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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA (LAS VEGAS)**

8 * * *

9 Alexis Ivan VENEGAS BANUELOS

10 Petitioner,

11 vs.

12 Kristi NOEM, Acting Secretary of the
13 United States Department of Homeland
14 Security;


15 Pamela BONDI, Attorney General of the
16 United States;

17 Jason KNIGHT, Salt Lake City Acting Field
18 Office Director, Enforcement and Removal
19 Operations, U.S. Immigration and Customs
20 Enforcement;

21 John MATTOS, Warden at Southern
22 Nevada Southern Detention Center.

23 Respondents

Case No.

Agency No. 

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

1 Petitioner, Alexis Ivan Venegas Banuelos, petitions this Court for a writ of habeas corpus
2 to remedy his unlawful detention by Respondents, as follows:

3
4 **INTRODUCTION**

- 5 1. This is a Petition for Writ of Habeas Corpus filed on behalf of Alexis Ivan Venegas
6 Banuelos (“Petitioner”) seeking relief to remedy his unlawful detention. Respondents are
7 detaining Mr. Venegas Banuelos due to their new policy interpreting the provision of 8
8 U.S.C. §1225 (b)(2) which subjects individuals to mandatory detention to persons that
9 entered the U.S. without inspection and have been residing in the U.S. for years, instead
10 of applying 8 U.S.C. 1226(a) which would allow them to seek discretionary release on
11 bond during the pendency of their removal proceedings.¹ The government’s nationwide
12 policy has been affirmed by the Board of Immigration Appeals (“BIA”) precedential
13 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
14
15 2. On November 20, 2025, the U.S. District Court for the Central District of California
16 issued a partial summary judgment declaring the DHS policy affirmed by *Matter of*
17 *Yajure Hurtado* is unlawful. *Bautista v. Santacruz*, 25-CV-01873, 2025 WL 3289861, at
18 *11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the U.S. District Court for the
19 Central District of California extended the ruling nationwide when it certified a class
20 consisting of:
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25 ¹ See Interim Guidance Regarding Detention Authority for Applicants for Admission, available at
26 <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 [a]ll noncitizens in the United States without lawful status who (1)
2 have entered or will enter the United States without inspection; (2)
3 were not or will not be apprehended upon arrival; and (3) are not or
4 will not be subject to detention under 8 U.S.C. § 1226(c), §
1225(b)(1), or § 1231 at the time the Department of Homeland
Security makes an initial custody determination.

5 *Bautista v. Santacruz*, No. 25-CV-01873, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 20,
6 2025).

- 7
- 8 3. In addition to the nationwide ruling, this Court has recognized on various occasions that
9 noncitizens in Petitioner’s circumstances are subject to detention under § 1226(a). *See,*
10 *e.g., Ramriez v. Noem*, 25-CV-02136, 2025 WL 3270137, at *2 (D. Nev. Nov. 24, 2025).
- 11 4. Prior to this policy and BIA decision, Petitioner would have been eligible for a bond
12 hearing under 8 U.S.C. §1226(a) to assess his danger to the community and risk of flight.
- 13 5. Furthermore, in the event that an Immigration Judge grants the Petitioner a bond, the U.S.
14 Department of Homeland Security (“DHS or “Department” or “Government”) has been
15 systemically invoking the automatic stay under 8 C.F.R. §1003.19(i)(2), which keeps an
16 individual detained throughout his removal proceedings including the appeals process,
17 even if the individual is successful on the merits of his case.
- 18 6. It is immaterial whether the Petitioner appeals his bond denial to the BIA, because in
19 *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220–28 (BIA 2025), the BIA has established
20 precedent which results in the Immigration Judges’ bond determinations and orders
21 continued detention without bond. Consequently, any such appeal would be futile, as the
22 BIA is now uniformly applying this decision to deny bond relief.
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- 1 7. Mr. Venegas Banuelos is a 23-year-old individual who was brought to the United States
2 when he was 10 months old and has lived here ever since. He knows no other home or
3 way of life beyond the country in which he was raised. Throughout his time in the United
4 States, he has led an honest and constructive life. His record reflects only a single
5 misdemeanor DUI arrest under N.R.S. § 484C.110 and traffic citations—isolated
6 incidents that do not define his character.
7
- 8 8. A status check is scheduled for January 27, 2026 for his DUI arrest. This incident
9 occurred on November 23, 2025. Soon after Mr. Venegas Banuelos’s arrest, he was
10 transferred to the custody of Immigration and Customs Enforcement (ICE). Mr. Venegas
11 Banuelos has not been convicted of any criminal offense in his time residing in the United
12 States. This is Mr. Venegas Banuelos’s only criminal arrest in his twenty years of residing
13 in the United States.
14
- 15 9. On November 24, 2025, Petitioner was detained by United States Immigration and
16 Customs Enforcement (“ICE”) and will likely remain detained indefinitely, even if he
17 prevails on any application for relief from removal he files throughout the entirety of his
18 removal proceedings.
19
- 20 10. Mr. Venegas Banuelos faced significant academic challenges throughout his schooling
21 and was placed on an Individualized Education Program (IEP), which provided him with
22 special educational supports to address his learning needs. Despite his consistent effort
23 and determination, he was ultimately unable to complete high school and entered the
24 workforce instead. Since then, Mr. Venegas Banuelos has worked diligently in
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1 construction and window-washing jobs, consistently demonstrating a strong work ethic
2 and commitment to supporting himself and his family. He is deeply loved by his siblings
3 and parents, who describe him as a caring and dependable son and brother. Importantly,
4 his criminal history is minimal and limited only to this single arrest and a traffic violation.
5

