, noncitizens who “refuse or neglect to depart” pursuant to
20 either treaty stipulations or presidential declaration of a reasonable time to depart, if
21 there are no treaty stipulations, are subject to removal. 50 U.S.C. § 21.

22 110. Moreover, the AEA cannot be used to detain, remove, disappear, or
23 extraordinary rendition individuals who are not clearly within the class of noncitizens
24 affected, and in order to ensure that U.S. citizens and others are not so mistreated in
25 violation of the Eighth Amendment under *Trop v. Dulles* and similar cases, the U.S.
26 Supreme Court mandated that resort to the federal courts is required for the AEA to
27 remain constitutional. *Ludecke*, 335 U.S. at 171.

1 111. Lenity, grace, and mercy has always been applied to even the most doomed
2 immigrant suits to avoid an arbitrary and capricious system that allows the president
3 to treat U.S. citizens and lawful immigrants as removable aliens without due process
4 or equal protection of the law. *Kwock Jan Fat v. White*, 253 U.S. 454, 465 (1920);
5 *see also* *Johnson v. Eisentrager*, 339 U.S. 763, 769–70 (1950) (noting the question of
6 citizenship mandates access to the courts (citing *Chin Yow v. United States*, 208 U.S.
7 8 (1908); *Perkins v. Elg*, 307 U.S. 325 (1939))).

8 112. The AEA has been used only three times in American history, all during actual
9 or imminent wartime under declarations of war.

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

13 114. The AEA was invoked a second time during World War I by President Wilson.
14 Upon information and belief, there were no removals effectuated pursuant to the
15 AEA during World War I.

16 115. The AEA was used again during World War II, though it was never used as a
17 widespread method of removal.

18 116. However, “over 31,000 suspected enemy aliens and their families, including a
19 few Jewish refugees from Nazi Germany, had been interned at Immigration and
20 Naturalization Services (INS) internment camps and military facilities throughout the
21 United States.” *World War II Enemy Alien Control Program Overview*, NAT’L
22 ARCHIVES: WEBSITE, [https://www.archives.gov/research/immigration/enemy-](https://www.archives.gov/research/immigration/enemy-aliens/ww2)
23 [aliens/ww2](https://www.archives.gov/research/immigration/enemy-aliens/ww2) (last accessed May 11, 2025).

24 117. Furthermore, “over 6,600 individuals of Japanese, German, and Italian
25 ancestry, along with some of their families” were deported from one of fifteen Latin
26 American countries to be interned in the United States. *Id.*

1 118. Based on information and belief, several thousand of these interns were
2 eventually deported under the AEA at the end of the hostilities of World War II. *See*
3 Exec. Proclamation 2655, 10 Fed. Reg. 8947 (July 20, 1945); *see also* 10 Fed. Reg.
4 12189 (Sept. 28, 1945).

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

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

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

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

21 123. It was not until the end of hostilities that the President provided for the removal
22 of alien enemies from the United States under the AEA. On July 14, 1945, President
23 Truman issued a proclamation providing that alien enemies detained as a danger to
24 public peace and safety “shall be subject upon the order of the Attorney General to
25 removal from the United States.” Exec. Proclamation 2655, 10 Fed. Reg. 8947 (July
26 20, 1945).

1 124. The Department of Justice subsequently issued regulations laying out the
2 removal process. *See* 10 Fed. Reg. 12189 (Sept. 28, 1945).

3 125. The regulations required, inter alia, notice of the removal order to be served on
4 the designated alien enemy and that the alien enemy had thirty (30) days thereafter to
5 depart—during which time they could seek judicial review of the removal order. *Id.*

6 126. Some of these removals were adjudicated in *Ahrens v. Clark*, which
7 distinguished *Ex parte Endo* and temporarily allowed a legal fiction that the writ of
8 habeas corpus did not run to Ellis Island to facilitate these removals, which was
9 overruled in *Braden v. 30th Judicial Circuit Court* and *Braden* was extended in
10 *Boumediene* to explicitly reaffirm that there is no geographic limitation on habeas
11 corpus, because the writ runs to the custodian and *not* the detainee. *Boumediene v.*
12 *Bush*, 553 U.S. 723, 746 (2008) (citing *Braden v. 30th Judicial Circuit Court*, 410
13 U.S. 484, 499, n.15 (1973)); *Braden*, 410 U.S. at 497 (“[O]verruling . . . *Ahrens*.”);
14 *id.* at 502 (Rehnquist, J., dissenting) (“Today the Court overrules *Ahrens v. Clark*,
15 335 U.S. 188 (1948).”); *see also Ex parte Endo*, 323 U.S. 283, 306–07 (1944).

16 ***The Hobbs Act of 1946***

17 127. In 1946, Congress enacted the Hobbs Act, codified at 18 U.S.C. § 1951 to
18 prohibit actual or attempted robbery or extortion affecting interstate or foreign
19 commerce.

20 128. The Hobbs Act was amended and expanded several times in 1961, 1962, 1970,
21 1984, 1986, and 1988. The most consequential amendment was that of 1961, which
22 expanded the scope of the act to include various forms of racketeering.

23 129. Several elected state and federal politicians have been removed from office and
24 tried for criminally violating the Hobbs Act.

25 130. The Hobbs Act covers interstate and international extortions by fear, including
26 by threats of physical violence and extortionate acts done by public officials acting
27 under the color of law.

1 ***President Trump's Violations of the Hobbs Act***

2 131. Proclamation 10903 criminally violates the Hobbs Act, 18 U.S.C. § 1951,
3 because it is a boldfaced extortion affecting interstate and foreign commerce
4 specifically designed to deflate immigration, including legal immigration and trade,
5 to the United States and specifically to Texas, which has codified its general
6 preference for including undocumented immigrants as, eventually, citizens of Texas
7 by and through legal pathways to citizenship that are being pursued by V.L. here.

8 132. President Trump long desired to “seal” the U.S.-Mexico border as a means of
9 controlling the trade and livelihoods of people in the United States and
10 internationally, ultimately to enrich and aggrandize himself through unconstitutional
11 emoluments.

12 @WhiteHouse, X,
13 <https://x.com/WhiteHouse/status/1916920033252675685> (noting Trump’s several
14 campaign promises that he will “close” and “seal” up the U.S.-Mexico border); *see*,
15 *e.g.*, @realDonaldTrump, TRUTH SOCIAL,
16 <https://truthsocial.com/@realDonaldTrump/114492082555622686> (“[T]he Defense
17 Department is getting a GIFT, FREE OF CHARGE [from Qatar], of a 747 aircraft to
18 replace the 40 year old Air Force One, temporarily, in a very public and transparent
19 transaction.”).

20 133. U.S. total goods trade with Mexico was an estimated \$839.9 billion in 2024,
21 and that is just the U.S.-Mexico trade that occurs across the U.S.-Mexico border.
22 *Mexico*, OFFICE OF THE U.S. TRADE REPRESENTATIVE: WEBSITE,
23 <https://ustr.gov/countries-regions/americas/mexico> (last accessed on May 11, 2025).

24 134. Proclamation 10903 appears to coincide with President Trump’s general
25 corruption of the markets through tariffs, the Department of Government Efficiency
26 (“DOGE”), and other means to solidify the hegemony of the aristocratic, oligarchic
27 class by further manipulating international and interstate travel and trade by turning
28 innocent people like Texas into a profit center for for-profit detention facilities

1 including GeoGroup, owner of Adelanto ICE Processing Center and the Desert View
 2 Annex, foreign for-profit prisons like CECOT in El Salvador, and corrupt foreign
 3 leaders like President Bukele of El Salvador that the United States pays to administer
 4 Proclamation 10903 on its behalf. Sukey Lewis, *What Are US Taxpayers Getting in*
 5 *\$6 Million Deal With Salvadoran Mega-Prison?*, KQED (May 7, 2025),
 6 [https://www.kqed.org/news/12038872/what-us-taxpayers-getting-6-million-deal-](https://www.kqed.org/news/12038872/what-us-taxpayers-getting-6-million-deal-salvadoran-mega-prison)
 7 [salvadoran-mega-prison](https://www.kqed.org/news/12038872/what-us-taxpayers-getting-6-million-deal-salvadoran-mega-prison); cf. Sarah Stillman, *Get Out of Jail, Inc.*, NEW YORKER (June
 8 16, 2014), <https://www.newyorker.com/magazine/2014/06/23/get-out-of-jail-inc>.

9 135. If successful, it appears that President Trump will inspire a globalized
 10 monopoly system of black-site prisons through fraud and extortion that is paid for by
 11 U.S. taxpayer dollars that violates the Hobbs Act and that enriches and empowers the
 12 world's most dangerous dictators and oligarchs by paying them to hand over the very
 13 dissidents that fled their control to make a new life in the United States so they can be
 14 tortured or killed in violation of U.S. treaty obligations. Lewis, *supra*; see ABC
 15 News, *FULL SPEECH: President Joe Biden's Farewell Address to the Nation*,
 16 YOUTUBE (Jan. 15, 2025), <https://www.youtube.com/watch?v=T8vmhmilluM>
 17 ("Today, an oligarchy is taking shape in America of extreme wealth, power, and
 18 influence that literally threatens our entire democracy, our basic rights and freedoms,
 19 and a fair shot for everyone to get ahead.").

20 136. Accordingly, President Trump announced that he will sell U.S. visas for \$5
 21 million with special benefits, which he calls a Gold Card. These benefits may include
 22 special government favors and an audience with the president, invitations for foreign
 23 payments of more unconstitutional emoluments and noble titles that violate the Equal
 24 Protection Clause, the Titles of Nobility and Foreign Emoluments Clauses, and other
 25 laws and constitutional provisions not to mentions President Washington's general
 26 advice that free citizens be constantly awake to the dangers of foreign influence. Peter
 27 Aitken, *Donald Trump's Gold Card Visa: Elon Musk Gives New Update*, NEWSWEEK
 28

1 (May 11, 2025, 4:46 PM), [https://www.newsweek.com/donald-trump-gold-card-visa-](https://www.newsweek.com/donald-trump-gold-card-visa-elon-musk-update-2070705)
2 [elon-musk-update-2070705](https://www.newsweek.com/donald-trump-gold-card-visa-elon-musk-update-2070705).

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

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

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

10 139. In addition to laying out the process by which the government determines
11 whether to remove an individual, the INA also enshrines certain forms of
12 humanitarian protection.

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

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

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

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

10 143. On March 14, the President signed Proclamation 10903. It provides that “all
11 Venezuelan citizens 14 years of age or older who are members of TdA, are within the
12 United States, and are not actually naturalized or lawful permanent residents of the
13 United States are liable to be apprehended, restrained, secured, and removed as Alien
14 Enemies.” Exec. Proclamation 10903, 90 Fed. Reg. 13033.

