UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

NEFTALI VENTURA-LABRA,
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 U.S. Immigration and Customs Enforcement;
MIGUEL VERGARA, in his official capacity as Acting Director of the Dallas Field Office of ICE, Enforcement and Removal Operations;
WARDEN OF THE KARNES COUNTY IMMIGRATION PROCESSING CENTER;
and
DAREN K. MARGOLIN, Director of the Executive Office for Immigration Review,
Respondents.

Civil Action No. SA-25-CV-1600

Immigration No. A [redacted]

PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner NEFTALI VENTURA LABRA (A# [redacted] s a native and citizen of Mexico who has resided in the United States since 2011, most recently in the Dallas–Fort Worth region of Texas. He is now subject to arbitrary and unlawful detention following his sudden apprehension by ICE on or about September 2, 2025, and is currently detained at the Karnes County Immigration Processing Center in Karnes City, Texas, which lies within the jurisdiction of this Court. *See* Ex. A, Proof of ICE Detention.

2. Mr. Ventura Labra has been placed into removal proceedings under INA § 240, 8 U.S.C. § 1229a, and is scheduled for a master calendar hearing on December 2, 2025, before

Immigration Judge Thomas G. Crossan in the Pearsall Immigration Court. *See* Ex. D, EOIR Automated Case Information. Although he has lived in the United States for nearly fourteen years, has strong family ties, and has no criminal history, he was abruptly taken into ICE custody despite having no prior violations and no change in his circumstances aside from the federal government's new detention policies. *See* Ex. B., Documentation Related to Immigration Court Case.

3. In recent months, immigration judges within the Fifth Circuit have repeatedly declined to provide bond hearings to similarly situated noncitizens, asserting that they lack jurisdiction in light of the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. C, Recent BIA Decisions on Bond. These decisions improperly expand mandatory detention under INA § 235(b) to individuals—like Mr. Ventura Labra—who are already in § 240 removal proceedings and who, by statute, fall under INA § 236(a). Numerous federal district courts, including courts in this Circuit, have recognized that noncitizens detained under § 236(a) remain entitled to individualized custody redetermination hearings.

4. Despite this clear statutory framework, immigration judges continue to deny detained individuals an opportunity to seek bond, relying mechanically on the erroneous reasoning in *Li* and *Yajure Hurtado*. This practice violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act, because detention in § 240 proceedings is governed exclusively by INA § 236(a), which grants a right to apply for release on bond.

5. Mr. Ventura Labra therefore respectfully petitions this Court for habeas corpus relief under 28 U.S.C. § 2241 and seeks immediate injunctive protection. Petitioner also intends to file

a Temporary Restraining Order requesting that the Court order his immediate release, or in the alternative, direct Respondents to provide him with an individualized bond hearing within seven (7) days.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

7. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seek class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

8. Venue is proper in this District, and in the San Antonio Division, because Petitioner is detained at the Karnes County Immigration Processing in San Antonio, Texas, which lies within the jurisdiction of the United States District Court for the Western District of Texas. Petitioner's immigration detention is operationally controlled by the San Antonio Field Office of ICE – Enforcement and Removal Operations. See Ex. A, Proof of Detention in ICE Custody.

III. PARTIES

9. Petitioner, NEFTALI VENTURA LABRA ("Mr. Ventura Labra"), is a citizen and national of Mexico who has resided in the United States since 2011, living most recently in the Dallas–Fort Worth area. He was taken into ICE custody on or about September 2, 2025, and transferred to the Karnes County Immigration Processing Center in Karnes City, Texas, where he remains detained. Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a (INA § 240). He previously appeared on the non-detained docket and received notice of his upcoming Master Calendar Hearing scheduled for November 19, 2025; however, following his sudden detention, EOIR has now listed his case on the detained docket before Immigration Judge Thomas G. Crossan. *See* Ex. D, EOIR Automated Case Information System.

10. Respondent, KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

11. Respondent TODD LYONS is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

12. Respondent MIGUEL VERGARA is the Acting Director of the San Antonio Field Office of ICE – Enforcement and Removal Operations ("ERO"), which has jurisdiction over Petitioner and determines Petitioner's place of custody. He is sued in his official capacity as Petitioner's local custodian and DHS's local decisionmaker.

