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7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10
11 Jaime Vinicio ORTIZ DONIS,

12 **Petitioner,**

13 **v.**

14 CHRISTOPHER CHESTNUT, in official
15 capacity,
Warden of the California City Correctional
16 Facility;
SERGIO ALBARRAN, in official capacity,
17 Field Office Director of ICE's San Francisco
18 Field Office; TODD M. LYONS, in official
capacity Acting Director of ICE, KRISTI
19 NOEM, in official capacity, Secretary of the
U.S. Department of Homeland Security; PAM
20 BONDI, in official capacity, Attorney General
of the United States,

21 **Respondents.**

Case No. 25-833

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1
2 1. Petitioner Jaime Vinicio Ortiz Donis (“Mr. Ortiz” or “Petitioner”) is a 43-year-old
3 husband and father of three children, one of whom is a U.S. citizen. In May 2005, Mr. Ortiz came
4 to the United States fleeing persecution based on his [REDACTED]
5 in Guatemala. According to his immigration documents, he was processed by the Department of
6 Homeland Security (DHS) shortly after arriving in the United States and he was released on his
7 own recognizance after being placed into removal proceedings under 8 U.S.C. § 1229(a).

8 2. Immigration court records show that over one year later, in Aug. 2006, the DHS
9 filed a notice to appear with the immigration court in West Los Angeles, CA, commencing removal
10 proceedings against him. Mr. Ortiz, then *pro se*, had attempted to update his mailing address in
11 writing with the immigration court but for some reason, it was rejected, though Mr. Ortiz was
12 unaware that his attempt to update his mailing address was not accepted. He never received a
13 hearing notice in the mail and in 2006, the immigration court ordered him removed *in absentia*.

14 3. Shortly after coming to the United States, Mr. Ortiz moved to Rancho Cordova, CA
15 outside of Sacramento. Later, his wife and two daughters joined him there, fleeing the same
16 persecution as Mr. Ortiz. He and his wife made their home in Rancho Cordova, and they had a
17 third daughter who is a U.S. citizen.

18 4. On June 17, 2025, Mr. Ortiz was detained by Immigration and Customs
19 Enforcement (ICE) officers outside his home based on the unexecuted removal order entered by
20 the immigration court in 2006. Shortly after his arrest, he was transferred by DHS to the Mesa
21 Verde Detention Center in Bakersfield, California. A day or so, Mr. Ortiz was transferred by DHS
22 to a processing detention center in Florence, Arizona. Shortly after arriving in Florence, DHS
23 transferred him again to a large-scale tent facility called the El Paso Enhanced Hardened Facility
24 in El Paso, Texas. Upon information and belief, Mr. Ortiz was left in handcuffs for many hours a
25 day while in El Paso and witnessed hundreds of other people in the same condition. He and his
26 attorney were unable to communicate for several days except for one phone call limited to two
27 minutes. Eventually, he and his attorney were able to schedule a longer unmonitored call.

28 5. Upon further information and belief, one evening, the exact date is unknown, Mr.
Ortiz was put on a plane and told by DHS officers that he would be deported to Guatemala.

1 6. On June 25, 2025, Mr. Ortiz, through undersigned counsel, filed an urgent motion
2 in the immigration court to reopen and rescind his *in absentia* removal order based on lack of
3 notice of his hearing date. As a matter of law, the filing of the motion to reopen triggered an
4 automatic stay of his removal from the United States.

5 7. Upon realizing that there was an automatic stay of his unexecuted removal order,
6 DHS officers took Mr. Ortiz off the deportation flight and sent him back to the El Paso Enhanced
7 Hardened Facility. Mr. Ortiz was eventually transferred back to Florence, Arizona, and then to
8 the Mesa Verde Detention Center in Bakersfield, California.

9 8. Sometime later, DHS transferred him again to the California City Detention Center
10 in Antelope Valley, located in eastern Kern County, where he remains today.

11 9. In an order dated Aug. 11, 2025, the West Los Angeles immigration court reopened
12 and rescinded his *in absentia* removal order, which means that Mr. Ortiz is now back in removal
13 proceedings under 8 U.S.C. § 1229(a) and is entitled to seek relief from removal. Undersigned
14 counsel believes that he is eligible for asylum, withholding of removal, protection under the
15 Convention Against Torture (“CAT”), and E42B cancellation of removal because he has a U.S.
16 citizen child and a lawful permanent resident mother in the United States.

17 10. On Aug. 28, 2025, Mr. Ortiz, through his attorney, moved the immigration court to
18 set a custody re-determination hearing to request release on bond. In the motion, he provided
19 evidence showing that he is neither a danger to the community nor a flight risk. To date, no bond
20 hearing has been set.

21 11. Based on undersigned counsel’s interviews with Mr. Ortiz, his wife, and adult
22 sister, we believe he has no criminal history and his immigration documents available to counsel
23 reflect no arrests or convictions.

