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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF ARIZONA

12 **Juan Daniel Luna-Gonzalez,**
13 **Petitioner,**

14 **v.**

15 **Kristi Noem, Secretary of the United States**
16 **Department of Homeland Security, in her official**
17 **capacity;**
18 **Todd Lyons, Acting Director of U.S. Immigration and**
19 **Customs Enforcement, in his official capacity;**
20 **John Cantu, Field Office Director for ICE's**
21 **Enforcement and Removal Operation's ("ERO")**
22 **Phoenix, Arizona, in his official capacity;**
23 **Sirce Owen, Acting Director of EOIR, in her official**
24 **capacity;**
25 **Fred Figueroa, Warden, Eloy Federal Detention Center,**
26 **Respondents.**

Case No. CV-25-03794-PHX-MTL

Agency No. 

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

27 1. Petitioner is a 27-year-old man who was brought to the United States from
28 Mexico in 1999 as an infant. He has been granted deferred action through the Deferred Action for
Childhood Arrivals ("DACA") program and his present DACA grant is valid through October 15,
2026.¹ As a DACA recipient, Petitioner is considered "lawfully present" under 8 C.F.R. §
236.21(c)(3) and is entitled to "temporary forbearance from removal" under 8 C.F.R. §
236.21(c)(1).

¹ See, Exhibit 1, USCIS Form I-797C, DACA Approval Notice.

1 2. The U.S. Department of Homeland Security (“DHS”) created DACA in 2012 to
2 protect young people brought to the United States as children who passed rigorous background checks
3 and who were deemed to pose no threat to public safety. DHS has repeatedly confirmed that recipients
4 are “considered lawfully present during the period deferred action is in effect.” *Texas v. United States*,
5 809 F.3d 134, 166 (5th Cir. 2015), *aff’d* by an equally divided court, 136 S. Ct. 2271 (2016). The
6 program has since been codified in regulation. 8 C.F.R. § 236.21 *et seq.*

7
8 3. Even though DACA recipients are protected from removal for the duration of their
9 DACA approval period, Mr. Luna-Gonzalez was arrested on June 20, 2025, after a routine traffic stop
10 where he was determined to be “an alien present in the United States having been admitted, but
11 without the proper documents to allow him to be in or remain in the United States legally.” *See*, DHS
12 Record of Deportable/Inadmissible Alien, page 6 of DHS Bond Hearing Exhibits.²

13
14 4. Petitioner has been continuously detained since June 20, 2025 at the Eloy Federal
15 Detention Center,³ where overcrowding, safety and medical care are major concerns.⁴ One prisoner
16 recently died there of tuberculosis.⁵ A September 2025 report from the DHS Office of Inspector
17 General, following an unannounced inspection, found that Eloy did not adequately maintain bathing
18 facilities and failed to provide detainees with adequate access to legal materials.⁶

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21 ² *See*, DHS Bond Hearing Exhibits, filed herewith as Exhibit 2.

22 ³ *See*, 10/6/2025 ICE Online Detainee Locator System report for Petitioner, available at
<https://locator.ice.gov/odls/#/search>, filed herewith as Exhibit 3.

23 ⁴ *See*, *Safety, medical care, overcrowding top worries at Eloy Detention Center*, by Raphael Romero Ruiz,
24 Arizona Republic 7/28/2025 last visited 10/7/2025
<https://www.azcentral.com/story/news/politics/immigration/2025/07/28/migrants-at-ely-center-worry-over-safety-medical-care-overcrowding/85252920007/?gnt-cfr=1&gca-cat=p&gca-uir=true&gca-epti=z114841p000150c000150e000300v114841b0053xxd005365&gca-ft=123&gca-ds=sophi>

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26 ⁵ *See*, ICE Detainee Death Report 1/29/2025, filed herewith as Exhibit 4.

27 ⁶ *See*, 9/25/2025 OIG-25-47 FINAL REPORT Results of an Unannounced Inspection of ICE's Eloy Federal
28 Contract Facility in Eloy, Arizona, filed herewith as Exhibit 5.

