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15 UNITED STATES DISTRICT COURT
16 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
17

18 MILTON FRANCISCO SOZA
19 VELASQUEZ AND ALBIN ADOLFO
20 ASTURIAS ESTURBAN
21 Plaintiffs and Petitioners,
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24 vs.
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26 CHRISTOPHER LAROSE Warden of the
27 Otay Mesa Detention Center; Gregory
28 ARCHAMBEAULT, Director of the San
Diego Field Office, United States
Immigration and Customs Enforcement;
PAM BONDI, Attorney General, United
States Department of Justice; KRISTI
NOEM, Secretary, United States Department
of Homeland Security; TODD LYONS,
Acting Director of United States Immigration
and Customs Enforcement; and DOES 1-5

Defendants-Respondents

Case No.: '25CV3137 JLS MSB

Judge

**VERIFIED PETITION FOR
WRITS OF HABEAS CORPUS
AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**AND REQUEST FOR
TEMPORARY RESTRAINING
ORDER**

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 1

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3 **INTRODUCTION**
4

5 1. This case challenges the unlawful and punitive detention of Plaintiffs-
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7 Petitioners, who are currently in the custody of Immigration and Customs Enforcement
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9 (“ICE”) at the Otay Mesa Detention Center, Otay Mesa, California. Neither of the
10
11 named Petitioners is a flight risk nor a danger to the community.

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13 2. Unless the Court orders Petitioners’ immediate release, they will continue to be
14
15 subjected to unlawful and punitive detention.

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17 3. Plaintiffs-Petitioners further challenge the legality of 8 C.F.R. §241.4(l) and
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19 Respondents’ uniform policy and practice of subjecting noncitizens to arrests,
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21 detention, and removal without providing due notice of condition of release violation,
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23 an opportunity to be heard and provide explanation prior to deprivation of liberty.

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25 4. Plaintiffs-Petitioners are not challenging or seeking judicial review of the
26
27 initiation of removal proceedings, the way their respective removal proceedings were
28
or are conducted, or the denial of immigration relief by the EOIR or USCIS.

5. Through their uniform practices Respondents violate the rights of Petitioners
under the due process and equal protection guarantees of the U.S. Constitution, the
INA and its regulations, and the Administrative Procedure Act.

JURISDICTION AND VENUE

6. This action arises under the Constitution of the United States; the Immigration
and Nationality Act, 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,

1 110 Stat. 1570 [hereinafter ‘INA’]; and Administrative Procedure Act, 5 U.S.C. §§ 701
2
3 *et seq* [hereinafter “APA”].
4

5 7. This Court has further jurisdiction under 28 U.S.C. § 2241, 2243, art. I § 9,
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7 cl. 2 of the United States Constitution (“Suspension Clause”), and 28 U.S.C. §
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9 1331, as Petitioner is presently in custody under color of the authority of the
10
11 United States based on the service of a Notice to Appear, and such custody is in
12
13 violation of the Constitution, laws, or treaties of the United States.
14

15 8. This Court also may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. §
16
17 702, and the All Writs Act, 28 U.S.C. § 1651.
18

19 9. This court has further remedial authority pursuant to the Declaratory
20
21 Judgment Act, 28 U.S.C. § 2201 *et seq.*
22

23 10. The use of the Writ of Habeas Corpus to challenge detention by ICE is not
24
25 foreclosed by the REAL ID Act. The REAL ID Act of 2005, Pub. L. 109-13, 119
26
27 Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A),
28
(B), (C) and § 242(g), only deprives the district court of habeas jurisdiction to
review orders of removal, not challenges to detention or the denial of constitutional
rights. *See INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) (“The writ of habeas corpus
has always been available to review the legality of executive detention.”).

11. This Court could enjoin federal officials pursuant to *Ex Parte Young*, 209
U.S. 123 (1908). *See Philadelphia Co. v. Stimson*, 223 U.S. 605, 619–21 (1912)
(applying *Ex Parte Young* to federal official); *Goltra v. Weeks*, 271 U.S. 536, 545
(1926) (same).

1 12. Plaintiffs-Petitioners have exhausted all administrative remedies to the
2
3 extent available and required by law.
4

5 13. Venue properly lies within the Southern District of California, because each
6
7 named Defendant-Respondent is present in this district and a substantial part of the
8
9 events or omissions giving rise to this action occurred and continue to occur in this
10
11 District. *See* 28 U.S.C. §1391(b). Each of the named Petitioners is currently
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13 detained within this district to wit, at the Otay Mesa Detention Facility located at
14
15 7488 Calzada De La Fuente, San Diego, CA 92154. Accordingly, the “restraint
16
17 complained of” is occurring within the Court’s territorial jurisdiction. *See* 28
18
19 U.S.C. § 2241(a)
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21 14. No petition for habeas corpus has previously been filed in any court to
22
23 review this the named Plaintiffs-Petitioners’ respective detention.
24

25 **PARTIES**

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27 15. Plaintiff-Petitioner MILTON FRANCISCO SOZA VELASQUEZ is a 26-
28
year-old national and citizen of Nicaragua who entered the United States without
inspection on or about October 2022. He was later apprehended and placed on
order of recognizance and released with directions to report to ICE which he did
multiple times until this year. On 6 November 2025 at his regularly scheduled ICE
check-in he was arrested without notice, explanation, or an opportunity to be heard.