24 12. In July 2025, DHS began instructing all ICE employees to treat anyone alleged to
25 be inadmissible under 8 U.S.C. §1182(a)(6)(A)(i) as an “applicant for admission” subject to
26 mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The announcement of the new DHS policy
27 conceded that it was created “in coordination with the Department of Justice (DOJ).”¹ This

28 ¹ **Exh. 1** a true and correct copy of Am. Immigration Lawyers Ass’n Doc. No. 25071607: ICE
Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, Jul. 8,
2025

1 incorrect and indefensible interpretation of the Immigration and Nationality Act (INA) was
2 endorsed by the Board of Immigration Appeals (BIA) in its recent decision, issued September 5,
3 2025, *Matter Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025).

4 13. According to Mr. Ortiz's immigration court notice to appear, he is charged as
5 inadmissible under 8 U.S.C § 1182(a)(6)(A)(i) for being found in the country without admission
6 or parole (commonly described as an "entry without inspection") Therefore, under DHS's new and
7 flawed interpretation of the laws governing bond eligibility, Mr. Ortiz will be found ineligible for
8 a bond hearing.

9
10 14. The new DHS policy, besides being based on a flawed interpretation of the INA,
11 ignores that immigration detention is civil and thus is permissible for only two reasons: to ensure
12 a noncitizen's appearance at immigration hearings and to prevent danger to the community.

13 15. In June 2025, ICE officers arrested and detained Mr. Ortiz pursuant to an
14 unexecuted removal order issued after he did not receive notice of his 2006 immigration court
15 hearing and thus did not appear. However, since then, an immigration judge agreed that he did
16 not receive notice of his hearing and reopened and rescinded the *in absentia* removal.

17 16. Thus, Mr. Ortiz is no longer imminently removable and back in standard removal
18 proceedings. He is eligible to apply for several forms of relief from removal including asylum,
19 withholding of removal, protection under CAT, and E42B cancellation of removal because he has
20 a U.S. citizen child and a lawful permanent resident mother in the United States.

21
22 17. Instead of offering him a bond hearing, as was long the practice for noncitizens who
23 entered without inspection under 8 U.S.C. § 1226, the immigration court is now bound by the
24 BIA's decision in *Matter Yajure Hurtado* to finding that it lacks jurisdiction to hear his request for
25 release on bond.

26 18. DHS's new policy of mandatorily detaining any immigrant who comes to the
27 United States without admission or parole is part of its broader enforcement campaign, attempting
28 to detain increasingly more noncitizens, strip them of their procedural rights including their right

1 to seek release from DHS custody, pressure them to forfeit their rights to seek relief from removal
2 by exposing them to increasing poor conditions in custody², and pressure them into fast-track
3 removals.

4 19. In immigration proceedings, noncitizens have the right to pursue claims for relief
5 from removal (including asylum, withholding of removal and protection under CAT), be
6 represented by counsel, gather and present evidence, and pursue immigration judge and judicial
7 review. 8 U.S.C. § 1229(a). By continuing to unlawfully detain Mr. Ortiz, DHS—in its view—can
8 pressure him into giving up his rights by keeping him into DHS custody where conditions rival
9 those in criminal confinement, where DHS employees often tell detained people their cases are
10 hopeless and the waits for judicial review will be long, best to accept an order of removal to escape
11 poor conditions. Undersigned counsel has witnessed in recent months that clients in DHS custody
12 are rapidly and frequently transferred, in handcuffs for hours, from one DHS detention center to
13 another, often crisscrossing state lines as bedspace ebbs and flows, further putting detained
14 immigrants in physical restraints and emotional abysses. At the same time, those detained
15 respondents without attorneys are put at greater disadvantage to secure legal representation
16 because their physical whereabouts can be unknown for days and at risk of changing overnight to
17 a place far from a lawyer’s office and expertise.

18 20. Mr. Ortiz’s arrest and three-month long detention have already caused him
19 substantial harm, including the emotional trauma of being arrested outside his home by a group of
20 ICE agents, taken away from his family, transferred across three states in the span of as many days
21 during his initial time in DHS custody, spending many consecutive hours in handcuffs during these
22 transfers, having to see many other noncitizens in similarly abysmal conditions, particularly while
23 he was detained at the large-scale tent facility in El Paso, where he could not speak with his
24 attorney for days, and being placed on a deportation flight to Guatemala. The psychological toll
25 of confinement is considerable, and conditions in immigration detention facilities are often
26 substandard. Indeed, the conditions at the California City Detention Center, where he is held now,

27 ² “60 violations in 50 days: Inside ICE’s giant tent facility at Ft. Bliss,” MacMillan, Douglas, et
28 al, Washington Post, Sept. 16, 2025, available at
<https://www.washingtonpost.com/business/2025/09/16/ice-detention-center-immigration-violations/>

1 have come under scrutiny for lack of a locally issued license to operate and substandard care for
2 detainees.³ Mr. Ortiz has lived peacefully with his family in the Sacramento area for 20 years and
3 filed tax returns. He has expressed despair that he continues to be detained in prison-like
4 conditions.