1 5. An October 2024 Report co-authored by the Florence Immigrant & Refugee Rights
2 Project states that Eloy Detention Center has “gained notoriety as the “deadliest immigration
3 detention center in the U.S.,’ with at least 16 reported deaths, including five suicides”,⁷ citing to
4 Monsy Alvarado, Ashley Balcerzak. “Deaths in custody. Sexual violence. Hunger strikes. What we
5 uncovered inside ICE facilities across the US.” USA Today. December 19, 2020.⁸
6

7 6. On July 2, 2025, the DHS issued a Notice to Appear charging Mr. Luna-Gonzalez
8 with inadmissibility pursuant to INA § 212(a)(6)(A)(1) [8 U.S.C. § 1182(a)(6)(A)(i)].⁹

9 7. Petitioner was denied release after a bond hearing held on July 22, 2025,¹⁰ because
10 the Immigration Judge (IJ) agreed with DHS’s 7/8/2025 policy changes,¹¹ which now require that
11 *any* noncitizen present in the United States without admission or parole is subject to mandatory
12 detention, without the possibility of a bond hearing.
13

14 8. For the reasons outlined below, Petitioner’s detention runs afoul of the
15 government’s own regulations governing DACA and therefore violate the *Accardi* Doctrine. It also
16 violates his procedural and substantive due process rights. As such, Petitioner respectfully petitions
17 this Court for a Writ of Habeas Corpus to remedy his unlawful detention by Respondents.
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19
20 ⁷ See, *Anthology of Abuse – A Legacy of Failed Oversight and Death at the Eloy Detention Center*, by
21 Florence Immigrant & Refugee Rights Project, *et al.*, published 10/2024, filed herewith as Exhibit 6.

22 ⁸ Monsy Alvarado, Ashley Balcerzak. “Deaths in custody. Sexual violence. Hunger strikes. What we uncovered inside
23 *ICE facilities across the US.*” USA Today. December 19, 2020. Available at:
[https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-asylum-under-trump-exclusive-look-us-immigration-
detention/4381404002/](https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-asylum-under-trump-exclusive-look-us-immigration-detention/4381404002/) Last accessed: 10/7/2025

24 ⁹ See, Notice to Appear, filed herewith as Exhibit 7.

25 ¹⁰ See, 8/28/2025 Immigration Judge Order Denying Bond, filed herewith as Exhibit 8.

26 ¹¹ See, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission (last
27 visited September 8, 2025), filed herewith as Exhibit 9.
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JURISDICTION & CUSTODY

1
2 9. Petitioner Juan Daniel Luna-Gonzalez is in the physical custody of Respondents
3 and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland
4 Security.

5
6 10. Petitioner is currently detained at the Eloy Federal Detention Center in Eloy,
7 Arizona and is under the direct control of Respondents and their agents.¹²

8 11. This action arises under the Constitution of the United States and 8 U.S.C. §
9 1101 *et seq.*

10 12. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United
11 States Constitution, 28 U.S.C. § 1331, and the common law. This Court may grant relief pursuant
12 to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs
13 Act, 28 U.S.C. § 1651.

14
15 13. Congress has preserved judicial review of challenges to immigration detention.
16 *See Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8 U.S.C. §§ 1226(e) and
17 1252(b)(9) do not bar review of challenges to prolonged immigration detention).

18
19 14. The Court must grant the petition for writ of habeas corpus or order Respondents
20 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
21 order to show cause is issued, Respondents must file a return “within three days unless for good
22 cause additional time, not exceeding twenty days, is allowed.” *Id.*

23
24 15. The Court has inherent power to release the petitioner pending review of his
25 petition. *See Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

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27 ¹² See, 10/6/2025 ICE Online Detainee Locator System report for Petitioner, available at
28 <https://locator.ice.gov/odls/#/search>, filed herewith as Exhibit 3.


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VENUE

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in this Court, the federal judicial district in which Petitioner is currently is in custody.

17. Venue is also properly in this Court pursuant to 18 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States.

PARTIES

18. Petitioner Juan Daniel Luna-Gonzalez was born on , in Guanajuato Mexico¹³ and he is currently detained by ICE at the Eloy Federal Detention Center in Eloy, Arizona.

19. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Noem is a legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

20. Respondent DHS is a federal executive agency responsible for, among other things, enforcing federal immigration laws and overseeing lawful immigration to the United States. Respondent DHS is a legal custodian of Petitioner.

21. Respondent Todd M. Lyons is Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement ("ICE"). Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants during their removal procedures. Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is sued in his official capacity.


¹³ See, DHS Bond Hearing Exhibits, filed herewith as Exhibit 2.

1 22. Respondent ICE is a federal law enforcement agency within DHS. Respondent
2 ICE is responsible for the enforcement of immigration laws, including the detention and removal
3 of immigrants. Respondent ICE is a legal custodian of Petitioner.

4 23. Respondent John Cantu is Field Office Director for ICE's Enforcement and
5 Removal Operation's ("ERO") Phoenix, Arizona Field Office. Respondent Cantu is a legal
6 custodian of Petitioner. Respondent Cantu is sued in his official capacity.

