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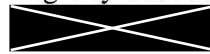
IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Marco Antonio Mancilla Ruiz )  
)  
Petitioner, )  
)  
v. )  
)  
Christopher J LAROSE, Warden Otay Mesa )  
Detention Center; Kenneth C. SMITH, Acting San )  
Diego Field Office Director, Enforcement and )  
Removal Operations, United States Immigration )  
and Customs Enforcement (ICE); Kristi NOEM, )  
Secretary, United States Department of Homeland )  
Security, Pamela BONDI Attorney General of the )  
United States, Daren K. MARGOLIN, Director )  
Executive Office for Immigration Review )  
)  
Respondents. )

PETITION FOR WRIT OF  
HABEAS CORPUS

Case No. '25CV2714 BAS SBC

Agency Case Number:



## I. INTRODUCTION

1. Petitioner, by and through the above-named counsel of record, submits this Petition for Writ of Habeas Corpus against the above-named Respondents for unlawful detention in contravention of the laws and constitution of the United States.
2. Utah Counsel are licensed to practice in and reside in Utah. Both Utah attorneys have completed applications for pro hac vice admission in this matter.
3. In August 2025 Petitioner Marco Antonio Mancilla Ruiz was arrested by mistake by immigration authorities in Utah. He was transported by Immigration and Customs Enforcement (ICE) to California for detention because ICE does not have a detention facility in Utah.
4. Prior to August 2025, Petitioner had resided in the U.S. for over nineteen years without encountering law enforcement.
5. Petitioner is presently detained by ICE at the Otay Mesa Detention Center in San Diego, California.
6. Petitioner has never been convicted of any crime.
7. Petitioner has been detained in Otay Mesa since August 22, 2025, in violation of the constitution and laws of the United States.
8. Petitioner has been advised not to waste the Immigration Judge's time in seeking a bond hearing, due to a novel legal precedent published by the Board of Immigration Appeals on September 5, 2025, holding that all persons present in the United States without admission are subject to mandatory detention and no Immigration Judge has jurisdiction to grant them bond. *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025).
9. Petitioner's continued detention without a bond hearing is an unlawful violation of due process, an incorrect interpretation of immigration law, a violation of the applicable regulations and is ultra vires to DHS' statutory authority.

## II. JURISDICTION

10. Petitioner is in the physical custody of Respondents, detained at the Otay Mesa Detention Center, San Diego California.
11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, Section 9, Clause 2 of the United States Constitution

(the Suspension Clause), and 5 U.S.C. § 702.

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*, 5 U.S.C. § 706 and the All Writs Act, 28 U.S.C. § 1651.

### **III. VENUE**

13. Pursuant to *Burden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court of Southern California, the judicial district in which Petitioner is currently detained. Thus, this resident of Utah and attorneys who reside in Utah are forced to file this action in California solely because ICE moved the Petitioner from Utah to California.
14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in California.

### **IV. REQUIREMENTS OF 28 U.S.C. § 2243**

15. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
16. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative relief in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

### **V. PARTIES**

17. Petitioner Marco Antonio Mancilla Ruiz is a citizen of Mexico who has been in immigration detention since August 22, 2025; in the Otay Mesa Facility Since August 30, 2025. (Exhibit A).
18. Petitioner Mancilla Ruiz has resided in the U.S. since 2006. (Exhibits A; C;).
19. Petitioner’s father is a legal permanent resident; two of petitioner’s children are also legal permanent residents. (Exhibits A; C;).
20. Petitioner Mancilla Ruiz has no criminal convictions. (Exhibits Section A; B; D).
21. ICE had no warrant for Petitioner’s arrest; ICE has provided no documentation justifying his arrest or detention, other than a Notice to Appear in Removal Proceedings. (Exhibits A; B; D).

