UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MARCO ANTONIO RENE HUERTAS FALCON :

Petitioner, :

-against- :

JONATHAN FLORENTINO, ACTING NEWARK FIELD OFFICE DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE); :

TODD LYONS, In His Official Capacity As Acting Director, United States Immigration and Customs Enforcement (ICE); :

KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; :

Respondents. :

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PETITION FOR WRIT OF HABEAS CORPUS

Case No.

INTRODUCTION

1. Petitioner, Marco Antonio Rene Mr. Huertas Falcon ("Mr. Huertas Falcon"), is a citizen and national of Peru.
2. Mr. Huertas Falcon entered the United States on or about May 20, 2022, after he fled Peru due to harm suffered.
3. Mr. Huertas Falcon has been present in the United States for over 3 years.
4. Upon his entry on or about May 20, 2022, Mr. Huertas Falcon was encountered by Customs and Border Protection ("CBP") in Texas. After stating that he would be harmed if returned to Peru, he was processed and traveled to New Jersey.
5. On May 27, 2022, Mr. Huertas Falcon was issued Form I-831, describing a new court location, advising Mr. Huertas that a Notice to Appear would be issued and filed with the Immigration Court in Newark, New Jersey.

6. Mr. Huertas Falcon filed pro-se for asylum with the U.S. Citizenship and Immigration Services ("USCIS") sometime in May 2023.
7. Despite his asylum application pending for about two years, USCIS canceled his Form I-589. Mr. Huertas Falcon was made to undergo a credible fear interview on September 8, 2025, with USCIS in Newark, New Jersey.
8. Petitioner's immigration attorney, via email, requested that USCIS reinstate Mr. Huertas Falcon's application because he was not subject to a credible fear interview. USCIS declined.
9. On September 8, 2025, Mr. Huertas Falcon was hospitalized due to his diabetes, and his credible fear interview was rescheduled.
10. On October 31, 2025, Mr. Huertas Falcon appeared for his credible fear interview. Despite being given a positive determination, he was arrested.
11. USCIS-Newark also issued Mr. Huertas Falcon a Notice to Appear pursuant to 8 U.S.C. §1229(a), ordering him to appear at the Newark Immigration Court located at 970 Broad Street, Room 1200, in Newark, New Jersey, on December 1, 2025. The Notice to Appear alleges that Petitioner is a non-citizen "present in the United States who has not been admitted or paroled," and that he is removable under §§ 1182(a)(7) as having no valid documents, and 1182(a)(6) as being present in the U.S. without admission or parole.
12. Enforcement and Removal Operations ("ERO") detained him on October 31, 2025, at the USCIS office and he was taken to the Delaney Hall Detention Center in Newark, New Jersey.
13. He has been unlawfully detained there since October 31, 2025.
14. On July 8, 2025, DHS issued a new policy memorandum to all employees of Immigration and Customs Enforcement (Hereinafter "ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (Hereinafter "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." Memorandum, U.S. Immigration & Customs Enf't, *Interim Guidance Regarding Detention Authority for Applications for Admission* (July 8, 2025), available at AILA Doc. No. 25071607, https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

15. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedential decision that unlawfully reinterpreted the Immigration and Nationality Act ("INA"). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Prior to this decision, noncitizens like Petitioner who had lived in the U.S. for many years and were apprehended by ICE in the interior of the country were detained pursuant to 8 U.S.C. § 1226(a) and eligible to seek bond hearings before Immigration Judges ("IJs"). Instead, in conflict with nearly thirty years of legal precedent, Petitioner is now considered subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and has no opportunity for release on bond while his removal proceedings are pending.

16. Mr. Huertas Falcon is married to a U.S. citizen. He will have the opportunity to become a lawful permanent resident by adjusting his status. His removal is not reasonably foreseeable due to two pending applications for relief, asylum and adjustment of status.

17. Petitioner asserts that his detention is pursuant to § 1225(b)(2)(A),and violates the plain language of the INA and its implementing regulations. Petitioner, who was apprehended in the interior of the U.S., should not be considered an "applicant for admission" who is

"seeking admission." Rather, he should be detained pursuant to 8 U.S.C. § 1226(a), which was DHS's initial determination for Mr. Huertas Falcon when he was released in 2022.

