

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Carlos Sanchez-Camacho,

(b) County of Residence of First Listed Plaintiff Nye (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Alec S. Bracken, Contigo Law, PO Box 249, Midvale, UT 84047, 801-980-9430

DEFENDANTS

Kristi Noem, Et. al

County of Residence of First Listed Defendant PrinceGeorge (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 210 Land Condemnation, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 2241

Brief description of cause: habeas petition for an alien detainee that entered without inspection

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 11/24/2025 SIGNATURE OF ATTORNEY OF RECORD /s/ Alec S. Bracken

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ALEC S. BRACKEN (USB 17178)  
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PO BOX 249  
Midvale, Utah 84047  
Phone: 801-980-9430  
Email: alec@contigo.law  
Attorney for Petitioner

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Carlos Sanchez-Camacho,

Petitioner

v.

KRISTI NOEM, in her official capacity as  
Secretary of the Department of Homeland  
Security,

TODD LYONS, in his official capacity as  
Acting Director of Immigration and Customs  
Enforcement,

MARCOS CHARLES, in his official capacity  
as ICE Field Officer Director,

JOHN MATTOS, in his official capacity as the  
warden of the Nevada Southern Detention  
Facility,

PAMALA BONDI, in her official capacity as  
the United States Attorney General,

The Executive Office for Immigration Review

United States Immigration and Customs  
Enforcement.

Respondents

Civil No.: 2:25-cv-2343

VERIFIED PETITION FOR HABEAS  
CORPUS

IMMIGRATION HABEAS CASE

**INTRODUCTION**

1  
2 1. Carlos Sanchez Camacho (Petitioner), by and through his undersigned counsel, hereby files  
3 this petition for a writ of habeas corpus. Petitioner entered the United States on over two decades ago  
4 and entered the United States without inspection. Ex. 1. Petitioner is a native and citizen of Mexico.  
5  
6 *Id.*

7 2. On November 9, 2025, Petitioner was arrested in the city of Orem, Utah for driving under  
8 the influence of alcohol, possession or use of a controlled substance, impeding traffic, and operating a  
9 vehicle without a valid driver’s license. Ex. 2. However, when Petitioner was arrested, he was arrested  
10 when he was not in physical possession of his vehicle, and there was no evidence that he had operated  
11 his vehicle under the influence of alcohol. Ex. 3. Further, the “gummies” the Orem police confiscated  
12 were CBD gummies well within the legal THC limit for the state of Utah and under Federal  
13 Regulations. Ex. 4.<sup>1</sup>

14  
15 3. Under 8 U.S.C. § 1226(a), aliens who have been apprehended within the United States and  
16 placed in removal proceedings—other than arriving aliens—are generally eligible for a bond  
17 redetermination before an immigration judge. This statutory framework authorizes immigration  
18 officers to initially arrest and detain such individuals pending the outcome of their removal  
19 proceedings, while also permitting release on bond or conditional parole based on a discretionary  
20 custody determination. These provisions apply to noncitizens who have been living within the United  
21 States, including those who entered without inspection or overstayed a lawful admission, and are  
22 designed to provide a neutral review of custody decisions. During this process, the individual may  
23 request a bond hearing before an immigration judge, who evaluates factors such as flight risk and  
24  
25

26  
27 <sup>1</sup> Under federal law, hemp-derived products containing no more than 0.3% delta-9-tetrahydrocannabinol (THC) on a dry-  
28 weight basis are not considered controlled substances. See Agriculture Improvement Act of 2018, Pub. L. No. 115-334,  
§ 12619, 132 Stat. 4490 (2018) (codified at 7 U.S.C. § 1639o). The CBD gummies at issue contain less than 5 mg THC per  
serving and less than 150 mg THC per package, well within this federal threshold.