22. ICE arrested Petitioner Mancilla Ruiz by mistake. (Exhibits A; B).
23. Respondent Christopher J. LaRose is employed by CoreCivic as Warden of the Otay Mesa Detention Center, where Petitioner is detained. Mr. LaRose has immediate physical custody of Petitioner. He is sued in his official capacity.
24. Respondent Kenneth C. Smith is the Acting Director of the San Diego Field Office of ICE's Enforcement and Removal Operations Division. As such, Mr. Smith is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.
25. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA) and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
26. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department Justice, of which the Executive Office for Immigration Review (EOIR) (the immigration courts) is a component agency. She is sued in her official capacity.
27. Daren K. Margolin is the Director of the Executive Office for Immigration Review (EOIR). EOIR is the federal agency with the Department of Justice responsible for implementing and enforcing the INA in removal proceedings, including for custody redetermination in bond hearings and appellate review of Immigration Judge decisions.

## **VI. SUMMARY OF PRIOR PROCEEDINGS**

28. Petitioner was stopped, arrested, and detained by ICE/ERO officers in Utah on August 22, 2025. The officers mistakenly believed Petitioner was someone else.
29. Petitioner Mancilla Ruiz was detained without bond and transferred to the Otay Mesa Detention Center.
30. On September 5, 2025, the Board of Immigration Appeals (BIA), the appellate branch of defendant Executive Office for Immigration Review (EOIR) issued a precedent decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). (Exhibits Section III.)
31. In *Yajure* the BIA ignored the U.S. constitution, the statutory language, the record of Congressional intent, the regulations implementing IRRIRA, and more than two decades

of BIA precedent, including a precedent decision issued June 30, 2025, (*Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025)), to hold that EOIR employee Immigration Judges do not have statutory authority to consider bond requests or to grant bonds to any foreign national who entered without inspection, regardless of length of residence or ties to the U.S.

32. Since the *Yajure Hurtado* decision, immigration judges across the U.S. are instructing immigration counsel not to “waste the IJ’s time” requesting a bond hearing where the foreign national entered without inspection, regardless of the length of the foreign national’s presence in the United States, or the foreign national’s ties to the United States.
33. As applied to this Petitioner, the agency’s ruling in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) is an unconstitutional violation of his right to due process of law.
34. The agency’s conclusion in *Yajure*, holding that all foreign nationals present in the United States without being admitted are subject to mandatory detention without bond, contradicts the statutory language, the expressed Congressional intent, the agency’s own prior precedents, as well as U.S. Supreme Court and Federal Court precedent.

## VII. LEGAL FRAMEWORK

### A. CIVIL DETENTION PROVISIONS OF THE INA<sup>1</sup>

35. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).
36. This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due Process Clause, which specifically forbids the Government to “deprive[]” any “person . . . of . . . liberty . . . without due process of law.” U.S. Const. amend. V.
37. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”).
38. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

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<sup>1</sup> Petitioner is indebted throughout this section to the thorough history and analysis set out by Judge Boulware in his Order in *Maldonado-Vazquez v. Feeley*, 2:25-cv-01542-RFB-EJY, 6-8, (D. Nev. Sep 17, 2025).

39. The Supreme Court, thus, “has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); see also *Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).
40. In 1996, acting within the recognized constraints of constitutional due process, Congress rebalanced and codified three explicit detention regimes for noncitizens. Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. No. 104-208, Div. C. §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585.
41. First, as found in 8 U.S.C. § 1225, the statute provides for detention without bond of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other arriving aliens.
42. Second, 8 U.S.C. § 1226 authorizes the issuance of administrative warrants for the detention of noncitizens for standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a.
43. Finally, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)-(b).
44. This case concerns the detention provisions at §§ 1225 and 1226.
45. The detention provisions at § 1225 and § 1226 were enacted in 1996 as part of IIRIRA.
46. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
47. Following enactment of IIRIRA, EOIR drafted new regulations establishing that, in general, people who entered the country without inspection were not subject to the border detention regime of § 1225 and that they were instead subject to the detention provisions of § 1226. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 63 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

