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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 Juan MARCIAL CRUZ,

12 Petitioner,

13 v.

14 Kristi NOEM, Secretary, U.S.
15 Department of Homeland Security;
16 Pamela BONDI, U.S. Attorney General;
17 Todd LYONS, Acting Director,
18 Immigration and Customs Enforcement;
19 Ernesto SANTACRUZ JR., Acting
20 Director, Los Angeles Field Office,
21 Immigration and Customs Enforcement,
22 Enforcement and Removal Operations;
23 Fereti SEMAIA, Warden, Adelanto ICE
24 Processing Center; EXECUTIVE
25 OFFICE FOR IMMIGRATION
26 REVIEW; IMMIGRATION AND
27 CUSTOMS ENFORCEMENT; and U.S.
28 DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

Case No. 5:25-cv-2701-DOC-AGR

**AMENDED PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241;
VERIFIED PETITION**

PETITIONER'S DHS NO:



INTRODUCTION

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3 1. Petitioner Juan Marcial Cruz remains in the physical custody of
4 Respondents at the Adelanto ICE Detention Center in Adelanto, California.

5 2. Petitioner is currently in 8 U.S.C. § 1229a removal proceedings and has
6 made an application for cancellation of removal pursuant to 8 U.S.C. § 1229b(b).
7 He is prima facie eligible for cancellation of removal because he has resided in the
8 United States for over twenty-two years and has five U.S. citizen children.
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10 3. While Petitioner was provided with a bond hearing before an immigration
11 judge (“IJ”) pursuant to the Court’s Temporary Restraining Order of October 16,
12 2025 [Dkt. 8], the IJ improperly denied bond based on, *inter alia*, a finding of
13 future dangerousness. The IJ’s future dangerous finding was based on five traffic
14 violations related to Petitioner driving without a license between 2004 and 2018, a
15 failure to appear in court on a traffic violation, working without authorization,
16 failure to file income tax returns prior to 2019 (with the exception of one year,
17 Petitioner has filed income taxes for the past six years), and an erroneous finding
18 that Petitioner had under reported his minimal income because Petitioner appeared
19 to have more household expenses than the reported Adjusted Gross Income.
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24 4. The IJ’s reliance on these factors to make a future dangerousness
25 determination and deny bond constitutes an abuse of discretion which is reviewable
26 by the Court. *See Martinez v. Clark*, 124 F.4th 775, 779 (9th Cir. 2024) (“the
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28

1 determination whether an alien is ‘dangerous’ for immigration-detention purposes
2 is a mixed question of law and fact and is reviewable as a ‘question of law.’”
3

4 5. The IJ also made a flight risk determination despite Petitioner’s
5 lengthy residence in the United States, living at the same address with his family
6 for the past eleven years, five U.S. citizen children, and a noncitizen spouse. The IJ
7 failed to properly assess flight risk and failed consider alternate release conditions
8 which is also reviewable by the Court. *See Hernandez v. Sessions*, 872 F.3d 976
9 (9th Cir. 2017)
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12 JURISDICTION

13 6. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. §
14 1331 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702
15 (waiver of sovereign immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and
16 Article I, Section 9, clause 2 of the United States Constitution (the Suspension
17 Clause).
18
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20 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
21 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
22 U.S.C. § 1651.
23

24 VENUE

25 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
26 484, 493- 500 (1973), venue lies in the United States District Court for the Central
27 District of California, the judicial district in which Petitioner is currently detained.
28

1 9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
2 because Respondents are employees, officers, and agencies of the United States,
3 and because a substantial part of the events or omissions giving rise to the claims
4 occurred in the Central District of California.
5

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7 **REQUIREMENTS OF 28 U.S.C. § 2243**

8 10. The Court must grant a petition for writ of habeas corpus or order
9 Respondents to show cause “forthwith,” unless a petitioner is not entitled to relief.
10 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a
11 return “within three days unless for good cause additional time, not exceeding
12 twenty days, is allowed.” *Id.*
13

14 11. Habeas corpus is “perhaps the most important writ known to the
15 constitutional law . . . affording as it does a swift and imperative remedy in all cases
16 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The
17 application for the writ usurps the attention and displaces the calendar of the judge
18 or justice who entertains it and receives prompt action from him within the four
19 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000)
20 (citation omitted).
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24 **PARTIES**