16. Plaintiff-Petitioner ALBIN ADOLFO ASTURIAS ESTURBAN is a 33
years old national and citizen of Guatemala who entered the United States on or

1 about 7 August 2022 without inspection. He was arrested on or about 20 October
2
3 2025 during a roving checkpoint stop without a warrant and/or probable cause.
4

5
6 17. The U.S. Department of Homeland Security (“DHS”) is a cabinet
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8 department of the United States federal government with the primary mission of
9
10 securing the United States.

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12 18. ICE is an agency within DHS with the primary mission of arresting,
13
14 detaining, and removing non-citizens physically present within the territory of the
15
16 United States. ICE is also responsible for the custody and care of all detained non-
17
18 citizens awaiting resolution of their immigration cases or removal after a final
19
20 order of removal had been entered.

21
22 19. Defendant Kristi Noem is the Secretary for DHS. In this capacity, Ms. Noem
23
24 has responsibility for the administration of immigration laws pursuant to 8 U.S.C.
25
26 §1103(a), has authority over ICE and its field offices, and has authority to order the
27
28 release of Plaintiff-Petitioner. At all times relevant to this Complaint,

Defendant Noem was acting within the scope and course of her position as the
Secretary for DHS. Defendant Noem is sued in her official capacity.

20. Defendant-Respondent Todd Lyons is the Acting Director and Senior
Official Performing the Duties of the Director of ICE. Defendant Lyons is
responsible for the implementation of all ICE’s policies, practices, and procedures,
including those relating to detention of non-citizens. Defendant Lyons is a legal
and immediate custodian of Petitioners. At all times relevant to this Complaint,

1 Defendant Lyons was acting within the scope and course of his position as an ICE
2 official. He is sued in his official capacity.
3
4

5 21. Defendant-Respondent Gregory Archambeault is the Director of the San
6 Diego Field Office of ICE, which has immediate custody of Plaintiffs-Petitioners.
7 He is sued in his official capacity.
8
9

10 22. Defendant Christopher LaRose is the warden of Otay Mesa Detention
11 Facility in San Diego County, where Plaintiffs-Petitioners are currently detained.
12 Defendant LaRose is the immediate, physical custodian of Petitioners. He is named
13 in his official capacity.
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16 23. The true names or capacities, whether individual, corporate, associate or
17 otherwise, of the Defendants-Respondents named herein as Does 1 through 5 are
18 unknown to Plaintiff-Petitioner, who therefore sues said Respondents by such
19 fictitious names, and Plaintiff will amend this Complaint to show their true names
20 and capacities when ascertained. Does 1 through 5 are the immediate, physical
21 custodians of Plaintiff
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FACTS RELEVANT TO ALL CAUSES OF ACTIONS

24. Plaintiff-Petitioner MILTON FRANCISCO SOZA VELASQUEZ is a 26-
year-old national and citizen of Nicaragua who entered the United States without
inspection on or about October 2022. He was later apprehended by Border Patrol
agents and upon examination he was placed on an order of recognizance and
released from DHS custody with directions to report to ICE. Petitioner

1 VELASQUEZ settled in the Southern California area with family members and
2
3 reported to ICE as directed. Petitioner complied with all conditions of his release,
4
5 including appearing timely for each scheduled ICE check-in. At each of the
6
7 scheduled appointments between 2022 and 6 November 2025 Respondents
8
9 examined Petitioner's compliance with the conditions of his release and finding no
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11 violations they directed him to appear on a new date.
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13

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15 25. On 6 November 2025 at his regularly scheduled ICE check-in Petitioner
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17 VELASQUEZ was arrested without a warrant or a notice or finding of violation of
18
19 any condition of release. Plaintiff-Petitioner was not interviewed and the
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21 deportation officer who "revoked" him order of recongnizance provided no reason
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23 for the revocation nor did it allow Petitioner to contact his counsel of record, or to
24
25 provide a response and rebut the grounds for her re-detention.
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27
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26. Based on information and belief the officer who revoked Petitioner's order
of own recognizance was not the Executive Associate Director if ICE and did not
have a lawfully delegated authority to revoke orders of supervision; did not first
refer the case to the ICE Executive Associate Director, did not make findings that
revocation was in the public interest and that circumstances did not reasonably
permit referral to the Executive Associate Director.

1 27. Plaintiff-Petitioner ALBIN ADOLFO ASTURIAS ESTURBAN is a 33
2
3 years old national and citizen of Guatemala who entered the United States on or
4
5 about 7 August 2022 without inspection.
6

7
8 28. Petitioner ESTURBAN is married. He is the principal financial provider for
9
10 his wife and his stepchild. His sister is a Legal Permanent Resident. See Exhibit B.
11

12 29. Petitioner ESTURBAN was arrested on or about 20 October 2025 during a
13
14 roving checkpoint stop without a warrant and/or probable cause. The Border Patrol
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16 officer who initially stopped petitioner ESTURBAN did not have a reasonable
17
18 suspicion to engage in a detentive stop. Prior and at the time of his stop, detention, and
19
20 arrest Petitioner was unarmed, not engaged in criminal or suspicious activities, nor did
21
22 he attempted to flee or resist arrest. He was targeted and arrested solely on account of
23
24 his Latino appearance and inability to respond to questions in English. Exhibit B at ¶ 7.
25

26 30. Both Petitioners are detained in Otay Mesa.
27

28 31. Both Petitioners were not allowed to post a bond and remain in custody.