5 21. Every additional day of unlawful detention will add to his immiseration and subject
6 him to further irreparable harm. The emotional pain that his wife and three daughters have suffered
7 because of his traumatic arrest and continued unlawful detention only furthers Mr. Ortiz's pain.

8 22. Moreover, detention is highly prejudicial to his chance of success on his intended
9 applications for relief from removal. His loss of income takes away his ability to pay for
10 immigration counsel. He is now back in standard removal proceedings before the immigration
11 court, and these proceedings can last years. His inability to earn a living and save for future
12 immigration counsel will limit him to seeking *pro bono* help from the limited number of nonprofit
13 providers who take on immigration court cases. Importantly, detention will also make it much
14 harder for Mr. Ortiz to go through all the steps needed to prepare a complex asylum, withholding,
15 and CAT case – steps such as having extensive communication with counsel, collecting evidence,
16 being evaluated by a psychologist for corroborating signs of trauma, and preparing testimony.
17 Further, while detained, Mr. Ortiz's case will be heard by detained docket immigration judges who
18 are accustomed to seeing immigrants with criminal history and may be less inclined to grant relief
19 from removal, though Mr. Ortiz does not fit this profile.

20 23. The Constitution protects Mr. Ortiz —and every other person present in this
21 country—from arbitrary deprivations of his liberty, and guarantees his due process of law. The
22 government's power over immigration is broad, but as the Supreme Court has declared, it "is
23 subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
24 "Freedom from bodily restraint has always been at the core of the liberty protected by the Due
25 Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

26 24. Mr. Ortiz respectfully seeks a writ of habeas corpus ordering the government to
27 immediately release him from unlawful detention, or release him if he is not given a bond hearing

28 ³ "California's largest ICE detention center has 500 detainees. 'It's total chaos.'" Montalvo, Melissa, *The Fresno Bee*, Sept. 15, 2025, available at <https://www.fresnobee.com/news/local/article312055176.html>.

1 under 8 U.S.C. § 1226(a) within seven days, and prohibiting his re-arrest without a hearing to
2 contest detention before a neutral decision-maker and at which the government bears the burden
3 of showing he is either a danger to the community or a flight risk. In addition, to preserve this
4 Court's jurisdiction, Petitioner also requests that this Court order the government not to transfer
5 him outside of the District, or deport him, for the duration of this proceeding.

6 7 8 **JURISDICTION AND VENUE**

9 25. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
10 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
11 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
12 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
(Administrative Procedure Act).

13 26. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
14 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

15 27. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
16 Respondents are employees, officers, and agencies of the United States, and because a
17 substantial part of the events or omissions giving rise to the claims occurred in the Eastern District
18 of California.

19 20 **PARTIES**

21 28. Mr. Ortiz is a 43-year-old husband and father from Guatemala. Upon information
22 and belief, he has no criminal history. He is currently in civil immigration detention at the
23 California City Detention Center in Antelope Valley, located in eastern Kern County. He has not
24 previously petitioned for a writ of habeas corpus in this or any other court.

25 29. Respondent Christopher Chestnut is employed by CoreCivic as the Warden of the
26 California City Detention Center, where Petitioner is detained. He has immediate physical custody
27 of Petitioner and is sued in his official capacity

28 30. Respondent Sergio Albarran is the Director of the San Francisco Field Office of

1 ICE's Enforcement and Removal Operations division. As such, Mr. Albarran is Petitioner's
2 immediate custodian and is responsible for Petitioner's detention and removal. Respondent
3 Albarran maintains an office and regularly conducts business in this district. He is named in his
4 official capacity.

5 31. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
6 Performing the Duties of the Director of ICE, he is responsible for the administration and
7 enforcement of the immigration laws of the United States; routinely transacts business in this
8 District; and is legally responsible for pursuing any effort to detain and remove the Petitioner.
9 Respondent Lyons is sued in his official capacity.

10 32. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
11 authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority
12 over and responsibility for the operation and enforcement of the immigration laws; routinely
13 transacts business in this District; and is legally responsible for pursuing any effort to detain and
14 remove Mr. Ortiz. Respondent Noem is sued in her official capacity.

15 33. Respondent Pamela Bondi is the Attorney General of the United States and the most
16 senior official at the Department of Justice. In that capacity and through her agents, she is
17 responsible for overseeing the implementation and enforcement of the federal immigration laws.
18 The Attorney General delegates this responsibility to the Executive Office for Immigration
19 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
20 official capacity.

21 **EXHAUSTION**

22 34. There is no requirement to exhaust because no other forum exists in which Mr.
23 Ortiz can raise the claims herein. There is no statutory exhaustion requirement prior to challenging
24 the constitutionality of an arrest or detention, or challenging a policy under the Administrative
25 Procedure Act. Prudential exhaustion is not required here because it would be futile, and Mr. Ortiz
26 will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim."
27 *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further exhaustion requirements would be
28 unreasonable.

1
2 **LEGAL BACKGROUND**

3 ***A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Detention.***

4
5 35. The Constitution establishes due process rights for “all ‘persons’ within the United
6 States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
7 permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533
8 U.S. at 693). These due process rights are both substantive and procedural.