18. Through this petition, Mr. Huertas Falcon asks this Court to find that Respondents have unlawfully detained him under § 1225(b)(2)(A), that his detention, if any, is appropriate under § 1226(a), which DHS initially processed him under, and immediately release Mr. Huertas Falcon from custody in accordance with the initial custody determination made in 2022. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

CUSTODY

19. Petitioner is currently in the custody of ICE at the Delaney Hall Facility. *See* ICE Detainee Locator Results, Exhibit A. He is therefore in "'custody' of the Department of Homeland Security, ICE, within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

20. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq.
21. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
22. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

23. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. *See* 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

24. Petitioner is "in custody" for the purpose of § 2241 because he was arrested and remains detained by Respondents.

VENUE

25. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because a substantial part of the events or omissions giving rise to the claim occurred in the District of New Jersey. Petitioner is under the jurisdiction of ICE's Newark Field Office, and he is currently detained in Delaney Hall, in Newark, New Jersey. *See* Exhibit A.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

26. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999).

27. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the BIA's recent decision holding that anyone who has entered the U.S. without inspection is now considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA's decision in *Yajure Hurtado* renders exhaustion futile).

28. Respondents subjected the Petitioner to expedited removal under § 1225(b)(1) by requiring him to undergo a credible fear interview despite living in the U.S. for over two years.

29. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).

PARTIES

30. Petitioner Mr. Huertas Falcon is a fifty-year-old citizen and national of Peru. He resides with his U.S. citizen wife and her two minor children at [redacted] Garfield, New Jersey. Petitioner has been in ICE custody since October 31, 2025, at the Delaney Hall Detention Facility, 451 Doremus Avenue, Newark, New Jersey, 07105.

31. Respondent Jonathan Florentino is named in his official capacity as the Acting Director of the Newark, NJ, Field Office of Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE). Respondent Florentino is a legal custodian of the Petitioner and has the authority to release him.

32. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of New Jersey, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

33. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws pursuant to Section 103(a) of the

INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of New Jersey; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. At all times relevant hereto, Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

LEGAL BACKGROUND

34. Section 2241 of 28 United States Code provides in relevant part that "[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions" when a petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(a), (c)(3); *see also* I.N.S. v. St. Cyr, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).

35. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).

36. Habeas corpus "entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to 'the erroneous application or interpretation' of relevant law." Boumediene v. Bush, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (*quoting*, St. Cyr, 533 U.S. at 302.

37. The Fifth Amendment's Due Process Clause protects the right of all persons to be free from "depriv[ation] of life, liberty, or property, without due process of law." U.S. Const. amend. V.

38. "It is well established that the Fifth Amendment entitles aliens to due process of law[.]" Trump v. J. G. G., 604 U.S. ---, 145 S. Ct. 1003, 1006 (2025) (*quoting* Reno v. Flores, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).

39. "Freedom from imprisonment—from government custody, detention, or other forms of

physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

40. The INA prescribes three basic mechanisms for detention for non-citizens, 8 U.S.C. § 1225, for arriving aliens and applicants for admission, § 1226 the default detention statute, and § 1231 for post–final order detention.

41. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208. Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

42. Following the enactment of the IIRIRA, the U.S. Department of Justice's Executive Office of Immigration Review ("EOIR") drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

43. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge ("IJ"), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United

States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

44. For decades, residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.

45. On July 8, 2025, however, DHS stated a new position with regard to custody determinations as follows:

> 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. *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-forapplications-for-admission (emphasis original).

46. As a result, according to DHS, all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents, are now considered to be subject to mandatory detention under INA § 235(b) and ineligible for release on bond. Conversely, according to DHS "[t]he 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)." *Id.*

47. Prior to July 8, 2025, the predominant form of detention authority for anyone arrested in the interior of the United States was 8 U.S.C. § 1226(a). Further, the Petitioner in this case was initially arrested and released pursuant to 8 U.S.C. § 1226(a), and is demonstrated by DHS's own forms.

48. The Supreme Court has explained that § 1225(b) is concerned "primarily [with those] seeking entry," and is generally imposed "at the Nation's borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 297, 2987 (2018). In contrast, Section 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Id.* at 289 (emphases added).

49. Under § 1226(a) the Attorney General may release a detainee on bond on the authority of ICE or by an Immigration Judge. There are standards for release: bond is available if the Supreme Court has explained that § 1225(b) is concerned "primarily [with those] seeking entry," and is generally imposed "at the Nation's borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 297, 2987 (2018). In

contrast, Section 1226 "authorizes the Government to detain certain aliens *already in the Furthermore, § 1225(b)(2) specifically applies only to those "seeking admission," and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are "coming or attempting to come into the United States." The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer "seeking admission" or "coming [...] into the United States." See Martinez v. Hyde, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); see also Al Otro Lado v. McAleenan, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing "is arriving" in INA § 235(b)(1)(A)(i) and observing that "[t]he use of the present progressive, like use of the present participle, denotes an ongoing process").*

50. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who had entered the U.S. approximately 13 years before he was apprehended.

