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Counsel for
Kevin Alexander Polanco Retana

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3 **UNITED STATES DISTRICT COURT**
4 **FOR THE DISTRICT OF ARIZONA**
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7 KEVIN ALEXANDER POLANCO
8 RETANA,

9 Petitioner,

10 vs.

11
12 PAMELA BONDI, in her official
13 capacity as Attorney General; KRISTI
14 NOEM, in her official capacity as
15 Secretary of the Department of
16 Homeland Security; TODD M. LYONS,
17 in his official capacity as Current Acting
18 Director of Immigration and Customs
19 Enforcement; JOHN E. CANTU, in his
official capacity as Phoenix ICE Field
Office Director; WARDEN, Florence
Service Processing Center.

20 Respondents
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Case No.

VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241

1
2 **INTRODUCTION**

3 1. Kevin Alexander Polanco Retana (“Petitioner”) by and through his
4 undersigned counsel, hereby files this petition for a writ of habeas corpus
5 challenging his removal to a third country.

6 2. Petitioner was ordered removed to Mexico on November 14, 2025. On
7 information and belief, Petitioner is currently detained at the Florence Service
8 Processing Center and being staged for removal to El Salvador on November 23,
9 2025.

10 3. Petitioner is in danger of indefinite detention, torture, and death if he
11 is removed to El Salvador.

12 4. Petitioner has not received notice or an opportunity to express fear of
13 removal to El Salvador, a country he was specifically informed he would not be
14 removed to when he accepted a removal order to Mexico in Immigration Court and
15 withdrew all applications for relief.

16 5. Removal to El Salvador without any notice and an opportunity to
17 express fear would violate the Immigration and Nationality Act (“INA”) and the
18 Due Process Clause of the Fifth Amendment.

19 **CUSTODY**

20 6. On information and belief, Petitioner is currently detained by the
21 Department of Homeland Security (“DHS”) at the Florence Service Processing
22 Center (“Florence”) at 3250 N. Pinal Parkway, Florence, AZ 85132.

23 **JURISDICTION AND VENUE**

24 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241
25 (habeas jurisdiction), Art. I § 9, cl. 2 of the United States Constitution (the
26 suspension clause), 28 U.S.C. § 1331 (general federal question jurisdiction), 5
27 U.S.C. § 701 *et seq.* (Administrative Procedures Act), and the common law. This
28 action arises under the Due Process clause of the Fifth Amendment of the United

1 States Constitution, and under the Immigration and Nationality Act of 1952
2 (“INA”). The Court may grant relief under the habeas corpus statutes, 28 U.S.C. §
3 2241, *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and the All
4 Writs Act, 28 U.S.C. § 1651.

5 8. Federal District Courts have jurisdiction to hear habeas claims by
6 noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal
7 Courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See, e.g., Zadvydas v.*
8 *Davis*, 533 U.S. 678, 687 (2001).

9 9. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents
10 are agencies of the United States or officers or employees thereof acting in their
11 official capacities or under color of legal authority; Petitioner is in the custody of
12 the Phoenix Field Office of the Immigration and Customs Enforcement (“ICE”) and
13 the warden of Florence Service Processing Center; and a substantial part of the
14 events and omissions giving rise to the claim occurred in this district.

15
16 **REQUIREMENTS OF 28 U.S.C. § 2243**

17 10. The Court must grant the petition for writ of habeas corpus or issue an
18 order to show cause (“OSC”) to Respondents “forthwith,” unless the petitioner is
19 not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
20 Respondents to file a return “within *three days* unless for good cause additional
21 time, *not exceeding twenty days*, is allowed. *Id.* (emphasis added).

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

27 12. Habeas corpus must remain a swift remedy. Importantly, “the statute
28

1 itself directs courts to give petitions for habeas corpus ‘special, preferential
2 consideration to insure expeditious hearing and determination.’” *Yong v. INS*, 208
3 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit
4 warned against any action creating the perception “that courts are more concerned
5 with efficient trial management than with the vindication of constitutional rights.”
6 *Id.*

7 8 PARTIES

9 **Petitioner**

10 13. Petitioner, Kevin Alexander Polanco Retana, is a citizen of El Salvador.
11 He is a permanent resident of Mexico. He was ordered removed to Mexico on
12 November 14, 2025. He is currently detained at the Florence Service Processing
13 Center. Upon information and belief, he is being staged for removal to El Salvador,
14 a country not listed on his order of removal, and a country to which he has expressed
15 fear of removal.