7 24. Respondent EOIR is a federal agency within the U.S. Department of Justice.
8 Respondent EOIR is responsible for the administration of immigration courts, and acceptance of
9 forms and petitions related to adjudication of immigration claims, as well as motions for bond.
10

11 **STATEMENT OF FACTS**

12 25. Petitioner Juan Daniel Luna-Gonzalez was born on , in
13 Guanajuato Mexico¹⁴ and crossed into the United States when he was 2 years old in 1999.
14

15 26. Petitioner has been granted deferred action through the Deferred Action for
16 Childhood Arrivals ("DACA") program and his present DACA grant is valid through October 15,
17 2026.¹⁵

18 27. Respondents are currently detaining Petitioner at the Eloy Federal Detention
19 Center in Arizona. ¹⁶

20 28. On August 19, 2025, a custody redetermination hearing was held where
21 Petitioner submitted evidence, including: (a) DACA Approval Notice; (b) Letter from Employer;
22 (c) High School Diploma (2011); (d) Filed Tax Returns (2018-2023); (e) Good Moral Character
23 Letters (10).¹⁷
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25

26 ¹⁴ *Id.*

27 ¹⁵ *See*, Exhibit 1, USCIS Form I-797C, DACA Approval Notice.

28 ¹⁶ *See*, Exhibit 2, DHS Bond Hearing Exhibits.

¹⁷ *See*, Petitioner's Bond Hearing Exhibits, filed herewith as Exhibit 10.

1 process of law". *Shaughnessy v. United States ex rel. Mezei*, 345 U. S. 206, 212 (1953); *accord*,
2 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

3 33. Due process thus requires "adequate procedural protections" to ensure that the
4 government's asserted justification for a noncitizen's physical confinement "outweighs the
5 individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S.
6 at 690 (internal quotation marks omitted).

8 34. In the immigration context, the Supreme Court has recognized only two valid
9 purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight.
10 *Demore v. Kim*, 538 U.S. 510, 528 (2003).

11 35. Under DACA, "'to prevent [these] low priority individuals from being removed
12 from the United States,' ICE 'exercise[s] prosecutorial discretion[] on an individual basis ... by
13 deferring action for a period of two years, subject to renewal.'" *Dep't of Homeland Sec. v. Regents*
14 *of the Univ. of California*, 591 U.S. 1, 10 (2020). DACA has been recognized as both a "benefits
15 rule" and a "forbearance policy." *Texas v. United States*, 126 F.4th 392, 419–20 (5th Cir. 2025).

17 36. In 2022, DHS promulgated a final rule codifying DACA's structure,
18 adjudicative standards, and termination procedure. *Deferred Action for Childhood Arrivals*, 87 Fed.
19 Reg. 53,152 (Aug. 30, 2022) (codified at 8 C.F.R. § 236.21 *et seq.*). The rule defines deferred action
20 as "a form of enforcement discretion not to pursue the removal of certain aliens," or a "temporary
21 forbearance from removal." 8 C.F.R. § 236.21(c)(1).

23 37. Per DHS's regulations, DACA recipients are also treated by DHS as "lawfully
24 present" for the period deferred action is in effect, and are thereby entitled to certain associated
25 benefits, such as a work authorization if they demonstrate economic need. 8 C.F.R. § 236.21(c); 87
26 Fed. Reg. at 53,177–80; *see also Texas v. United States*, 809 F.3d 134, 166 (5th Cir. 2015), *aff'd by*
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1 *an equally divided Court*, 579 U.S. 547 (2016) (“Deferred action ... is much more than
2 nonenforcement: It ... affirmatively confer[s] ‘lawful presence’ and associated benefits”).

3 38. A grant of DACA is valid for two years and is then indefinitely renewable. 8
4 C.F.R. § 236.23(a)(4). Consequently, DACA recipients must regularly apply to renew their DACA
5 grant, going through the same rigorous application process and security and background checks
6 each time. Notably, however, U.S. Citizenship and Immigration Services (“USCIS”) cannot
7 approve these applications if a person is in federal immigration detention. 8 C.F.R. § 236.23(a)(2).
8

9 39. The regulations also lay out specific procedures by which a grant of DACA may
10 be terminated. 8 C.F.R. § 236.23(d). First, DHS sub-agency USCIS has exclusive jurisdiction to
11 consider applications for DACA, and USCIS alone may terminate a grant of DACA. 8 C.F.R. §
12 236.23(a)(2), (d). With very few exceptions, none of which apply here, USCIS may only terminate
13 an individual’s grant of DACA after providing them with a Notice of Intent to Terminate and an
14 opportunity to respond prior to termination. 8 C.F.R. § 236.23(d)(1).
15

