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26 *Attorney for Petitioner*

27 **UNITED STATES DISTRICT COURT**
28 **DISTRICT OF NEVADA**

CARLOS JOSE LAZO REYES,

Petitioner,
v.

Michael Bernacke, Director, Salt Lake City
Field Office, U.S. Immigration and Customs

Case Number:

**VERIFIED EMERGENCY PETITION
FOR WRIT OF HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

Enforcement; REGGIE RADER, Police Chief,
Henderson Police Department; PAMELA
BONDI, Attorney General of the United States;
KRISTI NOEM, Secretary of Homeland
Security, in their official capacities,

Respondents.

INTRODUCTION

1. Petitioner Carlos Jose Lazo Reyes (“Mr. Lazo”) is a native and citizen of Venezuela. He is not a native or citizen of Mexico. He is detained by Immigration and Customs Enforcement (“ICE”) in the Henderson County Detention Center.

2. On June 30, 2025, an immigration judge (“IJ”) employed by the U.S. Department of Justice (“DOJ”) granted Mr. Lazo voluntary departure to Venezuela, the country of his choice. By granting Mr. Lazo voluntary departure, Mr. Lazo avoided a removal order. Mr. Lazo is not subject to a final order of removal.

3. By granting Mr. Lazo voluntary departure, DOJ provided Mr. Lazo the statutory right to voluntarily depart to the country of Venezuela within the next 60 days. Only if he fails to do so will he be subject to a final order of removal.

4. DOJ granted Mr. Lazo voluntary departure in part because the U.S. Department of Homeland Security (“DHS”)—represented in immigration court by Immigration and Customs Enforcement (“ICE”)—entered into an agreement with Mr. Lazo on June 27, 2025 and filed a joint motion in Immigration Court requesting that DOJ grant Mr. Lazo voluntary departure. In that joint motion, ICE stated that the U.S. government would facilitate Mr. Lazo’s voluntary departure to Venezuela, and that voluntary departure would occur via a **direct flight** from the United States to Venezuela.

REQUIREMENTS OF 28 U.S.C. § 2243

11. 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).

12. 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).

PARTIES

13. Petitioner CARLOS LAZO is a native and citizen of Venezuela who is currently held in ICE custody. Per an agreement with DHS and a DOJ-court order, he is entitled to voluntarily depart the U.S. on a direct flight to Venezuela

14. Respondent MICHAEL BERNACKE is sued in his official capacity as the Director of Immigration and Customs Enforcement’s Salt Lake City Field Office. On information and belief, the Salt Lake City Field Office is the Field Office that oversees the ICE Las Vegas sub-Field Office. To the extent Petitioner is in ICE custody, Director Bernacke is Petitioner’s custodian.

15. Respondent REGGIE RADER is sued in his official capacity as the Chief of Police of Henderson County. To the extent that Petitioner is detained by ICE at the Henderson County Correctional Facility, Police Chief Rader is Petitioner’s custodian.

1 22. Noncitizens granted voluntary departure receive removal orders automatically
2 under two (and only two) circumstances: if they file a motion to reopen their removal proceedings,
3 or if they fail to depart the United States in the time permitted by the IJ.

4 23. The INA provides ICE authority to remove individuals who have been issued a
5 final order of removal. The INA does not provide ICE any authority to remove individuals who
6 have been granted voluntary departure.

7
8 24. Due process protections apply to individuals who have entered the United States
9 lawfully and reside in the United States. Thus, lawfully admitted aliens—even if removable—are
10 entitled to greater procedural safeguards than those deemed arriving aliens. *See Zadvydas v. Davis*,
11 533 U.S. 678, 693–94 (2001); *Landon v. Plasencia*, 459 U.S. 21 (1982).
12

13 **Factual Background**

14 25. Mr. Lazo lawfully entered the United States with a tourist visa on or about January
15 17, 2024.

16 26. Thereafter, he timely filed an application to adjust to lawful permanent resident
17 status, based on an \$800,000 investment his wife made into a real-estate project qualified by the
18 U.S. government. Mr. Lazo and his wife also paid approximately \$13,000 in U.S. government
19 fees to submit various required applications.
20

21 27. On or about April 25, 2025, ICE detained Mr. Lazo and placed him in removal
22 proceedings in Las Vegas, Nevada. ICE has kept Mr. Lazo detained in Henderson, County.

23 28. In removal proceedings, ICE identified “Venezuela” as the country it would remove
24 Mr. Lazo to, should removal be ordered by the IJ.
25

26 29. On June 25, 2025, ICE and Mr. Lazo (through counsel) entered into an agreement
27 and filed a joint motion for voluntary departure with the Las Vegas Immigration Court. In that
28

joint filing signed by ICE, the parties “stipulate[d] that Respondent’s **voluntary departure to Venezuela will occur via a direct flight from the United States to Venezuela coordinated by the U.S. government.**”

30. In consideration of this, Mr. Lazo gave up all other claims to immigration relief, including his adjustment of status application.

