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5 Attorney for Petitioner

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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA (LAS VEGAS)**  
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12 DANIEL REYES CRISTOBAL,

13 A# 221-461-787,

14 Petitioner–Plaintiff,

Case No. \_\_\_\_\_

15 **EMERGENCY MOTION FOR**  
16 **TEMPORARY RESTRAINING**  
17 **ORDER AND PRELIMINARY**  
18 **INJUNCTION**

19 v.

20  
21 Michael V. Bernacke, Field Office

22 Director, U.S. Immigration and Customs

23 Enforcement;

24 John Mattos, Warden, Nevada Southern

25 Detention Center;

26  
27 Kristi Noem, Secretary, U.S. Department  
28

1 of Homeland Security;  
2 Rodney S. Scott, Commissioner, U.S.  
3 Customs and Border Protection; and  
4 Pam Bondi, Attorney General of the  
5 United States,  
6 Respondents–Defendants.  
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9  
10 Petitioner **moves on an emergency basis** for a **TRO and preliminary injunction**  
11 directing Respondents to (1) **provide an individualized custody redetermination under 8**  
12 **U.S.C. § 1226(a)** within **seven (7) days**, at which **DHS bears the burden by clear and**  
13 **convincing evidence** and the IJ must issue **contemporaneous written findings** considering  
14 **ability to pay and alternatives to detention (ATDs)**; or (2) **release Petitioner forthwith** if they  
15 fail to provide such a hearing by the deadline. This motion is supported by the verified § 2241  
16 petition, Exhibits 1–4, and counsel’s **LR 7-4 declaration** below.  
17

### 18 **Introduction & Relief Requested**

- 19  
20 1. The IJ categorically denied bond **for lack of jurisdiction** under **Yajure** on **Oct. 17, 2025**,  
21 without any individualized inquiry. Petitioner seeks a TRO/PI directing Respondents to:  
22 **(1) provide an individualized § 1226(a) bond hearing within 7 days** with the  
23 procedures above, or **(2) release him** if the hearing doesn’t occur by the deadline.  
24

### 25 **Factual Background (Condensed Record)**

- 26 2. **Interior arrest → ICE transfer (no wants/warrants)**. Arrest **9/22/2025**; detainer;  
27 transfer **9/24/2025**; **NTA issued** with future EOIR date; **wants/warrants negative**.  
28

1 3. **Proceedings posture.** DHS charged §§ 212(a)(6)(A)(i), 212(a)(7)(A)(i)(I); the NTA  
2 indicates issuance **after a credible-fear finding**, putting Mr. Reyes in § 1229a  
3 proceedings.

4 4. **Categorical no-bond ruling.** IJ Roberts denied for **lack of jurisdiction** solely under  
5 **Yajure; appeal due 11/17/2025.**

6 5. **USC children / hardship.**

7  
8 ○ **Jacqueline (USC, b. 2003):** lifelong caregiving/mentorship, school activities;  
9 father is her day-to-day problem-solver for the family (including younger **Daniel**  
10 and mother **Silvina**).

11  
12 ○ **Lizbeth (USC, b. 2006):** father's daily caregiving; **June 2021** hospitalization  
13 (father stayed with her at hospital); religious/community integration led by him.

14 ○ **Birth certificates** will be attached to corroborate USC status (see bond filing  
15 TOC listing).

16  
17 6. **Cancellation filing.** Mr. Reyes will file **non-LPR cancellation (INA § 240A(b))**; the  
18 record reflects **well over 10 years** of residence before NTA service (**9/24/2025**) and  
19 **exceptional hardship** to USC children; birth certificates/affidavits support the claim.  
20

## 21 **Legal Standard and Argument**

22 7. **Likelihood of success (statutory).** § 1226(a) governs detention **during § 1229a**  
23 **proceedings** and allows IJ custody redetermination; § 1225(b) is tailor-made for  
24 **inspection at the border/ports**, not interior arrests. See **Jennings**. **Yajure's** expansion  
25 of § 1225(b)(2) to interior arrestees **conflicts with text/structure**; after **Loper Bright**,  
26 this reinterpretation **receives no Chevron-style deference**.  
27  
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1 8. **Likelihood of success (due process).** The **Ninth Circuit** requires DHS to carry a **clear-**  
2 **and-convincing** burden at custody hearings with **ability-to-pay** and **ATDs** considered.

3 See **Singh; Hernandez**.

4 9. **Irreparable harm.** Every day in civil custody is irreparable; the **children's affidavits**  
5 document concrete **emotional/educational harms**, medical vulnerability (Lizbeth's  
6 hospitalization), and disruption of **daily supports**.

7 10. **Equities/Public interest.** A tailored order requiring an **individualized hearing within 7**  
8 **days** safeguards liberty while enabling the government to address safety/flight through  
9 standard bond tools and ATDs; **written findings** prevent detention based on poverty.  
10

#### 11 **REQUESTED REMEDY**

12 The Court should **enjoin** Respondents from relying on **§ 1225(b)(2)/Yajure** to foreclose an IJ  
13 bond hearing and should order that **within seven (7) days**:  
14

- 15 1. Petitioner receive a **§ 1226(a) bond hearing** before an IJ;
- 16 2. **DHS bears the burden by clear and convincing evidence** to establish danger or flight  
17 risk;
- 18 3. The IJ **consider ability to pay** and **alternatives to detention** and issue **written findings**;  
19 and  
20
- 21 4. **If the hearing does not occur by the deadline, Petitioner shall be released**  
22 **immediately** on appropriate conditions.  
23

#### 24 **PROPOSED BRIEFING / HEARING SCHEDULE**

25 Given the **urgency**, Petitioner requests: Government opposition in **48 hours**, reply in **24 hours**,  
26 and the motion set **on the earliest available calendar** (or decided on the papers).  
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**Attorney Verification (28 U.S.C. §§ 2242, 1746)**

I, **Jon Eric Garde**, counsel for Petitioner, declare under penalty of perjury that the factual allegations in this Petition are true and correct to the best of my knowledge, information, and belief, based on my review of Petitioner’s records, court filings, agency records, and the attached exhibits, and on communications with Petitioner, who is presently detained at NSDC. Because Petitioner is detained and time is of the essence given the exceptional hardship on the petitioner and his family, I am executing this verification on his behalf pursuant to 28 U.S.C. § 2242.

Dated: 11/12/2025 at Las Vegas

/s/ Jon Eric Garde, Esq. \_\_\_\_\_

Jon Eric Garde, Esq. Counsel for Petitioner

**CERTIFICATE OF SERVICE**

I, Jon Eric Garde, Esq., hereby certify that on November 12, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, with copies sent by Certified Mail to the following:

1. Michael V. Bernacke, Field Office Director, ICE (ERO – Salt Lake City)  
2975 Decker Lake Drive, Suite 100  
West Valley City, UT 84119-6096
2. John Mattos, Warden, Nevada Southern Detention Center (CoreCivic)  
2190 East Mesquite Avenue  
Pahrump, NV 89060
3. Kristi Noem, Secretary, U.S. Department of Homeland Security  
Office of the General Counsel  
2707 Martin Luther King Jr. Ave. SE, Mail Stop 0485  
Washington, DC 20528-0485
4. Rodney S. Scott, Commissioner, U.S. Customs and Border Protection  
CBP Headquarters  
1300 Pennsylvania Avenue NW  
Washington, DC 20229
5. Pamela J. Bondi, Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530-0001

Respectfully submitted,

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/s/ Jon Eric Garde, Esq.

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