13. Respondent, **WARDEN OF THE DETENTION CENTER**, is responsible for the day-to-day custody and care of non-citizens detained under the authority of the U.S. Immigration and Customs Enforcement ("ICE") – Enforcement & Removal Operations at the Karnes County Immigration Processing Center, 409 FM1144, Karnes City, Texas 78118, within the jurisdiction

of the United States District Court for the Western District of Texas. Respondent is sued in his official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

14. Respondents Noem and Lyons, who represent DHS and ICE, are properly included herein as the executives of federal agencies within the meaning of the Administrative Procedure Act ("APA").

IV. FACTUAL BACKGROUND

15. Petitioner Neftali Ventura Labra is a citizen and national of Mexico, born in 1991. He has lived in the United States since December 2011—approximately fourteen years—and has continuously resided in the Dallas–Fort Worth region during that time. *See* Ex. B, Documentation Related to Immigration Court Case. Over more than a decade in the United States, he has developed significant community ties, lived with family members who hold lawful permanent resident status, and maintained a stable presence in Texas.

16. Petitioner was placed into removal proceedings after the Department of Homeland Security ("DHS") issued and served upon him a Notice to Appear ("NTA") charging him as removable under INA § 212(a)(6)(A)(i) for entry without inspection. Following issuance of the NTA, Petitioner remained on the non-detained docket, and the Executive Office for Immigration Review ("EOIR") scheduled his Master Calendar Hearing for November 19, 2025, at the Pearsall Immigration Court before Immigration Judge Thomas G. Crossan. *See* Ex. D, EOIR Automated Case Information System.

17. During this period, Petitioner lived openly in Texas, maintained lawful employment, supported his permanent-resident family members, and fully complied with all government requirements. He has never missed a court appearance, violated any immigration condition, or

engaged in conduct that would justify custodial supervision or revocation of his non-detained status.

18. On or about September 2, 2025—nearly fourteen years after entering the United States—Petitioner was unexpectedly arrested following a traffic stop triggered by a third-party report regarding the vehicle he was driving. There is no indication in the record of any new criminal charges, violations, or immigration misconduct. Despite a spotless record and full compliance with all prior obligations, ICE arrested Petitioner and transferred him into detention without providing any individualized determination regarding necessity of custody. After his arrest, EOIR maintained his hearing date but reclassified his matter on the detained docket. *See* Ex. D.

19. Shortly after his apprehension, ICE transferred Petitioner to the Karnes County Immigration Processing Center in Karnes City, Texas—a facility located within the Western District of Texas, San Antonio Division. The ICE Detainee Locator confirms Petitioner's custody at this facility. *See* Ex. A, Proof of Detention in ICE Custody.

20. Prior to this sudden detention, Petitioner lived stably in the North Texas region and maintained strong community and family ties, including a mother and brother who are lawful permanent residents. He has no criminal history, no record of violence, and no conduct that would justify mandatory detention under INA § 236(c). His re-detention on September 2, 2025, did not stem from any criminal activity or violation of supervision, but instead reflects ICE's unilateral decision to reincarcerate a compliant individual based solely on internal agency policy changes.

21. As of the filing of this petition, Petitioner remains detained at the Karnes facility. Despite being placed in § 240 removal proceedings and previously appearing on the non-detained docket, he is now categorically barred from seeking a bond hearing under current ICE and EOIR

policies. These policies—predicated on an erroneous interpretation of the INA—incorrectly treat him as subject to INA § 235(b) mandatory detention, even though Petitioner is indisputably in § 240 proceedings and therefore eligible for a bond hearing under INA § 236(a). The absence of any mechanism for custody review renders his detention indefinite, unauthorized, and constitutionally infirm.

22. Petitioner's continued detention has caused significant hardship to his family, who depend on him for support and stability. Given the government's refusal to permit him a custody redetermination under § 236(a), Petitioner seeks injunctive relief through this habeas filing and will separately request a Temporary Restraining Order directing his immediate release or, alternatively, requiring an individualized bond hearing within seven days.