31. On June 30, 2025, an IJ in the Las Vegas Immigration Court granted the joint motion, granting Mr. Lazo voluntary departure to Venezuela. The IJ granted Mr. Lazo 60 days from June 30, 2025 to depart the United States.

32. On July 1, 2025, ICE instructed Mr. Lazo (through counsel) that Mr. Lazo needed to provide his Venezuelan passport to ICE so ICE could begin to facilitate his voluntary departure to Venezuela.

33. On July 2, 2025, a contact of Mr. Lazo’s provided Mr. Lazo’s Venezuelan passport to ICE in ICE’s Las Vegas, Nevada Field Office.

34. On July 3, 2025, an ICE Office with the last name Ybarra informed Mr. Lazo in the Henderson County Detention Center that ICE would be placing him on a flight to Mexico at Mexico’s request.

35. Mr. Lazo’s attorneys immediately emailed the ICE Las Vegas Field Office to request information and explain that ICE could not legally deport Mr. Lazo to Mexico. As of the time of this filing, ICE has not responded to counsel’s email.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act and Implementing Regulations

36. Petitioner incorporates paragraphs 1 to 35 as if fully stated herein.

37. Because Mr. Lazo was lawfully admitted to the United States and has no criminal

convictions, ICE could only remove him from the United States by obtaining a final order of removal following removal proceedings held pursuant to 8 U.S.C. § 1229a.

38. ICE did so by serving Mr. Lazo with a notice to appear and charging him as removable under 8 U.S.C. § 1227(a)(1)(B).

39. Noncitizens in removal proceedings enjoy all of the rights outlined at 8 U.S.C. § 1229a.

40. When a noncitizen is placed in removal proceedings governed by 8 U.S.C. § 1229a, such proceedings “Shall be the sole and exclusive procedure for determining whether an alien may be ... removed from the United States.” 8 U.S.C. § 1229a(a)(3).

41. Mr. Lazo ultimately was not ordered removed, and instead received pre-conclusion voluntary departure to the country of Venezuela pursuant to 8 U.S.C. § 1229c(a)(1).

42. The voluntary departure statute and implementing regulations expressly contemplate that a person will depart to a *specific country*—here, Venezuela.

43. ICE’s decision to violate the IJ’s Order and its own agreement and deport Mr. Lazo to Mexico violates 8 U.S.C. § 1229a, other INA provisions, and the INA’s attendant regulations.

COUNT TWO

Violation of Due Process

44. Petitioner incorporates paragraphs 1 to 35 as if fully stated herein.

45. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)).

46. Noncitizens in removal proceedings are entitled to due process. Any efforts by

1 ICE to remove Petitioner without allowing him to avail himself of the procedures created by the
2 INA and its regulations would violate due process.

3 **COUNT THREE**

4 **Breach of Contract**

5 47. Petitioner incorporates paragraphs 1 to 35 as if fully stated herein.

6 48. The ICE and Petitioner entered into an agreement.

7 49. In consideration of accepting pre-conclusion voluntary departure, Petitioner gave
8 up his right to challenge his removability, bond eligibility, and to apply for other forms of relief.

9 50. In consideration of agreeing to pre-conclusion voluntary departure, the ICE avoided
10 protracted litigation regarding Mr. Lazo's removability, bond eligibility, and alternative relief
11 eligibility, and avoided having to litigate appeals on any issues.

12 51. ICE agreed in writing that Mr. Lazo would be permitted to voluntarily depart to
13 Venezuela via direct flight.

14 52. By attempting to deport Mr. Lazo to Mexico, ICE has breached its agreement.

15 **RELIEF REQUESTED**

16 **WHEREFORE,** Petitioner respectfully requests this Court to grant the following:

- 17
- 18 a. Assume jurisdiction over this matter.
- 19
- 20 b. Issue an ex-parte temporary restraining order.
- 21
- 22 c. Enjoin Respondents from removing or otherwise sending Petitioner to the country
23 of Mexico or any country other than Venezuela.
- 24
- 25 d. Declare that Petitioner's removal to Mexico violates the Immigration and
26 Nationality Act.
- 27
- 28 e. Declare that Petitioner's removal to Mexico violates the Due Process Clause of the
Fifth Amendment.

