UNITED STATES DISTRICT COURT
THE DISTRICT OF COLORADO

Civil Action No. 25-CV-2720

NESTOR ESAI MENDOZA GUTIERREZ,

Petitioner

v.

JUAN BALTASAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado, in his official capacity,

ROBERT GAUDIAN, Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity,

KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity,

TODD LYONS, Acting Director of Immigration and Customs Enforcement, in his official capacity,

PAM BONDI, Attorney General, U.S. Department of Justice, in her official capacity,

Respondents

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Nestor Esai Mendoza Gutierrez is an immigration detainee being illegally held without bond at Immigration and Customs Enforcement (ICE) Denver Contract Detention Facility in Aurora, Colorado. Mr. Mendoza Gutierrez is entitled to a writ of *habeas corpus* to end his illegal detention, and will show:

I. INTRODUCTION

1. Petitioner Nestor Esai Mendoza Gutierrez ("Mr. Mendoza Gutierrez") has resided in the United States for over 25 years and has no relevant criminal convictions. He is the loving father of two teenaged U.S.-citizen children, one of whom was tragically the victim of sexual abuse. Mr. Mendoza Gutierrez cooperated with law enforcement to prosecute the perpetrator and (prior to his arrest and detention) applied for a "Victims of Criminal Activity" U-Visa granted to, in this case,

a parent of a minor-crime-victim who assisted in the prosecution of the person who committed a crime on their minor child.

2. Despite his pending U-Visa petition, lack of any disqualifying criminal convictions, and lengthy and productive life in the U.S., Mr. Mendoza Gutierrez was taken into custody by ICE on or about May 25, 2025 and charged with "entry without inspection" under the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101-1537.

3. Despite Mr. Mendoza Gutierrez's lack of a disqualifying criminal convictions, cooperation with law enforcement to remedy the harm inflicted on his U.S.-citizen son, long-standing ties to his community in the U.S., and the hardship inflicted on his U.S.-citizen children by his detention, Respondents are illegally denying him release on bond while civilly detaining him at the ICE Denver Contract Detention Facility in Aurora, Colorado ("Aurora Facility").

II. PARTIES

Petitioner

4. Mr. Mendoza Gutierrez is imprisoned by ICE at the Aurora Facility in Aurora, Colorado. Mr. Mendoza Gutierrez has lived in Colorado without immigration status for over 25 years along with his wife and his two U.S.-citizen children, who are 18 and 16 years old.

Respondents

5. Juan Baltasar is the Warden of the Aurora Facility where ICE jails Mr. Mendoza Gutierrez, and is an employee of the GEO Group, the for-profit prison company that operates the facility. Mr. Baltasar is a legal custodian of Mr. Mendoza Gutierrez. He is sued in his official capacity.

6. Robert Guadian is the ICE Field Office Director of the Denver ICE Field Office and is sued in his official capacity. Mr. Guadian is the immediate custodian of Mr. Mendoza Gutierrez and is responsible for Mr. Mendoza Gutierrez's detention and removal.

7. Kristi Noem is the Secretary of the Department of Homeland Security (DHS). Ms. Noem is responsible for the implementation and enforcement of the INA. DHS is the parent agency of ICE, and thus Ms. Noem also oversees ICE, which is responsible for Mr. Mendoza Gutierrez's illegal detention. Ms. Noem has ultimate custodial authority over Mr. Mendoza Gutierrez and is sued in her official capacity.

8. Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. Mr. Lyons is responsible for Mr. Mendoza Gutierrez's illegal detention and has custodial authority over him.

9. Pamela Bondi is the Attorney General of the United States. She is responsible for the actions of the Department of Justice (DOJ). The Executive Office for Immigration Review (EOIR) and the immigration court system it operates are a component agency of DOJ. Ms. Bondi is sued in her official capacity.

III. JURISDICTION AND VENUE

10. Respondents incarcerated Mr. Mendoza Gutierrez at the Aurora Facility in Aurora, Colorado beginning on May 25, 2025. Mr. Mendoza Gutierrez is currently imprisoned in this District and is under the control of Respondents and their agents.

11. Mr. Mendoza Gutierrez brings this action under 28 U.S.C. § 2241, the INA and its implementing regulations, the Administrative Procedures Act (5 §§ U.S.C. 500-596, 701-706), the All Writs Act (8 U.S.C. § 1651), the Declaratory Judgment Act, 28 U.S.C. § 2201, and the U.S. Constitution. District courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas corpus* actions by noncitizens challenging the lawfulness and constitutionality of their civil immigration detention.