16 40. The structured, uniform, and repeated vetting of DACA applicants creates
17 predictable, government-induced expectations that recipients reasonably rely upon in ordering their
18 lives, employment, education, and family responsibilities. This is the design of the program: in
19 exchange for disclosure and compliance, recipients reasonably expect not to be targeted for arrest
20 or detention based solely on immigration status while deferred action remains in effect. *See, e.g.,*
21 *Letter from Secretary Jeh Johnson to Rep. Judy Chu* (Dec. 30, 2016)⁵; *Transcript of CNN Town*
22 *Hall with Speaker Paul Ryan*, CNN (Jan. 12, 2017) (then-Speaker of the House Paul Ryan stating
23 that the government must ensure that “the rug doesn’t get pulled out from under” Dreamers, who
24 have “organize[d] [their] li[ves] around” the DACA program”); Ted Hesson & Seung Min Kim,
25 *Wary Democrats Look to Kelly for Answers on Immigration*, Politico (Mar. 29, 2017)⁷
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1 41. The government’s decision to detain Petitioner, despite being unable to remove
2 him, inflicts concrete, ongoing harm upon him and undermines the rule-of-law commitments upon
3 which he—and all other DACA recipients—reasonably relied.

4 42. Federal caselaw clearly holds that DACA recipients cannot be summarily
5 removed. *See, Dep’t of Homeland Sec. v. Regents of Univ. of Cal.*, 591 U.S. 1, 9 (2020) (DACA
6 allows certain unauthorized aliens who entered the United States as children to “apply for a two-
7 year forbearance of removal.”); *Enriquez-Perdomo v. Newman*, 54 F. 4th 855, 864 (6th Cir. 2022)
8 (“When she became a DACA recipient, she was granted ‘affirmative ... relief’ from removal.
9 Although the government was free to terminate that relief, it did not, and Enriquez-Perdomo’s arrest
10 and detention were unauthorized.”); *Catalina Santiago Santiago v. Noem, et al.*, Case No. 25-cv-
11 00361-KC (U.S. District Court for the Western District of Texas) Order granting petition for writ
12 of habeas corpus filed 10/01/25 (“Because she is protected by DACA, Santiago is considered
13 ‘lawfully present’ and cannot be removed from the United States. 8 C.F.R. § 236.21(c)(1), (3)”);²¹
14 *Gamez Lira v. Noem*, No. 25-cv-00855-WJ-KK, 2025 WL 2581710 (D.N.M. Sept. 5, 2025) (“[t]he
15 Petition shows that Respondents did not observe the procedures for termination of DACA set forth
16 in § 236.21(d). . . in violation of the *Accardi* doctrine.”²² *See also Texas v. United States*, 809 F.3d
17 134, 166 (5th Cir. 2015), *aff’d by an equally divided Court*, 579 U.S. 547 (2016) (“Deferred action
18 ... is much more than nonenforcement: It ... affirmatively confer[s] ‘lawful presence’ and
19 associated benefits”).

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24 ²¹ 10/01/25 Order granting in part petition for writ of habeas corpus in *Catalina Santiago Santiago v.*
25 *Noem, et al.*, Case No. 25-cv-00361-KC (U.S.D.C. Western District Of Texas) filed herewith as
26 Exhibit 12.

27 ²² Order granting TRO, *Gamez Lira v. Noem*, No. 25-cv-00855-WJ-KK, 2025 WL 2581710, at *2-3
28 (D.N.M. Sept. 5, 2025) filed herewith as Exhibit 13.

1 43. Despite being protected from removal, Mr. Luna-Gonzalez was arrested and is
2 currently being detained at the Eloy Federal Detention Center. The United States has violated its
3 own DACA-specific processes in this case as to Mr. Luna-Gonzalez. Under the *Accardi* doctrine,
4 the government and its agencies are required to follow their own binding rules. *United States ex rel.*
5 *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Where a regulation governing agency behavior has
6 been promulgated, citizens and noncitizens alike are entitled to “that due process required by the
7 regulations.” *Id.* at 268.