48. Individuals arrested and detained pursuant to the procedures of § 1226 are presumed to be entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), unless they have been arrested, charged with, or convicted of certain crimes, in which case they are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
49. The regulations published at 63 Fed. Reg. 10312, 10323 (Mar. 6, 1997) were consistent with the constitutionally reviewed procedures of decades of prior practice, in which noncitizens present in the U.S.—noncitizens who were not “arriving aliens” as defined at 8 C.F.R. § 1001.1(q)—were entitled to a custody hearing before an Immigration Judge 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 that § 1226(a) simply “restates” the detention authority previously found at § 1251(a)).
50. Those regulations are consistent with the record of Congressional intent, as documented in the Report of the Committee on the Judiciary on H.R. 2202, Report No. 104-469, Part I (March 4, 1996) and in the Report of the Conference Committee, Report No. 104-828 (September 24, 1996).
51. The Congressional record shows that Congress was very aware during the drafting of IIRIRA of the constitutional parameters within which they were working. That includes the robust precedent establishing that persons present in the U.S., regardless of their manner of entry, are constitutionally entitled to due process of law, including when they are subject to civil detention. *See, e.g., Yick Wo v. Hopkins*, 118 U.S. 356, (1886); *Yamataya v. Fisher*, 189 U.S. 86 (1903); *Plyler v. Doe*, 102 S. Ct. 2382 (1982).
52. The Congressional knowledge and recognition that applying the provisions of 8 U.S.C. § 1225 to undocumented immigrations found within the continental U.S. would violate constitutional due process is further documented in the Comments on the Proposed Regulations filed by Lamar Smith, the Chairman of the House Judiciary Committee Subcommittee on Immigration and Claims. *See* Exhibit Section IV, attached.
53. As explicitly set out in the implementing regulations, individuals (like the Petitioner) arrested and detained in the interior of the United States after months, years or decades of physical presence in the U.S., are presumed to be entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), unless they have been arrested, charged with, or convicted of certain crimes, in which case they are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
54. The regulations published at 63 Fed. Reg. 10312, 10323 (Mar. 6, 1997) are consistent with the constitutionally reviewed procedures of decades of prior practice, in which noncitizens present in the U.S.—noncitizens who were not “arriving aliens” as defined at 8 C.F.R. § 1001.1(q)—were entitled to a custody hearing before an Immigration Judge 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 that § 1226(a) simply “restates” the detention authority previously found at § 1251(a)).

55. In the decades that followed implementation of IIRIRA, the common understanding of the law was that 8 U.S.C. § 1226 applied to nearly everyone who entered the United States without inspection.
56. As a result, individuals like the Petitioner, detained after years of physical presence in the United States, were routinely placed in standard removal proceedings and received bond hearings, unless their criminal history rendered them ineligible.
57. That practice was consistent with many more decades of prior practice, in which noncitizens who were not “arriving aliens” as defined at 8 C.F.R. § 1001.1(q) were entitled to a custody hearing before an Immigration Judge 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 that § 1226(a) simply “restates” the detention authority previously found at § 1251(a)).
58. Following those regulations, in the nearly three decades since IIRIRA, persons such as the Petitioner in this case—noncitizens present in the United States who have never applied for admission or presented themselves for inspection (the class of persons who ‘entered without inspection’ or EWI’s as they are routinely labeled)—were routinely arrested based on the warrant and other procedures set out in § 1226.
59. Despite the regulations and the nearly three decades of practical implementation, DHS, on July 8, 2025, published a notice titled “Interim Guidance Regarding Detention Authority for Applicants for Admission.” The notice was disseminated internally, to all ICE employees.
60. As noted in *Vasquez v. Feeley*, *supra*, note 1 fn 2: “The memo was leaked to the American Immigration Lawyers Association (“AILA”). *See ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regardingdetention-authority-for-applications-for-admission> [<https://perma.cc/5GKM-JYGX>]. (Exhibit V: A).
61. Judge Boulware describes the contents of this notice as follows:

The Notice indicated that DHS, in coordination with the DOJ, ‘revisited its legal Position’ on the INA and determined that § 1225(b)(2), rather than § 1226, is the applicable immigration authority for any alien present in the U.S. ‘who has not been admitted. . . whether or not at a designated port of arrival.’ Accordingly, ‘it is the position of DHS that such aliens are subject to [mandatory] detention under

INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.’ The Notice further provides ‘[t]hese aliens are also ineligible for a custody redetermination hearing (bond hearing) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that ‘arriving aliens’ have historically been treated.’

*Vasquez v. Feeley*, *supra note 1*, pp 8-9; Exhibit V: A.