32. The Respondents have refused to release Petitioners from custody
asserting that each is subject to the mandatory detention under section
1225(b)(2).

33. There is no order of removal in effect against either Petitioners. Both have
pending section 240 proceedings before the EOIR and each has bona fide
application for relief from removal.

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RELEVANT IMMIGRATION STATUTORY SCHEME

Warrantless Arrests

34. The Immigration and Nationality Act provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2); *see also Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The strict limitations on warrantless arrests is further codified in regulations. See 8 C.F.R. § 287.8(c)(2)(ii).

35. An immigration officer can make an arrest without a warrant only if they have probable cause to believe that the individual “is in the United States in violation of any [immigration] law or regulation,” and (2) the individual “is likely to escape before a warrant can be obtained” for his arrest. § 1357(a)(2); § 287.8(c)(2)(ii) (same); *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980). The requirement that officers establish probable cause of flight risk before conducting a warrantless arrest requires a particularized finding of likelihood of escape. *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995).

36. Since June 2025, however, Respondents have implemented an uniform policy and practice of effectuating warrantless arrests without making any individualized flight risk determinations and requiring officers to abide by this policy.

37. Victims and witnesses of such warrantless arrests have uniformly described Respondents and their officers as just grabbing people randomly without asking any questions

1 38. The arresting officers did not have a warrant to arrest either Petitioners and did
2
3 not ask either of them any questions to assess individualized flight risk or their
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5 immigration status prior effectuating the actual arrest.
6

7 **Immigration Detention**
8

9 39. The INA governs the use of immigration detention both pre- and post-final
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11 order. Post-final-order immigration detention is governed by 8 U.S.C. § 1231(a);
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13 pre-final-order detention by 8 U.S.C. § 1226.
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15 40. In 8 U.S.C. §§ 1226 and 1231 Congress created different, but interrelated,
16
17 comprehensive frameworks for detaining criminal and non-criminal non-citizens.
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19 41. Section 1226 authorizes the detention of non-citizens during removal
20
21 proceedings: section 1226(a) controls non-criminal aliens' detentions, while
22
23 section 1226(c) controls criminal aliens' detentions. *See* 8 U.S.C. § 1226(a)&(c).
24
25 Once a non-citizen's removal proceedings are completed ICE's detention authority
26
27 is controlled by section 1231, which also distinguishes between non-criminal and
28
criminal non-citizens. *See* 8 U.S.C. § 1231.

*Section 1226(a) and Non-Criminal Non-citizens
During Removal Proceedings*

42. The Attorney General has discretion to detain a non-criminal non-citizen
“pending a decision on whether the alien is to be removed from the United States.”
See 8 U.S.C. § 1226(a). The Attorney General may detain the non-citizen for the
duration of the removal proceedings or release him on bond or conditional parole.
See 8 U.S.C. § 1226(a)(1)-(2).

1 43. In connection with § 1226(a), the DHS promulgated regulations setting out
2 the process by which a non-criminal non-citizen may obtain release. The
3 regulations provide that, in order to obtain bond or conditional parole, the “alien
4 must demonstrate to the satisfaction of the officer that such release would not pose
5 a danger to property or persons, and that the alien is likely to appear for any future
6 proceeding.” *See* 8 C.F.R. § 1236.1(c)(8).
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13 *Section 1226(c) and Criminal Non-citizens*
14 *During Removal Proceedings*
15

16 44. Although the Attorney General has broad discretion to release non-criminal
17 non-citizens during the pendency of their removal proceedings, the INA limits the
18 Attorney General’s discretion in the case of criminal non-citizens. Specifically,
19 section 1226(c) mandates that “[t]he Attorney General shall take into custody any
20 alien who . . . is deportable by reason of having committed [certain specified
21 offenses].” *See* 8 U.S.C. § 1226(c)(1)(B).
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45. Section 1226(c) provides that the Attorney General may release a criminal non-citizen “only if” necessary for narrow witness protection purposes. *See* 8 U.S.C. § 1226(c)(2). Under § 1226(c), custody is mandatory for criminal non-citizens throughout the entirety of their removal proceedings, and there is no statutory possibility for release on bond.

46. Petitioner was never detained under the authority of section 1226(c) as he has no criminal record of any kind.

1 47. When a non-citizen is released on bond or under supervision, the non-citizen
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3 must periodically appear before an immigration officer, obey written restrictions,
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5 and comply with other requirements provided for by regulation. *See* 8 U.S.C. §
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7 1231(a)(3).

8
9 48. When a non-citizen is released on supervision ICE must issue and serve on
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11 the individual a standardized form I-220 which imposes the conditions on release.
12
13 Petitioner has no criminal record, prior immigration record and has complied with
14
15 all conditions on release.

16
17 *Detention Pursuant to 8 U.S.C. § 1225(b)(2)*

18
19 49. Under § 1225(b)(2), “in the case of an alien who is an applicant for
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21 admission, if the examining immigration officer determines that an alien seeking
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23 admission is not clearly and beyond a doubt entitled to be admitted, the alien shall
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25 be detained.” 8 U.S.C. § 1225(b)(2). By contrast, an alien arrested on a warrant
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27 issued by the Attorney General “may” be detained but is also eligible for release on
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bond. 8 U.S.C § 1226(a). Courts have repeatedly held that § 1225 applies to
arriving aliens, while § 1226 governs detention of “aliens already in the country.”
Jennings v. Rodriguez, 583 U.S. 281, 281 (2018). Petitioner is not an arriving alien
under § 1225 and in fact Respondents charged Petitioner as an “alien present in the
United States who has not been admitted or paroled” rather than an “arriving
alien.” See Exhibit E (stating Petitioner is charged under INA 212(a)(6)(a),
codified at 8 U.S.C. § 1226(a)(6)(a)).