12. This Court also has federal question jurisdiction pursuant to 28 U.S.C. § 1331, as this is a civil action arising under the laws of the U.S.

13. Venue is proper under 28 U.S.C. § 1391 because Respondents imprison Mr. Mendoza Gutierrez in Aurora, Colorado, within the jurisdiction of this Court. Likewise, Mr. Mendoza Gutierrez is a resident of this District, and a substantial part of the events giving rise to the claims in this action took place within this District.

IV. FACTUAL BACKGROUND

A. Immigration Detention's Legal Underpinning

14. The vast majority of immigration detainees are imprisoned under three basic forms of detention authorized by the INA during the pendency of removal (deportation) proceedings under 8 U.S.C. § 1229a or to effectuate a person's removal after receiving a final order of removal.

15. First, 8 U.S.C. § 1226(a) authorizes the *discretionary* detention of noncitizens in § 1229a removal proceedings before an immigration judge (IJ). When ICE arrests a person pursuant to § 1226, they "may" be detained or immediately released and given a notice to appear in immigration court. If ICE instead elects to initially detain someone under § 1226(a), those individuals are then generally entitled to a bond hearing near the outset of their detention, unless they have been convicted of certain disqualifying crimes (enumerated at § 1226(c) that are not relevant here). *See* 8 U.S.C. § 1226(a) & 8 C.F.R. §§ 1003.19(a), 1236.1(d). This is the default detention authority, and for decades has been applied to people apprehended in the interior, rather than at or near the border or a port of entry.

16. Second, the INA provides for *mandatory* detention of noncitizens subject to an expedited removal order imposed pursuant to § 1225(b) and for other noncitizen "applicants for admission" to the U.S. who are apprehended at the border or port of entry, *see* 8 U.S.C. § 1225(b)(2). Section

1225 focuses on noncitizens "arriv[ing]" "whether or not at a designated port of arrival," and plainly applies to people like those who were "interdicted in international or United State waters" (§ 1225(a)(1)), are "stowaways" (§ 1225(a)(2)), and who are otherwise "applicants for admission" into the U.S. (§ 1225(a)(3)). In contrast to § 1226, § 1225 discusses matters such as "screening" "claims for asylum" (§ 1225(b)(1)(A)(i)-(ii)) at the border, "inspection" to determine if a noncitizen "is … clearly and beyond a doubt entitled to be admitted" (§ 1225(b)(2) & (d)), and "removal" of "an arriving [noncitizen]" (§ 1225(c)(1)). Mandatory detention also applies to individuals with specific contacts with the criminal legal system under a different section of the statute. *See* 8 U.S.C. § 1226(c).

17. Finally, the INA provides for detention of noncitizens who have been ordered removed. *See* 8 U.S.C. § 1231(a), (b). As Mr. Mendoza Gutierrez is not subject to a final removal order, this provision is not relevant here.

18. This case concerns the discretionary detention provision at 8 U.S.C. § 1226(a) and the mandatory detention provision at § 1225(b).

19. The Supreme Court summarizes the interplay between §§ 1226 and 1225 as follows: "In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission *into* the country under §§ 1225(b)(1) and (b)2). It also authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c)." *Jennings v. Rodriguez*, 582 U.S. 281, 289 (2018) (Alito, J., emphasis added).

20. Both the § 1226 and § 1225 detention provisions were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was

most recently amended in early 2025 by the Laken Riley Act (LRA), Pub. L. No. 119-1, 139 Stat. 3 (2025).

21. Following the enactment of the IIRIRA in 1996, EOIR wrote new regulations applicable to proceedings before IJs explaining that, in general, people who entered the country without inspection (also known as "present without admission") were *not* detainable under § 1225 and instead could only be detained § 1226(a) – and thus able to access bond. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

22. Thus, in the following decades, most people who entered without inspection, were later apprehended in the interior, and were then placed in standard § 1229a removal proceedings (like Mr. Mendoza Gutierrez), could ultimately receive bond hearings under § 1226 before IJs (unless their criminal convictions rendered them ineligible under § 1226(c)). That practice was consistent with additional decades of pre-IIRIRA practice, in which noncitizens who were not "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting the new § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

23. This practice – both pre- and post-enactment of the IIRIRA – is consistent with the fact that noncitizens present in the U.S. have constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

24. Despite this long-standing practice and the plain text of the INA, on July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy that rejected this decades-long framework, and the well-settled understanding of the statutory basis for detention.

