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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

REYES ZAMORA VASQUEZ Plaintiff and Petitioner, vs. JAMES JANECKA, Warden of the Adelanto Detention Center; ERNESTO SANTACRUZ, Jr., Acting Director of the Los Angeles Field Office, United States Immigration and Customs Enforcement; PAM BONDI, Attorney General, United States Department of Justice; KRISTI NOEM, Secretary, United States Department of Homeland Security; TODD LYONS, Acting Director of Unites States Immigration and Customs Enforcement; and DOES 1-5 Defendants-Respondents	Case No.: Hon: **PETITION FOR HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUCTIVE RELIEF;** **AND** **EX PARTE REQUEST FOR TEMPORARY RESTRAINING ORDER**

JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States; the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570 [hereinafter 'INA']; and Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq* [hereinafter "APA"].

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

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

4. This court has further remedial authority pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq..

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

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

7. Plaintiff-Petitioner has exhausted all administrative remedies to the extent available and required by law.

8. Venue properly lies within the Central District of California, because each named Defendant-Respondent is present in this district and a substantial part of the events or omissions giving rise to this action occurred and continue to occur in this District. *See* 28 U.S.C. §1391(b). Petitioner is currently detained within this district to wit, at the Adelanto Detention Facility located at 10400 Rancho Road, Adelanto, CA 92301. Accordingly, the "restraint complained of" is occurring within the Court's territorial jurisdiction. *See* 28 U.S.C. § 2241(a)

9. No petition for habeas corpus has previously been filed in any court to review the legality of the named Plaintiff-Petitioner's detention.

PARTIES

10. Plaintiff-Petitioner Reyes Zamora Vasquez is a 62-year-old national and citizen of Mexico who had resided in the United States for over 33 years prior to his unlawful arrest and detention by Respondents.

11. The U.S. Department of Homeland Security ("DHS") is a cabinet department of the United States federal government with the primary mission of securing the United States.

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

13. Defendant Kristi Noem is the Secretary for DHS. In this capacity, Ms. Noem has responsibility for the administration of immigration laws pursuant to 8 U.S.C. §1103(a), has authority over ICE and its field offices, and has authority to order the release of Plaintiff-Petitioner. At all times relevant to this Complaint, Defendant Noem was acting within the scope and course of her position as the Secretary for DHS. Defendant Noem is sued in her official capacity.

14. Defendant-Respondent Todd Lyons is the Acting Director and Senior Official Performing the Duties of the Director of ICE. Defendant Lyons is responsible for the implementation of all ICE's policies, practices, and procedures, including those relating to detention of non-citizens. Defendant Lyons is a legal and immediate custodian of Plaintiff. At all times relevant to this Complaint, Defendant Lyons was acting within the scope and course of his position as an ICE official. He is sued in his official capacity.

15. Defendant-Respondent Ernesto Santacruz, Jr. is the Acting Director of the Los Angeles Field Office of ICE, which has immediate custody of Plaintiff-Petitioner. He is sued in his official capacity.

16. Defendant James Janecka is the warden of the Adelanto Detention Facility in San Bernardino County, where Plaintiff-Petitioner is currently detained. Defendant Janecka is the immediate, physical custodian of Plaintiff. He is named in his official capacity.

17. The true names or capacities, whether individual, corporate, associate or otherwise, of the Defendants-Respondents named herein as Does 1 through 5 are unknown to Plaintiff-Petitioner, who therefore sues said Respondents by such fictitious names, and Plaintiff will amend this Complaint to show their true names and capacities when ascertained. Does 1 through 5 are the immediate, physical custodians of Plaintiff

FACTS RELEVANT TO ALL CAUSES OF ACTIONS

18. Petitioner is a sixty-two-year-old man who was born in, and is a citizen of, Mexico. Other than being cited for driving without a license he has no criminal arrests or convictions. See Exhibit A.

19. Petitioner entered the United States without inspection in 1992 and has resided in the country continuously ever since. Id.