1 50. The Courts to have addressed the issue have found the Government
2
3 invocation of the mandatory detention provision under section 1225 unlawful and
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5 have ordered release of non-citizens held in detention based of such erroneous
6
7 reading of the Immigration and Nationality Act and application of § 1225(b) to
8
9 noncitizens who, like Petitioner, are not apprehended upon arrival in the United
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11 States. *See Rodriguez Vasquez v. Bostock*, No. 3:25-CV-05240-TMC,---F.Supp.3d-
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13 --, 2025 WL 1193850 (W.D.Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No.
14
15 1:25-CV- 11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025)
16
17 granting habeas based on same ground); *Diaz Alartinez v. Hyde*, No. CV 25-
18
19 11613-BEM,---F.Supp. 3d---2025 WL 2084238, at *9 (D. Mass. July 24, 2025)
20
21 (ordering release where noncitizen was redetained based on ICE's assertion of
22
23 detention authority under§ 1225(b)).

24
25 *Supervised Release*

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27 51. When a non-citizen is released on bond or under supervision, the non-citizen
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must periodically appear before an immigration officer, obey written restrictions,
and comply with other requirements provided for by regulation. *See* 8 U.S.C. §
1231(a)(3).

52. When a non-citizen is released on supervision ICE must issue and serve on
the individual a standardized form I-220 which imposes the following conditions
on release:

- 1 a) The non-citizen must appear in person at the time and place specified, upon
2 each and every request of the agency, for identification and for deportation
3 or removal;
4
5
6
- 7 b) Upon request, the non-citizen must appear for medical and psychiatric
8 examination at the expense of the United States Government;
9
- 10 c) The non-citizen must provide information under oath about his/her
11 nationality, circumstances, habits, associations and activities and such other
12 information as the agency considers appropriate;
13
14
15
16
- 17 d) The non- non-citizen must notify the agency of all changes in residence and
18 employment;
19
- 20 e) The non-citizen must assist ICE in obtaining any necessary travel
21 documents;
22
23
24
- 25 f) Additional conditions tailored to the alien's criminal history.

26
27 53. Specifically, both the regulations and the standard form I-220 inform the
28 non-citizens that any violation of the conditions imposed by ICE “will result in revocation of your employment authorization document” and that any violation of the conditions “may result in your being taken into Service custody and you being criminally prosecuted.”

54. On information and belief Petitioners allege that ICE now routinely takes into custody non-citizens previously released on bond or under supervision when they have not violated any condition of release and solely at the whim of the deportation officer.

1 55. On information and belief Petitioners alleges that since 27 January 2025
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3 DHS and DOJ encourage officers to disregard the provisions and statutory
4
5 limitations imposed by section 1226 and 1231 for political reasons and to boost the
6
7 administrations' rhetoric and animus against non-citizens ordered removed and/or
8
9 unlawfully present in the U.S..

10
11 *Due Process Governs Decisions to Revoke an Order of Supervision or*
12 *Recognizance*
13

14 56. "The Due Process Clause applies to all persons within the United States,
15
16 including aliens, whether their presence here is lawful, unlawful, temporary, or
17
18 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified).

19 "Freedom from imprisonment—from government custody, detention, or other
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21 forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.*
22
23 at 690 (2001).
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57. Under substantive due process doctrine, a restraint on liberty like revocation
of a non-citizen's order of supervision is only permissible if it serves a "legitimate
nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The
Supreme Court has only recognized two legitimate objectives of immigration
detention: *preventing danger to the community or preventing flight prior to*
removal. See Zadvydas v. Davis, 533 U.S. 678, 690-92 (*discussing constitutional*
limitations on civil detention).

1 58. “Procedural due process imposes constraints on governmental decisions
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3 which deprive individuals of liberty,” like the decision to revoke a non-citizen’s
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5 order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation
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7 modified). “The fundamental requirement of [procedural] due process is the
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9 opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at
10
11 333 (citation modified).
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13

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15 *Statute and Regulation Govern Procedures for*
16 *Revoking an Order of Supervision or Recognizance*
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18 59. A non-citizen with a final order of removal “who is not removed within the
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20 [90-day] removal period . . . shall be subject to [an order of] supervision under
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22 regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3) (titled
23
24 “Supervision after 90-day period”).
25
26

27 60. A non-citizen may only be detained past the 90-day removal period
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following a removal order if found to be “a risk to the community or unlikely to
comply with the order of removal” or if the order of removal was on specified
grounds. *Id.* § 1231(a)(6).

61. But even where initial detention past the 90-day removal period is
authorized, if “removal is not reasonably foreseeable, the court should hold
continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In

1 that case, of course, the alien’s release may and should be conditioned on any of
2
3 the various forms of supervised release that are appropriate in the circumstances . .
4
5 . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.
6

7
8 62. Regulations purport to give additional reasons, beyond those listed at §
9
10 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be
11
12 re-detained past the removal period: “(1) the purposes of release have been served;
13
14 (2) the alien violates any condition of release; (3) it is appropriate to enforce a
15
16 removal order . . . ; or (4) the conduct of the alien, or any other circumstance,
17
18 indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2); *see*
19
20 *also id.* § 241.13(i) (permitting revocation of an order of supervision only if a
21
22 non-citizen “violates any of the conditions of release”). Because “[r]egulations
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24 cannot circumvent the plain text of the statute[,]” courts question whether these
25
26 regulations are *ultra vires* of statutory authority. *See, e.g., You v. Nielsen*, 321 F.
27
28 Supp. 3d. 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. §
1231(a)(6), which authorizes detention past the removal period only if person is a
risk to the community, unlikely to comply with the order of removal, or was
ordered removed on specified grounds).