9 44. Petitioner was denied release after a bond hearing held on July 22, 2025,²³
10 because the Immigration Judge (IJ) agreed with DHS’s 7/8/2025 policy changes,²⁴ which now
11 require that *any* person not previously admitted is subject to mandatory detention, without the
12 possibility of a bond hearing.²⁵ But such a reading ignores the plain statutory language of §
13 1225(b)(1)(A)(iii)(II), which makes expedited removal procedures in that section conditioned upon
14 the aliens having been present in the United States for under two years. Mr. Luna-Gonzalez has
15 lived in the United States for 23 years.

17 45. Federal caselaw has also rejected the DHS’s misinterpretation of § 1225. *See*,
18 08/04/25 Order Granting *Ex Parte* Motion for Temporary Restraining Order, *Mirta Amarilis Co*
19 *Tupul v. Noem, et al.*, U.S. District Court for the District of Arizona Case 2:25-cv-02748-DJH—
20 JZB (“Petitioner alleges she has been present in the United States for 30 years and, as a result, is
21 statutorily ineligible for expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II)

23 ²³ *See*, 8/28/2025 Order Denying Bond, filed herewith as Exhibit *.

24 ²⁴ *See*, Exhibit 9, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for
25 Admission (last visited September 8, 2025).

26 ²⁵ *Id.*

1 (conditioning the Attorney General’s ability to apply expedited removal procedures to non-arriving
2 noncitizens on those noncitizens’ having been present in the United States for under two years);
3 *see also* 8 C.F.R. § 235.3(b)(1)(2) (providing that expedited removal proceedings may only be
4 applied to “arriving aliens” and “as specifically designated by the Commissioner, aliens who have
5 not established to the satisfaction of the immigration officer that they have been physically present
6 in the United States continuously for the two-year period immediately prior to the date of
7 determination of inadmissibility”);²⁶ *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL
8 2609425, at *18-19 (E.D. Mich. Sept. 9, 2025) (“After reviewing the statutory text, the statute’s
9 history, Congressional intent, and § 1226(a)’s application for the past three decades, the Court finds
10 that Pizarro Reyes falls within the confines of § 1226(a), and not § 1225(b)(2)(A)”);²⁷ *Diaz*
11 *Martinez v. Hyde*, — F. Supp. 3d —, 2025 WL 2084238 (D. Mass. July 24, 2025)²⁸ (holding that
12 statutory construction and existing federal caselaw mandate the conclusion that an “applicant for
13 admission” is different than a noncitizen already residing in the country); *Lazaro Maldonado*
14 *Bautista et al. v. Kristi Noem, Secretary, Department of Homeland Security, et al.*, U.S. District
15 Court for the Central District of California, Case No. 5:25-cv-01873-SSS-BFM²⁹ (Temporary
16 Restraining Order entered 7/28/2025 because “Respondents fail to articulate any valid justification,
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21 ²⁶ *See*, 08/04/25 Order Granting *Ex Parte* Motion for Temporary Restraining Order, *Mirta Amarilis*
22 *Co Tupul v. Noem, et al.*, (D. Az. Case 2:25-cv-02748-DJH) filed herewith as Exhibit 14.

23 ²⁷ Order Granting Petition for Writ of Habeas Corpus, *Pizarro Reyes v. Raycraft*, No. 25-12546,
24 (E.D. Mich. Sept. 9, 2025) filed herewith as Exhibit 15.

25 ²⁸ *Diaz Martinez v. Hyde*, — F. Supp. 3d —, 2025 WL 2084238 (D. Mass. July 24, 2025) (holding
26 that statutory construction and existing federal caselaw mandate that an “applicant for admission” is
27 different than a noncitizen already in the country) filed herewith as Exhibit 16.

28 ²⁹ Temporary Restraining Order entered 7/28/2025 in *Lazaro Maldonado Bautista et al. v. Kristi Noem, et al.*,
U.S. District Court for the Central District of California, Eastern Division, Case No. 5:25-cv-01873-SSS-BFM,
filed herewith as Exhibit 17.

1 legal or otherwise, for the application of § 1225 to Petitioners as ‘applicants for admission’);
2 *Francisco T. v. Bondi, et al.*, U.S. District Court for the District of Minnesota Case No. 0:25-cv-
3 03219-JMB-DTS, [CM/ECF Doc. 17], ³⁰ (Preliminary Injunction entered 8/29/2025 because
4 “[n]oncitizens who have been residing in the United States but who entered without inspection have
5 not, historically, been considered to still be “arriving” under section 1225(b)”).
6