15 144. Proclamation 10903 claims that the TdA gang is engaged in an invasion and
16 predatory incursion into the United States, and that the gang should be considered a
17 military arm of the sovereign nation of Venezuela as it is “closely aligned with, and
18 indeed has infiltrated, the Maduro regime including its military and law enforcement
19 apparatus.” *Id.*

20 145. Paradoxically and nonsensically, Proclamation 10903 also seems to disavow
21 the legitimacy of the Maduro regime, saying that Nicolas Maduro only “claims to act
22 as Venezuela’s President and asserts control over the security forces and other
23 authorities in Venezuela,” appearing to maintain that the Venezuelan government is
24 not the actual government of Venezuela such that TdA’s close association with it
25 does not seem to, by the Proclamation’s own logic, make TdA any closer to
26 composing a “foreign government” as the AEA requires. *Id.*

1 146. Moreover, Proclamation 10903’s claims about TdA and the Maduro regime
2 appears to be undercut by a recently declassified intelligence memorandum detailing
3 the TdA as likely *not* a part of the Maduro regime. *Venezuela: Examining Regime*
4 *Ties to Tren de Aragua*, SOCM 2025-11374 (Apr. 7, 2025),
5 [https://static01.nyt.com/newsgraphics/documenttools/32f71f10c36cc482/d90251d5-](https://static01.nyt.com/newsgraphics/documenttools/32f71f10c36cc482/d90251d5-full.pdf)
6 [full.pdf](https://static01.nyt.com/newsgraphics/documenttools/32f71f10c36cc482/d90251d5-full.pdf).

7 147. Proclamation 10903 merely acknowledges that Respondent Secretary Rubio
8 designated TdA as a “Foreign Terrorist Organization,” and further proclaims that
9 TdA has “unlawfully infiltrated the United States” and is “undertaking hostile actions
10 against the United States”—not once designating, announcing, accusing, or otherwise
11 indicating that TdA as a foreign government in and of itself. *Id.*

12 148. Despite implicitly asserting that Venezuela is invading the United States by
13 and through TdA, because TdA and similar corrupt organizations are actually in
14 control of Venezuela, Proclamation 10903 nonsensically limits the scope of its
15 definition of enemy alien to all Venezuelan citizens, ages fourteen or older who are
16 members of the TdA who are not U.S. citizens or lawful permanent residents are alien
17 enemies.

18 149. Even were the Court willing to grant Respondents a constructive reading of
19 Proclamation 10903 to imply that TdA is a “foreign government,” V.L. is not a
20 “native[], citizen[], denizen[], or subject[]” of TdA or other terror group, nor can
21 anyone be.

22 150. Proclamation 10903 provides no means or process for individuals to contest
23 that they are members of the TdA and do not therefore fall within the terms of
24 Proclamation 10903. Nor does it provide individuals with the statutory grace period
25 in which they can both seek judicial review or arrange their affairs and leave
26 voluntarily. Nor does it provide for the treaty stipulations statutorily mandated, if
27 any.

1 151. Moreover, Secretary Leavitt's characterization of all undocumented
2 immigrants as criminals under 8 U.S.C. § 1325 for merely existing in the United
3 States, which is an accurate summation of the bases of President Trump's order and
4 proclamation regarding a general immigrant invasion, in so far that it implicates
5 Venezuelan citizens in the United States seeking access to the courts to vindicate the
6 due process and equal protection of the laws, their common law rights, and the
7 presumption of innocence, in so far that it implicates relevant treaty stipulations.

8 152. Proclamation 10903 references the AEA to authorize the "immediate" removal,
9 without notice, legal process much less *due* legal process, equal protection of the law,
10 judicial review, or administrative review, of noncitizens over the age of fourteen who
11 the government claims are members of the Venezuelan criminal gang TdA, excluding
12 lawful permanent residents. It overrides all the procedural and substantive protections
13 afforded by Congress and this Court for noncitizens in immigration proceedings,
14 including protection against the removal to a place where they will face torture and
15 review to ensure that citizens and legal immigrants are not being treated as alien
16 enemies, i.e., presumptively guilty of crime and terrorism. Exec. Proclamation 10903,
17 90 Fed. Reg. 13033; *see* *Kwock Jan Fat v. White*, 253 U.S. 454, 465 (1920).

18 153. The AEA, enacted in 1798, provides the President with wartime authority and
19 has been used only three times in our Nation's history: the War of 1812, World War
20 I, and World War II.

21 154. The AEA applies to foreign nationals who have not broken allegiance and
22 remain loyal to their national affiliation abroad.

23 155. It may not be used against a criminal gang, terrorist organization, asylum
24 seekers, turncoats who ally with the United States and against their countries of
25 origin, or during peacetime, and especially not to the children of such people. It
26 would especially be ironic to use against any immigrant who is in the United States
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1 due to their parents swearing loyalty to the United States in a foreign war at the risk
2 of their own lives and property, including most Hmong immigrants among others.

3 156. Nonetheless, on March 15, the government removed at least 137 persons of
4 allegedly Venezuelan origin under Proclamation 10903 to CECOT, one of the
5 world's most notorious prisons in El Salvador, where they may remain
6 incommunicado, for indefinite terms potentially for the rest of their lives, and
7 potentially to face torture, malnourishment, involuntary intoxication or poisoning,
8 and death. At least one of these persons was not Venezuelan and was disappeared to
9 CECOT by administrative error. Another who was a resident of this District appears
10 to have been clearly not a member of TdA, as his social media presence indicated he
11 was a gay beautician.

12 157. News reports say that President Bukele began using these prisoners to
13 negotiate with Venezuela for Salvadoran prisoners, according to Proclamation
14 10903's claim that they are members of the Venezuelan government, which would be
15 effectively to hand over people at odds with their country of origin like V.L. to that
16 country. *See, e.g., Jaroslav Lukiv, El Salvador Offers Venezuela Prisoner Swap*
17 *Involving US Deportees*, BBC (Apr. 20, 2025),
18 <https://www.bbc.com/news/articles/cn5xl5ppzr2o>

19 158. News reports say that the Trump administration violated court orders to
20 remove, disappear, or extraordinary rendition people to South Sudan.

21 159. We do not know where V.L. will be removed to, but his removal appears to be
22 an extraordinary rendition without any process, notice, or known legal basis.

23 ***International Law Rights Imported By the Privileges and Immunities Clause***

24 160. The decision here regarding V.L.'s rights will be emulated, repeated, and
25 extended in matters regarding U.S. citizen rights according to the ancient maxim we
26 will all be free or none will be; either the fundamental rights of travel traditionally
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1 discussed as Privileges and Immunities will be extended to both U.S. citizens and
2 immigrants or neither.

3 161. The executive action here has already jumped the rails from Venezuelans to
4 people from Laos and surrounding areas, including Hmong people, Cambodians, and
5 Vietnamese people.

6 162. President Trump already expressed his desire to treat U.S. citizens similarly by
7 overseeing detention, expatriation, disappearance, or extraordinary rendition of
8 naturalized U.S. citizens and U.S. citizens convicted of certain disfavored crimes.
9 Diana Glebova, *Trump Says 'Home-Grown' Americans are next to go to El Salvador,*
10 *tells Bukele 'Gotta Build About Five More Places'*, N.Y. POST (Apr. 14, 2025, 2:27
11 PM), [https://nypost.com/2025/04/14/us-news/trump-says-home-grown-americans-](https://nypost.com/2025/04/14/us-news/trump-says-home-grown-americans-are-next-to-go-to-el-salvador-tells-bukele-gotta-build-about-five-more-places/)
12 [are-next-to-go-to-el-salvador-tells-bukele-gotta-build-about-five-more-places/](https://nypost.com/2025/04/14/us-news/trump-says-home-grown-americans-are-next-to-go-to-el-salvador-tells-bukele-gotta-build-about-five-more-places/).

13 163. The fundamental rights of travel traditionally discussed as Privileges and
14 Immunities in the U.S. Constitution were those “which are, in their nature,
15 fundamental; which belong, of right, to the citizens of all free governments; and
16 which have, at all times, been enjoyed by the citizens of the several states which
17 compose this Union, from the time of their becoming free, independent, and
18 sovereign” including the rights named in the Declaration of Independence as well as:
19 “The right of a citizen of one state to pass through, or to reside in any other state, for
20 the purposes of trade, agriculture, professional pursuits, or otherwise; to claim the
21 benefit of the writ of habeas corpus; to institute and maintain actions of any kind in
22 the courts of the state.” *Corfield v. Coryell*, 6 F. Cas. 546, 551 (E.D. Penn. 1823)
23 (No. 3,230); *see* Article 7 of the U.S.-Venezuela Treaty of Peace, Friendship,
24 Navigation and Commerce of May 31, 1836, 12 Bevans 1038, 18 Stat. 787, at 789
25 (promising to treat Venezuelans “as citizens in the country in which they reside”).

26 164. Petitioner asks this Court to extend these rights to all, because they may
27 otherwise be taken from all. These rights to have rights were originally brought with
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1 British immigrants to America, and the United States fought Great Britain in not one
2 but two wars to defend the right to leave, to travel, to immigrate. The blood of our
3 ancestors cries out from the ground, and only the most unjust, impious and
4 illegitimate Court would dare to close its ears.

5 165. No court has had the opportunity to determine whether the “check list,” the
6 “Alien Enemy Validation Guide,” to determine who is an “alien enemy” subject to
7 Proclamation 10903 is a prior restraint on speech that violates the First Amendment
8 or is unconstitutionally vague.

9 166. No court has had the opportunity to determine whether the “check list,” known
10 as the “Alien Enemy Validation Guide,” to determine who is an “alien enemy”
11 subject to Proclamation 10903 is arbitrary, capricious, and otherwise a violation of
12 due process and equal protection of the laws.

13 167. No court has had the opportunity to determine whether the “check list,” known
14 as the “Alien Enemy Validation Guide,” to determine who is an “alien enemy”
15 subject to Proclamation 10903 causing summary detention, removal, disappearance,
16 and extraordinary rendition is a “sentence” or “execution” passed out “without
17 previous judgment pronounced by a regularly constituted court, affording all the
18 judicial guarantees which are recognized as indispensable by civilized peoples” in
19 violation of Article 3 of the Geneva Convention (III) Relative to the Treatment of
20 Prisoners of War, Aug. 12, 1949, [1955] 6 U.S.T. 3316, 3318, T.I.A.S. No. 3364.

21 168. No court has had an opportunity to review the threshold questions of whether a
22 criminal gang can be deemed a “foreign government or nation” within the meaning of
23 the AEA, or whether the AEA can be invoked without naming a “foreign government
24 or nation,” or whether V.L. is or can be a “native[], citizen[], denizen[], or subject[]”
25 of TdA or other terrorist group, or whether criminal activity and migration can
26 constitute a military “invasion or predatory incursion” of the “territory of the United
27 States;” under the Act.