20. Petitioner has no prior immigration record.

21. He has a 12 years old United States citizen son for whom he is the primary financial provider.

22. His sister is a United States citizen.

23. Mr. Reyes Zamora Vasquez is the beneficiary of an approved I-130 Family Relative Petition and is a grandfathered non-citizen under section 245(i) of the Immigration and Nationality Act (INA) through the protections of the LIFE Act.

24. Upon his arrest Respondents transferred Petitioner to the Adelanto Detention Facility where he remains detained.

25. Mr. Reyes Zamora Vasquez suffers from co-morbidities, including but not limited to high blood pressure, memory complications due to an injury, depression, anxiety and he is also pre-diabetic. These conditions have aggravated significantly while in detention due to insufficient medical care and poor diet.

26. Petitioner was not allowed to apply for or post a bond and remain in custody.

27. The Respondents have refused to release Petitioner from custody on either conditional or humanitarian parole and have denied his request for reasonable accommodation under the Rehabilitation Act.

28. On 3 November 2025 Respondents issued a Notice To Appear (NTA) and placed Petitioner in section 240 proceedings as a person present in the United States without having been admitted or paroled but claim that they have no authority to release him under either section 212(d)(5) or section 246(a). See Exhibit B.

29. No expedited order of removal was ever entered and served on Petitioner.

30. Petitioner's section 240 removal proceedings are ongoing before the EOIR, Adelanto, CA.

RELEVANT IMMIGRATION STATUTORY SCHEME

Section 1225(b)(1) Expedited Removal Proceedings

31. The expedited removal process, created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is codified in INA § 235(b)(1), 8 U.S.C. §1225(b)(1). The INA permits the DHS to summarily remove non-citizens arriving at a designated U.S. port of entry ('arriving aliens') "without further hearing or review" if they are inadmissible either because they (1) lack valid entry documents, or (2) tried to procure their admission into the United States through fraud or misrepresentation. INA § 235(b)(1) also authorizes—but does not require—DHS to extend application of expedited removal to "certain other aliens" inadmissible on the same grounds if they (1) were not admitted or paroled into the United States by immigration authorities and (2) cannot establish at least two years' continuous physical presence in the United States at the time of apprehension.

32. Respondents have implemented expedited removal mainly for three overarching categories of aliens who lack valid entry documents or attempted to falsely procure admission: (1) arriving aliens (defined by regulation as aliens arriving at U.S. ports of entry); (2) aliens who entered the United States by sea without being admitted or paroled into the United States, and who have been in the country less than two years; and (3) aliens apprehended within 100 miles of the

U.S. border within two years of entering the country, and who have not been admitted or paroled.

33. Respondents could not and have not invoked the expedited removal process when they first apprehended Petitioner. See Exhibit B.

Regular or 'Section 240' Removal Proceedings

34. The second option for Respondents under the INA is to initiate what is commonly referred to as "section 240" proceedings, the standard mechanism for removing inadmissible and removable noncitizens. Section 240 removal proceedings take place before an immigration judge (IJ), an employee of the Department of Justice who must be a licensed attorney and has a duty to develop the record in cases before them. 8 U.S.C. § 1229a(a)(1), (b)(1); 8 C.F.R. § 1003.10(a). These are adversarial proceedings in which the noncitizen has the right to hire counsel, file for all relief from removal within the jurisdiction of the immigration judge, examine and present evidence, and cross-examine witnesses. 8 U.S.C. § 1229a(b)(4). Section 240 proceedings typically take place over the course of multiple hearings., thus allowing time for individuals to gather and present evidence in support of petitions for relief available in immigration court (like asylum, adjustment of status, cancellation of removal, etc.) and to seek collateral relief from other components of the Department of Homeland Security (like U and T visa). See 8 U.S.C. §§ 1229a(b)(4)(B), (c)(4), 1229b.

35. After an IJ renders a decision, either party may appeal to the Board of Immigration Appeals. 8 C.F.R. §§ 1240.15, 1003.1. If the Board upholds a removal

order, the noncitizen can appeal that decision to a federal court of appeals via a petition for review. 8 U.S.C. § 1252.