63. It is clear, however, that regulations permit only certain officials to revoke
an order of supervision: the ICE Executive Associate Director, a field office

1 director, or an official “delegated the function or authority . . . for a particular
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3 geographic district, region, or area.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137,
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5 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(1)(2) and explaining that the
6
7 Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the
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9 field office director or a delegated official intends to revoke an order of
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11 supervision, they must first make findings that “revocation is in the public interest
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13 and circumstances do not reasonably permit referral of the case to the Executive
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15 Associate [Director].” 8 C.F.R. § 241.4(1)(2). And for a delegated official to have
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17 authority to revoke an order of supervision, the delegation order must explicitly say
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19 so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (finding a delegation order
20
21 that “refers only to a limited set of powers under part 241 that do not include the
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23 power to revoke release” insufficient to grant authority to revoke an order of
24
25 supervision).
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27
28

64. Upon revocation of an order of supervision, ICE must give a non-citizen notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(1)(1).

65. Respondents failed to comply with these regulations and instead revoked Petitioner VELASQUEZ’s order of supervision and whim and/or to punish him.

1 66. Petitioners VELASQUEZ AND ESTURBAN cannot be lawfully removed
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3 while they have a pending section 240 removal proceedings yet Respondents
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5 refuse to release Petitioners and re-instate them on an order of supervision
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7 knowing that removal cannot be effect for months even years in light of the severe
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9 backlog of cases.
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12 **COUNT ONE**

13 **Detention in Violation of the Fifth Amendment**
14 **(substantive due process)**

15 **By all Petitioners Against all Respondents**

16 67. Petitioner repeats and incorporates by reference all allegations in paragraphs
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18 1 to 66 above.
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21 68. The Fifth Amendment guarantees that no person shall be deprived of liberty
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23 without due process of law. U.S. Const. Amend. V. “Freedom from
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25 imprisonment—from government custody, detention, or other forms of physical
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27 restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*,
28 533 U.S. 678, 690 (2001).

69. “Government detention violates the Due Process Clause unless it is ordered
in a criminal proceeding with adequate procedural safeguards, or in certain special
and non-punitive circumstances ‘where a special justification, . . . outweighs the
individual’s constitutionally protected interest in avoiding physical restraint.’”
Zavala v. Ridge, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (quoting *Kansas v.*
Hendricks, 521 U.S. 346, 356 (1997)).

1 70. Respondents cannot show any “special justification” or compelling
2
3 governmental interest which would outweigh Petitioners’ constitutional liberty.
4

5 71. Neither Petitioner is a danger or flight risk or risk to the community. Neither
6
7 Petitioner has any criminal record or prior immigration record..
8

9 72. The governmental interest in the continued detention of these least-
10
11 dangerous individuals does not and cannot outweigh the liberty interest at stake.
12

13 **COUNT TWO**

14 **Procedural Due Process Claim**

15 **Arrest and revocation of bond and/or orders of supervision without notice and**
16 **opportunity to contest the revocation.**
17

18 **By Petitioner VELASQUEZ Against all Respondents**
19

20
21 73. Petitioner repeats and incorporates by reference all allegations in paragraphs
22
23 1 to 66 above.
24

25 74. Petitioners’ arrest and/or continued detention is a violation of their
26
27 Constitutional procedural due process rights.
28

75. Respondents have a policy and practice of revoking section 1226 and section
1231 releases and work authorizations and arresting non-citizens present in the
United States without admission or parole without providing any process and
without a finding that a violation of a condition for release had occurred. Once
release on specified conditions has been granted, however, it cannot be taken away
without adequate process.

76. As a matter of standard policy and practice now Respondents revoke

1 bonds and supervised release and take targets into custody without any violation of
2 enumerated conditions and without a notice or the opportunity to respond and be
3 heard. This policy and practice violate procedural due process because it fails to
4 provide the release recipients with notice, a reasoned explanation for the
5 revocation decision, and an opportunity to respond, present arguments and
6 evidence to demonstrate that the individual continues to be eligible for and
7 warrants the continuation of his or her grant of section 1226 release. Respondents'
8 policy and uniform practice also fail to provide for reinstatement in cases where
9 the revocation decision was in error.

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19 77. Petitioner's private interests affected by Respondents' actions are profound –
20 his physical liberty. The risk of erroneous deprivation of liberty is high, because
21 Petitioner is neither flight risk nor danger to the community. In fact, Petitioner was
22 found eligible and had previously been released from ICE custody for years.

23
24
25
26
27 78. The government's interest in Petitioner's arrest and punitive administrative
28 detention is minimal.

79. The deprivation of Petitioner's liberty interests far outweighs the government's interest in arrests and continued detention after release under section 1226 had been granted as authorized by the INA and while they are actively pursuing their path towards lawful status in pending removal proceedings before the immigration court.