23. DHS initially placed Petitioner into § 240 removal proceedings and maintained him on the non-detained docket—reflecting the government's acknowledgment that he posed no danger or flight risk. That posture remained unchanged for years until ICE unexpectedly re-arrested him in September 2025, despite his longstanding compliance and deep community ties.

24. ICE's decision to move Petitioner onto the detained docket disregards his substantial equities, years of residence, and perfect compliance history. Individuals in § 240 proceedings are entitled to due process protections, including the statutory right to a bond hearing under INA § 236(a). Yet Petitioner is now treated as if he were an arriving alien seeking admission, despite residing in the United States since 2011 and having long-established roots in Texas.

25. This abrupt reclassification stems from ICE and EOIR's reliance on the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. C, Recent BIA Decisions on Bond. These decisions—issued without notice and comment and inconsistent with the statutory

text—assert that individuals in § 240 proceedings may nevertheless be treated as subject to mandatory detention under § 235(b). For individuals like Petitioner, this framework eliminates immigration-judge authority to consider a bond request despite clear eligibility under § 236(a).

26. The result is that Petitioner is now confined in a remote immigration detention center, held under punitive conditions akin to those imposed on individuals with serious criminal histories—despite having no criminal record, no disqualifying conduct, and no statutory basis for mandatory detention. Each day of unnecessary confinement exacerbates the harm to Petitioner, isolates him from family, hinders his ability to prepare his case, and imposes the psychological strain associated with prolonged civil detention.

27. In sum, Petitioner is a long-term resident of Texas with significant family and community ties, a spotless record, and indisputable eligibility for bond review under INA § 236(a). His re-detention—based solely on agency policies that contradict statutory text and recent federal court decisions—has resulted in arbitrary, unlawful, and unconstitutional confinement. *See* Ex. G, Recent Federal District Court Decisions.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determinations.

28. Immigration detention is governed primarily by two provisions of the INA: Section 235(b) [8 U.S.C. § 1225(b)] and Section 236(a) [8 U.S.C. § 1226(a)]. Whereas Section 236(a) of the INA authorizes the Attorney General to release noncitizens on bond pending removal proceedings, in contrast, Section 235(b) applies to certain categories of "arriving aliens" and mandates detention pending completion of expedited or threshold screening.

29. Congress designed § 236(a) to govern the detention of individuals who, like Petitioner, are in regular removal proceedings under § 240. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

30. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 235(b) mandatory detention and § 236(a) discretionary custody). The Board of Immigration Appeals itself recognized for decades that individuals in § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

31. Despite this clear statutory scheme, DHS has invoked recent BIA decisions (*i.e.*, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)) to strip immigration judges of bond authority in cases such as those of Petitioner. Those decisions, however, cannot override the plain language of the statute.

32. In recent months, a multitude of district courts from across the country have directly addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and unambiguous language of Section 236 of the INA permits noncitizens who arrived without inspection—persons in precisely the same legal circumstances as Mr. Ventura Labra—are eligible to request bond hearings before the immigration court.

33. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is proper to correct statutory misclassification and to preserve the petitioner's due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under § 1226(a), rejecting the Government's assertion that § 1225(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S.

Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause. *See* Ex. G, Appendix of Recent Habeas Decisions. Recently, this Court has also seen fit to grant *immediate release*, in lieu of ordering that an immigration bond hearing be conducted by the federal Respondents. *See Aguinaga Trujillo v. Noem*, 5:25-CV-01266-JKP (W.D. Tex. Nov. 24, 2025) (included in Ex. G).

34. Similarly, recent decisions from district courts within the Fifth Circuit, such as *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), further confirm that courts are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a). *See also Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 3 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, slip op. at 3-4 (S.D. Tex. Oct. 8, 2025) (reviewing new detention policy). This Court should follow suit.

35. These holdings reflect a growing consensus that district courts retain jurisdiction to intervene where detention rests on a statutory misapplication and results in ongoing constitutional harm. The cumulative weight of these decisions underscores that Mr. Ventura Labra is entitled to bond consideration under § 1226(a).

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

36. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

37. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and the recent decisions of multiple federal district courts from around the country, including courts within the Fifth Circuit.

