



2. Petitioner is a 26-year-old citizen and native of El Salvador who entered the United States in 2016. Petitioner was released from custody in 2016 pursuant to the classification of his case by the Office of Refugee Resettlement as an unaccompanied alien child. From 25 June 2016 to 25 July 2022, Petitioner attended assorted “master calendar” hearings at the immigration court in downtown Houston, Texas. On or about 25 July 2022, Petitioner’s removal proceeding was dismissed at an immigration court in Houston, Texas.

3. On or about 14 April 2025, Petitioner was arrested in Galveston County on suspicion of driving while intoxicated. No publicly available document was filed in Galveston, Texas. Petitioner was taken to a state magistrate who set bond in the amount of \$1,500.00 for a Class B misdemeanor. When his family posted the bond, Petitioner was taken to the Montgomery Processing Center by ICE officers.

4. On or about 6 May 2025, a bond hearing was conducted at the Montgomery Processing Center at Conroe, TX. The immigration court denied bond on the grounds that Petitioner was then and is now a flight risk. Appeal was taken on 19 May 2025 to the Board of Immigration Appeals, and that appellate case is pending. The immigration court relied

on DHS Form I-213, which at page 2 reads “[o]n or about 14 April 2025, subject was arrested for the crime of ‘Driving Under Influence of alcohol. Case is. pending at this time.’” Petitioner’s Exhibit 1, p. 27

5. Petitioner does not have any meaningful ability to challenge the allegation that he was driving while intoxicated. Accordingly, to vindicate Petitioner’s 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendment rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that his detention is unlawful and order he be released under supervision.

### **JURISDICTION**

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and 28 U.S.C. § 1331. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

## VENUE

8. Venue is proper because Petitioner is detained at Montgomery Processing Center in Conroe, TX, which is within the jurisdiction of this District. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States, Respondent Bret Bradford resides in this district, a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, and Petitioner resides in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

## REQUIREMENTS OF 28 U.S.C. § 2243


9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the

constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

11. The right to file a petition for habeas corpus is intended to, at a minimum, provide “a means for reviewing the legality of Executive detention.” *Rasul v. Bush*, 542 U.S. 466, 474 (2004)(quoting *INS v. St. Cyr*, 533 U.S. 289, 301 (2001)).

### **PARTIES**

12. Petitioner Douglas Edgardo Gomez Espinoza is a 26 year old native and citizen of El Salvador who does not have any immigration status. A removal proceeding is pending in A . Petitioner is currently detained at Montgomery Processing Center. Petitioner resides in Houston, Texas with his mother and stepfather. He is in the custody and under the direct control of Respondents and their agents.

13. Warden of Montgomery Processing Center has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Warden of Montgomery Processing Center is a legal custodian of Petitioner.

14. Respondent Bret Bradford is sued in his official capacity as the Acting Director of the Houston Field Office of U.S. Immigration and Customs Enforcement. Respondent Bret Bradford is a legal custodian of Petitioner and has authority to release him.

15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement which is the component agency responsible for Petitioner's detention. Respondent Kristi Noem is a legal custodian of Petitioner.

16. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Pam Bondi is a legal custodian of Petitioner.

### **STATEMENT OF FACTS**

17. Petitioner is a 26 year old citizen and native of El Salvador who entered the United States in 2016. Petitioner was released from custody pursuant to the classification of his case by the Office of Refugee Resettlement as an unaccompanied alien child. Petitioner's Exhibit 1, p. 48, 124.

18. From 25 June 2016 to 25 July 2022, Petitioner attended assorted "master calendar" hearings at the immigration court in downtown Houston, Texas. On or about 25 July 2022, Petitioner's removal proceeding was dismissed at an immigration court in Houston, Texas. Petitioner's Exhibit 1, p. 27.

19. On or about 14 April 2025, Petitioner was arrested in Galveston County on suspicion of driving while intoxicated. Petitioner's Exhibit 1, p. 20. Petitioner was taken to a state magistrate and a bond was set in the amount of \$1,500.00. When the family posted the bond, Petitioner was taken to the Montgomery Processing Center by ICE officers. To date, no charge has been filed in Galveston, Texas.

20. On or about 6 May 2025, a bond hearing was conducted at the Montgomery Processing Center at Conroe, TX. The immigration court

denied bond on the grounds that Petitioner was then and is now a flight risk. Petitioner's Exhibit 1, p. 17. Appeal was taken on 19 May 2025 to the Board of Immigration Appeals, and that appellate case is pending. *Id.* p. 8. A copy of the record of proceedings in the bond proceeding at the Executive Office for Immigration Review is attached as Petitioner's Exhibit 1.