62. As Judge Boulware also noted in *Vasquez*, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedent decision, *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025). In that precedent decision, the Board of Immigration Appeals formally agreed with the statutory interpretation as laid out in the July 8, 2025, ICE memo.
63. In other words, as of September 5, 2025, despite the conflicting regulatory language, express Congressional intent and long-standing constitutional due process requirements, it is now the explicit legal position of the U.S. Department of Justice, Executive Office for Immigration Review (EOIR) that all non-citizens present within the United States who have not been lawfully admitted are subject to mandatory detention without bond, regardless of the length of their physical presence or their ties to the United States.
64. Petitioner is presently detained without bond, based on this new government policy and legal interpretation of 8 U.S.C. § 1225(b)(2)(A) mandating that all non-citizens present within the United States without lawful admission be detained without bond.
65. As Judge Boulware noted in *Vasquez* at 10-11, “since the July 8, 2025 DHS Guidance Memo, Petitioner asserts most IJs in Las Vegas have rejected DHS’ new interpretation of 1225(b)(2), and instead found jurisdiction under 1226(a)” *Id.* at 10-11.
66. As laid out above, after the BIA issued *Matter of Yajure Hurtado*, *supra*, Immigration Judges across the U.S. have stated that they no longer had jurisdiction to issue a bond, due to that decision.
67. Petitioner has not sought a bond redetermination hearing from the Immigration Judge handling his case, because following the BIA decision in *Yajure Hurtado*, Immigration Judges are no longer authorized by their superiors within EOIR to grant bonds to individuals in Petitioner’s factual circumstances.

## **B. CONSTITUTIONAL DUE PROCESS**

68. Indefinite detention of a [noncitizen]” raises “a serious constitutional problem.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The automatic stay provision detains individuals indefinitely, without a “discernible termination point” (*Ashley*, 288 F.Supp.2d at 672),

“definite termination point” (*Zabadi v. Chertoff*, No. C05-01796 WHA, 2005 WL 1514122, at \*1 (N.D. Cal. 2005)), “finite time frame” (*Id.*), “certain time parameters for final resolution” (*Zavala v. Ridge*, 310 F. Supp.2d 1071, 1075 (D. N.D. Cal. 2004), or “ascertainable end point” (*Bezmen v. Ashcroft*, 245 F.Supp.2d 446, 449-50 (D. Conn. 2003)).

69. In determining whether due process has been violated, the Court should weigh: (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government’s interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
70. As to the first *Mathews* factor, the private interest affected by the government action, “Petitioner’s liberty interest in remaining free from governmental restraint is of the highest constitutional import.” *Zavala*, 310 F.Supp.2d at 1076; *see also Ashley*, 288 F.Supp.2d at 670-71 (same) (quoting *St. John v. McElroy*, 917 F.Supp. 243, 250 (S.D.N.Y. 1996)).
71. This Petitioner is a long term resident of the United States—with a Legal Permanent Resident father, and Legal Permanent Resident children—has been detained without bond.
72. Petitioner has no criminal record. He has nevertheless been detained and prevented from supporting his wife and father.
73. As to the second *Mathews* factor, this Court must look to the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards. As explained above, the current procedures cause an erroneous deprivation of the interest of this Petitioner in remaining at liberty, free from detention.
74. As to the third *Mathews* factor, the government’s interest in maintaining the “current” procedure is minimal here. The sole interest of the government is in spending all the resources Congress has granted it to detain all immigrants, regardless of lack of danger, regardless of ties to the U.S., regardless of length of stay, regardless of the requirements of constitutional due process.
75. In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show prejudice. “To show prejudice, [a Petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate

process were provided.” *Tamayo-Tamayo v. Holder*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted).