9 36. *First*, “[t]he touchstone of due process is protection of the individual against
10 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
11 exercise of power without any reasonable justification in the service of a legitimate government
12 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

13 37. These protections extend to noncitizens facing detention, as “[i]n our society
14 liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”
15 *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
16 imprisonment—from government custody, detention, or other forms of physical restraint—lies
17 at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

18 38. Substantive due process thus requires that all forms of civil detention—including
19 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*
20 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible
21 non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at
22 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–
23 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

24 39. *Second*, the procedural component of the Due Process Clause prohibits the
25 government from imposing even permissible physical restraints without adequate procedural
26 safeguards.

27 40. Generally, “the Constitution requires some kind of a hearing *before* the State
28 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so
even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at 683

1 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional
2 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
3 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

4 41. After an initial release from custody on conditions, even a person paroled following
5 a conviction for a criminal offense for which they may lawfully have remained incarcerated has a
6 protected liberty interest in that conditional release. *Morrissey*, 408 U.S. at 482. As the Supreme
7 Court recognized, “[t]he parolee has relied on at least an implicit promise that parole will be
8 revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever name, the liberty is
9 valuable and must be seen within the protection of the [Constitution].” *Id.*

10 42. This reasoning applies with equal if not greater force to people released from civil
11 immigration detention at the border, like Mr. Ortiz. After all, noncitizens living in the United States
12 like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See*
13 *Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of immigration detention], [the] liberty
14 interest [of noncitizens released from custody] is arguably greater than the interest of parolees.”
15 *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

16
17 ***B. The INA Provides Noncitizens Like Petitioner with the Opportunity to Leave DHS Custody***
18 ***at a Bond Hearing.***

19
20 43. The Immigration and Nationality Act (“INA”) prescribes three basic forms of
21 detention for the vast majority of noncitizens in removal proceedings.

22 44. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
23 proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals detained under
24 Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8
25 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or
26 convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C.
27 § 1226(c).

28 45. Second, the INA provides for mandatory detention of two groups of noncitizens:
The first group consists of those who are subject to expedited removal for being apprehended upon

1 arrival near the border or for being unable to show that they have been physically present in
2 the United States for more than two years until a determination has been made as to whether they
3 have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). The second group subject to
4 mandatory detention consists of anyone alleged to be an “applicant for admission” who is
5 “seeking admission” and whom an “examining immigration officer determines . . . is not clearly
6 and beyond a doubt entitled to be admitted.” *See* 8 U.S.C. § 1225(b)(2)(A).

7 46. Last, the INA provides for detention of noncitizens who have been ordered
8 removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

9 47. Petitioner’s case concerns the detention provisions describes in Section 1226(a) and
10 Section 1225(b)(2). The detention provisions in Section 1226(a) and Section 1225(b)(2) were
11 enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of
12 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583,
13 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,
14 Pub.L. No.119-1, 139 Stat. 3 (2025).

15 48. Following the enactment of the IIRIRA, in 1997, EOIR drafted regulations
16 explaining that, in general, people who entered the country without inspection, like Petitioner,
17 were considered detained under Section 1226(a), not under Section 1225. *See* Inspection and
18 Expedited Removal of Aliens Detention and Removal of Aliens; Conduct of Removal
19 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

20 49. In the decades that followed the creation of this statutory and regulatory language,
21 people who entered without inspection were placed in standard removal proceedings and received
22 bond hearings, unless their criminal histories triggered the requirements for mandatory detention
23 outlined in 8 U.S.C. § 1226(c) (concerning mandatory detention of “criminal aliens”). *See* also 8
24 C.F.R. 236.1(c)(8) (describing criteria for release). That practice was consistent with many decades
25 of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody
26 hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see*
27 *also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
28 detention authority previously found at § 1252(a)).

1 50. This state of affairs changed drastically on January 20, 2025, the day that President
2 Trump took office for his second term. That day, President Trump signed Executive Order 14159,
3 “Protecting the American People Against Invasion,” the purpose of which was “to faithfully
4 execute the immigration laws against all inadmissible and removable aliens, particularly those
5 aliens who threaten the safety or security of the American people.” Exec. Order No. 14,159, 90
6 C.F.R. § 8443 (Jan. 20, 2025). The order directed the Secretary of Homeland Security to take
7 various actions “to ensure the efficient and expedited removal of aliens from the United States.”
8 *Id.*

9 51. To implement this order, on July 8, 2025, ICE announced a new policy “in
10 coordination with” DOJ. *See* Exh. 1. This new policy rejected the well-established understanding
11 of the statutory framework on detention of noncitizens and reversed decades of practice.

12 52. The new policy, entitled “Interim Guidance Regarding Detention Authority for
13 Applicants for Admission,” asserts that all persons who entered the United States without
14 inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225(a)(1), and
15 therefore subject to mandatory detention provision under Section 1225(b)(2)(A). *Id.* The policy
16 applies regardless of when or where a person was apprehended, and it affects those who have
17 resided in the United States for months, years, and even decades.