21. Petitioner is neither a flight risk nor is he a danger to the community. Petitioner's stepfather, US citizen Antonio Mejia, 319 Travis St, Webster, TX 77598 would be the third party responsible for Petitioner's appearance at court. Petitioner's Exhibit 1, pp. 74-80, pp. 92-99. Respondent's friends wrote letters on his behalf to request a bond. *Id.* pp. 81-90. Petitioner has filed taxes on income earned with a valid employment authorization document as a welder at Avadek Inc., 12130 Galveston Road, Bldg 1, Webster, TX 77598. Petitioner's Exhibit 1, pp. 100-122.

22. The immigration court relied on an FBI certification of the 14 April 2025 arrest and DHS Form I-213. Petitioner's Exhibit 1, p. 20, 26. Through Form I-213, the DHS investigation reveals that "[o]n or about 14 April 2025, subject was arrested for the crime of 'Driving Under



Influence of alcohol. Case is pending at this time.” Petitioner Exhibit 1, p. 27.

23. As of the date of this document, Petitioner has not been charged with or convicted of any offense. No offense report has been made available. No report from an accredited laboratory has been provided to show that Petitioner was intoxicated. Petitioner is presumed innocent.

24. Delay in the prosecution of the alleged state offense will cause irreparable harm to Petitioner, because he will be unable to prove that he has “good moral character” and merits a favorable exercise of discretion at the immigration court. Those are elements of those forms of discretionary relief that are available to Petitioner at the immigration court.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Violation of Fourth Amendment Right to be Secure against Unreasonable Seizures**

25. The allegations in the above paragraphs are realleged and incorporated herein.

26. No sworn statement of facts has been filed in the Galveston clerk's office.

27. No information has been filed in the court system.

28. No court date has been set in order to provide judicial review of the timeliness and diligence of law enforcement agents who arrested Petitioner for an alleged state offense.

29. Petitioner does not have any meaningful ability to challenge the state allegation that he was driving while intoxicated in Galveston, Texas.

30. For these reasons, Petitioner's detention violates the Fourth Amendment.

**COUNT TWO**  
**Violation of Fifth and Fourteenth Amendment Right to Due Process**

31. The allegations in the above paragraphs are realleged and incorporated herein.

32. Delay in the prosecution of the alleged state offense will cause irreparable harm to Petitioner, because he will be unable to prove that he has "good moral character" and merits a favorable exercise of discretion.

33. The statute of limitations for a misdemeanor offense in Texas is two (2) years. TEX. CODE CRIM. PROC. art. 12.02(a)(1).

34. Petitioner has not been convicted of any offense. No offense report has been made available. No report from an accredited laboratory has been provided to show that Petitioner was intoxicated. Petitioner is presumed innocent. Yet, the existence of a pending criminal charge in Galveston would be evidence used by the immigration judge to conclude that Petitioner lacks good moral character or that he does not merit a favorable exercise of discretion.

35. Petitioner has been ordered by the immigration court to file a defensive relief application(s) on or before 4 June 2025.

36. Proof of Petitioner's "good moral character" is an element of any form of discretionary relief in the immigration court, and that phrase is defined by statute. 8 U.S.C. § 1101(f). Evidence of conviction(s) for intoxicated driving establishes a rebuttable presumption that the alien lacked good moral character. *Matter of Castillo-Perez*, 27 I&N Dec. 664 (A.G. 2019). "Good moral character is a prerequisite to eligibility for numerous forms of immigration relief." *Id.* See e.g., 8 U.S.C. §

1229c(b)(1)(B) (voluntary departure); 8 U.S.C. 1229a(c)(4)(A) (whether alien merits favorable exercise of discretion).

37. An applicant for asylum “has the burden of establishing that the favorable exercise of discretion is warranted.” *Matter of Pula*, 19 I.&N. Dec. 467, 474 (BIA 1987). The immigration court should consider “the totality of the circumstances...in determining whether a favorable exercise of discretion is warranted...” *Matter of Kasinga*, 21 I.&N. Dec. 357, 367 (BIA 1996).

38. For these reasons, Petitioner’s detention violates the Fifth and Fourteenth Amendments, respectively.

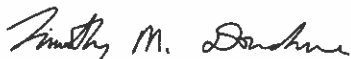
### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner’s detention violates the Fourth Amendment prohibition of unreasonable seizures.

- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

By:   
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Counsel for Petitioner

Dated: 27 May 2025

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Douglas Edgardo Gomez Espinoza, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 27 May 2025.

By: Timothy M. Donahue  
Timothy M. Donahue