76. Until September 5, 2025, Petitioner would have been eligible for a bond hearing before an Immigration Judge.
77. Respondents’ novel legal theory, reinterpreting statutory language after nearly thirty years in violation of the implementing regulations, the express intent of the Congressional Record and the fundamental principles of constitutional due process, is a completely new and unnecessary termination of a prior procedure that previously would have protected Petitioner’s constitutional due process rights.
78. Had Defendants permitted the Immigration Judges to exercise the same authority they have exercised on these facts for over sixty years, Petitioner would have been granted bond, posted it, and been home with his family by now.
79. Petitioner’s continued detention without bond, based on the BIA’s unconstitutional decision in *Yajure-Hurtado*, constitutes actual prejudice.
80. Petitioner has no other forum in which to seek judicial review of the constitutional and legal issues raised by his continued detention on the basis of Defendants’ actions, memos, and decisions.
81. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas* at 690.
82. Accordingly, Petitioner Mancilla Ruiz seeks a writ of habeas corpus requiring that he be immediately provided with a bond hearing before an Immigration Judge, and that he thereafter be allowed to pay the bond granted by the Immigration Judge and to be released.

## **VIII. CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violation of the INA and Governing Regulations**

83. Petitioner incorporates by reference the facts and law set forth in the preceding paragraphs.
84. Petitioner entered the United States without inspection. He has been present within the United States for over nineteen years; his father is a legal permanent resident; two of his children are legal permanent residents.

85. Petitioner has been issued a Notice to Appear in removal proceedings pursuant to 8 U.S.C. § 1229a.
86. Respondents' novel interpretation of 8 U.S.C. § 1225(b)(2)(A) as authority for detaining Petitioner without bond violates the regulations and is an unconstitutional interpretation of the statutory language, without basis in prior precedent or the record of Congressional intent.

## COUNT II

### **Violation of Fifth Amendment Right to Due Process of Law**

87. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
88. 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 Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d. 653 (2001).
89. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
90. The Ninth Circuit has also held that "[r]emaining confined in jail when one should otherwise be free is an Article III injury plain and simple[.]" *Gonzalez v United States Immigr. & Custome Enf't*, 975 F.3d 788, 804 (9th Cir. 2020) (quoting *Mendia v. Garcia*, 768 F.3d 1009, 1012 (9th Cir. 2014)).
91. Petitioner has a fundamental interest in liberty and being free from official restraint.
92. The Government's continued detention of Petitioner, without bond, is a clear violation of their constitutional right to due process under the law.
93. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty.
94. Respondent's continued detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

95. There is no credible argument that this Petitioner—who has no criminal record despite nearly two decades residing in the United States—cannot be safely released back to his family and community.
96. For these reasons, continued detention of this Petitioner violates the Due Process Clause of the Fifth Amendment.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter.
  - b. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court’s approval.
  - c. Issue an immediate Order to Respondents to Show Cause regarding any constitutional or statutory justification for why this Petitioner is being held without bond.
  - d. Issue a writ of habeas corpus requiring that Respondents immediately provide Petitioner with a bond hearing, and that Petitioner be allowed to post the bond and be released.
  - e. Declare that the Petitioner’s continued detention without bond or any individualized determination of danger or flight risk violates the Due Process Clause of the Fifth Amendment;
  - f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under the law;
- and
- g. Grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED this 10th day of October, 2025.

STOWELL-CRAYK PLLC

/s/ Marti L. Jones  
Attorney for Petitioner

PARKINSON BENSON POTTER

/s/ Brett Parkinson  
Attorney for Petitioner

**EXHIBIT LIST**

- A. Affidavit of Petitioner's Daughter Blanca Nataly Mancilla Ruiz
- B. Affidavit of Petitioner's Daughter Brenda Mancilla Laguna
- C. LPR Cards of Petitioner's father and children
- D. Notice to Appear
- E. I-830 Notice of Change of Alien Address
- F. Screen shot of July 8, Memo.