18 53. On September 5, 2025, BIA issued an opinion adopting this interpretation of the
19 detention statutes. *Matter Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). This BIA decision
20 holds that “aliens who are present in the United States without admission are applicants for
21 admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must
22 be detained for the duration of their removal proceedings.” *Id.*

23 54. ICE, certain immigration courts and now, the BIA, have adopted this position even
24 though federal courts have rejected this very argument. Even before the announcement of this new
25 DHS policy, in the immigration court in Tacoma, Washington, immigration judges stopped
26 providing bond hearings for persons who entered the United States without inspection and who
27 have since resided here. The U.S. District Court in the Western District of Washington found that
28 such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies
to noncitizens who are neither apprehended upon arrival to the United States nor within the first

1 two years of presence. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025).

2 55. Recently, detainees in the Central District of California sought a nationwide class
3 action challenging DHS's new policy of shoehorning noncitizens who were not admitted or
4 paroled into the country into mandatory detention under Section 1225(b). See *Maldonado Bautista*
5 *v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Class Action Compl. & Am. Pet. for Habeas Corpus,
6 Dkt. 15 (C.D. Cal. July 28, 2025). The district court granted a temporary restraining order for the
7 named class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Order
8 Granting Pet'rs' Ex Parte Appl. For TRO & Order to Show Cause, Dkt. 5 (C.D. Cal. Jul. 28, 2025).
9 The court scheduled a hearing for Oct. 17 on class certification and on a motion for summary
10 judgment.

11 56. Every federal court to have considered the question has rejected the DHS-DOJ
12 interpretation of the statutes. See *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3,
13 2025) (granting habeas relief); *Lopez-Campos v. Raycraft*, --- F. Supp. 3d ----, 2025 WL 2496379
14 (E.D. Mich. Aug. 29, 2025) (granting habeas relief); *Kostak v. Trump*, No. 3:25-cv-01093-JE, Doc.
15 20 (W.D. La. Aug. 27, 2025) (granting preliminary relief); *Benitez v. Noem*, No. 5:25-cv-02190,
16 Doc. 11 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Leal-Hernandez v. Noem*, No.
17 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (granting habeas relief); *Romero*
18 *v. Hyde*, --- F. Supp. 3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (granting habeas relief);
19 *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15,
20 2025) (granting habeas relief); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411
21 (D. Minn. Aug. 15, 2025) (granting habeas relief); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK,
22 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (granting habeas relief); *Rocha Rosado v. Figueroa*,
23 No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to
24 grant habeas relief), adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (granting habeas relief);
25 *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) (granting
26 individual habeas relief); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13
27 (C.D. Cal. July 28, 2025) (granting preliminary relief); *Diaz Martinez v. Hyde*, No. CV 25-11613-
28 BEM, --- F. Supp. 3d ----, 2025 WL 2084238, at *9 (D.Mass. July 24, 2025) (denying
reconsideration of individual habeas relief); *Romero v. Hyde*, ---F. Supp. 3d ----, 2025 WL

1 2403827 (D. Mass. July 19, 2025) (granting habeas relief); *Gomes v. Hyde*, No. 1:25-cv-11571-
2 JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting individual habeas relief).

3 57. The joint DHS-DOJ interpretation of Section 1225(b)(2) defies the INA’s text, the
4 INA’s logic, and the well-established case law and practice interpreting this provision.

5
6 **FACTUAL ALLEGATIONS**

7
8 58. To further implement the President’s Executive Order, DHS issued a notice
9 immediately authorizing application of expedited removal to certain noncitizens arrested anywhere
10 in the country who cannot show “to the satisfaction of an immigration officer” that they have been
11 continuously present in the United States for at least two years. 90 Fed. Reg. 8139 (published Jan.
12 24, 2025).

13 59. On January 23, 2025, the Acting Secretary of Homeland Security issued a
14 memorandum “provid[ing] guidance regarding how to exercise enforcement discretion in
15 implementing” the new expedited-removal rule. The guidance directed federal immigration
16 officers to “consider . . . whether to apply expedited removal” to “any alien DHS is aware of who
17 is amenable to expedited removal but to whom expedited removal has not been applied.” As part
18 of that process, the guidance encourages officers to “take steps to terminate any ongoing removal
19 proceeding and/or any active parole status.”⁴

20 60. The government has subsequently taken other steps to expand the use of expedited
21 removal far beyond what has been seen before. In a leaked ICE memo from earlier this year, ICE
22 leadership shared its interpretation of the law such that some noncitizens encountered at the border
23 are subject to expedited removal with no time limit.

24 61. Under the administration’s expanded approach to expedited removal, hundreds of
25 thousands of noncitizens who have lived in the country for significant periods of time are at
26 imminent risk of summary removal without any hearing, meaningful process, access to counsel,
27 or judicial review—regardless of the strength of their ties to the United States.