25 ***Petitioner***

26 12. Petitioner Juan Marcial Cruz is a Mexican citizen who has resided in North
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1 Carolina since 2003. He has lived at the same address with his family in Concord,
2 North Carolina for the past eleven years. He is prima facie eligible for cancellation
3 of removal pursuant to 8 U.S.C. § 1229b(b) because of his lengthy residence in the
4 United States and his U.S. citizen children. His next immigration court hearing
5 before the Adelanto Immigration Court is scheduled for January 21, 2026.
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8 ***Respondents***

9 13. Respondent Kristi Noem is the Secretary of the Department of
10 Homeland Security. She is responsible for the implementation and enforcement of
11 the Immigration and Nationality Act and oversees ICE, which is responsible for
12 Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioner.
13 She is sued in her official capacity.
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16 14. Respondent Pamela Bondi is the Attorney General of the United
17 States. She is responsible for the Department of Justice, of which the Executive
18 Office for Immigration Review, and the BIA and immigration court system it
19 operates, is a component agency. She is sued in her official capacity.
20

21 15. Todd Lyons is the Acting Director of Immigration and Customs
22 Enforcement, a federal law enforcement agency within the Department of
23 Homeland Security. ICE's responsibilities include operating the immigration
24 detention system. In his capacity as ICE Acting Director, Respondent Lyons
25 exercises control over and is a custodian of persons held at ICE facilities nationally.
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1 He is Petitioner's immediate custodian and is responsible for Petitioner's detention.
2 He is sued in his official capacity.
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4 16. Respondent Ernesto Santacruz Jr. is the Acting Director of the
5 Los Angeles Field Office of ICE's Enforcement and Removal Operations division.
6 As such, he is the custodian of all persons held at the ICE facilities within the Los
7 Angeles Field Office. He is Petitioner's immediate custodian and is responsible for
8 Petitioner's detention. He is sued in his official capacity.
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10 17. Respondent Fereti Semaia, is the Warden of the Adelanto ICE
11 Processing Center, Adelanto, California, where Petitioner is detained. He has
12 immediate physical custody of Petitioner. He is sued in his official capacity.
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14 18. Respondent Executive Office for Immigration Review (EOIR) is the
15 federal agency within the Department of Justice responsible for implementing the
16 INA in removal proceedings, including for custody redeterminations or bond
17 hearings.
18

19 19. Respondent Department of Homeland Security (DHS) is the federal
20 agency responsible for implementing and enforcing the INA, including the
21 detention and removal of noncitizens.
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23 20. Respondent Immigration and Customs Enforcement (ICE) is the agency
24 within DHS responsible for implementing and enforcing the INA, including the
25 detention and removal of noncitizens.
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LEGAL FRAMEWORK

21. The Petitioner is a Mexican citizen who has resided in the United States for twenty-two years. He is present without admission and is currently in § 1229a removal proceedings before the Adelanto Immigration Court.

22. As this Court determined, Petitioner's detention status as someone who is present without admission is governed by 8 U.S.C. § 1226(a) which allows for release on bond or conditional parole. *See* Temporary Restraining Order, Oct. 16, 2025 [Dkt. 8].

23. While Petitioner was provided a bond hearing pursuant to the Court's Order, that bond hearing was deficient and the IJ abused his discretion in making a future dangerousness determination. The IJ's future dangerousness determination also tainted the IJ's erroneous flight risk determination.

FACTS

24. Petitioner Juan Marcial Cruz was residing in Concord, North Carolina at the time of his arrest on May 14, 2025 by immigration officials. ICE initially placed Petitioner in removal proceedings in Lumpkin, Georgia, but then transferred him to the ICE Adelanto Detention Center. The venue of his removal proceedings was changed to the Adelanto Immigration Court. ICE has charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present without admission in the United States.

25. Petitioner is a Mexican citizen who has resided in North Carolina since

1 2003. He has lived at the same address with his family in Concord, North Carolina
2 for the past eleven years.

3
4 26. Petitioner is married to a noncitizen who does not have status. He and his
5 wife have five U.S. citizen children, ages five, eleven, thirteen, sixteen, and twenty.
6 The children are all in school or working.

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8 27. Petitioner has filed annual income tax returns since 2019 with one
9 exception.