16 **Respondents**

17 14. Respondent Pamela BONDI is the U.S. Attorney General at the U.S.
18 Department of Justice, which is a cabinet-level department of the United States
19 government. She has the responsibility for the administration and enforcement of
20 the immigration laws pursuant to 8 U.S.C. § 1103. As the INA has not been
21 amended to reflect the designation of the Secretary of the Department of Homeland
22 Security as the administrator and enforcer of immigration laws, Respondent Bondi
23 is sued in her official capacity to the extent that 8 U.S.C. § 1103 gives her authority
24 over immigration law.

25 15. Respondent Kristi NOEM is the Secretary of DHS. She has authority
26 over the detention and departure of noncitizens, like Petitioner, because she
27 administers and enforces immigration laws pursuant to section 402 of the Homeland
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1 Security Act of 2002. 107 Pub L. 296 (November 25, 2003). Given this authority,
2 Respondent Noem is the legal custodian over Petitioner and is empowered to carry
3 out any administrative order against her. She is sued in her official capacity as an
4 agent of the government of the United States.

5 16. Respondent Todd M. LYONS is the Current Acting Director of ICE.
6 He has authority over the detention and departure of noncitizens, like Petitioner,
7 because he administers and enforces immigration laws pursuant to section 402 of
8 the Homeland Security Act of 2002. 107 Pub L. 296 (November 25, 2003). Given
9 this authority, Respondent Lyons is the legal custodian over Petitioner and is
10 empowered to carry out any administrative order against her.

11 17. Respondent, John E. CANTU, is the Field Office Director of ICE for
12 Phoenix. In his official capacity, he is the local ICE official who has legal custody
13 of Petitioner.

14 18. Respondent, WARDEN of the Florence Service Processing Center is
15 an individual whose name is not known to Petitioner as of the filing of this petition.
16 Florence Service Processing Center is a detention center for individuals suspected
17 of civil immigration violations.

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19 **FACTUAL ALLEGATIONS**

20 19. Petitioner is a native and citizen of El Salvador. He is 29 years old. He
21 is a husband and the father of two children, one of whom is a U.S. citizen. He is a
22 devout Evangelical Christian.

23 20. Petitioner moved to Mexico in 2013 when he was 18 years old. He
24 holds permanent residence in Mexico.

25 21. Petitioner entered the United States approximately four years ago
26 without being inspected or admitted. He and his wife came to give their daughter
27 and unborn son a better life.
28

1 22. In May of 2025, Petitioner was arrested by ICE agents. He was
2 informed that he is a fugitive from El Salvador. El Salvador has charged him with
3 “unlawful association.” It has been unclear to Petitioner what association he is
4 accused of being a member of, or what year these allegations are from. Mr. Polanco
5 understands these allegations to allege that he is a gang member.
6

7 23. Petitioner has no criminal record anywhere in the world.

8 24. Petitioner was placed in detained removal proceedings. Based on the
9 allegations of unlawful association, Petitioner fears he will be jailed, deprived of all
10 due process rights, and tortured or killed in El Salvador. He filed an application for
11 asylum, withholding of removal, and relief under the Convention Against Torture.

12 25. At Petitioner’s individual hearing on November 14, 2025, Petitioner’s
13 attorney, the attorney for DHS, and the Immigration Judge discussed Petitioner’s
14 fear of removal to El Salvador and not to Mexico. The Judge informed Petitioner
15 that he would order that Petitioner be removed to Mexico *only*. Mr. Polanco agreed
16 to withdraw all applications for relief so long as he would not be removed to El
17 Salvador.

18 26. On November 19, 2025, Petitioner’s counsel emailed ICE at Adelanto,
19 CA where Petitioner was then housed. She inquired about Petitioner’s removal to
20 Mexico. On that same day, ICE responded that Petitioner’s removal to Mexico
21 would be executed soon.