1 80. The burden on the Government for the additional process requested by
2
3 Petitioner, to wit, a notice of condition violation and/or revocation of release, an
4
5 opportunity to respond, and be heard would be minimal.
6

7 81. Non-citizens granted bond or orders of supervision who are arrested at their
8
9 check-in ICE appointment or during targeted enforcement action have no other
10
11 judicial venue to challenge the revocation of their orders of release or the legality
12
13 of their arrests.
14

15 82. Not affording them a judicial forum to challenge the revocations and/or the
16
17 legality of their arrests though this habeas corpus proceedings would also violate
18
19 the Suspension Clause of the U.S. Constitution.
20

21 83. Respondents' revocation of Petitioner's order of supervision/recognition
22
23 was contrary to the agency's constitutional power under the Fifth Amendment's
24
25 Due Process Clause, as explained above.
26

27 84. The revocation was also not in accordance with the INA and implementing
28
regulations governing who may lawfully revoke an order of supervision and under
what circumstances, as cited and discussed above.

85. Petitioners' order of supervision was not revoked by the ICE Executive
Associate Director. The officer who revoked the order did not first make findings
that revocation was in the public interest and that circumstances did not reasonably
permit referral to the Executive Associate Director. Nor had the officer been
properly delegated authority to revoke an order of supervision.

1 86. Before revoking the respective orders, Respondents did not make findings
2
3 that Petitioner is dangerous or unlikely to comply with a removal order, as required
4
5 by statute.
6

7 87. Nor did the Respondents give Petitioner notice of the reasons for revocation
8
9 and opportunity to be heard.
10

11 **COUNT THREE**

12 13 **Unreasonable Search and Seizure—Detention and Arrest in Violation of the** 14 **Fourth Amendment** 15 **By Petitioner ESTURBAN Against all Respondents** 16

17 88. Petitioner repeats and re-alleges the allegations in paragraphs 1 through 66
18
19 above.
20

21 89. Except at the border and its functional equivalents, the Fourth Amendment
22
23 prohibits Respondents from conducting a detentive stop to question a person without
24
25 reasonable suspicion that a person is a noncitizen unlawfully in the United States.
26
27 *United States v. Sokolow*, 490 U. S. 1, 7 (1989).
28

90. “A person’s mere propinquity to others independently suspected of [unlawful]
activity does not, without more, give rise to probable cause to search [or seize] that
person.” *Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted).
“‘Reasonable suspicion’ is no different.” *Id.*

91. Respondents have a policy, pattern, and practice of stopping individuals without
regard to reasonable suspicion that they are unlawfully in the United States. As a part
of Respondents’ policy, pattern, and practice, when conducting stops, they engage in a
show of force so overwhelming that a reasonable person would not feel free to leave.

1 As a matter of policy, pattern, and practice, Respondents do not evaluate the need for
2
3 force or tailor the force they use to the circumstances of individual stops and arrests.
4

5 92. In this case Respondents had no objectively reasonable or specifically articulable
6
7 factual basis to suspect that Petitioner was in the country illegally other his Latino
8
9 appearance. Respondents also had no objectively reasonable or specifically articulable
10
11 factual basis to suspect that Petitioner was involved in the commission of any crime,
12
13 nor did Respondents had any confirmation that Petitioner lacked immigration status,
14
15 had committed any crime, posed threat to anyone, nor did they observe Petitioner in
16
17 possession of any illegal objects, contraband, or weapons. Petitioner was in possession
18
19 of a lawfully issued drivers license.
20

21 93. Respondents restrained, detained, and interrogated Petitioner without reasonable
22
23 suspicion, arrested him without probable cause, and then used physical control and
24
25 excessive force to handcuff him as a means to intimidate and coerce Petitioner. The
26
27 scope and manner of Respondents' actions in detaining, arresting, and the subsequent
28
aggressive interrogations of Petitioner was unreasonable.

94. Respondents' conduct violated Petitioner's right to be secure in his person
against unreasonable searches and seizures as guaranteed under the Fourth Amendment
to the United States Constitution.

COUNT FOUR

Detention in violation of 8 U.S.C. § 1226(a)

By All Petitioners against All Respondents

1 95. Petitioners repeat and incorporate by reference all allegations in paragraphs
2
3 1 to 66 above.

4
5 96. The Attorney General has discretion to detain a non-criminal non-citizen
6
7 “pending a decision on whether the alien is to be removed from the United States.”
8

9 See 8 U.S.C. § 1226(a). The Attorney General may detain the non-citizen for the
10
11 duration of the removal proceedings or release him on bond or conditional parole.
12

13 See 8 U.S.C. § 1226(a)(1)-(2).
14

15 97. Respondents maintain that Petitioners are not eligible for bond and release as
16
17 a matter of law because they are not subject to section 1226(a) but must be
18
19 mandatorily detained under section 1225(b)(2). The position is a radical departure
20
21 from decades-long practice and is entirely based on a recent “Guidance” subjecting
22
23 uniformly all non-citizens like Petitioners to mandatory detention based on a new
24
25 interpretation by Respondents of the provisions of the INA.

26
27 98. Under § 1225(b)(2), “in the case of an alien who is an applicant for
28
admission, if the examining immigration officer determines that an alien seeking
admission is not clearly and beyond a doubt entitled to be admitted, the alien shall
be detained.” 8 U.S.C. § 1225(b)(2). By contrast, an alien arrested on a warrant
issued by the Attorney General “may” be detained but is also eligible for release on
bond. 8 U.S.C § 1226(a). Courts have repeatedly held that § 1225 applies to
arriving aliens, while § 1226 governs detention of “aliens already in the country.”