10 28. Petitioner is prima facie eligible for cancellation of removal pursuant to 8
11 U.S.C. § 1229b(b) because of his lengthy residence in the United States and his
12 U.S. citizen children. His next immigration court hearing is scheduled for January
13 21, 2026. He is represented in the removal proceedings by pro bono counsel based
14 in Virginia.

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17 29. Petitioner was provided with a bond hearing before an IJ pursuant to the
18 Court's Temporary Restraining Order of October 16, 2025 [Dkt. 8]. The IJ
19 improperly denied bond on October 22, 2025 based on, *inter alia*, a finding of
20 future dangerousness.

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23 **FIRST CLAIM FOR RELIEF**

24 **Petitioner's Detention is in Violation of the Immigration & Nationality Act,**

25 **8 U.S.C. § 1101 et seq.**

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27 30. Petitioner incorporates by reference the allegations of fact set forth
28 in the preceding paragraphs.

1 31. Petitioner was entitled to a fair bond hearing under 8 U.S.C. § 1226(a)
2 pursuant to this Court's Order of October 16, 2025. Respondents failed to provide
3 Petitioner with a fair bond hearing.
4

5 32. The IJ abused his discretion and committed legal error by making a future
6 dangerousness determination due to five traffic violations related to Petitioner
7 driving without a license between 2004 and 2018, a failure to appear in court on a
8 traffic violation, working without authorization, failure to file income tax returns
9 prior to 2019 (with the exception of one year, Petitioner has filed income taxes for
10 the past six years), and an erroneous finding that Petitioner had under reported his
11 income because Petitioner appeared to have more household expenses than the
12 reported Adjusted Gross Income.
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16 33. The IJ also made an erroneous flight risk determination and failed to
17 properly consider Petitioner's lengthy residence in the United States, living at the
18 same address with his family for the past eleven years, five U.S. citizen children,
19 and a noncitizen spouse.
20

21 34. The IJ failed to properly consider alternatives to detention during the
22 bond hearing.
23

24 **SECOND CLAIM FOR RELIEF**

25 **Petitioner's Detention Violates His Fifth Amendment Right to Due Process**

26 35. Petitioner incorporates by reference the allegations of fact set forth in
27 the preceding paragraphs.
28

1 36. The government may not deprive a person of life, liberty, or property
2 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
3 from government custody, detention, or other forms of physical restraint—lies at
4 the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
5 690 (2001).
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8 37. Petitioner has a fundamental interest in liberty and being free from
9 official restraint.
10

11 38. The Respondents’ ongoing detention of Petitioner without providing
12 Petitioner a fair and adequate bond hearing to determine whether he is a flight risk
13 or a danger to others violates his right to Due Process.
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15 **PRAYER FOR RELIEF**

16 WHEREFORE, Petitioner respectfully asks that this Court take jurisdiction over
17 this matter and grant the following relief:
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- 19 a. Order that Petitioner shall not be transferred outside of the Central
20 District of California while this petition is pending;
- 21 b. Issue an Order to Show Cause ordering Respondents to show cause
22 within three days why this Petition should not be granted;
- 23 c. Reverse the IJ’s future dangerousness determination as an abuse of
24 discretion and reverse the IJ’s flight risk determination as erroneous
25 and due to the determination being tainted by the dangerousness
26 determination.
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- 1 d. Issue a Writ of Habeas Corpus requiring Respondents to release
2 Petitioner or provide Petitioner with a fair and adequate bond hearing
3 pursuant to 8 U.S.C. § 1226(a) within seven days where, in addition to
4 properly considering the issues of dangerousness and flight risk, the IJ
5 is required to consider conditions of supervision or alternatives to
6 detention;
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9 e. Award Petitioners attorney's fees and costs under the Equal Access to
10 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
11 basis justified under law; and
12
13 f. Grant any other and further relief that this Court deems just and
14 proper.
15

16 DATED: November 6, 2025

s/ Niels W. Frenzen
NIELS W. FRENZEN
JEAN REISZ
USC GOULD SCHOOL OF LAW
IMMIGRATION CLINIC

Attorneys for Petitioner

VERIFICATION

I, Niels W. Frenzen, declare as follows:

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

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

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

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on November 6, 2025.

s/ Niels W. Frenzen
NIELS W. FRENZEN
USC GOULD SCHOOL OF LAW
IMMIGRATION CLINIC

Attorney for Petitioner