1 danger to the community. If the immigration judge determines that release is appropriate, the judge  
2 may set bond or impose conditions of supervision. Importantly, this bond-redetermination mechanism  
3 does not extend to arriving aliens, who remain subject to the separate parole framework under 8 U.S.C.  
4 § 1182(d)(5), underscoring the distinct detention and release provisions applicable to different  
5 categories of noncitizens.  
6

7 4. Under *Matter of Hurtado*, 27 I&N Dec. 429 (BIA 2018), the Department of Justice has taken  
8 the position that certain individuals who entered the United States without inspection (EWI) may be  
9 classified as “arriving aliens” for custody purposes, despite their physical presence in the interior. In  
10 that decision, the Board interpreted the regulatory definition of an arriving alien to include noncitizens  
11 encountered after having crossed the border without lawful admission, reasoning that such individuals  
12 have not been formally admitted and therefore remain applicants for admission under 8 U.S.C. § 1225.  
13 This interpretation allows DHS to process these individuals under the same detention framework  
14 applicable to arriving aliens, placing them in a category that is traditionally ineligible for bond  
15 redetermination by an immigration judge. As a result, individuals who EWI may be treated as subject  
16 to the mandatory detention and parole-only release scheme, rather than the discretionary bond review  
17 available to most non-arriving respondents. Importantly, this reading highlights DOJ’s expansive view  
18 of the arriving-alien classification and its impact on custody jurisdiction within removal proceedings.  
19

20 5. Under longstanding statutory and regulatory frameworks, the Board of Immigration Appeals’  
21 interpretation in *Matter of Hurtado*—classifying individuals who entered without inspection as  
22 “arriving aliens”—is clearly erroneous because it conflicts with both the plain text of the Immigration  
23 and Nationality Act and the structure of the custody regulations. The INA expressly distinguishes  
24 between “arriving aliens,” who present themselves at a port of entry, and individuals apprehended *after*  
25 entering the United States, who are instead treated as applicants for admission under 8 U.S.C. §  
26  
27  
28

1 1225(a)(1) but are processed under the detention authority of 8 U.S.C. § 1226(a). The regulations  
2 reinforce this distinction by defining an arriving alien as one who is “coming to the United States” at a  
3 port of entry, not someone already present in the interior. By collapsing these categories, the BIA’s  
4 interpretation disregards decades of regulatory practice and nullifies the purpose of § 1226(a), which  
5 is to provide a bond mechanism for individuals apprehended inside the country. Moreover, the BIA’s  
6 reading produces absurd and untenable results—effectively rendering non-arriving-alien custody  
7 jurisdiction meaningless and undermining the statutory right to seek bond redetermination before an  
8 immigration judge. This demonstrates that the Board’s expansive interpretation cannot be reconciled  
9 with the statutory text, regulatory definitions, or the broader scheme Congress enacted.  
10

11  
12 6. Because of the Department of Justice’s and DHS’s positions in *Matter of Hurtado* and *Matter*  
13 *of Q Li*, 29 I.&N. Dec. 66 (BIA 2025), it is effectively futile for individuals who entered without  
14 inspection to seek bond redetermination, as the policies in these cases dictate automatic ineligibility for  
15 arriving aliens. Under these interpretations, aliens who EWI are treated as arriving aliens for custody  
16 purposes, placing them squarely within the mandatory detention and parole-only framework of 8  
17 U.S.C. § 1225(b) and outside the discretionary bond review afforded to non-arriving respondents under  
18 § 1226(a). Consequently, any attempt to request bond would almost certainly be denied by DHS, and  
19 an immigration judge would lack jurisdiction to override this classification. In practice, this means that,  
20 as petitioner is an EWI, pursuing a bond application would be a fruitless exercise under current DOJ  
21 and DHS policy, and relief from detention must instead be sought through habeas actions.  
22

23  
24 7. Pursuant to *Loper Bright Enterprises v. Raimondo*, 603 U.S. \_\_\_\_ (2024), the Supreme Court  
25 held that federal courts must “exercise independent judgment” when interpreting statutes and may no  
26 longer defer to an agency’s reasonable interpretation simply because a statute is ambiguous. Under this  
27 ruling, the BIA’s prior interpretations—such as in *Matter of Hurtado* or *Matter of Q. Li*—cannot  
28

1 automatically command deference, particularly if those decisions rest on unexplained or arbitrary  
2 reasoning. By abolishing Chevron deference, *Loper Bright* empowers reviewing courts to scrutinize  
3 BIA policy choices on their merits, rather than rubber-stamping agency interpretations.