Immigration Detention

36. The INA governs the use of immigration detention both pre- and post-final order. Post-final-order immigration detention is governed by 8 U.S.C. § 1231(a); pre-final-order detention by 8 U.S.C. § 1226.

37. In 8 U.S.C. §§ 1226 and 1231 Congress created different, but interrelated, comprehensive frameworks for detaining criminal and non-criminal non-citizens.

38. Section 1226 authorizes the detention of non-citizens during removal proceedings: section 1226(a) controls non-criminal aliens' detentions, while section 1226(c) controls criminal aliens' detentions. *See* 8 U.S.C. § 1226(a)&(c). Once a non-citizen's removal proceedings are completed ICE's detention authority is controlled by section 1231, which also distinguishes between non-criminal and criminal non-citizens. *See* 8 U.S.C. § 1231.

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

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

40. In connection with § 1226(a), the DHS promulgated regulations setting out the process by which a non-criminal non-citizen may obtain release. The regulations provide that, in order to obtain bond or conditional parole, the "alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." *See* 8 C.F.R. § 1236.1(c)(8).

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

41. Although the Attorney General has broad discretion to release non-criminal non-citizens during the pendency of their removal proceedings, the INA limits the Attorney General's discretion in the case of criminal non-citizens. Specifically, section 1226(c) mandates that "[t]he Attorney General shall take into custody any alien who . . . is deportable by reason of having committed [certain specified offenses]." *See* 8 U.S.C. § 1226(c)(1)(B).

42. Section 1226(c) provides that the Attorney General may release a criminal non-citizen "only if" necessary for narrow witness protection purposes. *See* 8 U.S.C. § 1226(c)(2). Under § 1226(c), custody is mandatory for criminal non-citizens throughout the entirety of their removal proceedings, and there is no statutory possibility for release on bond.

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

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

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

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

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

47. The Courts to have addressed the issue have found the Government invocation of the mandatory detention provision under section 1225 unlawful and have ordered release of non-citizens held in detention based of such erroneous reading of the Immigration and Nationality Act and application of § 1225(b) to noncitizens who, like Petitioner, are not apprehended upon arrival in the United States. *See Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, Dkt 81 (C.D. Cal. Nov 20, 2025); *Rodriguez Vasquez* v. *Bostock,* No. 3:25-CV-05240-TMC,---F.Supp.3d---, 2025 WL 1193850 (W.D.Wash. Apr. 24, 2025); *see also Gomes v. Hyde,* No. 1:25-CV- 11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) granting habeas based on same ground); *Diaz Alartinez v. Hyde,* No. CV 25-11613-BEM,---F.Supp. 3d---2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (ordering release where noncitizen was redetained based on ICE's assertion of detention authority under§ 1225(b)); *Helal v. Janecka*, No. 5:25-CV-02650-HDV-JC, 2025 WL 3190132, at *3 (C.D. Cal. Oct. 24, 2025) (same).

48. Under *Loper Bright v. Raimondo*, this Court should independently interpret the statute and give the BIA's expansive interpretation of § 1225(b)(2) no weight, as it conflicts with the statute, regulations, and precedent. 603 U.S. 369 (2024).

49. 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. Following IIRIRA, the Executive Office for Immigration Review ("EOIR") issued regulations clarifying that individuals who entered the

country without inspection were not considered detained under § 1225, but rather 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) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

50. The statutory context and structure also make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. In 2025, Congress added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted. *See* The Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025) (8 U.S.C. § 1226(c)(1)(E)).

51. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A), Congress made clear that such individuals are otherwise covered by § 1226(a). Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.

52. The Supreme Court has explained that § 1225(b) is concerned "primarily [with those] seeking entry," and is generally imposed "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, 297, 2987 (2018). In contrast, Section 1226 "authorizes the Government to detain certain aliens *already in*

the country pending the outcome of removal proceedings." *Id.* at 289 (emphases added).