1 169. No court has had an opportunity to determine whether anyone detained and/or
2 disappeared under Proclamation 10903 or other executive action is a U.S. Citizen or
3 has some other protected legal status requiring federal review under *Trop v. Dulles*'
4 "right to have rights" according to the Eighth Amendment and international law
5 antecedents to the Privileges and Immunities and Privileges or Immunities Clauses
6 including under treaty law, *jus cogens* norms, and vital laws facilitating this court's
7 jurisdiction to decide international issues involving human rights.

8 170. No court has had an opportunity to decide whether EOIR is now a defunct Star
9 Chamber incapable of properly determining V.L.'s asylum or other humanitarian
10 status as it appears to violate several constitutional basics of review and is now
11 completely under the thrall of a defiant president that does not follow judicial orders
12 that might otherwise avoid a federalism conflict under the Ninth and Tenth
13 Amendments that might involve the Posse Comitatus Act, 8 U.S.C. § 1385 and/or the
14 Insurrection Act, 10 U.S. § 251 *et seq.*

15 171. No court has had an opportunity to decide whether V.L.'s potential
16 disappearance to CECOT or other black site could be considered a constructive
17 removal to Venezuela if El Salvador does begin trading prisoners, and whether this is
18 a constructive violation of the principle of nonreturn or nonrefoulement mandated in
19 the United States by the Refugee Act and the U.N. Convention Against Torture, and
20 the right to leave maintained by the U.S. Declaration of Independence, in early state
21 constitutions, the Privileges and/or Immunities Clauses, early federal cases including
22 *Henfield's Case*, and more recently in the U.N. Declaration of Human Rights.
23 DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776); U.S. CONST. amends. V, XIV;
24 *Henfield's Case*, 11 F. Cas. 1099, 1120 (C.C.D. Pa. 1793) (No. 6360) (Opinion of
25 Wilson, J.) ("Emigration is, undoubtedly, one of the natural rights of man."); *Corfield*
26 *v. Coryell*, 6 F. Cas. 546, 551 (E.D. Penn. 1823) (No. 3,230); *see id.* at Art. VI, cl. 2
27 (noting that treaties as well as the constitution and statutes are the supreme law of the
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land); G.A. Res. 217 A, Universal Declaration of Human Rights Art. 13(2) (Dec. 10, 1948) (declaring the right to leave one's country of origin); G.A. Res. 34/46, U.N. Convention Against Torture Art. 3 (Dec. 10, 1984) ("No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."); INA, 8 U.S.C. § 1101; Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Pub. L. No. 105-277, div. G, Title XXII, § 2242, 112 Stat. 2681, 2681-822 (1998) (codified as Note to 8 U.S.C. § 1231).

172. No court has had an opportunity to decide whether a declaration of war is required in order to allow presidents to invoke war powers such that Proclamation 10903 is an unconstitutional violation of the declaration of war requirement. This issue was not passed upon during the Korean or Vietnam Wars over the dissents of Justice Douglas in cases like *Sarnoff v. Shultz*. See *Sarnoff v. Shultz*, 409 U.S. 929, 930 (1972) (Douglas, J., dissenting); *Holmes v. United States*, 391 U.S. 936, 948 (1968) (Douglas, J., dissenting); *Hart v. United States*, 391 U.S. 956, 959-60 (1968) (Douglas, J., dissenting). This matter remains ripe for the Supreme Court's review and we could not find any law or decision that will bind this Court's determination on this issue.

173. No court has had an opportunity to decide whether invoking AEA transforms or reveals ICE detention facilities as military encampments that violate the Posse Comitatus Act, 8 U.S.C. § 1385 and/or the Insurrection Act, 10 U.S. § 251 *et seq.*

174. No court has had the opportunity to determine whether 8 U.S.C. § 1325 is unconstitutional and dangerous for providing a pretext to the executive branch for detaining and disappearing individuals as presumptively guilty of crime for merely being an undocumented immigrant or appearing to be an undocumented immigrant. *Leavitt, supra.*

1 175. No court has had an opportunity to decide whether the AUMFs of 2001 and
2 2002 and the PATRIOT ACT of 2001 amendments to the Immigration and
3 Nationality Act can properly extend the power invoked by Secretary Rubio to classify
4 TdA as a terrorist organization under, by, or through the Bush era Executive Order
5 13224 that apparently created the presidential authority to designate terrorist
6 organizations. Exec. Proclamation 10903, 90 Fed. Reg. 13033; Public Notices 12671
7 & 12672, 90 Fed. Reg. 10030–31; Exec. Order No. 13224, 60 Fed. Reg. 49079; AEA,
8 50 U.S.C. § 21 (1798); 8 U.S.C. § 1189; 50 U.S.C. § 1702; AUMF 2001 and 2002,
9 codified at 50 U.S.C. § 1541 note.

10 176. No court has had an opportunity to decide whether the AUMFs of 2001 and
11 2002 and the PATRIOT ACT of 2001 amendments to the Immigration and
12 Nationality Act can legally justify disappearances of people by and through
13 Executive Orders, Proclamations, and memoranda to foreign super-max prisons
14 where they are held incommunicado, for indefinite prison terms, forced to take drugs,
15 and potentially to endure torture and death. *See* Proclamation 10903, 90 Fed. Reg.
16 13033; AEA, 50 U.S.C. § 21 (1798); Exec. Order No. 14159, 90 Fed. Reg. 8443;
17 Public Notices 12671 & 12672, 90 Fed. Reg. 10030–31; Exec. Order No. 14157, 90
18 Fed. Reg. 8439; Exec. Order No. 13224, 60 Fed. Reg. 49079; 8 U.S.C. § 1189; 50
19 U.S.C. § 1702; AUMF 2001 and 2002, codified at 50 U.S.C. § 1541 note.

20 177. No court has had the opportunity to determine whether the AEA and
21 Proclamation 10903 and related executive orders, proclamations, and actions is an
22 unconstitutional suspension of the writ of habeas corpus under *Boumediene v. Bush*,
23 *Duncan v. Kahanamoku*, and *Ex parte Milligan* and therefore totally unconstitutional,
24 void, and ultra vires. *Boumediene v. Bush*, 553 U.S. 723, 733 (2008); *Duncan v.*
25 *Kahanamoku*, 327 U.S. 304, 324 (1946); *Ex parte Milligan*, 71 U.S. 2, 140–41
26 (1866).

1 178. Nor has any court had the chance to determine the effect of *DHS v.*
2 *Thuraissigiam*, if any, to this set of facts as it appears to be distinguishable, likely bad
3 law worthy of being overruled, and obviously in error according to “early access
4 documents” that indicate that Thomas Jefferson used the word “deportation” in
5 conjunction with his extradition or extraordinary rendition of Erik Bollman into the
6 United States to face a treason charge, which became the first major habeas corpus
7 decision issued by the Supreme Court, which effectively released a famous immigrant
8 into the United States. *Compare* *DHS v. Thuraissigiam*, 591 U.S. 103, 123 (2020)
9 (“As late as 1816, the word ‘deportation’ apparently ‘was not to be found in any
10 English dictionary.’”), *and id.* at 116 n.12 (citing *Ex parte Bollman*, 8 U.S. 75, 95
11 (1807)), *with Bollman*, 8 U.S. at 136–37, *implicitly responding to* Letter Thomas
12 Jefferson to James Wilkinson (Feb. 3, 1807) (early access document) (using the word
13 “deportation” in conjunction with Erik Bollman), *and* Letter from Thomas Jefferson
14 to William C. C. Claiborne (Feb. 3, 1807) (early access document) (using the word
15 “deportation” in conjunction with Erik Bollman).

16 179. No court has had the chance to determine the effect of relevant treaty
17 provisions under *DHS v. Thuraissigiam*’s reliance upon such treaty provisions under
18 *Ex parte D’Olivera*, which granted a writ that “provided for the sailor to be released
19 into the custody of the master of his ship” to apparently transmogrify a petitioners
20 assertion of the ancient common law habeas corpus remedy of release into
21 constructive consent of a petitioner to further detention and removal, disappearance,
22 or extraordinary rendition to potentially hostile and dangerous foreign climes. *DHS*
23 *v. Thuraissigiam*, 591 U.S. 103, 119 (2020) (“While respondent does not claim an
24 entitlement to release, the Government is happy to release him—provided the release
25 occurs in the cabin of a plane bound for Sri Lanka.” (citing *Ex parte D’Olivera*, 7 F.
26 Cas. 853, 854 (C.C.D. Mass. 1813) (No. 3,967))).

1 180. No court has had an opportunity to determine whether the AEA and/or
2 Proclamation 10903 is a violation of the separation of powers, because the AEA was
3 never invoked without a declaration of war to define the class of enemies the AEA
4 could be applied to before and therefore the court lacked case or controversy
5 jurisdiction before.

6 181. No court has had an opportunity to determine whether the AEA and/or
7 Proclamation 10903 exceeds the powers of peace recognized in *Curtiss-Wright* under
8 the Acts of Neutrality and foreign sovereignty sometimes litigated under the Foreign
9 Sovereign Immunities Act and recognized in *Biden v. Texas* regarding immigration
10 policies specifically.

11 182. No court has had an opportunity to determine whether Proclamation 10903 and
12 related orders, designations, regulations, and memoranda are arbitrary, capricious,
13 unconstitutionally vague, or compliant with either the APA or INA. 5 U.S.C. § 706; 8
14 U.S.C. § 1231(b)(3); *see* *Kwock Jan Fat v. White*, 253 U.S. 454, 465 (1920) (“It is
15 better that many Chinese immigrants should be improperly admitted than that one
16 natural born citizen of the United States should be permanently excluded from his
17 country.”), *extended by* *Crowell v. Benson*, 285 U.S. 22, 57, 60 (1932) (applying
18 judicial review of administrative agencies “wherever fundamental rights depend”
19 according to constitutional avoidance doctrine); Pfander, *supra*, at 659.

20 183. No court has had an opportunity to determine whether the AEA is repealed or
21 otherwise rendered inoperable under the APA and Immigration Laws. 5 U.S.C. § 706;
22 8 U.S.C. § 1231(b)(3).

23 184. No court has had an opportunity to determine whether ICE can duly or legally
24 arrest any person on the basis of a suspicion of criminal association alone without a
25 duly issued warrant with particularized suspicion and particularized descriptions of
26 the person or things to be seized or previously establishing removability or any other
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1 basis of detention under the law as required under the Fourth Amendment of the
2 United States Constitution and Texas Constitution analog.

3 185. No court has had an opportunity to determine whether the detention of V.L. is
4 an unreasonable seizure under the Fourth Amendment and Texas Constitution analog.

5 186. No court has had an opportunity to determine whether the term of V.L.'s
6 detention is unconstitutionally indefinite. U.S. CONST. amends. IV, V, VIII, IX.

7 187. No court has had an opportunity to determine the underlying constitutionality
8 of INA under its original legislation among the state according to their police powers
9 to protect health and safety of its citizens. *NFIB v. Sebelius*, 567 U.S. 519, 581
10 (2012); *New York v. Miln*, 36 U.S. 102, 136 (1837); *Collet v. Collet*, 2 U.S. 294, 296
11 (1792) (allowing state grants of citizenship to foreigners that the United States was
12 bound to respect upon a more liberal basis than the federal law required).