6 11. Mr. Venegas Banuelos also has a history of depression and anxiety. Earlier this year, the
7 end of his five-year relationship deeply affected him, leading to a period of intensified
8 depression during which he began drinking as an unhealthy coping mechanism. This
9 incident does not reflect an ongoing alcohol problem, but rather the actions of a young
10 person struggling with social anxiety, special-education challenges, and the emotional
11 impact of suddenly feeling alone after the loss of a long-term partner.
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13 12. Due to his mental health history, including depression, anxiety, and the social and
14 educational challenges he has faced since childhood, detention has been especially
15 devastating for him. The isolation and uncertainty of confinement have intensified his
16 symptoms, leaving him overwhelmed, fearful, and emotionally vulnerable. What may be
17 a difficult experience for many is, for him, an oppressive and destabilizing environment
18 that he is uniquely ill-equipped to cope with given his intellectual limitations and fragile
19 mental health.
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21 13. His unlawful detention is not justified under the Constitution nor the Immigration and
22 Nationality Act (“INA”). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 858-59 (2018)
23 (leaving the door open for Constitutional claims challenging the prolonged detention of
24 immigrant detainees pre-final order of removal); *see also Vazquez v. Feeley*, 2025 U.S.
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1 Dist. LEXIS 182412, 2025 LX 460110, 2025 WL 2676082 (D. Nev. Sep. 17, 2025); *see*
2 *also Roman v. Noem*, No. 25-CV-01684-RFB-EJY, 2025 WL 2710211 (D. Nev. Sep. 23,
3 2025).
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5 14. Although no circuit court has yet addressed this precise question, more than two hundred
6 federal district courts, including this one, have held that applying 8 U.S.C. § 1225(b)(2)
7 to impose mandatory detention is unlawful. *See Ramirez*, 2025 WL 3270137, at *2.
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9 15. A federal court in this District has likewise granted relief in at least twelve similar cases.
10 *See Mendez v. Noem*, 2025 U.S. Dist. LEXIS 219483, at 4 *n.4*.

11 16. These courts have recognized that DHS's new policy and the BIA's reasoning in *Matter*
12 *of Yajure Hurtado* misapply 8 U.S.C. § 1225(b)(2) to cases like Petitioner's, when the
13 proper authority lies under 8 U.S.C. § 1226(a). This growing body of authority
14 underscores the fundamental error in treating Petitioner as subject to mandatory
15 detention.
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17 17. The government's position which has been affirmed by the Board of Immigration
18 Appeals, that Petitioner is an "applicant for admission" subject to mandatory detention
19 under INA § 235(b)(2)(A) and ineligible for bond, has resulted in Petitioner remaining
20 detained at the Nevada Southern Detention Center.
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22 18. Petitioner's continued detention is in violation of the Due Process Clause of the Fifth
23 Amendment. His mandatory detention is not justified under the Constitution or the INA.
24 Mr. Venegas Banuelos seeks an order from this Court finding that his continued detention
25 is unlawful and directing the Respondents to provide Mr. Venegas Banuelos with a
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1 custody hearing within seven (7) days under 8 U.S.C § 1226(a), and to enjoin the
2 government from denying bond on the ground that he is detained under § 1225(b)(2). If
3 the government fails to provide the required bond hearing, Petitioner further requests his
4 immediate release.
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6 19. Furthermore, if the Immigration Judge finds that Mr. Venegas Banuelos is not a danger
7 to the community or flight risk and is given a bond, that he be allowed to post the bond,
8 prohibiting the U.S. Department of Homeland Security to seek an automatic stay under
9 8 C.F.R. §1003.19(i)(2), or in the alternative provide a status conference to monitor the
10 case.
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12 20. In the event, Mr. Venegas Banuelos is successful with his bond request, he further
13 requests the Respondents be enjoined from re-detaining Mr. Venegas Banuelos
14 throughout his removal proceedings and any appellate process, including judicial review,
15 unless Mr. Venegas Banuelos is arrested for a new alleged crime and that he be afforded
16 another bond hearing under 8 U.S.C. 1226(a); INA 236(a).
17

18 **CUSTODY**

19 21. Petitioner is in the physical custody of Respondents and ICE. At the time of the filing of
20 this petition, Mr. Venegas Banuelos is detained at the Nevada Southern Detention Center
21 in Pahrump, Nevada. The Nevada Southern Detention Center contracts with DHS to
22 detain aliens such as Mr. Venegas Banuelos. Mr. Venegas Banuelos is under the direct
23 control of Respondents and their agents.
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JURISDICTION

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2 22. This action arises under the Constitution of the United States and the Immigration and
3 Nationality Act, 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”),
4 5 U.S.C. § 701, et seq.