- 1 f. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner
2 immediately.
- 3 g. Enjoin Petitioner's removal from the United States pending a final decision on this
4 habeas action.
- 5 h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act,
6 and on any other basis justified under law.
- 7 i. Grant such other relief as this Court may deem just and proper.
- 8
- 9

10 Dated: July 3, 2025

Respectfully submitted,

11 /s/ Jerrell L. Berrios

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

I represent Petitioner, Carlos Jose Lazo Reyes, 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 3rd day of July, 2025.

/s/ Ira J. Kurzban
Ira J. Kurzban
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lazo Reyes, Carlos Jose

(b) County of Residence of First Listed Plaintiff Henderson County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jerrell L. Berrios, Esq., GreenbergTraurig; 10845 Griffith Peak Dr., Suite 600, Las Vegas, NV 89135; Tel: 702.938.6915 / 702.792.3773;
Kurzban Kurzban Tetzeli & Pratt, P.A., 131 Madeira Ave, Coral Gables, FL 33134; 305-444-0060

DEFENDANTS

MICHAEL BERNACKE, Director, Salt Lake City Field Office, U.S. Immigration and Customs Enforcement; REGGIE RADER, Police Chief, Henderson Police Department; PAMELA BONDI, Attorney General of the United States; KRISTI NOEM, Secretary of Homeland Security, in their official capacities

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

☐ 1 U.S. Government
Plaintiff

☐ 3 Federal Question
(U.S. Government Not a Party)

☒ 2 U.S. Government
Defendant

☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff*

(For Diversity Cases Only)

and One Box for Defendant)

Citizen of This State ☐ PTF 1 ☐ DEF 1 Incorporated or Principal Place of Business In This State ☐ PTF 4 ☐ DEF 4

Citizen of Another State ☐ 2 ☐ 2 Incorporated *and* Principal Place of Business In Another State ☐ 5 ☐ 5

Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT			TORTS			FORFEITURE/PENALTY			BANKRUPTCY			OTHER STATUTES										
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act																
<input type="checkbox"/> 120 Marine		<input type="checkbox"/> 365 Personal Injury -		<input type="checkbox"/> of Property 21 USC 881			<input type="checkbox"/> 423 Withdrawal	<input type="checkbox"/> 376 Qui Tam (31 USC														
<input type="checkbox"/> 130 Miller Act		Product Liability		<input type="checkbox"/> 690 Other					28 USC 157	3729(a))												
<input type="checkbox"/> 140 Negotiable Instrument		<input type="checkbox"/> 367 Health Care/									PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment										
<input type="checkbox"/> 150 Recovery of Overpayment		Pharmaceutical											<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust								
<input type="checkbox"/> & Enforcement of Judgment		Personal Injury													<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking						
<input type="checkbox"/> 151 Medicare Act		Product Liability															<input type="checkbox"/> 835 Patent - Abbreviated	<input type="checkbox"/> 450 Commerce				
<input type="checkbox"/> 152 Recovery of Defaulted		<input type="checkbox"/> 368 Asbestos Personal																	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation		
<input type="checkbox"/> Student Loans		Injury Product																			<input type="checkbox"/> 880 Defend Trade Secrets	<input type="checkbox"/> 470 Racketeer Influenced and
<input type="checkbox"/> (Excludes Veterans)		Liability																				
<input type="checkbox"/> 153 Recovery of Overpayment	<input type="checkbox"/> 370 Other Fraud	SOCIAL SECURITY	<input type="checkbox"/> 485 Telephone Consumer																			
<input type="checkbox"/> of Veteran's Benefits	<input type="checkbox"/> 371 Truth in Lending				<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV																
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 380 Other Personal			<input type="checkbox"/> 862 Black Lung (923)			<input type="checkbox"/> 850 Securities/Commodities/															
<input type="checkbox"/> 190 Other Contract	Property Damage							<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions													
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 385 Property Damage									<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts											
<input type="checkbox"/> 196 Franchise	Product Liability											<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters									
														<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 895 Freedom of Information							
																<input type="checkbox"/> 791 Employee Retirement	<input type="checkbox"/> 896 Arbitration					
																		Income Security Act	<input type="checkbox"/> 899 Administrative Procedure			
																				IMMIGRATION	Act/Review or Appeal of	
		<input type="checkbox"/> 462 Naturalization Application	Agency Decision																			
					<input type="checkbox"/> 465 Other Immigration	<input type="checkbox"/> 950 Constitutionality of																
				Actions			State Statutes															

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (*Do not cite jurisdictional statutes unless diversity*):
28 U.S.C. 2241

Brief description of cause:

Writ of habeas corpus for imminent unlawful removal of noncitizen in violation of INA and due process, and in breach of contract.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S)
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

07/03/2025

/s/ Jerrell L. Berrios

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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