53. Furthermore, § 1225(b)(2) specifically applies only to those "seeking admission," and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are "coming or attempting to come into the United States." The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer "seeking admission" or "coming [...] into the United States." *See Martinez v. Hyde*, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *see also Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing "is arriving" in INA § 235(b)(1)(A)(i) and observing that "[t]he use of the present progressive, like use of the present participle, denotes an ongoing process").

54. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who had entered the U.S. approximately 32 years ago.

The Ameliorative Congressional Scheme under section 245(i) and the LIFE Act

55. One of the most important forms of relief under the INA is adjustment of status, colloquially know as 'an application for a green card'. Section 245(a) of the Act allows a non-citizen who has been inspected and admitted or paroled into the United States to adjust his or her status to that of an person lawfully admitted for permanent residence.

To be eligible for adjustment of status under section 245(a), an applicant must make an application for adjustment, be eligible to receive an immigrant visa, be admissible to the United States for permanent residence, and have an immigrant visa immediately available to him or her at the time the application was filed. The applicant must also demonstrate that he or she merits adjustment of status in the exercise of discretion.

56. Section 245(i) of the Act permits adjustment of status for certain grandfathered aliens who are ineligible under section 245(a) because they entered without inspection or who are barred under section 245(c) of the Act. In addition to having been grandfathered, applicants for adjustment of status under section 245(i) must be admissible to the United States, be eligible to receive an immigrant visa, demonstrate that an immigrant visa is immediately available, and establish that adjustment is warranted in the exercise of discretion. *See* sections 245(i)(2)(A)–(B) of the Act; *see also Matter of Rajah,* 25 I&N Dec. 127, 134 (BIA 2009). In most cases, applicants for adjustment under section 245(i) must also pay a $1,000 penalty fee.

57. As originally enacted, section 245(i) permitted an a non-citizen who had entered the United States without inspection or who was barred under section 245(c) to apply for adjustment of status between October 1, 1994, and October 1, 1997, at which time the provision would "sunset." *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995, Pub. L. No. 103-317, § 506(b)–(c), 108 Stat. 1724, 1765–66, (effective Oct. 1, 1994). The 1 October 1997 sunset date was later repealed, and Congress created a new requirement that any application for section 245(i) adjustment had to be based on a visa petition that had

been filed before 14 January 1998. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, Pub. L. No. 105-119, § 111(a)–(b), 111 Stat. 2440, 2458 (enacted Nov. 26, 1997).

58. As relevant to Petitioner, the 14 January 1998 deadline for the filing of qualifying visa petitions was later extended to 30 April 2001. *See* LIFE Act Amendments of 2000, Div. B, Pub. L. No. 106-554, § 1502(a)(1), 114 Stat. 2763, 2763A-324 (enacted Dec. 21, 2000) ("LIFE Act Amendments") (effective as if included in the enactment of the Legal Immigration Family Equity Act, tit. XI, Pub. L. No. 106-553, 114 Stat. 2762, 2762A-142 (2000) ("LIFE Act")).

59. After the enactment of the LIFE Act and the LIFE Act Amendments, only non-citizens who were grandfathered by a qualifying visa petition or labor certification remained eligible for section 245(i) adjustment beyond the 30 April 2001 sunset date.

60. Although the term does not appear in the Act, the regulations define a "grandfathered alien" as "an alien who is the beneficiary (including a spouse or child of the alien beneficiary if eligible to receive a visa under section 203(d) of the Act)" of a qualifying visa petition or labor certification that was filed on or before 30 April 2001. 8 C.F.R. § 1245.10(a)(1)(i). Petitioner is one such 'grandfathered alien' who by Congressional pronouncement is forgiven the entry without inspection inadmissibility ground based on the I-130 Petition filed by his sister. See Exhibit C.

COUNT ONE

Detention in Violation of the Fifth Amendment
(substantive due process)
Against all Defendants

61. Petitioner repeats and incorporates by reference all allegations in paragraphs 18 to 60 above.

62. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

64. Respondents cannot show any "special justification" or compelling governmental interest which would outweigh Petitioners' constitutional liberty.