13 188. No court has had the opportunity to determine the question of whether the
14 plenary power to exclude immigrants is a legitimate constitutional basis to enact laws
15 to detain asylum seekers within the United States without due process, whether the
16 plenary power to exclude can exist in a system of separated powers where no branch
17 has plenary power and where the branches may constantly disagree with one another
18 and as federal powers have been considered limited and supreme rather than plenary,
19 whether the federal plenary power to exclude immigrants violates the Ninth, Tenth,
20 and Eleventh Amendments, whether the plenary power to exclude immigrants can
21 legitimately be considered necessary and proper from the U.S. Constitution's
22 Naturalization Clause, which necessarily delegated a power to include, or from the
23 Eleventh Amendment in conjunction with the Fugitive Slaves Clause, which appears
24 to be where the Supreme Court originally derived the federal power to exclude
25 immigrants especially those attempting to enter free states, or from the Commerce
26 Clause under *Gibbons v. Ogden*, which struck down a New York law that would
27 hinder immigration into that state and again leads back to cases regarding the slave
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1 trade that are an extremely questionable basis for modern post-Reconstruction
2 Amendment laws.

3 189. No court has had the opportunity to address the eugenic origins of immigration
4 law in *Buck v. Bell* cost-benefit balancing tests taken from *Jacobson v.*
5 *Massachusetts*, which was an arbitrary ad hoc tradition that was extended through
6 *Mathews v. Eldridge* to *Landon v. Plasencia* and extended in *DHS v. Thuraissigiam*
7 to dangerously narrow the application of *Boumediene v. Bush*. *DHS v. Thuraissigiam*,
8 591 U.S. 103, 136 (2020) (distinguishing *Boumediene*); *id.* at 139 (deriving the feudal
9 maxim that “the power to admit or exclude aliens is a sovereign prerogative” from the
10 mere dicta of a non-habeas corpus *Mathews* cost-benefit balancing test case: *Landon*
11 *v. Plasencia*, 459 U.S. 21, 32 (1982)). This same kind of balancing test was extended
12 in the plurality of *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (plurality opinion)
13 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)) that was properly decried by
14 Justice Scalia with all due forcefulness here:

15 Having found a congressional authorization for detention of citizens
16 where none clearly exists; and having discarded the categorical
17 procedural protection of the Suspension Clause; the plurality then
18 proceeds, under the guise of the Due Process Clause, to prescribe what
19 procedural protections *it* thinks appropriate. It ‘weigh[s] the private
20 interest . . . against the Government’s asserted interest,’ (citations
21 omitted), and—justice as thought writing a new Constitution—comes up
22 with an unheard-of system in which the citizen rather than the
23 Government bears the burden of proof, testimony is by hearsay rather
24 than live witnesses, and the presiding officer may well be a ‘neutral’
25 military officer rather than judge and jury. (citation omitted). It claims
26 authority to engage in this sort of “judicious balancing” from *Mathews*
27 *v. Eldridge* (citations omitted), a case involving . . . the withdrawal of
28 disability benefits! Whatever the merits of this technique when newly
recognized property rights are at issue (and even there they are
questionable), it has no place where the Constitution and the common
law already supply an answer.

1 *Hamdi*, 542 U.S. at 575–76 (Scalia, J., dissenting). The ultimate betrayal arising from
 2 *Hamdi* was that the cost-benefit test the plurality opinion hoped beyond hope that the
 3 government would apply to the rights of a U.S. citizen were all denied, and instead
 4 *Hamdi* facilitated the government act of stripping a U.S. citizen of his citizenship,
 5 banishing him, and putting him on a no fly list without a trial. Dahlia Lithwick,
 6 *Nevermind: Hamdi Wasn't So Bad After All*, SLATE (Sept. 23, 2004),
 7 <https://slate.com/news-and-politics/2004/09/hamdi-wasn-t-so-bad-after-all.html>. A
 8 similar interest-balancing test was extended from *Janus v. AFSCME* into *Dobbs v.*
 9 *Jackson Women's Health Organization* and many other cases as an anti-precedent
 10 precedent that may end stare decisis in the United States altogether. *Dobbs v.*
 11 *Jackson Women's Health Org.*, 597 U.S. 215, 266 (2022) (citing *Janus v. AFSCME*,
 12 585 U.S. 878, 917 (2018)); see Joshua J. Schroeder, *Rethinking Rights in a*
 13 *Disappearing Penumbra: How to Expand Upon Reproductive Rights in Court After*
 14 *Dobbs*, 54 N.M. L. Rev. 15, 17–19 (2024) (noting *Janus's* extension as an anti-
 15 precedent precedent overrule a growing number of cases).

16 190. No court has had the opportunity to determine whether the *Hamdi* decision
 17 specifically inspired the activism of former law professor John C. Eastman to propose
 18 that *Wong Kim Ark* is unconstitutional, and that the INA is also unconstitutional for
 19 recognizing natural born citizenship, even though it appears that the illegal and
 20 unconstitutional immigration system that V.L. is being oppressed by here is inspired
 21 by Eastman's radical scholarship. John C. Eastman, *Born in the U.S.A.? Rethinking*
 22 *Birthright Citizenship in the Wake of 9/11*, 42 U. RICHMOND L. REV. 955, 956–57,
 23 961, 963 (2008) (citing *Elk v. Wilkins*, 112 U.S. 94, 101 (1884) and *Plessy v.*
 24 *Ferguson*, 163 U.S. 537, 542–43 (1896) with strong approval), *rejected by Margaret*
 25 *Stock & Nahal Kazemi, The Non-Controversy Over Birthright Citizenship:*
 26 *Defending the Original Understanding of Jus Soli Citizenship*, 24 CHAPMAN L. REV.
 27 1, 2, 14 (2021). Respondents recently issued a full-throated argument that it can
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1 constitutionally deny U.S. citizenship to people born in the United States through
2 executive order, in clear violation of *Wong Kim Ark* while *Wong Kim Ark* is still in
3 force, according to Eastman's radical scholarship. *See Elk*, 112 U.S. at 101 (citing
4 *The Slaughterhouse Cases*, 83 U.S. 36, 73 (1873)), *cited by* Application for a Partial
5 Stay of the Injunction Issued by the United States District Court for the District of
6 Maryland, at 7, *Trump v. CASA*, No. 24A (2025).

7 191. No court has determined whether *Boumediene* was intended to correct *Hamdi's*
8 error, by applying a critical factor test taken from *Johnson v. Eisentrager*.

9 192. No court has had the opportunity to determine whether the *Eisentrager* critical
10 factor test as extended by *Boumediene's* functional approach was misapplied in both
11 the Ninth Circuit and the Third Circuit as yet another *Hamdi*-styled cost-benefit
12 balancing test in *USDHS v. Thuraissigiam* and *USDHS v. Castro* that the U.S.
13 Supreme Court reversed by distinguishing *Boumediene* from the *Landon* cost-benefit
14 balancing strategy applied in *Thuraissigiam*. *Thuraissigiam*, 591 U.S. at 136
15 (distinguishing *Boumediene* in order to apply a *Landon* balancing test), *explicitly*
16 *reversing* 917 F.3d 1097, 1105, 1109 n.11 (9th Cir. 1097) (appearing to apply
17 *Boumediene* as if it embodied a *Hamdi* balancing test with three factors and adopting
18 a problematic term "finality era" that conveniently covers up the eugenic or Chinese
19 exclusion era from *Castro* (citing *Hamdi*, 542 U.S. at 542 (plurality opinion);
20 *Boumediene*, 553 U.S. at 745)), *and implicitly reversing or replacing* *Castro v.*
21 *USDHS*, 835 F.3d 422, 429, 434 (3d Cir. 2016) (falsely arguing that *Boumediene*
22 prescribed "a balancing of the petitioner's interest," which it never did, and inventing
23 the term "finality era" from whole cut cloth apparently to cover up the eugenic
24 ideology that actually pervaded that era).

25 193. No court has determined whether *Boumediene's* decision to distinguish English
26 feudal law represented by *Rex v. Cowle* also necessarily distinguishes U.S. common
27 law from the geographic limitations upheld in the contemporaneous decision of the
28

House of Lords in *Ex parte Bancoult*.⁴ *Boumediene*, 553 U.S. at 751 (distinguishing *Rex v. Cowle* (1759) 2 Burr. 834, 854–56 (Eng.)); *R. v. Secretary of State for Foreign and Commonwealth Affairs, Ex parte Bancoult* [2008] UKHL 61, ¶¶ 32, 36, 81–84, 87, 125, 146–49 (Eng.) (affirming *Campbell v. Hall* (1774) 1 Cowp. 206, 208, 211–12 (Eng.)); *Campbell*, 1 Cowp. at 209–10 (noting that taxation without representation is specifically constitutional and proper because a conquering king might otherwise “put[] the inhabitants to the sword or exterminate[] them” because “all the lands belong to him,” and as such, regarding anyone the monarch allows to survive, “the King might change part or the whole of the law or political form of government of a conquered dominion”); see *THE REVOLUTIONARY WRITINGS OF JOHN ADAMS* 274–75 (2000) (noting how the feudal rationale for habeas corpus in *Cowle* was potentially the original English basis for “treating the Americans as rebellious vassals, to subdue them, and take possession of their country,” and lambasting *Cowle*’s unjust limitations of habeas corpus as fictions of law only); but see *Dred Scott v. Sandford*, 60 U.S. 393, 467 (1857) (slavery case) (Nelson, J., concurring) (citing *Somerset’s Case* for a geographic limitation on habeas corpus so that slaves only become free in England); *Prigg v. Pennsylvania*, 41 U.S. 539, 612 (1842) (slavery case) (citing *Somerset’s Case* (1772) 20 How. St. Tr. 1, 79 (Eng.) for the geographic limitation of freedom to England, which appears to be what caused the U.S. Supreme Court to determine that state fugitive slaves laws should defeat state sanctuary laws).

194. No court has had the opportunity to address the president’s apparent policy of almost never releasing detainees even where the law requires, allows, or where the interests of the people of the United States would be served by release of immigrants into society and even where there are immigration court orders to the contrary. Based on information and belief, it appears that the Trump administration has ordered ICE

⁴ It appears that this sharp split in common law between England and the United States is fundamental and clearly remains in contention. 2 *COLLECTED WORKS OF JAMES WILSON* 1049–51 (Kermit L. Hall & Mark David Hall eds., 2007) (quoting 1 *WILLIAM BLACKSTONE, COMMENTARIES* *107; *Calvin’s Case*, 7 Co. Rep. 1a, 17a (Eng.)).

1 detention facilities to disobey bond hearing decisions and time limits set by law by
2 keeping a maximum number of immigrants detained indefinitely making any
3 potential hearing in EOIR for V.L.'s release futile.