#### 4 JURISDICTION AND VENUE

5  
6 8. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general  
7 federal question jurisdiction; 5 U.S.C. §§ 701 et seq., the Due Process Clause of the United States  
8 Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241  
9 et. seq. and the All Writs Act, 28 U.S.C. § 1651.

10  
11 9. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the  
12 lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8  
13 U.S.C. § 1252. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

14  
15 10. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the  
16 United States or officers or employees thereof acting in their official capacity or under color of legal  
17 authority; Petitioner is in the custody of the Southern Nevada Detention Center, which is in the  
18 jurisdiction of the Nevada District Court and there is no real property involved in this action.

19  
20 11. There is no requirement for exhaustion of administrative remedies in the present case as  
21 neither the habeas statute, 8 U.S.C. § 2241, nor the relevant sections of the INA require petitioners to  
22 exhaust administrative remedies before filing petitions for habeas corpus

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

24  
25 12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause  
26 (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.  
27 If an OSC is issued, the Court must require Respondents to file a return “within three days unless for  
28 good cause additional time, not exceeding twenty days, is allowed.” *Id.*

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

5  
6 14. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and  
7 detained by Respondents.

8 **PARTIES**

9 **PETITIONER**

10 15. Petitioner is a Mexico citizen, who is currently in the custody of the Department of  
11 Homeland Security in the Southern Nevada Detention Center in Pahrump, Nevada. Petitioner entered  
12 the United States without Inspection over twenty years ago and has remained in the United States since.

13  
14 **RESPONDENTS**

15 16. Respondent Kristi Noem (Secretary Noem) is the Secretary of the Department of Homeland  
16 Security, the parent agency of Immigration and Customs Enforcement which is currently detaining the  
17 Petitioner. Respondent Kristi Noem is sued in her official capacity as an agent of the United States  
18 Government.

19  
20 17. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs  
21 Enforcement, and he has authority over the actions of respondent Drew Bostock and ICE in general.  
22 Respondent Lyons is a legal custodian of Petitioner.

23 18. Respondent Marcos Charles is the Field Office Director of Immigration and Customs  
24 Enforcement. He is in charge of the custody of all Immigration and Customs Enforcement Detainees  
25 in the Nevada District Court. Respondent Marcos Charles is sued in his official capacity as an agent of  
26 the United States Government.  
27  
28

1 19. Respondent Pamela Bondi is the Attorney General of the United States, and as such has  
2 authority over the Department of Justice and is charged with faithfully administering the immigration  
3 laws of the United States. Pamela Bondi is sued in her official capacity as an agent of the United States.  
4

5 20. Respondent Executive Office for Immigration Review is the federal agency responsible for  
6 custody redeterminations relating to non-citizens charged with being removable from the United States.  
7

8 21. Respondent John Mattos is the warden of the Southern Nevada Detention Center and thus  
9 has custody over the Petitioner. Respondent John Mattos is sued in his official capacity as an agent of  
10 the United States.

11 22. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for  
12 custody decisions relating to non-citizens charged with being removable from the United States,  
13 including the arrest, detention, and custody status of non-citizens.

#### 14 LEGAL FRAMEWORK

15 23. Under 8 U.S.C. § 1226(a), aliens who have been apprehended within the United States and  
16 placed in removal proceedings—other than arriving aliens—are generally eligible for a bond  
17 redetermination before an immigration judge. This statutory framework authorizes immigration  
18 officers to initially arrest and detain such individuals pending the outcome of their removal  
19 proceedings, while also permitting release on bond or conditional parole based on a discretionary  
20 custody determination. These provisions apply to noncitizens who have been living within the United  
21 States, including those who entered without inspection or overstayed a lawful admission, and are  
22 designed to provide a neutral review of custody decisions. During this process, the individual may  
23 request a bond hearing before an immigration judge, who evaluates factors such as flight risk and  
24 danger to the community. If the immigration judge determines that release is appropriate, the judge  
25 may set bond or impose conditions of supervision. Importantly, this bond-redetermination mechanism  
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27  
28

1 does not extend to arriving aliens, who remain subject to the separate parole framework under 8 U.S.C.  
2 § 1182(d)(5), underscoring the distinct detention and release provisions applicable to different  
3 categories of noncitizens.