25. The new ICE/DOJ policy, titled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all noncitizens present within the U.S. who entered without inspection – no matter how long ago, no matter where, and no matter how – are deemed "applicants for admission" under 8 U.S.C. § 1225, and thus subject to mandatory detention under § 1225(b)(2)(A). The new policy applies regardless of when and where a person was apprehended, and primarily affects people who have resided in the U.S. for months, years, and even – like Mr. Mendoza Gutierrez – decades.

26. In May 22, 2025, the Board of Immigration Appeals (BIA) likewise issued an unpublished decision where EOIR took the same position. That decision holds that all noncitizens who entered the U.S. without admission or parole and who are present with in the U.S. are now considered "applicants for admission" and thus ineligible for release on bond.

27. Respondents continue to take this position even though *every* federal court considering this issue has rejected their position and granted *habeas* or other preliminary relief to detained immigrants who were held without bond. *Rodriguez-Vazquez v. Bostock*, No. 779 F.Supp.3d 1239 (W.D. Wash. 2025) (granting preliminary relief); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, *8 (D. Mass. July 7, 2025) (granting individual *habeas* relief); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.3d ---, 2025 WL 2084238, *9 (D. Mass. July 24, 2025) (denying reconsideration of individual *habeas* relief); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025) (granting preliminary relief); *Escalante v. Bondi*, No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025) (report and recommendation

to grant preliminary relief, adopted *sub nom O.E. v. Bondi*, 2025 WL 2235056 (D. Minn. Aug. 4, 2025)); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D. N.Y. Aug. 8, 2025) (granting individual *habeas* relief); *de Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to grant *habeas* relief, adopted without objection at 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (granting *habeas* relief); *Aquilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (same); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug 15, 2025) (same); *Romero v. Hyde*, --- F.Supp.3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (same); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, Doc. 20 (D. Md. Aug. 24, 2025) (same); *Benitez v. Noem*, No. 5:25-cv-02190, Doc. 11 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Kostak v. Trump*, No. 3:25-dcv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025) (same).

28. Simply, DHS, DOJ, EOIR, and ICE's interpretation defies the plain language of the INA, its long-extant implementing regulations, and canons of statutory construction. And now over a dozen federal court orders.

29. Instead, the INA's plain text demonstrates § 1226(a) – *not* § 1225(b) – applies to people like Mr. Mendoza Gutierrez. Section 1226(a) is the "default rule" applying to all persons "pending a decision on whether the [noncitizen] is to be removed." *Rodriguez Vazquez*, 779 F.Supp.3d at 1246 & *Jennings*, 582 U.S. at 281. *See also supra* at ¶ 27.

30. Other portions of the text of § 1226 also explicitly apply to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible individuals makes clear that, by default, inadmissible

individuals not subject to subparagraph (E)(ii) are entitled to a bond hearing under subjection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F.Supp.3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

31. Thus, § 1226 leaves no doubt that it applies to noncitizens like Mr. Mendoza Gutierrez who are present without admission and who face charges of removal proceedings of being inadmissible to the U.S.

32. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the U.S. and are encountered at or near the border. Section 1225's entire framework is premised around inspection at the border of people who are "seeking admission" to the U.S. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 582 U.S. 281, 287 (2018) (Alito, J.).

33. Accordingly, contrary to Respondents' novel interpretation of the INA, the mandatory detention provisions of § 1225(b)(2) simply do not apply to people like Mr. Mendoza Gutierrez who long-ago "arrived" in the country and has now resided in Colorado for decades before ICE detained him.

B. Mr. Mendoza Gutierrez' Illegal Detention Without Bond

34. Mr. Mendoza Gutierrez is a native of El Salvador who has resided in Broomfield, Colorado since September 2024. Before moving into the family's Broomfield apartment, he has resided in the Denver Metro Area since 1999. During the 26 years he has resided in the U.S., he has never had any prior contact with immigration authorities.