4 195. Likewise, individuals targeted by Proclamation 10903 were also given no
5 opportunity to contest their designation as members of the TdA gang and therefore
6 did not even fall with Proclamation 10903. And more and more evidence is emerging
7 that many (perhaps most) of these individuals lacked any ties to the gang and were
8 mistakenly placed under Proclamation 10903. For example, it is widely reported that
9 President Donald Trump thought that a photo of now famous detainee at CECOT
10 Kilmar Abrego Garcia's hand actually had "MS13" tattooed on it, when that term was
11 photo-shopped into an image of Mr. Garcia's hand as a loose interpretation of his
12 actual tattoos that appear to have no obvious or apparent link to a gang. Yet, Mr.
13 Garcia was disappeared and detained at CECOT.

14 196. That more individuals are not languishing in a Salvadoran prison is the result
15 of a nationwide class Temporary Restraining Order issued by Judge Boasberg in the
16 District of Columbia. *J.G.G. v. Trump*, No. 1:25-cv-766-JEB, 2025 WL 825115, at
17 *1 (D.D.C. Mar. 15, 2025). The D.C. Circuit declined to stay the TRO, *J.G.G. v.*
18 *Trump*, No. 25-5067, 2025 WL 914682, at *1 (D.C. Cir. Mar. 26, 2025), but the
19 Supreme Court vacated the TRO, *Trump v. J.G.G.*, No. 24A931, 2025 WL 1024097,
20 at *1 (U.S. Apr. 7, 2025). However, the Supreme Court made clear that review was
21 available by habeas, that individuals subjected to Proclamation 10903 are entitled to
22 "due process" and must be given "notice . . . within a reasonable time and in such a
23 manner as will allow them to actually seek habeas relief in the proper venue before
24 such removal occurs." *Id.* at *2.

25 197. Moreover, the Supreme Court ordered Kilmar Abrego Garcia to be returned to
26 the United States, an order which the president has not complied with. This creates a
27 constitutional crisis, which stresses the importance of the Court ordering the release
28

1 of prisoners now, when they are still on American soil—release into the United States
2 pending legitimate government action, i.e., *due* process and equal protection of the
3 law.

4 198. In *A.A.R.P. v. Trump*, the U.S. Supreme Court controversially used its shadow
5 docket at *A.A.R.P. v. Trump*, No. 24A1007 (Apr. 19, 2025) (misc. order) to
6 apparently temporarily block the president from deporting immigrants in Texas. This
7 move may indicate the Supreme Court’s preference for non-nationwide injunctions,
8 but it is unclear what to procedurally make of this order. Subsequently, the U.S.
9 Supreme Court decided *per curiam* to grant an injunction in *A.A.R.P.*, and determined
10 that due process requires notice and an opportunity to be heard. *A.A.R.P. v. Trump*,
11 No. 24A1007, slip op. at 7 (2025) (*per curiam*).

12 199. Finally, in *J.A.V. v. Trump*, the Fifth Circuit District Judge Fernando Rodriguez
13 granted a permanent injunction to protect immigrants from being disappeared under
14 the AEA that extends to a class of individuals detained within the Southern District of
15 Texas. *J.A.V. v. Trump*, 1:25-cv-072, *36 (S.D. Tex. 2025).

16 200. Accordingly, given that Petitioner and the putative class are no longer
17 protected by the TRO in the *J.G.G.* case in D.C., nor the *A.A.R.P.* or *J.A.V.* cases in
18 Texas, they file this habeas action given the Supreme Court’s ruling that habeas is the
19 proper mechanism to challenge Proclamation 10903’s application. Although
20 Petitioner has not been given notice yet of his designation, the government has made
21 clear that they believe he is a member of TdA and has further stated that they may
22 give as little as 24 hours’ notice, to those it designates, notwithstanding the Supreme
23 Court’s express statement that individuals must be given notice adequate to allow
24 them to seek judicial review.

25 201. Nor did any of these previous similar cases raise the AEA’s requirement that
26 Proclamation 10903 mandatorily triggered the treaty stipulations in the U.S.-
27
28

1 Venezuela Treaty of Peace, Friendship, Navigation and Commerce of May 31, 1836,
2 12 Bevans 1038.

3 202. No court has had the opportunity to determine whether the AEA requires the
4 Respondents to facilitate the grant of a green card or similar life-long legal status
5 according to all Hmong people, by which V.L. may eventually naturalize as
6 potentially existent under treaty stipulations.

7 203. Petitioner in this action seeks actual release from detention pending legitimate
8 or “due” process and equal protection under the law, which is the common law
9 habeas corpus remedy mandated by *DHS v. Thuraissigiam*, and which was granted to
10 foreign nationals in *Boumediene v. Bush* tracing back to the origin of Supreme Court
11 review of habeas corpus in *Ex parte Bollman*.

12 **CLASS ACTION ALLEGATIONS**

13 204. Petitioner brings this action under both Federal Rules of Civil Procedure 23(a)
14 and 23(b)(2) and principles of habeas corpus and equity on behalf of himself and a
15 class of all other persons similarly situated.

16 205. Petitioner seeks to represent the following Proposed Class: All noncitizens in
17 custody in the Northern District of Texas of Hmong, Laos, Vietnamese, Thai,
18 Myanmar, Malaysian, or Cambodian descent (“Mainland Southeast Asians”),
19 including other countries in the who were, are, or will be subject to the March 2025
20 Presidential Proclamation 10903 entitled ‘Invocation of the AEA Regarding the
21 Invasion of the United States by Tren De Aragua’ and/or its implementation, and
22 related orders and proclamations.

23 206. The proposed class satisfies the requirements of Rule 23(a)(1) because the
24 class is so numerous that joinder of all members is impracticable. Hundreds if not
25 thousands of Mainland Southeast Asians living in the Northern District of Texas and
26 the greater region will potentially be subjected to summary detention and removal
27 under Proclamation 10903 and its implementation by Respondents. As of May 5,
28

1 2025 the government already transferred 278 people that we know of to the CECOT
2 black site, this number grew since the March 15, 2025 removal of at least 137
3 Venezuelans, and based on information and belief this number is likely to continue
4 growing. News reports say, eight immigrants were removed to South Sudan against
5 court orders. Prior to the AEA proclamation, several immigrants of Asian descent
6 were removed to Panama where they were detained at the behest of the United States
7 in a hotel and prison camp, says news sources. Based on the litigation currently
8 available in federal courts, it appears that the government has suddenly transferred
9 hundreds Venezuelan men from detention centers all over the country to northern
10 Texas, despite their pending removal proceedings in immigration court. Upon
11 information and belief, people have been transferred in groups of Southeast Asian
12 men from mainland countries, like the Venezuelans initially, and been told that they
13 appear to be on a list with other South Asian mainlanders.

14 207. Upon information and belief, V.L. is one of seventy individuals of Southeast
15 Asian descent being removed without notice or process.

16 208. The class satisfies the commonality requirements of Rule 23(a)(2). The
17 members of the class are subject to a common practice: summary detention, removal,
18 disappearance, and extraordinary rendition under Proclamation 10903 and related
19 proclamations and orders contrary to the AEA, the INA, and due process. The suit
20 also raises threshold questions of law common to members of the proposed class,
21 including whether Proclamation 10903 and its implementation satisfy the statutory
22 requirements of the AEA; whether the AEA is constitutional; whether Proclamation
23 10903 may lawfully override the protections afforded noncitizens under the INA and
24 treaty law; whether the lack of due process violates the Fifth Amendment; whether
25 the lack of warrant violates the Fourth Amendment; and whether the removal,
26 disappearance, extraordinary rendition implemented under Proclamation 10903 is
27 cruel and unusual punishment under the Eighth Amendment.

28

1 209. The proposed class satisfies the typicality requirements of Rule 23(a)(3),
2 because the claims of the representative Petitioners are typical of the claims of the
3 class. Each proposed class member, including the proposed class representatives, has
4 experienced or faces the same principal injury (unlawful detention, removal,
5 disappearance, and extraordinary rendition), based on the same government practice
6 (Proclamation 10903 and its implementation), which is unlawful as to the entire class
7 because it violates the AEA, the INA, due process, and warrant requirement.

8 210. The proposed class satisfies the adequacy requirements of Rule 23(a)(4). The
9 representative Petitioners seek the same relief as the other members of the class—
10 among other things, an order declaring Proclamation 10903 unlawful, the AEA
11 unconstitutional, and an injunction preventing enforcement continue of Proclamation
12 10903. In defending their rights, Petitioners will defend the rights of all proposed
13 class members fairly and adequately.

14 211. The proposed class is represented by experienced attorneys at SchroederLaw.
15 Proposed Class Counsel includes a multi-published legal scholar in this specific area
16 of law and author of a guide for immigration lawyers to assert habeas corpus for
17 immigrants written from his experience drafting habeas corpus writs for noncitizens
18 and who has extensive experience in state and federal courts on behalf of noncitizens.
19 Proposed Class Counsel will work closely with V.L.'s immigration lawyers who also
20 have extensive experience in detained immigration work.

21 212. The proposed class also satisfies Rule 23(b)(2). Respondents have acted (or
22 will act) on grounds generally applicable to the class by subjecting them to summary
23 detention and removal, disappearance, or extraordinary rendition under Proclamation
24 10903 rather than affording them the protection of immigration laws. Injunctive and
25 declaratory relief is therefore appropriate with respect to the class as a whole.

26 213. The proposed class also satisfies the requirements for a class guided by Rule 23
27 but certified under equity habeas principles.
28

1 **CAUSES OF ACTION⁵**

2 **FIRST CLAIM FOR RELIEF**

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

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

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

10 216. Proclamation 10903, related orders and proclamations, and their
11 implementation do not satisfy these statutory preconditions.

12 217. Additionally, the AEA permits removal only where noncitizens alleged to be
13 “alien enemies” “refuse or neglect to depart” from the United States. 50 U.S.C. § 21.
14 The AEA also requires the government to afford noncitizens alleged to be “alien
15 enemies” sufficient time to settle their affairs and to depart the United States. *See* 50
16 U.S.C. § 22.

17 218. However, Petitioners and the class are being subject to forced detention,
18 removal, disappearance, or extraordinary rendition without being afforded the
19 privilege of voluntary departure, let alone any notice or an opportunity to respond to
20 the designation of alien enemy.

21 219. The application of Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order
22 No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their
23 implementing regulations, notices, orders, proclamations, memoranda, and other
24 executive acts to Petitioner and the class is therefore *ultra vires* and contrary to law.

25 **SECOND CLAIM FOR RELIEF**

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

27
28 ⁵ No injunctive relief is sought against Respondent President Donald J. Trump.

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

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

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

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

12 224. Because Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No.
13 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their
14 implementing regulations, notices, orders, proclamations, memoranda, and other
15 executive acts provides for the removal of Petitioners and the class without the
16 procedures specified in the INA, they violate the INA.

