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Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

Santiago Villasenor Ponce, Petitioner, v. **Sam Saxson,** Director of Cincinnati Field Office, U.S. Immigration and Customs Enforcement; **Todd Lyons,** Acting Director of U.S Immigration And Customs Enforcement (ICE) **Kristi Noem,** Secretary of the U.S. Department of Homeland Security; and **Pam Bondi,** Attorney General of the United States, in their official capacities, Respondents.	Case No. 25-844 **PETITION FOR WRIT OF HABEAS CORPUS** **ORAL ARGUMENT REQUESTED**

INTRODUCTION

1. Santiago Villasenor Ponce (hereinafter "Mr. Villaseñor Ponce" or "Petitioner") entered the United States on September 25, 1999. He has resided in the state of Ohio since his arrival to the United States and has a wife and three U.S. citizen children who reside in the state of Ohio; one of whom is diagnosed with mixed receptive-expressive language disorder and global development delay, both developmental conditions that require treatments and medications. Mr. Villasenor Ponce's separation from his son has already caused hardships to the child, and the removal of Mr. Villasenor Ponce from the United States would cause his disabled son to experience extreme unusual hardship.

2. Furthermore, Mr. Villasenor Ponce requires proper medical treatment related to his diabetes and colostomy bag; he is currently wearing a colostomy bag while at the Butler County Jail. Mr. Villasenor Ponce reports that he has not had access to all of his medications while in detention, that his diabetes medication was not started immediately in detention, and that he has not been able to change his colostomy bag as frequently as instructed by his doctor while in detention at the Butler County Jail. Mr. Villasenor Ponce was scheduled to have surgery on November 17, 2025, at 3:30 PM, but was not permitted by the government to attend his surgery appointment.

3. Mr. Villasenor Ponce was detained by ICE on October 14, 2025, for driving without a license. ICE officials processed him at the Blue Ash ICE Field Office, then transferred him to ICE custody at the Butler County Jail, where he continues to be detained.

4. Mr. Villasenor Ponce, through counsel, sought bond from the Cleveland Immigration Court, which granted his bond, ordering that Mr. Villasenor Ponce be released from custody under bond of $20,000.

5. The attorney for the Department of Homeland Security waived the right to appeal the immigration judge's decision.

6. The attorney for the Department of Homeland Security also failed to raise a jurisdictional argument in the bond hearing.

7. Mr. Villasenor Ponce's family and counsel repeatedly attempted to pay bond but faced many obstacles, including the government's website stating that there were "No matching aliens" and therefore unable to make the payment, trips to ICE

offices around the state of Ohio to attempt to pay the bond in person but resulting in officers stating that the bond must be paid online, and unanswered emails and phone calls directed to various ICE officials.

8. The Department of Homeland Security (DHS) subsequently filed a motion to reconsider the IJ's custody redetermination grant on November 10, 2025.

9. On November 12, 2025, Mr. Villasenor Ponce's counsel was able to confirm with two ICE officials that the bond could be paid in person at an ICE office outside of Columbus, Ohio. On November 13, 2025, a representative of counsel's office drove two hours to pay the bond in person on November 13, 2025, and while attempting to pay the bond, counsel was notified that the immigration judge had granted DHS's motion to reconsider on November 12, 2025, and thereby revoked Mr. Villasenor Ponce's custody redetermination grant.

10. Counsel did not receive notice of the immigration judge's decision via email until November 13, 2025, hours after counsel had submitted a reply to the Department's Motion to Reconsider.

11. The immigration judge sided with DHS's spurious legal argument that immigration judges do not have jurisdiction to hear bond cases for individuals that have entered at the southern U.S. border and were released – even if released under INA 236. The Department of Homeland Security made no other arguments about his risk to the safety of the community or his risk of flight and acknowledged during the bond hearing that Mr. Villasenor Ponce's only result on a criminal search is a charge for driving without a license.

12. Mr. Villasenor Ponce's arrest and subsequent detention are wholly unjustified and unrelated to any individualized consideration of his circumstances. In the time he has lived in the United States he has lived in the same area, worked the same job, formed many strong ties to his community and is active in his community, and provides for his wife and three U.S. citizen children, one of whom is developmentally disabled.

13. Absent an order from this Court, Mr. Villasenor Ponce will remain detained at the Butler County Jail. Mr. Villasenor Ponce asks this Court to find his continued detention unlawful and order his release from custody. He also asks this Court order Respondents not to transfer him outside of the district for the duration of this proceeding.

14. Each day Mr. Villasenor Ponce spends in detention subjects him to further severe irreparable harm. His health continues to deteriorate while at the Butler County Jail, as he has not been provided with his necessary medical attention and medications and was denied a surgery deemed necessary by his medical providers. Immediate relief is necessary to ensure that Mr. Villasenor Ponce is no longer subject to continued violations of his substantive and procedural rights.

PARTIES

15. Petitioner Santiago Villasenor Ponce is a forty-four-year-old Mexican national residing in the United States, who plans on seeking cancellation of removal in the United States and relief for his disabled son whom he financially and emotionally provides for.