#### 4 PROCEDURAL AND FACTUAL BACKGROUND

5 24. Petitioner entered the United States over twenty years ago without inspection. Ex. 1.  
6 Petitioner is a native and citizen of Mexico. *Id.*

7  
8 25. On November 9, 2025, Petitioner was arrested in the city of Orem, Utah for driving under  
9 the influence of alcohol, possession or use of a controlled substance, impeding traffic, and operating a  
10 vehicle without a valid driver's license. Ex. 2. However, when Petitioner was arrested, he was arrested  
11 when he was not in physical possession of his vehicle, and there was no evidence that he had operated  
12 his vehicle under the influence of alcohol. Ex. 3. Further, the "gummies" the Orem police confiscated  
13 were CBD gummies well within the legal THC limit for the state of Utah and under Federal  
14 Regulations. Ex. 4.<sup>2</sup>

15  
16 26. On November 10, 2025, Petitioner was taken into custody by the Department of Homeland  
17 Security and was placed in removal proceedings. Ex. 1. Petitioner is currently detained at the Southern  
18 Nevada Immigration Detention Facility in Pahrump, Nevada.

#### 19 CAUSES OF ACTION

##### 20 **1. FIRST CAUSE OF ACTION:** 21 **Violation of Fifth Amendment Right to Due Process**

22 27. Petitioner incorporates and realleges the allegations above.  
23  
24  
25  
26

27 <sup>2</sup> Under federal law, hemp-derived products containing no more than 0.3% delta-9-tetrahydrocannabinol (THC) on a dry-  
28 weight basis are not considered controlled substances. See Agriculture Improvement Act of 2018, Pub. L. No. 115-334,  
§ 12619, 132 Stat. 4490 (2018) (codified at 7 U.S.C. § 1639o). The CBD gummies at issue contain less than 5 mg THC per  
serving and less than 150 mg THC per package, well within this federal threshold.

1           28. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the  
2 federal government from depriving any person of “life, liberty, or property, without due process of  
3 law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including  
4 [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*,  
5 533 U.S. at 693.57.  
6

7           29. Here, the petitioner is being deprived of due process because DHS and DOJ categorically  
8 refuse to provide him a bond hearing, despite his placement in removal proceedings and the absence  
9 of any statutory bar to custody review. Under the INA, noncitizens in § 1226(a) proceedings are entitled  
10 to an individualized bond determination before a neutral adjudicator, and the Supreme Court has  
11 emphasized that civil immigration detention must include adequate procedural safeguards to satisfy the  
12 Fifth Amendment. Nevertheless, DHS has classified the petitioner as an “arriving alien” under *Matter*  
13 *of Hurtado* and *Matter of Q. Li* solely because he entered without inspection, and DOJ has adopted the  
14 position that immigration judges lack jurisdiction to review his custody. As a result, petitioner is denied  
15 the opportunity to be heard on whether his detention is justified—an essential element of due process  
16 under *Mathews v. Eldridge*, which requires meaningful notice and a fair opportunity to challenge  
17 government action. 424 U.S. 319 (1976). By withholding any mechanism for custody review, DHS and  
18 DOJ have effectively imposed indefinite civil confinement without the procedural protections the  
19 Constitution demands, rendering petitioner’s continued detention a clear violation of the Fifth  
20 Amendment.  
21  
22

23  
24                                   **2. SECOND CAUSE OF ACTION:**  
25                                   **Violation of the Immigration and Nationality Act**

26           30. Petitioner incorporates and realleges the allegations above.

