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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

OSCAR LEONARDO FLORES, Petitioner, v. CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center, San Diego, California; DANIEL A. BRIGHTMAN, Field Office Director, San Diego Office of Detention and Removal, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security; TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security; DAREN K. MARGOLIN, Acting Director for Executive Office for Immigration Review; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAM BONDI, Attorney General of the United States; Respondents.	CIVIL CASE NO.: '25CV3552 TWR DEB AGENCY NO. **PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

INTRODUCTION

1. Petitioner, Oscar Leonardo Flores (hereinafter "Mr. Leonardo Flores" or "Petitioner"), has been residing in the United States since 2001 and was apprehended by immigration authorities on October 7, 2025 in San Diego, California in a widescale immigration enforcement action.

2. Mr. Leonardo Flores is in the physical custody of Respondents at the Otay Mesa Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

3. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

4. Based on this allegation in Petitioner's removal proceedings, Mr. Leonardo Flores is not being given a custody redetermination hearing pursuant to new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges,

holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

7. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

8. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS)

have blatantly refused to abide by the declaratory relief and have unlawfully denied the opportunity for Petitioner to be released on bond.

9. Mr. Leonardo Flores is a member of the Bond Eligible Class, as he:

(a) does not have lawful status in the United States and is currently detained at the Otay Mesa Detention Cener. He was apprehended by immigration authorities on October 7, 2025;

(b) entered the United States without inspection over 24 years ago and was not apprehended upon arrival, *cf. id.*; and

(c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

10. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

11. The Court should expeditiously grant this petition.

12. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his/her/their clear entitlement to consideration for release on bond as a Bond Eligible Class member.

13. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that

instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

14. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

15. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

PARTIES

16. Petitioner, Oscar Leonardo Flores, is a citizen of Mexico who has been detained by Immigration and Customs Enforcement ("ICE") since approximately October 7, 2025. Exhibit A, Declaration of Mr. Leonardo Flores ("Leonardo Flores Decl.) ¶ 1.

17. Respondent Christopher J. LaRose is the Senior Warden of Otay Mesa. He is employed by CoreCivic, a private, for-profit corporation that owns and manages private prisons and detention centers. Respondent LaRose is the immediate physical custodian of Petitioner. He is sued in his official capacity.

18. Respondent Daniel A. Brightman is the San Diego ICE Field Office Director. In this capacity, he has responsibility for and authority over the detention and removal of noncitizens housed at Otay Mesa; is authorized to release Petitioner; and is a legal and immediate custodian of Petitioner. He has supervisory authority

over ICE detention and deportation officers assigned to Otay Mesa. He is sued in his official capacity.

19. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As the highest-ranking officer for ICE, he has authority over all of the policies challenged in this action. He is sued in his official capacity.

20. Respondent Daren K. Margolin is the Acting Director for Executive Office for Immigration Review, which is a component agency of the Department of Justice responsible for conducting removal and bond hearings of noncitizens. EOIR is comprised of a lower adjudicatory body administered by immigration judges and an appellate body known as the Board of Immigration Appeal (BIA). Immigration judges issue bond redetermination hearing decisions, which are then subject to appeal to the BIA. He is sued in his official capacity.

21. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS"), and is sued in her official capacity. The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).

22. Respondent Pam Bondi is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States.

JURISDICTION AND VENUE

23. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); United States Constitution Article I, Section 9 (Suspension Clause).

24. Petitioner is currently detained in the custody of Respondents at the Otay Mesa Detention Facility in San Diego, California. Venue lies in the United States District Court for the Southern District of California, the judicial district in which Petitioner is currently in custody. Venue is proper in the Southern District of California under 28 U.S.C.A. § 1391, as venue is proper in any district in which a defendant resides, and a substantial part of the events giving rise to Petitioner's claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

25. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for class members in *Maldonado Bautista.*

26. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action

from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

EXHAUSTION OF REMEDIES

27. "Exhaustion can be either statutorily or judicially required." *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004).

28. Petitioner has no administrative remedies to exhaust.

29. While 28 U.S.C. § 2241 "does not specifically require petitioners to exhaust direct appeals before filing petitions for habeas corpus," the Ninth Circuit "require[s], as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Castro-Cortez v. INS,* 239 F.3d 1037, 1047 (9th Cir. 2001), abrogated on other grounds by, *Fernandez Vargas v. Gonzales*, 548 U.S. 30 (2006).

30. "[A] court may waive the prudential exhaustion requirement if 'administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.'" *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

31. In this case, exhaustion would be futile because the Board of Immigration Appeals is obligated to apply the binding precedent of *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) to find that detention is mandatory

under 8 U.S.C. § 1225(b)(2). *See, e.g., Garcia v. Noem*, No. 25-CV-2180-DMS-MMP, 2025 WL 2549431, at *4-5 (S.D. Cal. Sept. 3, 2025); *Valdovinos v. Noem*, No. 25-CV-2439 TWR (KSC), slip op. at 9 (S.D. Cal. Sept. 25, 2025). As such, exhausting administrative remedies would be futile.