38. INA § 236(a), 8 U.S.C. § 1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

39. By its plain text, Section 236(a) applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) applies.

40. In interpreting the plain language of Section 236(a), various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond application by detained aliens pending the outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

41. Although Mr. Ventura Labra remains detained at the Karnes County Immigration Processing Center after nearly fourteen years of residence in the United States—and despite the fact that DHS has placed him in § 240 removal proceedings through the issuance and filing of a Notice to Appear—Respondents continue to treat him as though his detention were governed by INA § 235, a provision applicable only to individuals at the threshold of entry. The record makes clear that Mr. Ventura Labra has lived in the United States since 2011, previously appeared on the non-detained docket, and was scheduled for a non-detained Master Calendar Hearing on

November 19, 2025. Consequently, his custody is governed by § 236(a) of the INA—not § 235(b)—and he is entitled to seek an individualized bond hearing before an immigration judge.

42. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), despite failing to file the NTA and turning a blind eye to Petitioner's immigrant visa case history, Respondents have acted contrary to statutory authority requiring consideration of such bond application. This policy supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

43. Accordingly, this Court should grant the writ and order that Petitioner receive an individualized bond hearing under INA § 236(a), as recently made clear by the decisions of multiple federal district courts to examine these issues around the country.

Count II – Fifth Amendment Due Process Violation

44. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

45. Petitioner's continued detention without access to an individualized custody redetermination hearing also violates the Due Process Clause of the Fifth Amendment. Prolonged detention without bond review is arbitrary, punitive, and unconstitutional.

46. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

47. Because Petitioner is detained by ICE at the Karnes Couty Immigration Processing Center, he is categorically barred from presenting evidence that he is not a danger to the community and that he poses no risk of flight. Respondents' blanket refusal to provide Petitioner with access to a bond hearing deprives him of the individualized custody determination required by due process and by the unequivocal text of INA § 236(a), which governs detention for individuals in § 240 removal proceedings.

48. Unlike noncitizens subject to mandatory detention for serious criminal offenses under Section 236(c) [8 U.S.C. § 1226(c)], Petitioner has no qualifying convictions that justify a categorical denial of release. His only arrest was conducted by ICE as a result of perceived alienage. The government has no legitimate basis to insist that Petitioner's detention be mandatory, yet he remains confined with no opportunity for release.

49. Denying Petitioner any access to a bond hearing deprives him of procedural protections guaranteed by the Due Process Clause. Moreover, prolonged detention without meaningful review violates the substantive limits of due process, as articulated in *Zadvydas* and *Demore v. Kim*, 538 U.S. 510 (2003).

50. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), despite failing to file the NTA and turning a blind eye to Petitioner's immigrant visa case history, Respondents have acted contrary to statutory authority requiring consideration of such bond application, Respondents have attempted to circumvent the ordinary processing of his immigrant visa application.

51. Petitioner has lived in the United States for nearly fourteen years and has developed strong family and community ties in Texas, including close relationships with his lawful permanent resident mother and brother. There has been no finding that he is a danger to the

community or a flight risk, and indeed, he was previously permitted to remain at liberty on the non-detained docket without any conditions beyond appearing for his scheduled hearing—an obligation he honored without issue. Yet solely because of recent, erroneous BIA decisions—decisions that are not binding in this Circuit—Petitioner has now been categorically denied the process to which he is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

52. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be afforded an immediate bond hearing, or that he be released from custody pending the final outcome of his Section 240 removal proceedings.

Count III – Unlawful Agency Action (APA)

53. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

54. Respondents' continued detention of Petitioner without affording him a bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. The abrupt departure from longstanding precedent without reasoned explanation violates the Administrative Procedure Act.

55. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a), including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *see also* Ex. E, Pre-2025 Unpublished BIA Bond Decisions. That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);

- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");
- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

56. In 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that certain noncitizens who entered without inspection are subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). These decisions abruptly stripped immigration judges of bond authority for a large class of detainees, including Petitioner, without notice-and-comment rulemaking and without reasoned explanation for abandoning prior precedent.