28 ⁴ Benjamine C. Huffman, *Guidance Regarding How to Exercise Enforcement Discretion*, Dep’t
of Homeland Sec. (Jan. 23, 2025), [https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-
and-parole-guidance.pdf](https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf).

1
2 **A. To Pressure Noncitizens to Accept Removal, DHS Undertakes a New Campaign**
3 **of Arresting Thousands of Noncitizens a Day and Subjecting All who Entered without**
4 **Inspection to Mandatory Detention.**

5 62. Since the spring of 2025, DHS has initiated an aggressive new enforcement
6 campaign targeting people who are in standard removal proceedings in immigration court and at
7 scheduled U.S. Citizenship and Immigration Services (USCIS) interviews, many of whom have
8 pending applications for relief from removal. This “coordinated operation” is “aimed at
9 dramatically accelerating deportations” by arresting people at the courthouse and placing them
10 into expedited removal.⁵

11 63. The American Immigration Lawyers’ Association, the largest trade group of
12 immigration attorneys in the country, wrote that starting in Mar. 2025, their members began
13 reporting increased ICE “presence and arrests taking place at USCIS field offices during
14 immigration interviews. Since then, USCIS field offices have facilitated, extended, and ramped up
15 immigration enforcement efforts across the country.”⁶ In a press release, USCIS “boast[ed] about
16 its assistance to ICE, including actively providing ICE with volunteers to support enforcement
17 operations[,]” despite this being “far removed from USCIS’s congressionally mandated mission”
18 to “uphold[] America’s promise as a nation of welcome and possibility with fairness, integrity,
19 and respect for all we serve.” *Id.*

20 64. In the immigration courthouses, the first step of this enforcement operation
21 typically takes place inside the court. When people arrive in court for their master calendar
22 hearings, DHS attorneys orally file a motion to dismiss the proceedings—without any notice to
23 the affected individual. Although DHS regulations do not permit such motions to dismiss absent a

24 ⁵ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic*
25 *in Trump’s Deportation Push*, Wash. Post, May 23, 2025,
26 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>;
27 *see also* Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up*
28 *Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025,
<https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

⁶ Am. Immigration Lawyers Ass’n Policy Brief: ICE Arrests at USCIS Field Offices Undermine
U.S. Immigration Processes, Jul. 3, 2025, <https://www.aila.org/policy-brief-ice-arrests-at-uscis-field-offices-undermine-u-s-immigration-processes>

1 showing that the “[c]ircumstances of the case have changed,” 8 C.F.R. § 239.2(a)(7), (c), DHS
2 attorneys do not conduct any case-specific analysis of changed circumstances before filing these
3 motions to dismiss. Once the removal proceedings have been dismissed, ICE officers in the
4 courthouse arrest the noncitizen.

5 65. Once the person has been transferred to a detention facility, the government
6 pressures them to accept removal, both by telling the person that their case is hopeless and wait
7 times inside detention for review will be long, and by subjecting them to conditions on par with
8 criminal custody. The immigration court system has a recently implemented policy of unilaterally
9 transferring venue of the case to a “detained” immigration court located at or near remote detention
10 facilities, often far from their attorney of record’s office and area of experience with the local
immigration court bench and its practices.

11 66. DHS is aggressively pursuing this arrest and detention campaign at courthouses and
12 interviews throughout the country. In New York City, for example, “ICE agents have apprehended
13 so many people showing up for routine appointments this month that the facilities” are
14 “overcrowded,” with “[h]undreds of migrants . . . sle[eping] on the floor or sitting upright,
15 sometimes for days.”⁷

16 67. The same is true at the Sacramento Immigration Court, where Petitioner’s case for
17 relief will go if he is successful in this petition for his release and then pursues applications for
18 relief for removal as he has a right to do.⁸

19 68. DHS’s aggressive tactics at courts and interviews appear to be motivated by the
20 Administration’s imposition of a new daily quota of 3,000 ICE arrests.⁹ In part because of this
21 campaign, ICE’s arrests of noncitizens with no criminal record have increased more than 800%

22 _____
23 ⁷ Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*,
N.Y. Times, June 12, 2025, <https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html>.

24 ⁸ Hobbs, Stephen, *At Sacramento’s immigration court, these volunteers have their eyes on ICE*,
The Sacramento Bee, Aug. 7, 2025, <https://www.sacbee.com/news/politics-government/capitol-alert/article311482768.html>.


25 ⁹ Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*,
Reuters, June 10, 2025, <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025,
26 <https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>.

1 since before January.¹⁰

2 69. The new courthouse and interview arrest and detention campaign is a sharp break
3 from DHS's previous practices, which sought to avoid chilling legal immigration and when
4 immigration officers avoided arrests at courthouses given the concern that such enforcement
5 actions would deter people from appearing for their proceedings and complying with court
6 orders.¹¹

7 70. In fact, DHS officials previously permitted ICE officers to conduct "civil
8 immigration enforcement action . . . in or near a courthouse" only in highly limited circumstances,
9 such as when "it involves a national security threat," or "there is an imminent risk of death,
10 violence, or physical harm." These limitations were necessary, DHS explained, because
11 "[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals'
12 access to courthouses, and, as a result, impair the fair administration of justice."¹² The new policy
13 includes no such limiting language.¹³

14 ***B. Petitioner is Unlawfully Detained Pursuant to DHS's New Policy.***

15 71. Mr. Ortiz fled Guatemala due to violence that his family suffered based on their
16  These events give rise to a cognizable claim for asylum, withholding of
17 removal, and protection under CAT. Since he has a U.S. citizen daughter and a lawful permanent
18 resident mother, he is eligible for apply for E42B cancellation of removal.