65. Petitioner is not a danger to anyone or flight risk.

66. The governmental interest in the continued detention of these least-dangerous individuals does not and cannot outweigh the liberty interest at stake.

COUNT TWO
Violation of Fifth Amendment Right
Procedural Due Process
Against All Defendants

67. Petitioner repeats and incorporates by reference all allegations in paragraphs 18 to 60 above.

68. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.

69. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

70. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner's release.

71. Petitioner's private interest in freedom from detention is profound. The interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("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 protects.").

72. The risk of erroneous deprivation is exceptionally high. Petitioner has never been arrested and has deep ties to the community.

73. The government's interest in detaining Petitioner without due process is minimal. Immigration detention is civil, not punitive, and may only be used to prevent

danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.

74. Furthermore, the "fiscal and administrative burdens" of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.

75. Considering these factors, Petitioner respectfully requests that this Court order her immediate release from custody or in the alternative order that he be provided with a bond hearing before an immigration judge where Respondents bear the burden of proof.

COUNT THREE
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond
Against All Respondents

76. Petitioner repeats and incorporates by reference all allegations in paragraphs 18 to 60 above.

77. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a). Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

78. Petitioner has not been, and will not be, provided with a bond hearing by Respondents as required by law unless the Court so order.

79. Petitioner's continuing detention is therefore unlawful.

COUNT FOUR
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19

Against All Respondents

80. Petitioner repeats and incorporates by reference all allegations in paragraphs 18 to 60 above.

81. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service ("INS") issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

82. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FIVE

Non-Statutory Ultra Vires Action/Accardi Doctrine Violation
Against all Defendants

83. Petitioner repeats and incorporates by reference all allegations in paragraphs 18 to 60 above.

84. There is no statute, constitutional provision, or other source of law that authorizes Respondents to detain Petitioner under the circumstances of this case.

85. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents' ultra vires actions in holding him in punitive immigration detention without an opportunity to be heard and apply for a bond.

86. Under the *Accardi* doctrine, Petitioner also has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

87. Respondents violated agency regulations governing who and upon what findings it may holding individual without an opportunity for release.

COUNT SIX
(Violation of the Rehabilitation Act – Failure to Provide Reasonable Accommodation to Persons with Disabilities)
Against All Defendants

88. Petitioner repeats and incorporates by reference all allegations in paragraphs 1 to 60 above.

89. Section 504 of the Rehabilitation Act requires federal agencies to provide "reasonable accommodations" to individuals with disabilities so they can fully participate in benefits administered by these agencies. (29 U.S.C. § 794(a)).

90. DHS regulations implementing the Rehabilitation Act mandate that "[n]o qualified individual with a disability in the United States, shall, by reason of his or her disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Department." (6 C.F.R. § 15.30; see also 29 U.S.C. § 794(a).

91. The regulations implementing Section 504 prohibit entities receiving federal financial assistance from utilizing "criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons." (34 C.F.R. § 104.4(b)(4).)

92. Petitioner has a multiple comorbidities and suffers from high blood pressure, memory and cognitive issues, headaches, and anxiety. See Exhibit A. He requires prescription medication and medical monitoring. Petitioner's medical conditions qualify as disabilities under the Rehabilitation Act and they affect his daily life functions such as reading, stooping, bending, sleeping, and working.

93. Petitioner has been denied access to medical care, prescription medications, food appropriate for comorbidities, and preventive care.

94. The removal proceedings under section 240 and release under section 236(a) as codified in the INA are a benefit or program administered by Respondents and Petitioner is entitled to participate in them. The services, programs, and activities within the detention centers where DHS detains non-citizens receive substantial federal financial assistance.

95. Medical care as promulgated and mandated by ICE National Detention Standards (NDS) 2019 and/or the Performance-Based National Detention Standards

2011 (amended 2016) is a benefit or program administered by Respondents and Petitioner is entitled to participate and receive the benefits of said program.