22 27. In the early morning hours of November 22, 2025, Petitioner was
23 informed that he was being moved and had been told that he will be removed to El
24 Salvador.

25 28. On information and belief, Petitioner is in Florence, AZ at the Florence
26 Service Processing Center and is being staged for removal to El Salvador on Sunday,
27 November 23 in the morning.
28

1 any one of them is deported to a third country.” Defendants’ Application for Stay of
2 Preliminary Injunction at 28, DHS v. D.V.D., No. 24A1153 (S. Ct. Jun. 23, 2025).
3 (W.D. Wash. Mar. 27, 2025) (granting preliminary injunction).
4

5 **CLAIM FOR RELIEF**

6 **COUNT ONE**
7 **Unlawful Removal To A Third Country**
8 **(8 U.S.C. § 1254a)**

9 34. Petitioner re-alleges and incorporates by reference the paragraphs
10 above.

11 35. Notwithstanding the statutory and regulatory prohibitions on removing
12 non-citizens to countries where they face potential persecution or torture,
13 Respondent Noem’s March 30 “Guidance Regarding Third Country Removals”
14 states that if the United States has received “diplomatic assurances” from a third
15 country that non-citizens removed to that country will not be persecuted or tortured,
16 DHS may remove that non-citizen “without the need for further procedures.”

17 36. The procedure laid out in this memo violates the statutory and
18 regulatory provisions requiring Respondents to provide a non-citizen with a forum
19 to demonstrate an individualized risk of torture or persecution in a specific country.
20 The memo purports to rely on blanket assurances from third countries that non-
21 citizens generally will not be tortured or persecuted to circumvent the obligation to
22 determine if an individual non-citizen faces a risk of torture or persecution.

23 37. Respondents’ detention of Petitioner with the intent to remove him to
24 a third country (including, but not limited to, El Salvador) without notice or the
25 opportunity to demonstrate that he is at a particularized risk of torture or persecution
26 in that third country is unlawful.
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1 immediately halt plans to remove Petitioner to a third country (including, but not
2 limited to, El Salvador) as authorized by 8 U.S.C. § 2241(a);

3 6) Enjoin Respondents from removing Petitioner to a third country,
4 including El Salvador, before providing Petitioner a meaningful opportunity to
5 challenge his removal to that country;

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

8 8) Grant any other further relief this Court may deem appropriate.
9

10 Dated: November 22, 2025

Respectfully submitted,

11
12 *s/Keli M. Reynolds*

13 Keli M. Reynolds

14 Counsel for Petitioner

15 Olmos and Reynolds Law Group, LLP
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 22nd of November, 2025 in Los Angeles, California.

s/Keli M. Reynolds

Keli M. Reynolds
Counsel for Petitioner
Olmos and Reynolds Law Group, LLP

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UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Kevin Alexander Polanco Retana , ; Defendant(s): Kristi Noem , DHS Secretary ; Pamela Bondi , Attorney General; Todd M. Lyons , Acting Director of ICE; John Cantu , Director Phoenix Field Office; Unknown , Warden, Florence Processing Center;

County of Residence: Outside the State of Arizona County of Residence: Outside the State of Arizona

County Where Claim For Relief Arose: Pinal

Plaintiff's Atty(s): Defendant's Atty(s):

Keli M Reynolds , Olmos & Reynolds Law Group 315 W 9th St. Ste 801 Los Angeles, CA 90015 323-951-0144 Sabrina Damast , Law office of Sabrina Damast 510 West 6th Street, Suite 330 Los Angeles, CA 90014 (323) 475-8716

IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction: 2. U.S. Government Defendant

III. Citizenship of Principal Parties(Diversity Cases Only)

Plaintiff:- N/A

Defendant:- N/A

IV. Origin : 1. Original Proceeding V. Nature of Suit: 463 Alien Detainee

VI. Cause of Action: 28 U.S.C. § 2241

VII. Requested in Complaint

Class Action: **No**

Dollar Demand:

Jury Demand: **No**

VIII. This case is not related to another case.

Signature: Sabrina Damast

Date: 11/22/2025

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014