57. The APA requires agencies to engage in reasoned decision-making, and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

58. Although Petitioner has not filed a bond application since being re-detained by ICE on or about September 2, 2025, doing so would be futile, as immigration judges are presently refusing to exercise bond jurisdiction for individuals in his position, expressly relying on the recent shift in BIA precedent. *See* Ex. F, Sample IJ Bond Decision. By treating noncitizens such as Petitioner as subject to mandatory detention under INA § 235(b)—despite their placement in § 240 removal proceedings—Respondents have adopted an unlawful and arbitrary interpretation of the statute that contradicts the plain language of INA § 236(a) and lacks any reasoned administrative justification.

59. Accordingly, Respondents' refusal to provide Petitioner an individualized custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant habeas relief to remedy the violation.

VII. REQUEST FOR INJUNCTIVE RELIEF

60. Petitioner respectfully requests that this Court issue a preliminary injunction directing Respondents immediately to release him under reasonable conditions of supervision, or, in the alternative, to provide him with an immediate individualized custody redetermination hearing under INA § 236(a) within seven (7) days. As explained hereinabove, Petitioner also intends to seek a Temporary Restraining Order through a separate motion that is forthcoming, and upon a final hearing, Petitioner asks for permanent injunctive relief as appropriate.

61. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Mr. Ventura Labra Is Likely to Succeed on the Merits of His Petition.

62. Mr. Ventura Labra has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts including some from within the Fifth Circuit, have already determined that noncitizens in circumstances substantially similar to that of Mr. Ventura Labra, who are detained under Section 236(a), are entitled to individualized bond hearings before an immigration judge.

63. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Mr. Ventura Labra might file—due to the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of Section 236(a).

64. Additionally, Mr. Ventura Labra raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

65. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner's claim is exceptionally strong.

B. Mr. Ventura Labra Will Suffer Irreparable Harm If an Injunction Does Not Issue.

66. If this Court does not grant immediate relief, Mr. Ventura Labra will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Every day

Mr. Ventura Labra remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

67. Even if Mr. Ventura Labra were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. 556 U.S. at 435. Mr. Ventura Labra's ongoing imprisonment without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Mr. Ventura Labra's Favor.

68. The balance of equities tips decisively in Petitioner's favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent, and in this Circuit nonbinding, precedents.

69. There is no evidence that Petitioner poses a danger to the community or a risk of flight, and the dismissal of his recent criminal indictment further diminishes any legitimate basis for continued detention. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

D. There Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

70. Finally, the public interest strongly supports the issuance of an injunction. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating

unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

71. Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.

72. Each factor of the equitable test weighs heavily in Mr. Ventura Labra's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

73. For these reasons, this Court should grant injunctive relief at the earliest possible opportunity, requiring Respondents to release Mr. Ventura Labra at once or to provide him with a bond hearing.

VIII. PRAYER FOR RELIEF

74. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Issue a writ of habeas corpus granting Petitioner's immediate release, or in the alternative, ordering Respondents to provide Petitioner with an individualized bond hearing under INA § 236(a), 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

b. Set this case for a hearing on a preliminary injunction and grant such relief following said hearing;

c. Issue a declaration that DHS may not initiate or pursue expedited removal against Mr. Ventura Labra while his § 240 removal proceedings remain non-final and while he seeks relief from removal before an Immigration Judge;

d. Issue a declaration that the plain language of INA § 236(a) permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

e. Grant permanent injunctive relief as appropriate;

f. Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

g. Grant such other relief as this Court deems just and proper.

DATE: December 1, 2025.

Respectfully submitted,

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COUNSEL FOR PETITIONER

UNSWORN VERIFICATION

My name is JOHN MICHAEL BRAY ("Declarant"), and I am Petitioner's undersigned Counsel. I am above the age of twenty-one (21) years of age, am of sound mind, and am in all ways competent to execute this verification. I hereby declare and acknowledge that I have read the substance of the foregoing document, that I have personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of my knowledge and belief.

Signed pursuant to 28 U.S.C. § 1746 on December 1, 2025.

/s/ John M. Bray
JOHN MICHAEL BRAY,
Declarant