7 46. The American Civil Liberties Union of Massachusetts filed a class-action
8 lawsuit in federal court on 9/22/2025 to challenge the widespread denial of bond hearings to persons
9 recently detained by U.S. Immigration and Customs Enforcement (ICE). That complaint³¹ argues
10 that DHS is now systematically reclassifying noncitizens from the statutory authority of § 1226,
11 which usually allows for the opportunity to request bond during removal proceedings, to the no-
12 bond detention provisions of § 1225, which doesn’t apply to people already present in the interior
13 of the United States.
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15 47. Also, in the Tacoma, Washington, immigration court, IJs previously stopped
16 providing bond hearings for persons who entered the United States without inspection and who
17 have since resided here, reasoning such people are subject to mandatory detention under §
18 1225(b)(2)(A). There, in granting preliminary injunctive relief, the U.S. District Court for the
19 Western District of Washington found that such a reading of the INA is likely unlawful and that §
20 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
21 States.
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23 ³⁰ Restraining Order entered 8/29/2025 in *Francisco T. v. Bondi, et al.*, Case No. 0:25-cv-03219-JMB-DTS,
[CM/ECF Doc. 17], U.S. District Court for the District of Minnesota, filed herewith as Exhibit 18.

24 ³¹ First Amended Petition For Writ Of Habeas Corpus And Class Action Complaint, *Jose Arnulfo*
25 *Guerrero Orellana, on behalf of himself and others similarly situated, v. Antone Moniz,*
26 *Superintendent, Plymouth County Correctional Facility; et. al.*, United States District Court for the
27 District of Massachusetts Case No. 25-12664-PBS [Document 10 Filed 09/22/25], Filed herewith as
28 Exhibit 19.

1 States. *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL
2 1193850 (W.D. Wash. Apr. 24, 2025).³²

3 48. DHS's interpretation defies the INA. As the *Rodriguez Vazquez* court and other
4 courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not §
5 1225(b), applies to persons who have resided in the United States for more than 2 years – like
6 Petitioner.
7

8 49. The Bureau of Immigration Appeals, perhaps recognizing the increasing swell
9 of adverse decisions, recently issued Interim Decision #4125, affirming an IJ's determination that
10 he did not have authority to issue a bond because noncitizens present in the United States without
11 admission are "applicants for admission" as defined under section § 1225(b)(2)(A), and must
12 therefore be detained for the duration of their removal proceedings. *See, Matter of Yajure Hurtado*,
13 29 I&N Dec. 216 (B.I.A. 2025).³³
14

15 50. However, the Supreme Court decision last year in *Loper Bright Enterprises v.*
16 *Raimondo*, 603 U.S. 369 (2024) expressly overruled *Chevron*³⁴ deference to agency interpretations
17 of statutes. Federal courts are now restored to their traditional Judicial Branch role of "us[ing]
18 every tool at [their] disposal to determine the best reading of the statute." *See Loper Bright*, 603
19 U.S. at 412-13.
20

21 51. Thus, this Court is the proper forum to determine whether Petitioner is entitled
22 to immediate release as a DACA recipient or, alternatively, upon a reversal of *Yajure Hurtado*. The
23 petition for writ of habeas corpus should be granted.
24

25 ³² Order entered 8/19/2025 in *Romero v. Hyde, et al.*, Case No. 1:25-cv-11631-BEM [CM/ECF Doc.
26 32], U.S. District Court for the District of Massachusetts, filed herewith as Exhibit 20.

27 ³³ *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 21.

28 ³⁴ *Chevron v. Natural Resources Defense Council*, 467 U.S. 837 (1984).

1 Court has consistently recognized that immigration arrests and detentions are “seizures” within the
2 meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984)
3 (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to
4 the “seizure” of the person).

5
6 58. As a general matter, the Fourth Amendment requires that all arrests entail a
7 neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).
8 That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or
9 promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest
10 and detention of a person, including of a noncitizen, absent a neutral judicial determination of
11 probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of Riverside*
12 *v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention,
13 which includes weekends, unless there is a bona fide emergency or other extraordinary
14 circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

15
16 59. Congress enacted a strong preference that immigration arrests be based on
17 warrants. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and
18 Nationality Act thus provides immigration officers with only limited authority to conduct
19 warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have “reason to believe”
20 the person is violating the immigration laws and that the person “is likely to escape before a warrant
21 can be obtained.” *Id.* Federal regulations track the strict limitations on warrantless arrest. *See* 8
22 C.F.R. § 287.8(c)(2)(ii).
23

24
25 60. Here, at the moment of seizure, Mr. Luna-Gonzalez held a current DACA grant,
26 making him lawfully present under 8 C.F.R. § 236.21(c)(3). He had lived in the United States for
27 23 years, at his address of record for years, and held long-term employment. There is no evidence,
28 and no reason to believe, that he posed a flight risk at the time of his apprehension.