16. Respondent Sam Saxson is sued in his official capacity as the Acting Field Office Director, Blue Ash Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. Respondent Saxson is a legal custodian of Mr. Villasenor Ponce.

17. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Mr. Villasenor Ponce

18. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security, the agency is tasked with enforcing immigration laws. Secretary Noem is Mr. Villasenor Ponce's ultimate legal custodian.

19. Respondent Pam Bondi is sued in her official capacity as Attorney General, and as such has authority over the Department of Justice.

JURISDICTION

20. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

21. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

22. 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.

VENUE

23. Venue is proper because Petitioner is detained at Butler County Jail in Hamilton, Ohio, which is within the jurisdiction of this District.

24. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and Petitioner resides in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

25. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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.* (emphasis added).

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

27. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention

are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

29. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

30. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

31. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

32. 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, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

33. Following the enactment of the IIRIRA, 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).

34. Thus, in the decades that followed, most people who entered without inspection

and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

35. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). During oral argument on November 30, 2016, then–Solicitor General Ian Gershengorn stated: "If they are not detained within 100 miles of the border or within 14 days… then they are under 1226(a) and not 1226(c)" and further clarified, in response to a question concerning "an alien who has come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border," the Government responded, "The answer is they are held under 1226(a) and that they get a bond hearing…" Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (No. 15-1204). DHS reiterated that such individuals "would be held under 1226(a)" and cited the administrative record to support that position. *Id.* These statements reflect DHS's prior litigation stance that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States, a position directly contrary to the agency's current

interpretation applying § 1225(b)(2)(A) to such individuals. Having prevailed in *Jennings* after taking this position, they should be estopped from taking the contrary position now simply because their political or litigation interests have changed. Estoppel in this case is necessary to preserve the predictability inherent in the rule of law and due process under the Fifth Amendment, as well as to protect the integrity of the judicial system.

36. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

37. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

38. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

39. Since Respondents adopted their new policies, several federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

ICE. *See e.g. Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

40. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

41. A growing number of federal courts have rejected ICE and EOIR's expanded interpretation of the Immigration and Nationality Act's detention provisions. These courts have consistently held that § 1226(a), not § 1225(b)(2), governs the detention authority applicable in these cases. For example, courts in Massachusetts, Arizona, New York, Minnesota, California, and Nebraska have reached this conclusion. See: *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

42. These decisions reflect a clear judicial consensus that the government's reliance on § 1225(b)(2) is misplaced in cases involving those whose immigration status

lawfully falls under § 1226(a).

43. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

44. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

45. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

46. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

47. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States and were not free to mingle with the general

population after being free from official restraint. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "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, 287 (2018).

48. In accordance with this judicial consensus, in September 2025, the Eastern Michigan District Court held that § 1226(a) governed the petitioner's detention when the petitioner entered the United States decades ago, was not inspected at a port of entry, and was not lawfully admitted nor paroled, and was subsequently arrested in the interior of the United States. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

49. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who was not inspected at a port of entry, and was not lawfully admitted nor paroled by immigration officers, and is not a recent arrival nor is he seeking admission. Rather, § 1226 applies to Petitioner's detention.

50. Petitioner arrived in the United States over two decades ago in 1999. Further, while Petitioner had previously applied for U Nonimmigrant Status (U Visa) which was denied in 2019, and was issued a Notice to Appear in 2020, Petitioner nonetheless is not an applicant for admission, as Petitioner's presence in the United States has merely been without admission or parole by an immigration officer. The Notice to Appear was issued over twenty years after Petitioner's entry into the United States. Further, Petitioner was never arrested when attempting to cross the southern border

or pass through a port of entry illegally. Vast case law, as previously discussed, and basic tenets of statutory interpretation support the conclusion that § 1226 applies to Petitioner's detention.

PETITIONER NEED NOT EXHAUST ADMINISTRATIVE REMEDIES

51. Respondents will likely attempt to argue that this petition should be dismissed for lack of jurisdiction, claiming that Petitioner failed to exhaust all administrative remedies – i.e., in this case, Petitioner's failure to appeal his bond denial to the BIA.

52. In 1992, the Supreme Court held that where Congress does not specifically mandate exhaustion, the exhaustion requirement is within the sound discretion of the court (otherwise referred to as prudential exhaustion). *McCarthy v. Madigan*, 503 U.S. 140, 144, 112 S.Ct. 1081, 117 L.Ed.2d 291 (1992). The Sixth Circuit has not adopted any binding standards in determining how a court is to exercise this discretion. However, courts may excuse exhaustion if pursuing administrative remedies would be futile. *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013).

53. Courts within the Sixth Circuit routinely apply the three-factor test articulated in *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983), which posits that courts may require exhaustion when: "(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." Following this framework, this Court should exercise its discretion and waive

administrative exhaustion. Courts within the Sixth Circuit routinely find a waiver of the exhaustion requirement appropriate in the context of habeas petitions. *See e.g., Lopez Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025), *Pizarro Reyes v. Raycroft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025). Futility of exhaustion and each prong in the *California Care Corp.* three-part test weigh against requiring exhaustion and will be discussed respectively.