17 **THIRD CLAIM FOR RELIEF**

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

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

21 226. The INA provides, with certain exceptions, that “[a]ny alien who is physically
22 present in the United States or who arrives in the United States (whether or not at a
23 designated port of arrival and including an alien who is brought to the United States
24 after having been interdicted in international or United States waters), irrespective of
25 such alien’s status, may apply for asylum in accordance with this section or, where
26 applicable, section 1225(b) of this title.” 8 U.S.C. § 1158(a)(1).

1 227. Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90
2 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing
3 regulations, notices, orders, proclamations, memoranda, and other executive acts
4 prevents Petitioners and the class from applying for asylum in accordance with 8
5 U.S.C. § 1158(a)(1) and is therefore contrary to law.

6 **FOURTH CLAIM FOR RELIEF**

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

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

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

13 230. Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90
14 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing
15 regulations, notices, orders, proclamations, memoranda, and other executive acts
16 violate the withholding of removal statute because it does not provide adequate
17 safeguards to ensure that Petitioners and the class are not returned to a country where
18 it is more likely than not that they would face persecution. As a result, Respondents’
19 actions against Petitioners and the class are contrary to law.

20 **FIFTH CLAIM FOR RELIEF**

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

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

25 232. FARRA prohibits the government from returning a noncitizen to a country
26 where it is more likely than not that he would face torture.

233. Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations, notices, orders, proclamations, memoranda, and other executive acts violate FARRA because they do not provide adequate safeguards to ensure that Petitioners and the class are not returned to a country where it is more likely than not that they would face torture. As a result, Respondents' actions against Petitioners and the class are contrary to law.

SIXTH CLAIM FOR RELIEF

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

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

235. The AEA requires that noncitizens whose removal is authorized by the AEA, unless "chargeable with actual hostility, or other crime against the public safety," be allowed the full time stipulated by treaty to depart or a reasonable time in which to settle their affairs before departing. *See* 50 U.S.C. § 22. Proclamation 10903 on its face denies Petitioners and the class anytime under Section 22 to settle their affairs, because it declares everyone subject to Proclamation 10903 to be "chargeable with actual hostility" and to be a "danger to public safety."

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

237. Moreover, Proclamation 10903 violates relevant treaty stipulations.

238. Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations, notices, orders, proclamations, memoranda, and other executive acts thus contravenes 50 U.S.C. § 22, are ultra vires, and contrary to law.

SEVENTH CLAIM FOR RELIEF

Suspension of Habeas Corpus (All Respondents)

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

240. Detainees have the right to file petitions for habeas corpus to challenge the legality of their detention, removal, disappearance, or extraordinary rendition under Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467, and Exec. Order No. 14159, 90 Fed. Reg. 8443.

241. Where a habeas petitioner asserts the ancient common law remedy of release pending legitimate government action the functional approach of *Boumediene v. Bush* applies, and *DHS v. Thuraissigiam* is distinguished. *Boumediene v. Bush*, 553 U.S. 723, 771 (2008) (“We hold that Art. I, § 9, cl. 2, of the Constitution has full effect at Guantanamo Bay.”), *distinguished by* *DHS v. Thuraissigiam*, 591 U.S. 103, 119, 122 (2020) (noting that “*Boumediene*, is not about immigration at all,” narrowing its ruling to only cases where petitioner “does not seek an order releasing him”).

242. However, if the disparaging dicta of *Thuraissigiam* is applied in this case, it may to indicate by its own terms that Petitioners should be released into the United States a term indicated by relevant treaty provisions. *DHS v. Thuraissigiam*, 591 U.S. 103, 119 (2020) (“While respondent does not claim an entitlement to release, the Government is happy to release him—provided the release occurs in the cabin of a plane bound for Sri Lanka.” (citing *Ex parte D’Olivera*, 7 F. Cas. 853, 854 (C.C.D. Mass. 1813) (No. 3,967))).

243. The summary and imminent detention, removal, disappearance, and extraordinary rendition of V.L. and the class under Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations, notices, orders, proclamations, memoranda, and other executive acts suspends the privilege and right

1 of Petitioners and the class to file habeas corpus. *See* 28 U.S.C. § 2241; U.S. Const.
2 art. I, § 9, cl. 2 (Suspension Clause).

3 **EIGHTH CLAIM FOR RELIEF**

4 Violation of the First Amendment, Prior Restraint (All Respondents)

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

7 245. The First Amendment provide in relevant part that: “Congress shall make no
8 law respecting an establishment of religion, or prohibiting the free exercise thereof;
9 or abridging the freedom of speech, or of the press; or the right of the people to
10 peaceably assemble, and to petition the Government for a redress of grievances.” U.S.
11 CONST. amend. I.

12 246. Certain First Amendment protections are also required by the AEA under the
13 treaty stipulations triggered by Exec. Proclamation 10903, 90 Fed. Reg. 13033 set
14 forth in Article 14 of the U.S. Venezuela Treaty of Peace, Friendship, Navigation and
15 Commerce of May 31, 1836, 12 Bevans 1038.

16 247. By administering Proclamation 10903 as a prior restraint on speech to chill
17 protected speech by detaining Petitioner and Petitioner’s class and subjecting them to
18 imminent detention, removal, disappearance, and extraordinary rendition for
19 expressing themselves through tattoo art and by wearing sports memorabilia among
20 other things, Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165,
21 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their
22 implementing regulations, notices, orders, proclamations, memoranda, and other
23 executive acts violates the First Amendment.

24 **NINTH CLAIM FOR RELIEF**

25 Violation of the First Amendment, Vagueness (All Respondents)

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

1 249. By administering an arbitrary and capricious “check list,” known as the “Alien
2 Enemy Validation Guide,” to determine who is an “alien enemy” subject to
3 Proclamation 10903, which includes several open ended categories involving hand
4 gestures, graffiti, tattoo art, text messages and phone conversation, and articles of
5 clothing worn that allow the interviewer to determine what constitutes indicia of
6 membership in TdA without any objective definition or guiding principle, Exec.
7 Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467,
8 Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations,
9 notices, orders, proclamations, memoranda, and other executive acts are void for
10 vagueness under the First Amendment because it will have the direct effect of
11 chilling legitimate speech and expression.

12 **TENTH CLAIM FOR RELIEF**

13 Violation of Reasonable Seizure and Warrant Requirement under Fourth Amendment
14 and Texas Constitution Analog (All Respondents)

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

17 251. The Fourth Amendment provides in relevant part that: “The right of the people
18 to be secure in their persons, houses, papers, and effects, against unreasonable
19 searches and seizures, shall not be violated, and no Warrants shall issue, but upon
20 probable cause, supported by Oath or affirmation, and particularly describing the
21 place to be searched, and the persons or things to be seized.” U.S. CONST. amend. IV.

22 252. By facilitating seizure Petitioner and Petitioner’s class without a warrant
23 supported by probable cause and without sufficient particularity apparently acting
24 under a writ of assistance or general warrant and without serving and I-200 or any
25 other ulterior notice or informal paperwork sometimes styled as an administrative or
26 immigration warrant explaining why Petitioner and Petitioner’s class was seized and
27 how long they would be detained, Exec. Proclamation 10903, 90 Fed. Reg. 13033,
28

1 Exec. Order No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg.
2 8443, and their implementing regulations, notices, orders, proclamations,
3 memoranda, and other executive acts violated the Fourth Amendment and Texas
4 Constitution analog.

5 **ELEVENTH CLAIM FOR RELIEF**

6 Violation of Due Process Under the Fifth and Fourteenth Amendments, and Texas

7 Constitution Analog (All Respondents)

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

10 254. The Due Process Clause of the Fifth and Fourteenth Amendments provide in
11 relevant part that: “No person shall be deprived of life, liberty, or property, without
12 due process of law.” U.S. CONST. amends. V, XIV.

13 255. In denying Petitioners and the class meaningful procedural protections to
14 challenge their detention, removal, disappearance, or extraordinary rendition Exec.
15 Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467,
16 and Exec. Order No. 14159, 90 Fed. Reg. 8443 and their implementing regulations,
17 notices, orders, proclamations, memoranda, and other executive acts violates due
18 process.

19 **TWELFTH CLAIM FOR RELIEF**

20 Violation of Equal Protection Clause of the Fourteenth Amendment and Texas

21 Constitution Analog (All Respondents)

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

24 257. The Equal Protection Clause of the Fourteenth Amendments provide in
25 relevant part that: “No State shall . . . deny to any person within its jurisdiction the
26 equal protection of the laws.” U.S. CONST. amend. XIV.

1 258. In denying Petitioners and the class meaningful procedural protections to
2 challenge their detention, removal, disappearance, or extraordinary rendition Exec.
3 Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467,
4 Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations,
5 notices, orders, proclamations, memoranda, and other executive acts violates equal
6 protection.

7 **THIRTEENTH CLAIM FOR RELIEF**

8 Violation of Right to Counsel the Sixth Amendment (All Respondents)

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

11 260. The Sixth Amendment was held to include “a federal constitutional right to
12 counsel” in *Gideon v. Wainwright*, 372 U.S. 335, 338 (1963), *expounding* U.S.
13 CONST. amend. VI.

14 261. In denying Petitioners and the class a right to counsel to assist them in
15 challenging their classification as terrorists, criminals, and enemies of the state
16 described in foregoing paragraphs, resulting in detention, removal, disappearance, or
17 extraordinary rendition, Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order
18 No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their
19 implementing regulations, notices, orders, proclamations, memoranda, and other
20 executive acts violates due process.

21 **FOURTEENTH CLAIM FOR RELIEF**

22 Violation of Cruel and/or Unusual Punishment Clauses of the Eighth Amendment and
23 Texas Constitution Analog (All Respondents)

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

1 263. The Eighth Amendment provides in relevant part that: “Excessive bail shall not
2 be required, nor excessive fines imposed, nor cruel and unusual punishments
3 inflicted.” U.S. CONST. amend. VIII.

4 264. In denying Petitioners and the class any process for bail and by inflicting the
5 cruel and unusual punishment of indefinite ICE detention and imminent removal,
6 disappearance, and extraordinary rendition in violation of the UN Convention
7 Against Torture, the UN Declaration of Human Rights, Article 3 of the Geneva
8 Convention (III) Relative to the Treatment of Prisoners of War, Aug. 12, 1949,
9 [1955] 6 U.S.T. 3316, 3318, T.I.A.S. No. 3364, and several of the treaty stipulations
10 mandated under AEA and triggered by Proclamation 10903 to challenge their
11 detention, removal, disappearance, or extraordinary rendition Exec. Proclamation
12 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467, Exec. Order
13 No. 14159, 90 Fed. Reg. 8443, and their implementing regulations, notices, orders,
14 proclamations, memoranda, and other executive acts violates the Cruel and Unusual
15 Punishment Clause and Texas Constitution analog.