Jennings v. Rodriguez, 583 U.S. 281, 281 (2018). Neither Petitioner is an arriving
alien under § 1225 and in fact Respondents charged Petitioners as “aliens present

1 in the United States who has not been admitted or paroled” rather than an “arriving
2 alien” in initiating their removal proceedings.
3

4
5 **COUNT FIVE**
6

7 **Statutory APA Violation Claim**
8 **Uniform Practice of Revocation of releases**
9 **Without prior notice, opportunity to respond, and to**
10 **be represented by counsel**
11 **By Petitioner VELASUEZ Against all Defendants**
12

13 99. Petitioner repeats and incorporates by reference all allegations in paragraphs
14 1 to 66 above.
15

16 100. The Administrative Procedure Act (APA) forbids agency action that is (A)
17 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
18 law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in
19 excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
20 or (D) without observance of procedure required by law. 5 U.S.C. § 706(2)(A). A
21 court reviewing agency action “must assess ... whether the decision was based on
22 a consideration of the relevant factors and whether there has been a clear error of
23 judgment”; it must “examin[e] the reasons for agency decisions— or, as the case
24 may be, the absence of such reasons.” *Judulang v. Holder*, 565 U.S. 42,53 (2011)
25 (quotations omitted).
26
27
28

101. Respondents’ practice of terminating and/or revoking releases
and employment authorizations without notice, a reasoned explanation, an
opportunity to be heard, or a reinstatement procedure is arbitrary, capricious, and

1 contrary to law, thus in violation of the APA because a discretionary release under
2
3 1226(a) on conditions of supervision once granted cannot be terminated without
4
5 first providing a meaningful process.

6
7 102. Respondents' practice of terminating or revoking a supervised release and
8
9 employment authorization and taking the recipient into custody when no condition
10
11 of supervised released had been violated is contrary to law and thus, in violation of
12
13 the APA for multiple reasons, including that such an revocation and arrest fails to
14
15 provide a reasoned basis for the adverse action; denied the beneficiary the right to
16
17 be represented by counsel and to be heard before a neutral decision maker prior to
18
19 the liberty deprivation, and the practice entrusts the revocation decision entirely on
20
21 the arbitrary decision of an ICE officer and his/her whim.

22
23 103. The revocation was also not in accordance with the INA and implementing
24
25 regulations governing who may lawfully revoke an order of supervision and under
26
27 what circumstances, as cited and discussed above.

28
104. Petitioner's order of supervision was not revoked by the ICE Executive
Associate Director. The officer who revoked the order did not first make findings
that revocation was in the public interest and that circumstances did not reasonably
permit referral to the Executive Associate Director. Nor had the officer been
properly delegated authority to revoke an order of supervision.

105. Before revoking the order, Respondents did not make findings that each
Petitioner is dangerous or unlikely to comply with a removal order, as required by
statute.

1 106. Nor did the Respondents give Petitioner notice of the reasons for revocation
2 and opportunity to be heard.
3

4
5 107. The revocation should be held unlawful and set aside because it was
6 contrary to the agency's constitutional power and not in accordance with the INA
7 and implementing regulations, is *ultra vires*, and arbitrary and capricious.
8

9
10
11 **COUNT SIX**

12
13 **Violation of 8 U.S.C. § 1357(a)(2) Warrantless Arrests**
14 **Without Probable Cause of Flight Risk**
15 **By All Petitioners against All Respondents**

16 108. Petitioners repeat and incorporate by reference all allegations in paragraphs 1 to
17 66 above.
18

19
20 109. 8 U.S.C. § 1357(a)(2) requires that arrests without a warrant be accompanied
21 by "reason to believe" that an individual is "likely to escape before a warrant can be
22 obtained for [their] arrest."
23

24
25
26 110. Respondents arrested Petitioners without any warrant and without making an
27 individualized determination of flight risk. In fact, Respondents have no mechanism
28 for ensuring agents' compliance with the statutory limits on warrantless arrest authority
and do not provide guidance or training to agents and officers on how to make an
individualized determination of likelihood of escape. Respondents permit agents and
officers to make warrantless arrests at whim and in violation of law.

COUNT SEVEN

Violation of 8 C.F.R. § 287.8(c)(2)(ii)
By All Petitioners against All Respondents

1 111. Petitioners repeat and incorporate by reference all allegations in paragraphs
2
3 1 to 66 above.

4
5 112. By regulation Respondents are required to conform warrantless arrests to the
6
7 standards in 8 C.F.R. § 287.8(c), including the requirement of 8 C.F.R. §
8
9 287.8(c)(2)(ii) that officers have reason to believe that an individual is “likely to
10
11 escape before a warrant can be obtained.”

12
13 113. Respondents arrested Petitioners without any warrant and without making an
14
15 individualized determination of flight risk.

16
17 114. In fact, Respondents have no mechanism for ensuring agents’ compliance with
18
19 the statutory limits on warrantless arrest authority and do not provide guidance to
20
21 agents and officers on how to make an individualized determination of likelihood of
22
23 escape. Respondents permit agents and officers to make warrantless arrests at whim
24
25 and in violation of law.