# EXHIBIT A

SWORN AFFIDAVIT OF  
BLANCA NATALY MANCILLA LAGUNA

1. I am the oldest child of Marco Mancilla Ruiz. I was born in Guadalajara, Mexico.
2. My father first entered the U.S. in April 2006. We all came together: my dad, my mom, my younger sister Brenda Mancilla and my brother Marco.
3. It was night time, and we walked across the bridge towards the inspection building, but instead of going towards the officials who were checking the papers of all the people on the bus that had just arrived, we went a different direction and walked into a parking lot, where my dad knew someone who had left us a car with the keys in it.
4. We had to come to the U.S. because the cartel had told my dad he couldn't keep working unless he paid them, and because his business was small, that would not have left anything for us to live on.
5. My dad brought all of us, because he couldn't leave any of us behind to be kidnapped or killed because he refused to pay.
6. We arrived in Utah some days later, and we have resided in the U.S. since that time.
7. I am a conditional permanent resident, my sister Brenda has Deferred Action for Childhood Arrivals, and my brother Marco is also a permanent resident.
8. My grandfather is also a permanent resident; my dad gives him money every week to pay for his medicines and food.
9. My parents are still married and living together.
10. I know that my father has had traffic tickets since he has been in the U.S. He tried to get a driving privilege card, but his English reading wasn't good enough and he couldn't pass the written test.
11. But I also know that my father has no criminal arrests and that here in the U.S. he has worked hard to support us.
12. My dad was arrested on his way to work early in the morning on August 22, 2025. He called my sister Brenda to tell her that he had been stopped and that the officer who had stopped him was behaving very racist. He told Brenda what street he was on before the call was cut off.
13. Brenda drove to the street where he had told her he was. She saw his car, and next to it, two cars were pulling away. So she followed them.

- 14. She called me, and I got in my car and started tracking my dad's phone on the family tracker application that we use.
- 15. We both ended up at the parking lot for the ICE building, on Decker Lake Drive, in West Valley City, Utah.
- 16. While we were in the parking lot an officer called Brenda. He told her that they had picked up my dad by mistake, that they were looking for someone else, but that they couldn't release my dad, that they were going to keep him detained and put him in removal proceedings.
- 17. I declare under oath that these facts are true and correct to the best of my knowledge and experience.

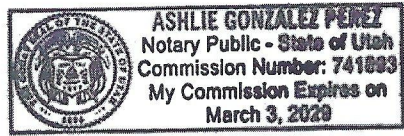
  
 \_\_\_\_\_  
 BLANCA NATALY MANCILLA LAGUNA

09-17-2025  
 Dated

Salt Lake County        )  
   )  
 State of Utah            )

I, the undersigned notary public, certify that on the 17 day of September, 2025, appeared before me Blanca Nataly Mancilla Lagana, and, identified by his identity document Driver License, testified under oath and penalty of perjury that he has read the foregoing, and that it is true and complete, and that he has signed it for the purpose stated therein.

Ashlie Gonzalez Perez  
 PUBLIC NOTARY

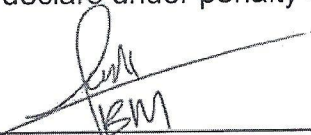


# EXHIBIT B

Affidavit of Brenda Mancilla laguna:

1. My name is Brenda Mancilla Laguna, and I am the daughter of Marco Antonio Mancilla Ruiz, who is currently in Immigration custody in Otay Detention facility in San Diego, California.
2. On August 22, 2025, I received a call from my dad at 5:55 am.
3. My dad explained that he was pulled over by some type of police authority. He saw that there were flashing lights, so he presumed it was a police officer.
4. I was only 5 minutes away from where he was, so I drove directly to him. I was going in the same direction as my dad because we work together at the same location.
5. I arrived at the location where my father had been pulled over. I saw my dad's car, but I did not see my dad in his car.
6. I noticed that there was a white Dodge Charger and a black Dodge Durango. These two cars were pulling away from where my dad's car was parked.
7. I presumed that he was in one of the two vehicles and because there were no markings on the cars, I started following them.
8. I believe the vehicles noticed that I was following them and so they took action to try and lose me. They would signal one way and turn the opposite direction.
9. Eventually we arrived at 2975 S Decker Lake Dr. I learned from my Google Maps that I was at a building that belongs to the Department of Homeland Security.
10. I saw the car pass through the security gate. I remained parked there. I was so nervous for my dad, I did not know what to do.
11. Eventually an agent came out and asked me to leave. The agent told me that I would be in big trouble if I did not leave the property. I was given two minutes to get out of the parking lot.
12. I drove away from the parking lot, but after about 10 minutes, I received a call from the facility saying that they had my dad in custody.
13. The real problem was when they told me the name of the person they believed was my dad. They gave me the wrong name. The name was not my dad's name.
14. I was told that my dad was going to be deported that night, that I should bring a backpack to the building for him.
15. After a couple more minutes, I received another phone call indicating that they had arrested the wrong guy.
16. I was then told that ICE had the correct name for my dad and that they had realized that he had no criminal history and that they had completely confused him with someone else.
17. My dad has no criminal record. All he has are traffic tickets.

