1 Jeremy Mondejar, ESQ.
   NV Bar 11213
2 2885 E Charleston BLVD, Suite 103
   Las Vegas, NV 89104
3 Telephone: (702) 816-6611
   Attorney for Petitioner
4
                    UNITED STATES DISTRICT COURT
5   DISTRICT OF NEVADA

6

7 GARCIA-ARAUZ, JUSTIN   )   A ▬▬▬▬ Detained
)
8 Petitioner,   )   Case File No.:
)
9 V.   )   Immigration file No.:
)   ▬▬▬▬
10 KRISTI NOEM, Secretary of   )
   the United States Department of Homeland   )
11 Security; PAM BONDI,   )
   United States Attorney General;   )
12 TODD LYONS, Director of   )
   United States Immigration and Customs   )   **PETITIONER'S AMENDED**
13 Enforcement; BRYAN WILCOX,   )   **WRIT OF HABEAS**
   Field Office Director for Detention and   )   **CORPUS**
14 Removal, U.S. Immigration and Customs   )
   Enforcement, Department of Homeland   )
15 Security; John Mattos Warden,   )
   Nevada Southern Detention Center;   )
16 UNITED STATES DEPARTMENT OF   )
   HOMELAND SECURITY; UNITED   )
17 STATES IMMIGRATION AND   )
   CUSTOMS ENFORCEMENT;   )
18   )
   Respondents   )
19   )
)
20 ───   )

21   **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28**
                            U.S.C. § 2241
22
        This is a petition for a writ of habeas corpus filed on behalf of Justin Garcia-
23
   Arauz ("Petitioner") seeking relief to remedy his unlawful detention. Respondents
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25 are detaining Petitioner pending his deportation proceedings. Petitioner has fully

26 cooperated with Respondents for said proceedings. To date, Petitioner has been

27 detained for more than eighty (80) days. Petitioner is not a flight risk or a danger to
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the community. His prolonged detention is no longer justified under the

Constitution or the Immigration and Nationality Act (INA).

Respondents placed Petitioner in the custody of the Nevada Southern Detention

Center. Petitioner's detention is for the purpose of conducting his deportation

proceedings.

On or about September 03, 2025, an Immigration Judge ("IJ") granted

Petitioner bond in the amount of $5,000.00 (five-thousand dollars), although no

paper order has been made available to Petitioner. At said Bond Hearing,

government counsel argued that Petitioner is an "applicant for admission" despite

his arrival over six years ago, subjecting him to mandatory detention under Section

235 of the INA. On or about September 04, 2025, government counsel filed a

Notice of Intent to Appeal the Bond Decision, automatically staying Petitioner's

bond under 8 C.F.R. §1003.19. This stay expired on September 17, 2025.

This stay can be extended by ninety (90) days if government counsel files

EOIR Form 26 "Notice of Appeal" with the Board of Immigration Appeals within

the ten (10) business days of the first automatic stay, which occurred on September

17, 2025. This appeal is still pending before the Board of Immigration Appeals.

Respondents' actions defy the U.S. Constitution and the Immigration and

Nationality Act (INA). Petitioner seeks an order from this Court declaring his

continued and prolonged detention unlawful and ordering Respondents to release

Petitioner from their custody with or without the posting of the relevant bond.

CUSTODY

1. Petitioner is in the physical custody of Respondents. At the time of the filing of this petition, Petitioner is detained at the Nevada Southern Detention Center ("NSDC") in Pahrump, NV. NSDC contracts with the Department of Homeland Security to detain aliens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the District of Nevada, the judicial district where Petitioner is detained. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner is a national and citizen of Nicaragua.

5. Respondent KRISTI NOEM is the Secretary of the U.S. Department of

Homeland Security ("DHS"), an agency of the United States. She is responsible for

the administration of immigration laws pursuant to 8 U.S.C. § 1103(a). Secretary

Noem is a legal custodian of Mr. Garcia. She is named in her official capacity.

Respondent's address is Department of Homeland Security, Washington, D.C.

20528.

6. Respondent Pam Bondi is the Attorney General of the United States and the

most senior official in the U.S. Department of Justice ("DOJ"). She has the

authority to interpret immigration laws and adjudicate removal cases. 8 U.S.C. §

1103(g). The Attorney General delegates this responsibility to the Executive Office

for Immigration Review ("EOIR"), which administrates the immigration courts

and the BIA. She is named in her official capacity. Respondent's address is 950

Pennsylvania Avenue, NW, Washington, D.C. 20520-0001.