26
27 **RULE 65 NOTICE AND IRREPARABLE HARM**
28

115. Pursuant to Federal Rule of Civil Procedure 65(b)(1) and Local Rules 7-19 and 65-1, immediately after filing this Petition, Petitioners’ Counsel will provide a copy of the Petition and notice of this *ex parte* application by providing copies to the United States Attorneys Office for the Central District of California via email to monitored email addresses. Petitioner counsel will file notice of proof of service when notice is completed.

116. Petitioners have resided in the United States for years and have established deep roots in the communities. Because of their unlawful arrests and detention they have

1 been separated from family members and friends. Each is experiencing severe
2 emotional distress.
3

4
5 117. “It is well established that the deprivation of constitutional rights
6 unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990,
7 1002 (9th Cir. 2012). “When an alleged deprivation of a constitutional right is
8 involved, most courts hold that no further showing of irreparable injury is necessary.”
9 *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (cleaned up).
10 Suspicionless stops, warrantless arrests unsupported by probable cause, and punitive
11 and unlawful detention violate the Fourth and Fifth Amendments and constitute a
12 constitutional violation warranting injunctive (including preliminary injunctive) relief.
13 *See Int’l Molders’ & Allied Workers’ Loc. Union No. 164 v. Nelson*, 799 F.2d 547,
14 553 (9th Cir. 1986); *Melendres*, 695 F.3d at 1002 (irreparable harm exists where
15 plaintiffs face “a real possibility” that they will “again be stopped or detained and
16 subjected to unlawful detention”).
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PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue a Temporary Restraining Order releasing Petitioners or in the alternative ordering Respondents to provide Petitioners bond hearings before an immigration judge within 5 days of the issuance of a court order;

1 (3) Issue a Writ of Habeas Corpus on the ground that each named Petitioner's
2 continued detention violates the Due Process Clause and order Petitioner's
3 immediate release;
4
5

6
7 (4) In the alternative, issue injunctive relief ordering Respondents to
8 immediately release Petitioners, on the ground that their continued detention
9 violates Plaintiffs' constitutional due process rights;
10
11

12 (5) Issue an injunction ordering Respondents not to arrest and detain Petitioner
13 without a proper finding that she has committed a violation of the conditions
14 of release;
15
16

17 (6) Issue an injunction ordering Respondents not revoke Petitioners' grant of
18 release and/or bond without providing prior written notice, an opportunity to
19 respond, and be represented by counsel prior to deprivation of liberty when
20 the individual is not yet subject to a final order of removal;
21
22

23 (7) Issue an injunction prohibiting the transfer of Petitioner outside of the
24 jurisdictional limits of this Court;
25
26

27 (8) Enter a judgment declaring that Respondents' detention of Petitioners
28 is and will be unauthorized by statute and contrary to law;

(9) Award Petitioner reasonable costs and attorney fees.

Date: 11/13/2025

Verified and Submitted by

s/ Nicolette Glazer Esq.

Nicolette Glazer Esq.

LAW OFFICES OF LARRY R GLAZER

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 31

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1875 Century Park East #700
Century City, CA 90067
T: 310-407-5353
F: 310-407-5354
nicolette@glazerandglazer.com
ATTORNEY FOR PETITIONERS

My name is Milton Francisco Soza Velasquez and I am over 18 years old and the following is my declaration is truth and correct to the best of my knowledge

1. My name is Milton Francisco Soza Velasquez.
2. I am from Nicaragua.
3. I have entered in the United States for over 3 years since 10/2022.
4. I applied for asylum application with USCIS since I did not have a court hearing date.
5. The USCIS accepted my asylum application and later they approved my work authorization.
6. I have been working with my work authorization card.
7. I was ordered to report to the ICE since I entered the United States. I have complied with the immigration order and reported them since I first entered the United States.
8. I have been reporting to the ICE since I first entered.
9. I was detained by the ICE when I went to report to them on 11/6/2025 for no reason.
10. They transferred me to Otay Mesa, California.
11. There are a lot of people together stayed in the same room.
12. They gave us food that is not eatable at all.
13. I have been very depressed inside the detention. I am under a lot of stress inside.
14. I feel very helpless and vulnerable under this circumstance and I am so afraid of my life if I continue to stay inside.
15. I need to get out of there since my case is pending and I have no criminal record.
16. I need your help.

Darwin Molina For Milton Francisco Soza Velasquez

My name is Albin Adolfo Asturias Esturban and I am over 18 years old and the following is my declaration is truth and correct to the best of my knowledge

1. My name is Albin Adolfo Asturias Esturban.
2. I am from Guatemala.
3. I am 33 years old.
4. I have entered in the United States for over 8/7/2022 which is over 3 years ago.
5. I am married and I have a stepchild.
6. My sister is legal permanent resident.
7. I was driving and I was at the check point. I showed the officer my driver license and they detained me at that time for no reason. They spoke to me in English but I did not speak English. My language is Spanish.
8. I have fear to return to my country.
9. I have no criminal record since I first entered in the United States.
10. They transferred me to Otay Mesa, California.
11. There are a lot of people together stayed in the same room.
12. They gave us food that is not eatable at all.
13. I have been very depressed inside the detention. I am under a lot of stress inside.
14. I feel very helpless and vulnerable under this circumstance and I am so afraid of my life if I continue to stay inside.
15. I need to get out of there since my case is pending and I have no criminal record.
16. I miss my family, my wife and my child and my sister and I need your help.

Wendy Edili Martinez Vargas

For Albin Adolfo Asturias Esturban