19 72. When Mr. Ortiz entered the United States, he was processed by Customs and
20 Border Patrol (CBP) and ICE. After a brief detention, he was released on his own recognizance
21 with instructions to wait for his immigration court hearing. In granting his release, DHS
22 determined that he posed little if any risk of flight or danger to the community.

23 ¹⁰ José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under*
24 *Trump*, The Guardian, June 14, 2025, [https://www.theguardian.com/us-news/2025/jun/14/ice-](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures)
25 [arrests-migrants-trump-figures](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures).

26 ¹¹ Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE Is Seeking to Ramp Up*
27 *Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025,
28 <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

¹² DHS' April 27, 2021 *Civil Immigration Enforcement Actions in or Near Courthouses*
memorandum from Tae Johnson and Troy Miller,

<https://www.ice.gov/sites/default/files/documents/ciEnforcementActionsCourthouses2.pdf>

¹³ ICE's May 27, 2025 *Civil Immigration Enforcement Actions In or Near Courthouses*
memorandum from Todd M. Lyons, <https://www.ice.gov/doclib/foia/policy/11072.4.pdf>.

1 73. Since he was released by ICE in 2005, Mr. Ortiz has been continually employed,
2 he lived with his wife and daughters, supported his family emotionally and financially, and has
3 filed tax returns.

4 74. Upon information and belief, he has no criminal history.

5 75. In June 2025, ICE officers arrested him outside his home on his way to work based
6 on an unexecuted order of removal from 2005. In the immigration court, he filed an urgent motion
7 to reopen and rescind his *in absentia* removal order based on lack of notice of his hearing date.
8 He was pulled off a deportation flight to Guatemala pursuant to an automatic stay of his removal
9 that was triggered by filing his motion.

10 76. On Aug. 11, 2025, the immigration judge granted his motion finding that Mr. Ortiz
11 did not receive notice of his immigration court hearing despite attempting to update his mailing
12 address there. As a result, his removal order was reopened and rescinded, and he is now in standard
13 removal proceedings under 8 U.S.C. § 1229 and has the right to apply for relief from removal.

14 77. Because Mr. Ortiz has never been determined to be a flight risk nor a danger to the
15 community, his ongoing detention is not related to either of the permissible justifications for civil
16 immigration detention. His continued confinement does not further any legitimate government
17 interest.

18 78. But for DHS's new policy of attempting to place noncitizens who entered the
19 United States without inspection into mandatory detention under INA § 235(b)(2), 8 U.S.C. §
20 1225(b)(2), Mr. Ortiz would be eligible for release at a bond hearing.

21 ***C. As a Result of his Continued Detention, Petitioner is Suffering Ongoing and
Irreparable Harm.***

22 79. Mr. Ortiz is being deprived of his liberty without any permissible justification. The
23 government previously released him on his own recognizance because he did not pose sufficient
24 risk of flight or danger to the community to warrant detention.

25 80. Since then, he was arrested by ICE pursuant to an *in absentia* removal order against
26 him but an immigration judge has reopened and rescinded the removal order, and he is now back
27 in standard removal proceedings. He has a right to request relief from removal and release on
28 bond but the government's new policy seeks to unlawfully deprive him of his liberty. Upon

1 information and belief, he has no criminal record, and there is no basis to believe that he poses any
2 public safety risk. Nor is he a flight risk because he attempted to follow ICE's instructions to
3 update the immigration court with his new mailing address, he would have attended his
4 immigration court hearing had he received notice of it, and he has lived with and supported his
5 wife and children for the last 20 years since coming to the United States.

6 81. Detention poses him irreparable harm. His continued detention will greatly
7 complicate his ability to present his asylum, withholding, and CAT claims to the immigration court
8 in order to seek relief from removal, it will prevent him from working and being able to pay for an
9 attorney to represent him before the immigration court, and therefore will greatly impede his ability
10 to find legal assistance for the remainder of his case. Immigration proceedings aside, it will pose
11 a compounding psychological burden, in addition to whatever physical hardships he has to endure
12 from prison conditions. It will deprive him of his livelihood and ability to support his wife and
13 three daughters. His family's deep despair over his continued detention has already negatively
14 impacted Mr. Ortiz's mental health. Continued detention deprives Mr. Ortiz of his community,
15 his family, and his life as he knows it.

16 **CLAIMS FOR RELIEF**

17 **COUNT I** 18 **Violation of the INA**

19 1. Petitioner incorporates by reference the allegations of fact set forth in the
20 preceding paragraphs.