27           31. The Immigration and Nationality Act (INA) sets forth specific circumstances under which  
28 the federal government may detain noncitizens. Under 8 U.S.C. § 1225(b)(1), arriving aliens may be

1 detained pending a determination of admissibility, and under 8 U.S.C. § 1226(a), the Attorney General  
2 may take into custody aliens who are already in removal proceedings. Additionally, 8 U.S.C. § 1226(c)  
3 mandates detention for certain criminal aliens during removal proceedings. Once an alien is no longer  
4 subject to expedited removal, has completed credible fear proceedings, or does not fall within one of  
5 these statutory categories, the INA provides no authority for continued detention. *Zadvydas v. Davis*,  
6 533 U.S. 678, 682 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018).  
7

8 32. Matter of *Hurtado* impermissibly expands the definition of “arriving alien” beyond the  
9 limits established by Congress, and therefore cannot serve as a basis to deny petitioner a bond hearing.  
10 The INA expressly distinguishes between individuals seeking admission at the border and those  
11 apprehended inside the United States, assigning the former to the § 1225(b) detention framework and  
12 the latter to the discretionary custody-and-bond provisions of § 1226(a). By collapsing these categories  
13 and treating entry-without-inspection as functionally equivalent to presenting at a port of entry,  
14 *Hurtado* rewrites the statutory scheme and nullifies Congress’s deliberate decision to afford bond  
15 eligibility to non-arriving respondents. Because agency interpretations that contradict clear statutory  
16 text are invalid, DOJ and DHS cannot rely on *Hurtado* to deprive petitioner of custody review.  
17 Accordingly, petitioner must be placed within the statutory framework that governs his actual  
18 circumstances—§ 1226(a)—and afforded an individualized bond hearing before a neutral adjudicator,  
19 as the INA requires.  
20  
21

22 33. Because the petitioner does not fall within any statutory basis for mandatory detention under  
23 the INA, his continued confinement is ultra vires, and he should be given a bond hearing immediately.  
24

25 **THIRD CAUSE OF ACTION**  
26 **Violation of Fifth Amendment Right to Due Process**

27 34. Petitioner incorporates and realleges the allegations above.  
28

1 35. The Due Process Clause of the Fifth Amendment prohibits the federal government from  
2 depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V.  
3 This protection extends to all persons within the United States, including noncitizens, regardless of  
4 immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

5  
6 36. Petitioner’s continued detention prevents him from meaningfully defending himself against  
7 pending criminal charges, which carry severe immigration consequences, including possible removal  
8 from the United States and permanent bars to reentry. Civil detention under the INA should not interfere  
9 with a person’s ability to exercise fundamental procedural rights in a criminal case. *See Mathews v.*  
10 *Eldridge*, 424 U.S. 319, 333 (1976) (due process requires meaningful opportunity to be heard). By  
11 keeping petitioner in custody without access to legal counsel, preparation time, or the ability to attend  
12 proceedings, DHS effectively obstructs his right to defend against the criminal allegations.

13  
14 37. As a result of DHS and DOJ’s refusal to provide a mechanism for custody review, petitioner  
15 faces a compounded constitutional harm: not only is he confined without individualized bond  
16 consideration, but that confinement also directly undermines his ability to protect himself against  
17 criminal charges that could trigger permanent removal and other lifelong immigration consequences.  
18 This interference constitutes a clear violation of the Fifth Amendment’s due process guarantees.  
19

20  
21 **RESERVATION OF RIGHTS**

22 Petitioner reserves the right to add additional allegations of agency error and related causes  
23 of action upon receiving the certified administrative record.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Petitioner requests that this Court grant the following relief:

26 A. Assume jurisdiction over the matter.  
27  
28

1 B. Declare Petitioner’s detention without a possibility of bond unlawful pursuant to the due process  
2 clause and the Immigration and Nationality Act.

3 C. Order the Department of Homeland Security to release Petitioner immediately, or, in the  
4 alternative, order the Executive Office for Immigration Review to hold a bond hearing immediately.

5 D. Award Petitioner costs of suit and attorney’s fees under the Equal Access to Justice Act, 42  
6 U.S.C. § 1988 and any other applicable law;

7 E. Enter all necessary relief, injunctions, and orders as justice and equity as appropriate to  
8 remedy the harms to Petitioner;

9 F. Grant such further relief as this Court deems just and proper.

10 DATED: November 24, 2025

11  
12  
13  
14  
15 Respectfully submitted,

16  
17 /S/ ALEC S. BRACKEN  
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