7. Respondent TODD LYONS is the Director of the United States Immigration and

Customs Enforcement within the Department of Homeland Security, an agency of

the United States. He is responsible for the administration and enforcement of

immigration laws. He is named in his official capacity. Respondent's address is

500 12th St. SW, Washington, D.C. 20536.

8. Respondent Bryan Wilcox is the Field Office Director for Detention and

Removal, U.S. Immigration Customs and Enforcement, Department of Homeland

Security. Pursuant to Respondent Wilcox's orders, Mr. Garcia remains detained.

Respondent Wilcox is named in his official capacity. Respondent's address is 2975 Decker Lane Dr, Suite 100, West Valley City, UT 84119.

9. Respondent Warden is Petitioner's immediate custodian and resides in the judicial jurisdiction of the Ninth Circuit of the United States Court of Appeals. Warden is named in his official capacity.

10. The Department of Homeland Security (DHS) is a federal agency charged with administering statutes and regulations governing immigration pursuant to 6 U.S.C. §§ 111-115. Respondent's address is Department of Homeland Security, Washington, D.C. 20528.

11. The United States Immigration and Customs Enforcement is a federal sub-agency under DHS responsible for the administration and enforcement of the United States' immigration laws pursuant to 22 C.F.R. 127.4. Respondent's field office address here in Las Vegas is 501 S Las Vegas Blvd, Suite 200, Las Vegas, NV 89101.

<div align="center">EXHAUSTION OF ADMINISTRATIVE REMEDIES</div>

12. Petitioner has exhausted his administrative remedies to the extent required by law. Petitioner's only remedy is by way of this judicial action.

<div align="center">STATEMENT OF FACTS</div>

13. Petitioner is a national and citizen of Nicaragua who entered the U.S. on or about May 4, 2019 without inspection and has resided continuously in the U.S. ever since.

14. Petitioner has now been in detention for more than eighty (80) days pending his deportation proceedings starting on or about August 15, 2025 when ICE officers took Petitioner into custody without incident pursuant to an administrative warrant issued under Section 236 of the INA at the Clark County Detention Center in Las Vegas, NV, where Petitioner was being detained for a DUI arrest, which remains pending. Petitioner is charged as removable under Sections 212(a)(6)(A)(i) of the INA.

15. Petitioner is not a danger to the community or a flight risk.

16. Petitioner has deep roots in this community.

17. Prior to his detention, Petitioner was working, paying his taxes, and providing for his family. His continued detention deprives his family of his companionship and income.

18. Respondents' continued detention of Petitioner is contrary to the law.

CLAIMS FOR RELIEF

COUNT ONE CONSTITUTIONAL CLAIM

19. Petitioner alleges and incorporates by reference paragraphs 1 through 18 above.

20. Petitioners' detention and delayed adjudication of the appeal pending at the BIA violate his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution. *Hope v. Warden York City Prison*, 972 F.3d 310, 323-25 (3d Cir. 2020) (seeking release due to unconstitutional conditions of confinement); *Yanes v. Martin*, 464 F. Supp. 3d 467, 468 n.1 (D.R.I. 2020);

Zepeda Rivas v. Jennings, 465 F. Supp. 3d 1028, 1035-36 (N.D. Cal. 2020).

<div align="center">COUNT TWO STATUTORY CLAIM</div>

21. Petitioner alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

<div align="center">COUNT THREE</div>

23. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

<div align="center">PRAYER FOR RELIEF</div>

WHEREFORE, Petitioner prays that this Court grant the following relief: 1. Assume jurisdiction over this matter; 2. Issue an order directing Respondents to show cause why the writ should not be granted; 3. Issue a writ of habeas corpus ordering Respondents to release Garcia on his own recognizance or under the $5,000.00 bond issued by the Immigration Judge; 4. Award Petitioner reasonable costs and attorney's fees; and, 5. Grant any other relief which this Court deems just and proper.

1   Respectfully submitted,

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                                        _____/s/ Jeremy Mondejar_____

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                                        Jeremy Mondejar, ESQ.
4   NV Bar 11213
                                        2885 E Charleston BLVD, Suite 103
5   Las Vegas, NV 89104
                                        Telephone: (702) 816-6611
6   Attorney for Petitioner

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VERIFICATION OF COUNSEL

    I, Jeremy Mondejar, hereby certify that I am familiar with the case of the named petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

<div align="right">

/s/ Jeremy Mondejar

Jeremy Mondejar

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