21 2. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
22 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
23 relevant here, it does not apply to those who previously entered the country and have been
24 residing in the United States prior to being apprehended and placed in removal proceedings by
25 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
26 § 1225(b)(1), § 1226(c), or § 1231.
27
28

1 3. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
2 detention and violates the INA.

3 **COUNT II**
4 **Violation of the Bond Regulations**

5 4. Petitioner incorporates by reference the allegations of fact set forth in preceding
6 paragraphs.

7 5. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
8 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
9 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the
10 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present
11 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
12 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323
13 (emphasis added). The agencies thus made clear that individuals who had entered without
14 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
15 1226 and its implementing regulations.
16

17 6. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
18 practice of applying § 1225(b)(2) to individual like Petitioner.
19

20 7. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
21 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

22 **COUNT III**

23
24 **Violation of the Fifth Amendment to the United States Constitution**
25 **(Substantive Due Process—Detention)**

26 82. Mr. Ortiz repeats and re-alleges the allegations contained in the preceding
27 paragraphs of this Petition as if fully set forth herein.

28 83. The Due Process Clause of the Fifth Amendment protects all “person[s]” from

1 deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from
2 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
3 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

4 84. Immigration detention is constitutionally permissible only when it furthers the
5 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
6 proceedings and preventing danger to the community. *See id.*

7 85. Mr. Ortiz is not a flight risk or danger to the community. Respondents’ detention
8 of Mr. Ortiz is therefore unjustified and unlawful. Accordingly, Mr. Ortiz is being detained in
9 violation of the Due Process Clause of the Fifth Amendment.

10 86. Moreover, Mr. Ortiz’s detention is punitive as it bears no “reasonable relation” to
11 any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
12 “nonpunitive in purpose and effect”). Here, the purpose of Mr. Ortiz’s detention appears to be “not
13 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for
14 other reasons”—namely, to meet newly-imposed DHS quotas and pressure Mr. Ortiz into
15 forfeiting his rights to pursue relief from removal in favor of accepting a speedy departure from
16 the United States. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

17 COUNT IV

18 **Violation of the Fifth Amendment to the United States Constitution**

19 **(Procedural Due Process—Detention)**

20 87. Mr. Ortiz repeats and re-alleges the allegations contained in the preceding
21 paragraphs of this Petition as if fully set forth herein.

22 88. As part of the liberty protected by the Due Process Clause, Mr. Ortiz has a weighty
23 liberty interest in avoiding re-incarceration after his initial release from DHS custody near the
24 border. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778,
25 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp.
26 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody
27 following an immigration judge’s bond determination).

28 89. Accordingly, “[i]n the context of immigration detention, it is well-settled that due
process requires adequate procedural protections to ensure that the government’s asserted

1 justification for physical confinement outweighs the individual's constitutionally protected interest
2 in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494 U.S. at
3 127 (Generally, “the Constitution requires some kind of a hearing before the State deprives a
4 person of liberty or property.”). In the immigration context, for such hearings to comply with due
5 process, the government must bear the burden to demonstrate, by clear and convincing evidence,
6 that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d
7 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

8 90. Mr. Ortiz’s continued detention without a bond hearing violates due process. He
9 successfully moved the immigration court to reopen and rescind his *in absentia* removal order and
10 now he is back in standard removal proceedings with the right to seek relief from removal. His
11 removal is no longer imminent. There is no evidence that Mr. Ortiz is a danger to his community
12 nor a flight risk and thus he is being held with no opportunity to contest his detention before a
13 neutral adjudicator.

14 91. Mr. Ortiz has a profound personal interest in his liberty. Because he received no
15 procedural protections, the risk of erroneous deprivation is high, and the government has no
16 legitimate interest in detaining him without a hearing. Until recently under a new DHS policy,
17 bond hearings were conducted as a matter of course in immigration proceedings, and nothing in
18 Mr. Ortiz’s record suggests that he would abscond or endanger the community. *See, e.g., Jorge*
19 *M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020
20 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that delay in scheduling
21 a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner’s strong
22 family ties and his continued employment during the pandemic as an essential agricultural
23 worker”).
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PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to immediately release Mr.

Ortiz from custody or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days;

3. Declare that Mr. Ortiz’s continued detention violates the Due Process Clause of the Fifth Amendment;

4. Enjoin Respondents from transferring Mr. Ortiz outside this District or deporting Mr. Ortiz pending these proceedings;

5. Enjoin Respondents from re-detaining Mr. Ortiz unless his re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that he is a flight risk or danger to the community;

6. Award Mr. Ortiz his costs and reasonable attorneys’ fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

7. Grant such further relief as the Court deems just and proper.

Date: September 18, 2025

Respectfully Submitted,

/s/ Bonita S. Gutierrez
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

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I, Bonita S. Gutierrez, am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys and Petitioner is in custody with limited ability to sign documents. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on Sept. 18, 2025 in Oakland, California.

/s/ Bonita S. Gutierrez

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