54. Exhausting administrative remedies – i.e., appealing Respondent's bond decision to the BIA – would be futile because of its recent decision in *Matter of Yajure Hurtado*. There, the BIA held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. The BIA would enforce this precedent to affirm the IJs decision to deny bond for Respondent.

55. Furthermore, each prong of the *California Care Corp.* three-part test supports a waiver of Respondent's administrative exhaustion.

56. First, no agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision. The issues raised in this petition are purely legal in nature; no agency record is required to develop a record.

57. Second, relaxation of the administrative exhaustion requirement would not encourage the deliberate bypass of the administrative scheme. This petition includes a due process claim, rendering the administrative scheme (an appeal to the BIA) futile. The Sixth Circuit has previously held that non-frivolous due process challenges generally do not require administrative exhaustion because the BIA does not have the authority to review constitutional challenges. *Sterkaj v. Gonzales*, 439

F.3d 273, 279 (6th Cir. 2006). Accordingly, an appeal to the BIA would serve no purpose for Petitioner's due process claim.

58. Third, administrative review would not, under any circumstances, allow the agency to correct its own mistakes nor preclude the need for judicial review. The government's immigration policy, and its ruling in *Yajure Hurtado*, clearly intend to mandatorily detain individuals like Respondent.

59. Waiver is especially appropriate when the individual's interests outweigh the institutional interests favoring exhaustion. *McCarthy*, 503 U.S. at 145. Similarly, it is appropriate when delay causes hardship to the individual. *Shalala v. Ill. Council on Long Term Care*, 529 U.S. 1, 13 (2000).

60. Petitioner's interests should therefore be heavily considered. He is currently at the Butler County Jail, wearing a colostomy bag, and was denied a previously scheduled surgery that ICE was alerted to multiple times. He has not had access to all of his necessary medications. His physical health will only continue to worsen while in the jail. For the same reasons, delay means additional hardship for the Petitioner.

61. For the foregoing reasons, Respondent requests that this Court exercise its discretion to allow Respondent to waive the exhaustion requirement. All factors weigh in favor of a waiver.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment of the U.S. Constitution

Procedural Due Process

62. The allegations in the above paragraphs are realleged and incorporated herein.

63. Procedural due process requires that the government be constrained before it acts in a way that deprives an individual of liberty interests protected under the Due Process Clause of the Fourteenth Amendment. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

64. *Mathews v. Eldridge* instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probative value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail. *Id.* at 333.

65. The Sixth Circuit has held that the balancing test set forth in *Mathews v. Eldridge* applies in the immigration detention context. *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020).

66. The first factor, Petitioner's interest at issue, favors Petitioner. "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 v. Davis*, 533 U.S. 678, 690 (2001). Petitioner has a significant private interest in avoiding detention. Detention is among the

"most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004).

67. The second factor, the risk of erroneous deprivation, also weighs in Petitioner's favor. A properly held individualized bond hearing for Petitioner, without DHS' spurious jurisdictional argument, would ensure that an IJ can assess whether Petitioner is eligible for bond, which would reduce the risk of an erroneous deprivation of Petitioner's rights.

68. The third factor, the government's interest, also weighs in Petitioner's favor. Respondents have not established any significant interest in detaining Petitioner. Respondents have not established any significant financial or administrative costs in providing a proper individualized hearing for Petitioner.

69. Accordingly, this Court should find that a balancing of the *Mathews* factors weighs in Petitioner's favor and should find that Petitioner's current detention under the ruling mandatory framework violates Petitioner's Fifth Amendment due process rights.

COUNT TWO

Violation of the Fifth Amendment of the U.S. Constitution

Substantive Due Process

70. The allegations in the above paragraphs are realleged and incorporated herein.

71. Substantive due process principles forbid the infringement of fundamental liberty interests unless the infringement is narrowly tailored to serve a compelling government interest.

72. Freedom from physical restraint is a liberty interest protected by substantive due process. *Zadvydas v. Davis*, 533 U.S. at 690.

73. Respondents have deprived Petitioner of his freedom from physical restraint. Petitioner's continued detention at Butler County Jail is merely justified by a spurious legal argument made by DHS which numerous courts, including within the 6th Circuit, have ruled against.

74. This continued detention is therefore not narrowly tailored to serve a compelling government interest.

75. This Court should therefore find that Respondents have violated Petitioner's fundamental liberty interests in violation of the Fourteenth Amendment's substantive due process protections.

COUNT THREE

Violation of the Immigration and Nationality Act

76. The allegations in the above paragraphs are realleged and incorporated herein.

77. Respondents' reading of the INA is unlawful as § 1226(a), not § 1225(b), applies to noncitizens like Petitioner who are not apprehended upon arrival to the United States.

78. The Petitioner's continued detention violates the Immigration and Nationality Act.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act.

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Villasenor Ponce from custody, as the Immigration Judge made no finding of risk to the community or flight risk in her denial of bond.

(5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Krishna J Mahadevan 0099016
Jorge H. Martinez, Attorney at Law

Counsel for Petitioner

Dated: 11/18/2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Santiago Villasenor Ponce, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 18th day of November 2025.

Respectfully submitted

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