35. Mr. Mendoza Gutierrez has two U.S.-citizen children, his son, J.M. (18 years old) and daughter, N.M. (16 years old), who he supports along with his wife, Glendy. He is a leader in his church, where he was a founding member and occasionally gives the Sunday sermon, while singing in the choir as the lead vocalist. At a hearing on his underlying removal case, over a dozen members of the church showed up to support him. He owns his own construction firm, which is frequently hired by his former employer (where he worked for eight years) as a subcontractor. His colleagues describe him as a hard worker and dependable employee. Before his detention, he lived at a fixed address with his family. Mr. Mendoza Gutierrez pays all required taxes – including Social Security taxes even though he would not benefit from the Social Security program.

36. Tragically, when he was a minor, J.M. was sexually assaulted in 2017 by a family friend while J.M. was in the perpetrator's care. J.M reported the assault to Mr. Mendoza Gutierrez, who made sure the perpetrator was reported to the police. As such, Mr. Mendoza Gutierrez is a witness in the criminal case who has been subpoenaed to testify. There is an active investigation into the assault, and a warrant out for the arrest of the perpetrator (who is at large). Unsurprisingly, J.M. has suffered severe emotional trauma as a result of being sexually abused by a man close to his family.

37. As a result, the Aurora Police Department certified Mr. Mendoza Gutierrez's request for a U-Visa. The U-Visa program is designed to help victims of crime (as well as parents of minors

who are victims of crime) pursue justice by protecting them from deportation during the pendency of the criminal case while they cooperate with police. With the certification from the Aurora Police Department, Mr. Mendoza Gutierrez submitted his U-Visa application before his detention. The application remains pending.

38. Mr. Mendoza Gutierrez's criminal convictions consist of one driving under the influence charge from almost 23 years ago, and minor traffic tickets. Mr. Mendoza Gutierrez took responsibility for the DUI charge by pleading guilty, was sentenced to one year of probation, complied with all the conditions of his plea agreement (including completing alcohol awareness classes), and has abstained from alcohol ever since. There was no accident, and no one was injured. In any case, driving under the influence is not an offense that would disqualify him from release on bond under § 1226(c).

39. In short, Mr. Mendoza Gutierrez has a fixed address, strong ties to the community, and no disqualifying criminal convictions. As such, prior to Respondents' new policy, he would have been an excellent candidate for release from immigration detention on bond.

40. Unfortunately, in May 2025, Mr. Mendoza Gutierrez was falsely accused of another criminal offense and arrested by the Broomfield police. The police body cameras showed the complaining witness was plainly intoxicated, and other witnesses who were present immediately contradicted her story. After reviewing surveillance video evidence of the alleged incident, the district attorney quickly dismissed the case "in the interest of justice," and sealed the records.

41. Because of his arrest on this bogus charge, however, ICE took Mr. Mendoza Gutierrez into custody on or about May 25, 2025, and imprisoned him at the Aurora Facility. ICE continues to detain him at the Aurora Facility today.

42. ICE declined to issue bond to Mr. Mendoza Gutierrez under § 1226(a).

43. ICE placed Mr. Mendoza Gutierrez in removal proceedings before the Aurora Immigration Court pursuant to 8 U.S.C. § 1229a.

44. On June 5, 2025, ICE served a "notice to appear" on Mr. Mendoza Gutierrez, and charged him with being "present in the United States [without] be[ing] admitted or paroled." The factual basis of the charge is that on an "unknown" date and an "unknown" location, Mr. Mendoza Gutierrez entered the U.S. and then was "not admitted or paroled after inspection by an Immigration Officer OR at that time [he] arrived at a time or place other than as designated by the Attorney General" and thus is "a[] [noncitizen] present in the Untied States without being admitted or paroled" in violation of INA § 212(a)(6)(A)(i) (8 U.S.C. § 1182).

45. On June 12, 2025, through counsel, Mr. Mendoza Gutierrez requested a bond hearing before an IJ.

46. After the bond hearing, on June 23, 2025, IJ Tyler Wood of the Aurora Immigration Court denied bond "because the [immigration] court lacks jurisdiction because [Mr. Mendoza Gutierrez] is detained under [8 U.S.C. § 1225]," relying on Respondents' new policy and interpretation of the INA's detention authorities.