STATEMENT OF THE FACTS

51. Mr. Huertas Falcon is a fifty-year-old male with no criminal history.
52. On or about May 20, 2022, Mr. Huertas Falcon entered the United States by presenting himself at the port of entry and requesting asylum. He gave a sworn statement and was released from custody.
53. Mr. Huertas Falcon was authorized, in accordance with 8 U.S.C. § 1226, §236 of the Immigration and Nationality Act, for Release.
54. Sometime in May 2023, Mr. Huertas Falcon filed Form I-589, Application for Asylum

and for Withholding of Removal with USCIS because while ICE had stated they would file a Notice to Appear in the immigration court, they hadn't yet done so.

55. On June 9, 2025, instead of adjudicating Mr. Huertas Falcon's Form I-589, USCIS dismissed it and required him to undergo a credible fear interview.

56. On October 31, 2025, Mr. Huertas Falcon completed a credible fear interview in Newark, New Jersey. He was given a positive fear determination.

57. On October 31, 2025, when USCIS issued Petitioner a positive credible fear determination, ICE apprehended Mr. Huertas Falcon. He was then transferred into ICE custody.

58. The officers did not disclose the basis for arresting or detaining Mr. Huertas Falcon.

59. On November 3, 2025, Mr. Huertas Falcon's wife informed counsel that Petitioner called her, stating that he was told he would be transferred out of Delany Hall. He did not state where.

60. Without relief from this Court, Mr. Huertas Falcon faces continued detention without the possibility of an individualized bond hearing.

CLAIM FOR RELIEF
COUNT I
Violation Of 8 U.S.C. § 1226(A) , Unlawful Denial Of Release On Bond

61. Petitioner restates and realleges all paragraphs as if fully set forth here.

62. Mr. Huertas Falcon was initially detained in May 2022. At that time, he was processed and released.

63. On August 1, 2025, about three years after arrival, Mr. Huertas Falcon was required to undergo a credible fear interview. This is because USCIS dismissed his Form I-589, Application for Asylum. DHS subjected him to detention under § 1225, stating that he is

subject to mandatory detention.

64. Petitioner may only be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

65. DHS has already made an initial custody determination under 8 U.S.C. § 1226(a) in 2022, ordered his release from detention, and now, due to policy, is subjecting Petitioner to detention again under a mandatory provision.

COUNT II
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful Denial of Release on Bond

66. Petitioner restates and realleges all paragraphs as if fully set forth here.

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

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

COUNT III
Continued Detention Constitutes A Violation Of Due Process

69. Petitioner incorporates all factual allegations as though restated here.

70. ICE detained Mr. Huertas Falcon without reasonable suspicion and continues to do so in violation of his constitutional rights protected under the Fifth Amendment.

71. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

72. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.

73. Mr. Huertas Falcon's detention violates his Fifth Amendment rights for at least three related reasons.

74. First, immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (*citing Zadvydas*, 533 U.S. at 690).

75. Whereas here, the government has ordered release on recognizance; detention is not reasonably related to its purpose.

76. Second, the Due Process Clause requires that any deprivation of Mr. Huertas Falcon's liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying less rigorous standard for "deportable aliens").

77. Petitioner's ongoing imprisonment does not satisfy that rigorous standard, as he did not commit any crime, was released from custody, and has a pending asylum case. If not for

detention, his asylum case would be joined with his partner and children.

78. Third, "the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention." *Zadvydas*, 533 U.S. at 718 (2001) (Kennedy, J., dissenting).

79. Detaining Mr. Huertas Falcon was arbitrary because he had been initially processed for detention under § 1226, released on recognizance, has authorization to work in the United States, and has no criminal arrests or convictions.

80. Mr. Huertas Falcon was initially detained under §1226(a), but for a new policy memorandum now subjecting everyone present in the United States who entered without a valid visa to mandatory detention, he is deprives the Petitioner of an individualized bond determination.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

A. Assume jurisdiction over this matter;

B. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within seventy-two hours;

C. Declare that his detention is unlawful;

D. Issue a Writ of Habeas Corpus ordering Respondents to release him from custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

E. Issue an Order preventing Respondents from removing Petitioner from the United States without notice and an opportunity to be heard;

F. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

G. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

H. Grant any further relief this Court deems just and proper.

Dated: November 3, 2025

Respectfully Submitted,

/s/ Veronica Cardenas
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Veronica Cardenas, hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 3rd day of November, 2025.

s/Veronica Cardenas

Veronica Cardenas, Esq.