1 property or liberty interest and, if so, the extent or scope of that interest. *Bd. of Regents of State Colls.*
2 *v. Roth*, 408 U.S. 564, 569–70 (1972).

3 67. The Supreme Court has recognized that property interests arise where “rules or
4 understandings” create “a legitimate claim of entitlement.” *Bd. of Regents*, 408 U.S. at 577. Similarly,
5 reliance on government policies and assurances may give rise to protected expectations under the Due
6 Process Clause. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

8 68. Here, Petitioner reasonably relied on government assurances—made explicit
9 through innumerable public statements—that DACA provides some protection from arrest, detention,
10 and removal for those who follow the rules, and that the DACA program allows its recipients to
11 establish stable lives in the United States. This reliance has created a legally protectable liberty
12 interest. Moreover, society itself relies on the stability that flows from the normalization of DACA
13 recipients’ participation in daily life.

15 69. Because Petitioner is considered “lawfully present”, he reasonably expected that
16 DHS would following the existing regulations and give him and give him notice and an opportunity
17 for a hearing before revoking his DACA status. *See*, 8 C.F.R. § 236.21(c)(1), (3).

19 70. Under the familiar *Mathews v. Eldridge* due process test, then, the government’s
20 decision to apprehend Petitioner and continue to detain him clearly violates his procedural due process
21 rights. First, caselaw establishes that Petitioner has substantial legally protectable interests, created
22 by his reliance on the government’s DACA policies and associated assurances, at stake. Second, the
23 risk of erroneously depriving Petitioner of such interests is severe, as he has not been afforded
24 constitutionally sufficient process, prior to this deprivation. *See Mathews*, 424 U.S. at 343. Third, the
25 government’s interest in detaining Petitioner is minimal. Mr. Luna-Gonzales has been continuously
26 present in the United States since infancy, has obvious and concrete ties to the United States, and has
27 gone through repeated rigorous vetting processes for over a decade to renew his DACA. His detention
28

1 is thus not rationally related to any purpose civil immigration detention may serve. *See Wong Wing v.*
2 *United States*, 163 U.S. 228, 235–36 (1896); *Demore*, 538 U.S. at 523, 527–28. And additional
3 process would entail little to no burden on the government, especially considering the information
4 Petitioner has already provided to the government regarding his DACA eligibility showing he poses
5 no flight risk or danger to the community, per 8 C.F.R. § 236.22. *See Mathews*, 424 U.S. at 347.
6

7 71. Accordingly, Petitioner’s continued detention without notice and an opportunity
8 to be heard violates his procedural due process rights under the Fifth Amendment of the Constitution.
9

10 **THIRD CLAIM FOR RELIEF**
11 **Violation Of The *Accardi* Doctrine With Respect To**
12 **8 C.F.R. § 287.8(c)(2)(i) and (ii)**

13 72. Petitioner realleges and incorporates herein the allegations contained in the
14 preceding paragraphs of the petition as if fully set forth herein.

15 73. Respondents have failed to follow immigration-specific arrest and processing
16 regulations. Regulations governing immigration enforcement require that warrantless arrests
17 conform to the standards in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers
18 must have reason to believe that an individual committed an offense against the United States or was
19 present illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have
20 reason to believe that an individual is “likely to escape before a warrant can be obtained.” 8 C.F.R. §
21 287.8(c)(2)(ii).
22

23 74. At the time of his arrest and at all times since, Petitioner has had a valid grant of
24 DACA; he fled no authority; and he posed no danger to any person or to the community at large.
25 Therefore, Petitioner’s arrest and continued detention contravene regulations governing immigration
26 arrests in violation of the *Accardi* doctrine.
27

28 **FOURTH CLAIM FOR RELIEF**

Violation of Fifth Amendment – Substantive Due Process

1
2 75. Petitioner realleges and incorporates herein the allegations contained in the
3 preceding paragraphs of the petition as if fully set forth herein.

4 76. The Due Process Clause of the Fifth Amendment forbids the government from
5 depriving any “person” of liberty “without due process of law,” including noncitizens. U.S. Const.
6 amend. V.
7

8 77. Substantive due process asks whether a person’s life, liberty, or property is
9 deprived without sufficient purpose. There is no question that Petitioner has been deprived of his
10 liberty in this case.

11 78. The government’s continued detention of Petitioner is not supported by any
12 special interest or compelling justification that outweighs his liberty interest.