32. Notably, Mr. Leonardo Flores requested a bond hearing on December 1, 2025. *See* Leonardo Flores Decl. at ¶ 40. He was scheduled for a bond hearing on December 8, 2025. *Id.* at ¶ 41. Before beginning his bond hearing, the Immigration Judge advised the courtroom that she was bound by *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) and would not be finding jurisdiction for any detainees arguing *Bautista-Maldonado*. *Id.* at ¶ 43. As such, she indicated Petitioner's had one opportunity to withdraw or face denial. *Id.* Mr. Leonardo Flores sought to withdraw his bond request due to intimidation and is now seeking assistance from this honorable Court. *Id.* at ¶ 44.

33. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr. Leonardo Flores's constitutional, statutory, and regulatory rights and restore his liberty.

LEGAL FRAMEWORK

34. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

35. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See*

8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

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

39. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

40. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal

1 of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg.
2 10312, 10323 (Mar. 6, 1997).
3
4 41. Thus, in the decades that followed, most people who entered without
5 inspection, unless they were subject to some other detention authority, received
6 bond hearings. That practice was consistent with many more decades of prior
7 practice, in which noncitizens who were not deemed "arriving" were entitled to a
8 custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994);
9 see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
10 "restates" the detention authority previously found at § 1252(a)).
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12 42. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new
13 policy that rejected well-established understanding of the statutory framework and
14 reversed decades of practice.
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16 43. The new policy, entitled "Interim Guidance Regarding Detention
17 Authority for Applicants for Admission,"1 claims that all persons who entered the
18 United States without inspection shall now be subject to mandatory detention
19 provision under § 1225(b)(2)(A). The policy applies regardless of when a person is
20 apprehended, and affects those who have resided in the United States for months,
21 years, and even decades.
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23 44. On September 5, 2025, the BIA adopted this same position in a
24 published decision, *Matter of Yajure Hurtado*. There, the Board held that all
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noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

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

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

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

48. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the

Rodriguez Vazquez court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

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

50. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

51. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

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1 **STATEMENT OF FACTS**

2 52. Mr. Leonardo Flores has resided in the United States since 2001 and
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4 lives in Escondido, California. *See* Exhibit A, Leonardo Flores Decl. ¶ 3; *see also*
5 Exhibit B, Petitioner's Notice to Appear.

6 53. On October 7, 2025, he was arrested by immigration authorities as part
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8 of a widescale immigration enforcement action at a gas station in Escondido,
9 California. *See* Leonardo Flores Decl. ¶¶ 4, 27.

10 54. In 2013, Mr. Leonardo Flores was placed in removal proceedings after
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12 he was arrested and ultimately convicted of a PC 415(3), disturbing the peace
13 infraction. *Id.* ¶ 16. Mr. Leonardo Flores's other criminal matter involved a 2015
14 DUI misdemeanor that he completed all court requirements for. *Id.* ¶ 17.
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16 55. Upon commencing removal proceedings against the Petitioner, ICE
17 charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. §
18 1182(a)(6)(A)(i) as someone who entered the United States without inspection. *See*
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20 Exh. B.

21 56. He attended all immigration court hearings, and on December 9, 2015,
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23 his case was administratively closed by the San Diego Immigration Court. *See*
24 Leonardo Flores Decl. ¶¶ 19; *see also* Exh, C, Immigration Judge Order Granting
25 Administrative Closure.
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57. In July 2025, the Department of Homeland Security moved to recalendar his case, which the Immigration Court granted, and the Immigration Court scheduled a hearing for February 27, 2026. *See* Exhs. D-E.

58. Mr. Leonardo Flores was aware of his scheduled Master Calendar Hearing on February 27, 2026 and intended to appear. *See* Leonardo Flores Decl. ¶ 25.

59. Despite already being scheduled for a non-detained hearing, Mr. Leonardo Flores was abruptly detained by ICE on October 7, 2025, near a gas station in Escondido.

60. He was taken to Otay Mesa Detention Center, where he remains detained. His previously scheduled Master Calendar Hearing has been vacated as his case has now been transferred to the detained docket.

61. He was finally scheduled for a bond hearing before the Otay Mesa Immigration Court on December 8, 2025 at 8:30AM. *See* Exh. F.

62. However, at the start of the bond hearing on December 8, 2025, the Immigration Judge indicated to everyone in the courtroom audience that she was bound by *Matter of Yajure-Hurtado* and would allow detainees and their counsel one opportunity to withdraw their bond request or be denied bond. *See* Leonardo Flores Decl. ¶ 43.

63. Given the immigration judge's refusal to consider Petitioner's bond request and the immigration Court's refusal to adhere to *Bautista-Maldonado*, the

Petitioner felt intimidated and forced to withdraw his bond hearing request.. *Id.* ¶ 44.

64. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from their family and community.

CLAIMS FOR RELIEF

COUNT ONE
Violation of the INA

65. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

67. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

68. Moreover, as a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

69. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

70. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

71. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

72. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista.*

COUNT TWO

Violation of the Bond Regulations

73. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

74. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service 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 (emphasis added). 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.

75. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

76. 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 THREE

Violation of Due Process

77. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

78. The government may not deprive a person of life, liberty, or property 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 the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

79. Petitioner has a fundamental interest in liberty and being free from official restraint.

80. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully pray the Court to:

1) Assume jurisdiction over this matter;
2) Order that Petitioner shall not be transferred outside the Southern District of California while this habeas petition is pending;
3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;
4) Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
5) Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, other statute; and
6) Grant any other and further relief this Court deems just and proper.

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DATED this 12th of December, 2025

By: s/ Priscilla Merida

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated this 12th of December, 2025

By: s/ Priscilla Merida

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