18. Once I was told that he had a clean record, I asked if he could please be released, that he had done nothing wrong. I asked why he was even pulled over?
19. I was told by the ICE agent that he "did not have an answer for that question."
20. I asked which officer or for a badge number to figure out which officer had pulled my dad over. I was told that the officer also did not know that answer either.
21. Ultimately, the ICE officer told me that my dad had two choices, which were to choose to sign to be deported quickly or to see an immigration judge and fight his case from inside the jail.
22. It was very clear at that point that my dad was not going to be released from ICE custody.
23. My dad has been in ICE custody since August 22, 2025.
24. This affidavit was prepared with the assistance of my attorney. I dictated its contents, and my attorney helped me to type it. I can read English. I was provided with a complete copy of this affidavit, read it, and adopt each statement as my own.
25. I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Brenda Mancilla Laguna

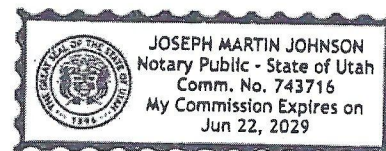
9/18/2025  
Date

State of Utah            )  
                                  ss  
County of Salt Lake )

Subscribed and sworn to (or affirmed) before me on this 18<sup>th</sup> day of SEPTEMBER 2025 by BRENDA MANCILLA LAGUNA.

  
\_\_\_\_\_  
Notary

My Commission expires 6-22-2029



# EXHIBIT C

# EXHIBIT D

DEPARTMENT OF HOMELAND SECURITY  
NOTICE TO APPEAR

DOB: [REDACTED]  
Event No: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: MARCO ANTONIO MANCILLA-RUIZ currently residing at:

[REDACTED]

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.  
 You are an alien present in the United States who has not been admitted or paroled.  
 You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near Unknown , on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer. OR At that time you arrived at a time or place other than as designated by the Attorney General.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

110 N CITY PRKY, STE 400 LAS VEGAS, NEVADA 89106. LAS VEGAS, NEVADA

(Complete Address of Immigration Court, including Room Number, if any)

on October 16, 2025 at 1:00 pm to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above.

E 9057 TJADEN - SDDO  
(Signature and Title of Issuing Officer)

Date: August 22, 2025

West Valley City, Utah  
(City and State)

EOIR - 1 of 3

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

**One-Year Asylum Application Deadline:** If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at [www.uscis.gov/i-589](http://www.uscis.gov/i-589). Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

**Failure to appear:** You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.


**U.S. Citizenship Claims:** If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

**Sensitive locations:** To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)


**Certificate of Service**

This Notice To Appear was served on the respondent by me on August 22, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person     by certified mail, return receipt # \_\_\_\_\_ requested     by regular mail  
 Attached is a credible fear worksheet.  
 Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

  
(Signature of Respondent if Personally Served)

  
P A5630 JIN - Special Agent  
(Signature and Title of officer)

EOIR - 2 of 3

**Privacy Act Statement**

**Authority:**

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

**Purpose:**

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

**Routine Uses:**

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/ond/doi-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

**Disclosure:**

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

# EXHIBIT E


DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

**NOTICE TO EOIR: ALIEN ADDRESS**

Date: 09/09/2025

To: Enter Name of BIA or Immigration Court I-830 Las Vegas Immigration Court  
Enter BIA or Immigration Court Three Letter Code@usdoj.gov LVG

From: Enter Name of ICE Office OTAY MESA DETENTION CENTER  
Enter Street Address of ICE Office 7488 Calzada De La Fuente  
Enter City, State and Zip Code of ICE Office San Diego, California 92154

Respondent: Enter Respondent's Name Mancilla-Ruiz, Marco Antonio  
Alien File No: Enter Respondent's Alien Number 

This is to notify you that this respondent is:

Currently incarcerated by federal, state or local authorities. A charging document has been served on the respondent and an Immigration Detainer-Notice of Action by the ICE (Form I-247) has been filed with the institution shown below. He/she is incarcerated at:

Enter Name of Institution where Respondent is being detained \_\_\_\_\_  
Enter Street Address of Institution where Respondent is being detained \_\_\_\_\_  
Enter City, State and Zip code of Institution where Respondent is being detained \_\_\_\_\_

**Enter Respondent's Inmate Number** \_\_\_\_\_

His/her anticipated release date is Enter Respondent's Anticipated Release Date. \_\_\_\_\_

Detained by ICE on **Enter Date Respondent was Detained by ICE** at: 08/30/2025  
Enter Name of ICE Detention Facility where Respondent is being detained Otay Mesa Detention Center  
Enter Street Address of ICE Detention Facility where Respondent is being detained 7488 Calzada de la Fuente  
Enter City, State and Zip Code of ICE Detention Facility where Respondent is being detained San Diego, CA 92154

Detained by ICE and transferred on **Enter Date Respondent was transferred** to: \_\_\_\_\_  
Enter Name of ICE Detention Facility where Respondent has been transferred \_\_\_\_\_  
Enter Street Address of ICE Detention Facility where Respondent has been transferred \_\_\_\_\_  
Enter City, State and Zip Code of ICE Detention Facility where Respondent has been transferred \_\_\_\_\_

Released from ICE custody on the following condition(s):  
 Order of Supervision or Own Recognizance (Form I-220A)  
 Bond in the amount of Enter Dollar Amount of Respondent's Bond  
 Removed, Deported, or Excluded  
 Other \_\_\_\_\_

Upon release from ICE custody, the respondent reported his/her address and telephone number would be:

Enter Respondent's Street Address \_\_\_\_\_  
Enter Respondent's City, State and Zip Code \_\_\_\_\_  
Enter Respondent's Telephone Number (including area code) \_\_\_\_\_

I hereby certify that the respondent was provided an EOIR-33 Form and notified that they must inform the Immigration Court of any further change of address.

ICE Official: Enter Your First, Last Name and Title Deportation Officer Townsend

EOIR - 1 of 1

# EXHIBIT F



To All ICE Employees  
July 8, 2025

## Interim Guidance Regarding Detention Authority for Applicants for Admission

As you are all well aware, the U.S. Department of Homeland Security's (Department or DHS) detention authority under the immigration laws is extraordinarily broad and equally complex. The Department's authority to detain, and its authority or lack of authority to release, an alien from immigration detention varies based upon the circumstances of the case. This message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed.

### Custody Determinations

An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).

Moving forward, ICE will not issue Form I-286, *Notice of Custody Determination*, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.

Because the position that detention is pursuant to INA § 235(b) is likely to be litigated, however, OPLA will need to make alternative arguments in support of continued detention before the Executive Office for Immigration Review. Accordingly, ERO and Homeland Security Investigations (HSI) should continue to develop and obtain evidence, including conviction records, to support OPLA's arguments of dangerousness and flight risk in those bond proceedings.

#### Re-detention

This interpretation does not impose an affirmative requirement on ICE to immediately identify and arrest all aliens who may be subject to INA § 235 detention. Rather, the custody provisions at INA § 235(b)(1)(B)(ii), (iii)(IV), and (b)(2)(A) are best understood as prohibitions on release once an alien enters ICE custody upon initial arrest or re-detention.

This change in legal interpretation may, however, warrant re-detention of a previously released alien in a given case. Until additional guidance is issued, ERO and HSI should consult with OPLA prior to rearresting an alien on this basis.

#### Parole Requests by Previously Released Aliens

It is expected that ICE will see an increase in applicants for admission previously released under INA § 236(a) requesting documentation of parole pursuant to INA § 212(d)(5) in order to establish eligibility for certain immigration benefits, including employment authorization and adjustment of status. DHS does not take the position that prior releases of applicants for admission pursuant to INA § 236(a) were releases on parole under INA § 212(d)(5) based on this change in legal position. Accordingly, ERO and HSI are not required to "correct" the release paperwork by issuing INA § 212(d)(5) parole paperwork.