V. CLAIMS FOR RELIEF

COUNT I
Respondents are Detaining Mr. Mendoza Gutierrez in Violation of 8 U.S.C. § 1226(a)

47. Mr. Mendoza Gutierrez incorporates by reference the allegations of fact set forth in the preceding paragraphs.

48. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Mr. Mendoza Gutierrez because he was present and residing in the U.S., has been placed under a § 1229a removal proceeding, and charged with inadmissibility pursuant to 8 U.S.C. § 1182. Simply, § 1225 does

not apply to people like Mr. Mendoza Gutierrez who previously entered the country and has been present and residing in the U.S. prior to being detained and placed in removal proceedings by Respondents. Such noncitizens may only be detained pursuant to § 1226(a), unless (unlike Mr. Mendoza Gutierrez) they are subject to mandatory detention under § 1226(c), or § 1231. And detention under § 1226(a) requires access to bond.

49. Applying § 1225 to Mr. Mendoza Gutierrez unlawfully mandates his continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).

COUNT II
Respondents are Detaining Mr. Mendoza Gutierrez in Violation of the INA Bond Regulations (8 C.F.R. §§ 236.1, 1236.1 & 1003.19)

50. Mr. Mendoza Gutierrez incorporates by reference the allegations of fact set forth in the preceding paragraphs.

51. Respondent EOIR and the then Immigration and Naturalization Service issued a rule to interpret and apply the IIRIRA under the heading "Apprehension, Custody, and Detention of [Noncitizens]," which explained: "Despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond.*" 62 Fed. Reg. at 10323 (emphasis added). Respondents thus long-ago made clear that people like Mr. Mendoza Gutierrez who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and the implementing regulations.

52. Nonetheless, Respondents here deemed Mr. Mendoza Gutierrez subject to mandatory detention under § 1226.

53. Applying § 1225 to Mr. Mendoza Gutierrez instead unlawfully mandates his continued detention under § 1225(b)(2).

54. Respondents' application of § 1225(b)(2) to Mr. Mendoza Gutierrez unlawfully requires his continued detention in violation of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Respondents are Detaining Mr. Mendoza Gutierrez in Violation of the Administrative Procedures Act (5 U.S.C. § 706(2))

55. Mr. Mendoza Gutierrez incorporates by reference the allegations of fact set forth in the preceding paragraphs.

56. Under the APA, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

57. Respondents' detention of Mr. Mendoza Gutierrez pursuant to § 1225 is arbitrary and capricious, and in violation of the Fifth Amendment of the U.S. Constitution. Respondents do not have statutory authority under § 1225 to detain Mr. Mendoza Gutierrez.

58. Respondents' detention of Mr. Mendoza Gutierrez without access to bond is arbitrary, capricious, an abuse of discretion, violative of the U.S. Constitution, and without statutory authority, all in violation of 5 U.S.C. § 706(2).

A. Respondents Detain Mr. Mendoza Gutierrez in Violation of his Fifth Amendment Due Process Rights

59. Mr. Mendoza Gutierrez incorporates by reference the allegations of fact set forth in the preceding paragraphs.

60. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that the [Fifth Amendment's due process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

61. Mr. Mendoza Gutierrez has a fundamental interest in liberty and being free from official restraint, such as imprisonment in the Aurora Facility.

62. Respondents' detention of Mr. Mendoza Gutierrez without providing him a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to Due Process.

PRAYER FOR RELIEF

Mr. Mendoza Gutierrez respectfully asks that this Court take jurisdiction over this matter and grant the following relief:

1. Issue a writ of *habeas corpus* requiring Respondents to either release Mr. Mendoza Gutierrez immediately or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
2. Award Mr. Mendoza Gutierrez attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and,
3. Grant any other and further relief that this Court deems just and proper.

Dated: August 29, 2025.

/s/ Alyssa Reed
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VERIFICATION

I, Alyssa Reed, declare as follows:

I am an attorney admitted to practice law in the State of Colorado.

Because many of the allegations in this petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

I have read the foregoing Petition for Writ of *Habeas Corpus* and know the contents thereof to be ture to my knowledge, information, and belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 29, 2025.

/s/ Alyssa Reed
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CERTIFICATE OF SERVICE

I, Alyssa Reed, hereby certify that on August 29, 2025, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Alyssa Reed, hereby certify that I have mailed a hard copy of the document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail on August 29, 2025.

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And to: Kristi Noem and Todd Lyons, DHS/ICE, c/o:

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