96. Petitioner's underlying medical conditions qualify as disabilities for purposes of the Rehabilitation Act. (29 U.S.C. §705(2)(B); 42 U.S.C. § 12102).

97. Petitioner has requested a reasonable accommodation such as conditional and/or humanitarian parole but has been denied said.

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SUBSTANTIAL LIKELIHOOD OF SUCCESS

98. Petitioner repeats and incorporates by reference all allegations in paragraphs 1 to 97 above.

99. As shown above Petitioner has shown substantial likelihood of success on her statutory and constitutional claims.

NOTICE AND IRREPARABLE HARM

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

101. Petitioner has resided in the United States for over 32 years and have established deep roots in the communities. Petitioner is the beneficiary of an approved I-130 Petitioner and grandfathered under section 245(i) of the INA. His

sister is a United States citizen and he has a child who is a United States citizen. Because of his unlawful arrests and detention he has been separated from his family members for whom he is the primary provider. He is experiencing severe emotional distress. See Exhibit A.

102. "It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). "When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (cleaned up). Permitting continued violations of federal law would serve "neither equity nor the public interest." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022). Thus, the public interest weighs in favor of the Petitioner because continued detention without the legal protections afforded by the INA, Due Process, and the prohibition against non-refoulement potentially violates his due process and statutory rights. *See Xuyue Zhang v. Barr*, 612 F.Supp.3d 1005, 1017 (C.D. Cal. 2019) ("Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.").

103.

PRAYER FOR RELIEF

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

(1) Issue a Temporary Restraining Order ordering release of Petitioner pending resolution of this case or in the alternative that Respondents provide him with a constitutionally valid bond hearing before an Immigration Judge;

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

(3) In the alternative, issue injunctive relief ordering Respondents to immediately release Petitioner, on the ground that his continued detention violates Plaintiff's constitutional due process rights;

(4) Issue an injunction ordering Respondents not to arrest and detain Petitioner without a proper finding that he has committed a violation of the conditions of release or bond;

(5) Issue an injunction ordering Respondents not revoke Petitioner's grant of release without providing prior written notice, an opportunity to respond, and be represented by counsel prior to deprivation of liberty when the individual is not yet subject to a final order of removal;

(6) Issue an injunction prohibiting the transfer of Petitioner outside of the jurisdictional limits of this Court;

(7) Enter a judgment declaring that Respondents' detention of Petitioner is and will be unauthorized by statute and contrary to law;

(8) Award Petitioner reasonable costs and attorney fees.

Date: 12/2/2025

Verified and Submitted by

s/ Nicolette Glazer Esq.
Nicolette Glazer Esq.
LAW OFFICES OF LARRY R GLAZER
1875 Century Park East #700
Century City, CA 90067
T: 310-407-5353
F: 310-407-5354
nicolette@glazerandglazer.com
ATTORNEY FOR PETITIONER

I, Reyes Zamora Vasquez, hereby declare under penatly of perjury that the following is trus and correct:

1. I am native and citizen of Mexico. I first entered the United States in 1992'
2. I am legally married in Mexico, but have no contact with my wife. I am the father of a 12-year-old United States citizen son, whose mother is not my wife;
3. I entered the United States without inspection and without proper paperwork. I have resided in the United States since then without having any departures;
4. On or about April 30, 2001, my sister, Maria Sanchez, a United States citizen filed an I-130 petition for me;
5. Presently I am in Immigration and Customs Enforcement custody in Adelanto, California;
6. I am now 62 years of age and suffer from high blood pressure, memory complications due to an injury, depression, anxiety and I am pre-diabetic;
7. Being in custody has had a tremendous impact on my mental health. I am without my family, without my son, and with no access to anyone that is able to provide me with moral or emotional support;
8. Without the support of my family I am feeling more depressed and anxious over my wellbeing. Being without my family is having a severe impact on my mental health;
9. I have very limited access to any form of mental health support in this detention facility;
10. Also, I understand that the purpose of these immigration proceedings is to determine whether I may remain in this country;
11. This has caused me significant stress. I have been in this country for more thasn 30 years. My entire life exists in this country and no where else.
12. The idea that my life in this country will come to an end has impacted my mental wellbeing.
13. I am having thoughts of despair and abandonment. I fear for my safety. I fear for the safety of my son. I fear that I will never see my family again.
14. I have been cited before for not having a license, but have no other offenses;
15. I have always maintained employment, and have always provided for my son, and my extended family;
16. In due time I will be able to adjust my status by way of my sisters petition.