16 **FIFTEENTH CLAIM FOR RELIEF**

17 Violation of the Privileges and/or Immunities Clauses of U.S. Const. Art. VI, § 2, the
18 Fourteenth Amendment, and Texas Constitution Analog (All Respondents)

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

21 266. The Privileges and/or Immunities Clauses of U.S. Const. Art. VI, § 2 and the
22 Fourteenth Amendment provide in relevant part that: “The Citizens of each State
23 shall be entitled to all Privileges and Immunities of Citizens in the several states,” and
24 that “No State shall make or enforce any law which shall abridge the privileges or
25 immunities of citizens of the United States. U.S. CONST. art. VI, § 2; *id.* at amend.
26 XIV.

1 267. The privileges and immunities of Hmong people in the United States are also
2 required by the AEA under the treaty stipulations triggered by Proclamation 10903.

3 268. In denying Petitioners and the class meaningful procedural protections to
4 challenge their detention, removal, disappearance, or extraordinary rendition, Exec.
5 Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467,
6 Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations,
7 notices, orders, proclamations, memoranda, and other executive acts violates the
8 Privileges and/or Immunities Clauses and Texas Constitution analog.

9 **SIXTEENTH CLAIM FOR RELIEF**

10 Violation of the Commerce Clause, Naturalization Clause, the Necessary and Proper
11 Clause, and the Eleventh Amendment, ultra vires (All Respondents)

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

14 270. The Commerce Clause states in relevant part: “The Congress shall have Power
15 . . . to regulate commerce with foreign nations, among states, and with the Indian
16 tribes.” U.S. CONST. art. I, § 8, cl. 3.

17 271. The Naturalization Clause states in relevant part: “The Congress shall have
18 Power . . . to establish a uniform rule of naturalization.” *Id.* at art. I, § 8, cl. 4.

19 272. The Necessary and Proper Clause States in relevant part: “The Congress shall
20 have Power . . . To make all Laws which shall be necessary and proper for carrying
21 into Execution the foregoing Powers, and all other Powers vested by this Constitution
22 in the Government of the United States, or in any Department or Officer thereof.” *Id.*
23 at art. I, § 8, cl. 18.

24 273. The Eleventh Amendment states in relevant part: “The Judicial power of the
25 United States shall not be construed and extend to any suit in law or equity,
26 commenced or prosecuted against one of the United States by Citizens of another
27 State, or by Citizens or Subjects of any Foreign State.” *Id.* at amend. XI.

1 274. The outer bounds of the limited but supreme federal government of the United
2 States is controlled under the foregoing provisions of the U.S. Constitution by
3 *McCulloch v. Maryland*, 17 U.S. 316, 421 (1819), which held: “Let the end be
4 legitimate, let it be within the scope of the Constitution, and all means which are
5 appropriate, which are plainly adapted to that end, which are not prohibited, but
6 consist with the letter and spirit of the Constitution, are Constitutional.” *Id.* at 421.

7 275. Of the Eleventh Amendment, the U.S. Supreme Court once expounded: “That
8 its motive was not to maintain the sovereignty of a State from the degradation
9 supposed to attend a compulsory appearance before the tribunal of the nation may be
10 inferred from the terms of the amendment. It does not comprehend controversies
11 between two or more States, or between a State and a foreign State.” *Cohens v.*
12 *Virginia*, 19 U.S. 264, 406 (1821). Relying upon Alexander Hamilton, the Court
13 further expounded that if the States had final jurisdiction over the same causes it
14 would cause ““a hydra in government from which nothing but contradiction and
15 confusion can proceed.”” *Id.* at 415–16 (quoting *THE FEDERALIST PAPERS* No. 80
16 (Alexander Hamilton)).

17 276. By asserting an unlimited, unbounded, monarchical, plenary power to exclude
18 Petitioners to order their detention, removal, disappearance, or extraordinary
19 rendition, Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90
20 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing
21 regulations, notices, orders, proclamations, memoranda, and other executive acts
22 violates the anti-feudal limited and supreme constitutional structure of the United
23 States delineated by Clause 8, Article I of the U.S. Constitution, which was not
24 explicitly or implicitly expanded, widened, or transformed by the Eleventh
25 Amendment.

26 **SIXTEENTH CLAIM FOR RELIEF**
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1 Violation of republican federalism mandated by the Guarantee Clause, the Titles of
2 Nobility and Emoluments Clauses, and State Rights and Powers Under the Ninth and
3 Tenth Amendments (All Respondents)

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

6 278. The Guarantee Clause states in relevant part: “The United States shall
7 guarantee to every State in this Union a Republican Form of Government, and shall
8 protect each of them against Invasion; and on Application of the Legislature, or of the
9 Executive (when the Legislature cannot be convened) against domestic Violence.”
10 U.S. CONST. art. IV, § 4.

11 279. The Titles of Nobility and Emoluments Clauses state in relevant part: “No Title
12 of Nobility shall be granted by the United States: And no Person holding any Office
13 of Profit or Trust under them, shall, without the Consent of the Congress, accept and
14 present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or
15 foreign State.” *Id.* at art. I, § 9, cl. 8. The U.S. Constitution continues: “No State shall
16 . . . grant any Title of Nobility.” *Id.* at art. I, § 10, cl. 1.

17 280. The Ninth Amendment states in relevant part: “The enumeration in the
18 Constitution, of certain rights, shall not be construed to deny or disparage others
19 retained by the people.” *Id.* at amend. IX.

20 281. The Tenth Amendment states in relevant part: “The powers not delegated to the
21 United States by the Constitution, nor prohibited by it to the States, are reserved to
22 the States respectively, or to the people.” *Id.* at amend. X.

23 282. The U.S. Supreme Court always drew upon the republican federalist character
24 of the limited and supreme powers of the federal government and the separation of
25 powers to reject feudalism from its beginnings. *Chisholm v. Georgia*, 2 U.S. 419,
26 457–58 (1793) (denying the concept central to feudal sovereignty that “no suit or
27 action can be brought against the King, even in civil matters; because no Court can
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1 have jurisdiction over him,” and rather vindicating the idea that “The Sovereign,
2 when traced to his source, must be found in the man,” i.e., the consent of the
3 governed), *extended by* United States v. Lee, 106 U.S. 196, 206 (1882).

4 283. By asserting an unlimited, unbounded, monarchical, plenary power to exclude
5 Petitioners to order their detention, removal, disappearance, or extraordinary
6 rendition, Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90
7 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing
8 regulations, notices, orders, proclamations, memoranda, and other executive acts
9 violates the anti-feudal republican federalist character of the limited and supreme
10 constitutional structure of the United States mandated by the Guarantee Clause, the
11 Titles of Nobility and Emoluments Clauses, and State Rights and Powers Under the
12 Ninth and Tenth Amendments.

13 **SEVENTEENTH CLAIM FOR RELIEF**

14 Violation of the Separation of Powers and Declaration of War Requirement (All
15 Respondents)

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

18 285. The limited and federal powers of the federal government are divided into three
19 co-equal branches of government, the legislative, the executive, and the judiciary.
20 U.S. CONST. arts. I, II, III; *Boumediene v. Bush*, 553 U.S. 723, 746, 765 (2008)
21 (“[T]he writ of habeas corpus is itself an indispensable mechanism for monitoring the
22 separation of powers.”).

23 286. The separation of powers is implicated here, in part, because a president
24 asserted war powers in contravention of Congress’s power to declare war all to justify
25 violating the laws and constitutions of the United States and the rights of the people
26 to detain, remove, disappear, and extraordinary rendition Petitioner and the class
27 under the AEA during a time of peace.

1 287. Article I, Section 8, Clause 11 of the U.S. Constitution states in relevant part:
2 “The Congress shall have Power . . . To declare War, grant Letters of Marque and
3 Reprisal, and make Rules concerning Captures on Land and Water.”

4 288. Whether Congress’s power to declare war is suable in this Court as a
5 standalone action by injured parties was never resolved by the U.S. Supreme Court
6 despite the Korean and Vietnam Wars being fought without declaration, but Justice
7 Douglas repeatedly asserted that the federal courts do have this jurisdiction in a
8 variety of situations. *See Sarnoff v. Shultz*, 409 U.S. 929, 930 (1972) (Douglas, J.,
9 dissenting) (noting that the constitutionality of presidential war powers without a
10 congressional declaration war remains undecided (citing *Flast v. Cohen*, 392 U.S. 83
11 (1968))); *see also* *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 589
12 (1952) (“The Founders of this Nation entrusted the lawmaking power to the Congress
13 alone in both good and bad times.”).

14 289. By asserting an unlimited, unbounded, monarchical, plenary power to exclude
15 Petitioners to order their detention, removal, disappearance, or extraordinary
16 rendition, Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90
17 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing
18 regulations, notices, orders, proclamations, memoranda, and other executive acts
19 violates the separation of powers’ anti-feudal checks and balances that administer the
20 limited and supreme constitutional structure of the United States.

21 **EIGHTEENTH CLAIM FOR RELIEF**

22 Violation of relevant treaty stipulations (All Respondents)

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

25 291. Respondent violated relevant bi-lateral treaty stipulations.

26 292. Relevant treaty stipulations are in a form of bilateral treaty known as a
27 Friendship, Commerce, and Navigation “FCN” Treaty, of which there are several
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1 between the United States and other nations with similar terms including “access to
 2 courts” provisions that several decisions of the U.S. Supreme Court determined to
 3 indicate the FCN treaties are self-executing. *See* *Medillin v. Texas*, 552 U.S. 491,
 4 521, 571–73 (2008) (noting that FCN treaties were generally found or assumed to be
 5 self-executing in many Supreme Court decisions); *see, e.g., Asakura v. Seattle*, 265
 6 U.S. 332, 341–42 (1924) (“Treaties are to be construed in a broad and liberal spirit,
 7 and, when two constructions are possible, one restrictive of rights that may be
 8 claimed under it and the other favorable to them, the latter is to be preferred.” (citing
 9 *Hauenstein v. Lynham*, 100 U.S. 483, 487 (1879); *Geofroy v. Riggs*, 133 U.S. 258,
 10 271 (1890); *Tucker v. Alexandroff*, 183 U.S. 424, 437 (1902))); *Shanks v. Dupont*, 28
 11 U.S. 242, 249 (1830).

12 293. Moreover, AEA requires these stipulations are triggered on a statutory basis by
 13 Proclamation 10903. 50 U.S.C. § 22.

14 294. By summarily detaining, removing, disappearing, and the extraordinary
 15 rendition of Petitioner and the class, Exec. Proclamation 10903, 90 Fed. Reg. 13033,
 16 Exec. Order No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg.
 17 8443, and their implementing regulations, notices, orders, proclamations,
 18 memoranda, and other executive acts violated and breached several self-executing
 19 treaty terms protecting Petitioner and the class now that they are accused of being
 20 terrorists invading on behalf of Venezuela against the United States or a general
 21 invasions as immigrants as a whole.