13 79. Petitioner’s ongoing detention when so many federal courts have held that he is
14 entitled to be considered for release upon posting an appropriate bond under § 1225 constitutes
15 prolonged detention and violates his substantive due process rights.
16

17
18 **FIFTH CLAIM FOR RELIEF**
19 **Violation of Fifth Amendment Right - Procedural Due Process**

20 80. Petitioner realleges and incorporates herein the allegations contained in the
21 preceding paragraphs of the petition as if fully set forth herein.

22 81. The Due Process Clause of the Fifth Amendment guarantees Petitioner the right
23 to procedural due process in seeking a bond redetermination and the government may not
24 unreasonably restrict this right.
25

26 82. The government’s knowing misclassification of Petitioner as an “applicant for
27 admission” under § 1225 in order to justify its argument for mandatory detention is not supported
28 by any special interest or compelling justification that outweighs Petitioner’s liberty interest.

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Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I represent Petitioner, Juan Daniel Luna-Gonzalez, and submit this verification on his behalf. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 9th day of October, 2025.

By: */s/ Nera Shefer*
Nera Shefer, Esq.

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LIST OF EXHIBITS	
Exhibit 1	DACA Approval Notice dated 10/16/2024, USCIS Form I-797C
Exhibit 2	DHS Bond Hearing Exhibits
Exhibit 3	10/6/2025 ICE Online Detainee Locator System report for Petitioner, available at https://locator.ice.gov/odls/#/search
Exhibit 4	ICE Detainee Death Report 1/29/2025
Exhibit 5	9/25/2025 OIG-25-47 FINAL REPORT Results of an Unannounced Inspection of ICE's Eloy Federal Contract Facility in Eloy, Arizona
Exhibit 6	<i>Anthology of Abuse – A Legacy of Failed Oversight and Death at the Eloy Detention Center</i> , by Florence Immigrant & Refugee Rights Project, <i>et al.</i> , published 10/2024,
Exhibit 7	Notice to Appear
Exhibit 8	8/28/2025 Immigration Judge Order Denying Bond
Exhibit 9	<u>ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission</u> (last visited September 8, 2025)
Exhibit 10	Petitioner's Bond Hearing Exhibits
Exhibit 11	8/21/2025 Notice of Appeal from a Decision of an Immigration Judge
Exhibit 12	10/01/25 Order granting in part petition for writ of habeas corpus in <i>Catalina Santiago Santiago v. Noem, et al.</i> , Case No. 25-cv-00361-KC (U.S.D.C. Western District Of Texas)
Exhibit 13	9/24/25 Order granting TRO, <i>Gamez Lira v. Noem</i> , No. 25-cv-00855-WJ-KK, 2025 WL 2581710, at *2-3 (D.N.M.)
Exhibit 14	08/04/25 Order Granting Mot. for Temporary Restraining Order, <i>Co Tupul v. Noem</i> , No. 25-AT-99908 (D. Ariz. August 4, 2025)
Exhibit 15	9/9/2025 Order Granting Petition for Writ of Habeas Corpus, <i>Pizarro Reyes v. Raycraft</i> , No. 25-12546, (E.D. Mich.)
Exhibit 16	<i>Diaz Martinez v. Hyde</i> , — F. Supp. 3d —, 2025 WL 2084238 (D. Mass. July 24, 2025)
Exhibit 17	Temporary Restraining Order entered 7/28/2025 in <i>Lazaro Maldonado Bautista et al. v Kristi Noem, Secretary, Department of Homeland Security, et al.</i> , U.S. District Court for the Central District of California, Eastern Division, Case No. 5:25-cv-01873-SSS-BFM.
Exhibit 18	Restraining Order entered 8/29/2025 in <i>Francisco T. v. Bondi, et al.</i> , Case No. 0:25-cv-03219-JMB-DTS, [CM/ECF Doc. 17], U.S. District Court for the District of Minnesota.
Exhibit 19	First Amended Petition For Writ Of Habeas Corpus And Class Action Complaint, <i>Jose Arnulfo Guerrero Orellana, on behalf of himself and others similarly situated, v. Antone Moniz, Superintendent, Plymouth County Correctional Facility; et. al.</i> , (D.Mass. Case No. 25-12664-PBS)
Exhibit 20	Order entered 8/19/2025 in <i>Romero v. Hyde, et al.</i> , Case No. 1:25-cv-11631-BEM [CM/ECF Doc. 32], U.S. District Court for the District of Massachusetts.
Exhibit 21	<i>Matter of Yajure Hurtado</i> , 29 I&N Dec. 216 (B.I.A. 2025)