Thank you

I, YOLANDA TORRES, certify that I am fluent in both English and Spanish, and that the attached document is a true and accurate translation of the document titled:

Date: 11/24/2025

Yo, Reyes Zamora Vásquez, declaro bajo pena de perjurio que lo siguiente es verdadero y correcto:

1. Soy originario y ciudadano de México. Ingresé a Estados Unidos por primera vez en 1992.

2. Estoy legalmente casado en México, pero no tengo contacto con mi esposa. Soy padre de un hijo de 12 años, ciudadano estadounidense, cuya madre no es mi esposa.

3. Ingresé a Estados Unidos sin inspección ni la documentación adecuada. He residido en Estados Unidos desde entonces sin haber salido de él.

4. Alrededor del 30 de abril de 2001, mi hermana, María Sánchez, ciudadana estadounidense, presentó una petición I-130 en mi nombre.

5. Actualmente me encuentro bajo custodia del Servicio de Inmigración y Control de Aduanas (ICE) en Adelanto, California.

6. Tengo 62 años y sufro de presión arterial alta, problemas de memoria debido a una lesión, depresión, ansiedad y soy prediabético.

7. Estar bajo custodia ha tenido un impacto tremendo en mi salud mental. Estoy sin mi familia, sin mi hijo y sin acceso a nadie que pueda brindarme apoyo moral o emocional.

8. Sin el apoyo de mi familia, me siento más deprimido y ansioso por mi bienestar. Estar sin mi familia está teniendo un impacto grave en mi salud mental.

9. Tengo acceso muy limitado a cualquier tipo de apoyo de salud mental en este centro de detención.

10. Además, entiendo que el propósito de estos procedimientos de inmigración es determinar si puedo permanecer en este país.

11. Esto me ha causado un estrés significativo. Llevo más de 30 años en este país. Mi vida entera existe en este país y en ningún otro lugar.

12. La idea de que mi vida en este país llegue a su fin ha afectado mi bienestar mental.

13. Tengo pensamientos de desesperación y abandono. Temo por mi seguridad. Temo por la seguridad de mi hijo. Temo no volver a ver a mi familia. 14. He recibido citaciones anteriormente por no tener licencia, pero no tengo otras infracciones.

15. Siempre he mantenido un empleo y he mantenido a mi hijo y a mi familia.

16. A su debido tiempo podré ajustar mi estatus migratorio mediante la petición de mi hermana.

Gracias.

_____ Fecha: 11/24/202

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [redacted]

Event No: [redacted]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] FINS: 1389399783 File No: [redacted]

In the Matter of:

Respondent: REYES ZAMORA-VAZQUEZ currently residing at:

[redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near Unknown Place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

10250 RANCHO RD, STE 201A ADELANTO, CALIFORNIA 92301
(Complete Address of Immigration Court, including Room Number, if any)

on December 4, 2025 *(Date)* at 8:30 am *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

I. 9515-PALACIOS - ACTING SDDO
(Signature and Title of Issuing Officer)

Date: November 3, 2025 ADELANTO, CA
(City and State)

EOIR – 1 of 3

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/I-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

_____
(Signature of Respondent)

Date: _____

_____
(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on November 3, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

REFUSED TO SIGN
(Signature of Respondent if Personally Served)

A 8711 MARTINEZ - Deportation Officer
(Signature and Title of officer)

EOIR – 2 of 3

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR – 3 of 3