22 **NINETEENTH CLAIM FOR RELIEF**

23 Violation of the Geneva Convention (III) Relative to the Treatment of Prisoners of
 24 War, Aug. 12, 1949, [1955] 6 U.S.T. 3316, T.I.A.S. No. 3364 (All Respondents)

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

1 296. Article 3 of the Geneva Convention prohibits sentences and executions passed
2 out “without previous judgment pronounced by a regularly constituted court,
3 affording all the judicial guarantees which are recognized as indispensable by
4 civilized peoples.” Article 3 of the Geneva Convention (III) Relative to the Treatment
5 of Prisoners of War, Aug. 12, 1949, [1955] 6 U.S.T. 3316, 3318, T.I.A.S. No. 3364.

6 297. Petitioner and the class are being detained as prisoners of war according to
7 Proclamation 10903, and they are accused of participating in a military invasion, and
8 therefore Proclamation 10903 triggers the Geneva Convention.

9 298. In *Hamdan v. Rumsfeld*, the U.S. Supreme Court overruled or at least
10 forcefully repudiated and abrogated *In re Yamashita* as the international
11 embarrassment that it was, and explicitly extended Article 3 of the Geneva
12 Convention to preempt, repeal, or oust “the common law of war” asserted in support
13 of a military tribunal judgment made in the executive branch. *Hamdan v. Rumsfeld*,
14 548 U.S. 557, 632 (2006) (citing Article 3 of the Geneva Convention (III) Relative to
15 the Treatment of Prisoners of War, Aug. 12, 1949, [1955] 6 U.S.T. 3316, 3318,
16 T.I.A.S. No. 3364; *In re Yamashita*, 327 U.S. 1, 44 (1946) (Rutledge, J., dissenting)).

17 299. *Hamdan* determined that the Geneva Convention is included in the “rules and
18 precepts of the law of nations,” as applied by *Ex parte Quirin* in the context of habeas
19 corpus, thereby making the Geneva Convention applicable here. *Hamdan*, 548 U.S. at
20 613.

21 300. Alternatively, AEA mandates the treaty stipulations of the Geneva Convention
22 subject to carrying out detention, removal, disappearance, and extraordinary rendition
23 under the AEA. 50 U.S.C. § 22.

24 301. *Hamdan* held that “in undertaking to try Hamdan and subject him to criminal
25 punishment, the Executive is bound to comply with the rule of law that prevails in
26 this jurisdiction.” *Id.* at 635.

302. By passing out sentences and executions “without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples,” Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467, Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations, notices, orders, proclamations, memoranda, and other executive acts violated Article 3 of the Geneva Convention (III) Relative to the Treatment of Prisoners of War, Aug. 12, 1949, [1955] 6 U.S.T. 3316, 3318, T.I.A.S. No. 3364.

303. Moreover, EOIR and the United States Alien Terrorist Removal Court (“USATRC”) are also deficient and would violate Article 3 of the Geneva Convention (III) Relative to the Treatment of Prisoners of War, Aug. 12, 1949, [1955] 6 U.S.T. 3316, 3318, T.I.A.S. No. 3364 according to *Hamdan*’s inclusion of it in the “rules and precepts of the law of nations.” *Hamdan*, 548 U.S. at 613; see DANIEL KAHNEMAN ET AL., NOISE: A FLAW IN HUMAN JUDGMENT 6–7, 91, 174 (2021) (citing Jaya Ramji-Nogales et al., *Refugee Roulette: Disparities in Asylum Adjudication*, 60 STAN. L. REV. 295 (2007)).

TWENTIETH CLAIM FOR RELIEF

Violation of the APA, 5 U.S.C. § 706 (All Respondents)

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

305. The APA, 5 U.S.C. § 702 grants Petitioner and the class a right of review to persons “suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute.”

306. The statute further provides that this review “shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party” if “an officer or employee” of the United States

1 “acted or failed to act in an official capacity or under color of legal authority” subject
2 to provisos.

3 307. Petitioner and the class was harmed by the foregoing allegations in all previous
4 claims of relief, each of which the Respondents violated in contravention of the APA.

5 308. The APA, 5 U.S.C. § 704 makes agency action reviewable by “statute or final
6 agency action for which there is no other adequate remedy in a court . . . subject to
7 judicial review.”

8 309. The APA, 5 U.S.C. § 706 empowers this Court to “compel agency action
9 unlawfully withheld or unreasonably delayed,” and to “hold unlawful and set aside
10 agency action, findings, and conclusions” that are “(A) arbitrary, capricious, an abuse
11 of discretion, or otherwise not in accordance with the law; (B) contrary to
12 constitutional right, power, privilege, or immunity; (C) in excess of statutory
13 jurisdiction, authority, or limitations, or short of statutory right; (D) without
14 observance of procedure required by law; (E) unsupported by substantial evidence in
15 a case subject to sections 556 and 557 of this title or otherwise reviewed on the record
16 of an agency hearing provided by statute; or (F) unwarranted by the facts to the extent
17 that the facts are subject to trial de novo by the reviewing court.”

18 310. By arbitrarily and capriciously causing the summary and imminent detention,
19 removal, disappearance, and extraordinary rendition of Petitioners and the class based
20 on vague and undefined criteria involving tattoo art and sports apparel, Exec.
21 Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467,
22 Exec. Order No. 14159, 90 Fed. Reg. 8443, and their implementing regulations,
23 notices, orders, proclamations, memoranda, and other executive acts are reviewable
24 final agency actions that violated 5 U.S.C. § 706 contrary to constitutional right,
25 power, privilege, and immunity, in excess of statutory jurisdiction, without
26 observance of procedure required by law, without the support of substantial evidence
27 or facts.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully pray this Court to:

- a. Grant an initial stay for removal or temporary restraining order of at least 30-days, or the maximum amount of time allowable under law, to amend this filing, to contact V.L., and to file motions for relief in this matter;
- b. Assume jurisdiction over this matter;
- c. Certify this action on behalf of the proposed Petitioner Class, appoint the Petitioners as class representatives, and appoint the undersigned counsel as class counsel;
- d. Grant a temporary restraining order to preserve the status quo pending further proceedings;
- e. Enjoin Respondents from transferring Petitioner and the Petitioner Class out of this district during the pendency of this litigation without advance notice to counsel;
- f. Grant a writ of habeas corpus that releases Petitioner and the Petitioner Class into the United States pending legitimate government action;
- g. Grant leave to Petitioner to admit and present exculpatory evidence;
- h. Grant a protective order to preserve evidence from destruction or spoliation including any property of Petitioner in ICE custody;
- i. Grant a nationwide, circuit-wide, and district-wide injunction finding that Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg. 8467, and Exec. Order No. 14159, 90 Fed. Reg. 8443 trigger and violate the foregoing treaty stipulations, multilateral and bilateral, between the sovereign nations of the United States and the Hmong people and Laos and other class represented countries, directing the Respondents to comply with all foregoing treaty stipulations, and providing an avenue of due judicial process to Petitioner and the class under applicable treaty stipulations and the law;

- 1 j. Enjoin Respondents from detaining, removing, disappearing, or extraordinary
2 renditioning Petitioners and the Petitioner Class pursuant to Exec.
3 Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg.
4 8467, or Exec. Order No. 14159, 90 Fed. Reg. 8443 and related proclamations
5 and orders;
- 6 k. Enjoin Respondents from removing Petitioner and the Petitioner Class pursuant
7 to Proclamation 10903;
- 8 l. Enjoin Respondents from detaining Petitioner and the Petitioner Class pursuant
9 to pursuant to Exec. Order No. 14165, 90 Fed. Reg. 8467;
- 10 m. Enjoin Respondents from criminalizing Petitioner and the Petitioner Class or
11 otherwise making them removable and inadmissible without due process or
12 equal protection of the law pursuant to 8 U.S.C. § 1325 and Exec. Order No.
13 14159, 90 Fed. Reg. 8443;
- 14 n. Enjoin Respondents to provide a duly issued warrant that complies with the
15 Fourth Amendment, Texas Constitution analog, and the foregoing treaty
16 stipulations triggered by Proclamation 10903 under the AEA;
- 17 o. Enjoin Respondents from using tattoo art or sports memorabilia to detain,
18 remove, disappear, or extraordinary rendition Petitioner as it is a prior restraint
19 of speech that violates the First Amendment with no valid exception;
- 20 p. Enjoin Respondents from using vague criteria that is not sufficiently defined
21 remove, disappear, or extraordinary rendition Petitioner as it violates the First
22 Amendment and chills legitimate speech with no valid exception;
- 23 q. Enjoin Respondents from unreasonably detaining Petitioner or anyone in
24 Petitioner's class for an indefinite amount of time;
- 25 r. Declare unlawful and unconstitutional Exec. Proclamation 10903, 90 Fed. Reg.
26 13033;
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- 1 s. Declare unlawful and unconstitutional Exec. Order No. 14165, 90 Fed. Reg.
- 2 8467;
- 3 t. Declare unlawful and unconstitutional Exec. Order No. 14159, 90 Fed. Reg.
- 4 8443;
- 5 u. Declare unlawful and unconstitutional Public Notices 12671 & 12672, 90 Fed.
- 6 Reg. 10030–31;
- 7 v. Declare unconstitutional and void the AEA, USA PATRIOT Act, and the
- 8 AUMFs of 2001 and 2002;
- 9 w. Declare that Petitioner is a refugee;
- 10 x. Declare all facts necessary to grant Petitioner’s asylum claim, withholding of
- 11 removal, or other relief and mandate a time and place for the members of
- 12 Petitioner’s class to access this Court to establish critical facts necessary each
- 13 person’s asylum or other relief that effectively binds EOIR and the
- 14 Respondents;
- 15 y. Declare EOIR structurally unconstitutional and illegitimate;
- 16 z. Declare EOIR unlawful and insufficient or incapable to satisfy relevant treaty
- 17 stipulations;
- 18 aa. Declare Respondents’ assertion and application of unlimited, unbounded,
- 19 monarchical, plenary power to exclude Petitioners to order and carry out their
- 20 detention, removal, disappearance, or extraordinary rendition under Exec.
- 21 Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No. 14165, 90 Fed. Reg.
- 22 8467, and Exec. Order No. 14159, 90 Fed. Reg. 8443 unlawful,
- 23 unconstitutional, odious, and void;
- 24 bb. Declare Exec. Proclamation 10903, 90 Fed. Reg. 13033, Exec. Order No.
- 25 14165, 90 Fed. Reg. 8467, and Exec. Order No. 14159, 90 Fed. Reg. 8443 and
- 26 related orders, proclamations, designations, regulations, memoranda, and
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1 executive actions an arbitrary and capricious violation of the APA, 5 U.S.C.
2 § 706;
3 cc. Award Petitioners' counsel reasonable attorneys' fees under the Equal Access
4 to Justice Act, and any other applicable statute or regulation; and
5 dd. Grant such further relief as the Court deems just, equitable, and appropriate.
6

7 Respectfully Submitted on May 25, 2025

8 /s/ Joshua J. Schroeder
9 Joshua J. Schroeder
10 SchroederLaw
11 Attorney for Nou Xiong next
12 friend of V.L.
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