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6 23. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States
7 Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in
8 custody under color of authority of the United States, and such custody is in violation of
9 the Constitution, laws, or treaties of the United States.

10
11 24. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All-
12 Writs Act, 28 U.S.C. § 1651. While Section 1226(e) of the INA precludes an alien from
13 challenging a discretionary judgment by the Attorney General or a decision that the
14 Attorney General has made regarding their detention or release, *see Jennings v.*
15 *Rodriguez*, 138 S. Ct. 830, 841 (2018), Section 1226(e) “does not preclude challenges to
16 the statutory framework that permits the alien’s detention without bail.” *Jennings*, 138 S.
17 Ct. at 841. Moreover, this court has already determined in *Vazquez v. Feeley*, that none
18 of the jurisdiction stripping provisions of the INA such as 8 U.S.C. §§1252 (b)(9),
19 1252(g), 1252(a) and 1226(e) are applicable here.
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VENUE

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23 25. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 500, 93 S.
24 Ct. 1123, 1132, 35 L. Ed. 2d 443 (1973), venue lies in the United States District Court
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1 for Nevada, the judicial district where Petitioner currently is detained, pursuant to 28
2 U.S.C. §1391(e).

3 **PARTIES**

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5 26. Petitioner, Alexis Ivan Venegas Banuelos, is a native and citizen of Mexico, who has
6 lived continuously in the U.S. since 2003. Mr. Venegas Banuelos has been in the custody
7 of Respondents since November 24, 2025.

8 27. Respondent Kristi Noem is the Acting Secretary of the Department of Homeland
9 Security. She is responsible for the implementation and enforcement of the Immigration
10 and Nationality Act (INA) and oversees ICE. Mrs. Kristi Noem has ultimate custodial
11 authority over Petitioner.
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13 28. Respondent Pamela Bondi is the Attorney General of the United States. She is
14 responsible for the implementation and enforcement of the INA, and oversees the
15 Executive Office for Immigration Review (EOIR), which is comprised of the Office of
16 the Immigration Judge and the Board of Immigration Appeals (BIA or Board). She is
17 being sued in her official capacity.
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19 29. Respondent Jason Knight, is the Acting Field Office Director for Salt Lake City Field
20 Office of Detention and Removal Operations, U.S. Immigration and Customs
21 Enforcement, Department of Homeland Security. As such, Respondent Jason Knight is
22 Petitioner's legal custodian, charged with the responsibility of determining whether Mr.
23 Venegas Banuelos will be detained in ICE custody or released pending the conclusion of
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1 his Petitioner for Review and any ensuing immigration removal proceedings. He is being
2 sued in his official capacity.

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4 30. Respondent John Mattos is the Warden and the highest-ranking employee at the Nevada
5 Southern Detention Center and is, therefore, Petitioner's immediate custodian. He is
6 being sued in his official capacity.

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8 **FACTUAL ALLEGATIONS**

9 31. Petitioner is a 23-year-old citizen and national of Mexico who was brought to the U.S. at
10 just 10 months. He was raised entirely in the United States, and completed most of his
11 high school education in Las Vegas, Nevada. Due to significant special education
12 challenges, he was unable to graduate, and instead entered the workforce to help support
13 himself and his family. Petitioner currently lives with his mother and siblings, who hold
14 Deferred Action for Childhood Arrivals ("DACA") status and lawful permanent resident
15 status.

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17 32. During his years in school, Petitioner was evaluated and determined eligible for special
18 education services. He was placed on an Individualized Education Program (IEP), which
19 documented his significant learning difficulties and the need for specialized instructional
20 support. Despite his efforts, these challenges affected his academic progress and
21 contributed to his inability to complete high school.

22
23 33. Petitioner also has a history of depression and anxiety. He has struggled with his mental
24 health for many years, experiencing periods of emotional instability that have made daily
25 functioning more difficult, particularly during times of stress or family hardship.

1 34. Petitioner shares a close and supportive relationship with his mother and siblings. He is
2 an integral part of the family unit and has consistently contributed to the household's
3 financial stability. His income has helped cover essential living expenses, and his family
4 relies on him both emotionally and economically.
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6 35. Prior to his detention, Petitioner was employed by a drywall company, where he worked
7 reliably and maintained steady employment. His supervisors and coworkers regarded him
8 as hardworking and dependable.
9

10 36. Petitioner last entered the United States in or around 2003. He has lived in the United
11 States continuously for the past twenty-two years and has developed deep and meaningful
12 ties to the community. The United States is the only home he knows.

13 37. On November 24, 2025, Petitioner was arrested by ICE. Since his arrest, the Department
14 of Homeland Security has not served him with a Notice to Appear (“NTA”) initiating
15 removal proceedings, in violation of 8 C.F.R. § 287.3(d). Ordinarily, even without an
16 NTA, an Immigration Judge may consider a request for bond redetermination under 8
17 C.F.R. § 1003.14(a). However, in this case, filing a bond motion would be futile. Because
18 Petitioner last entered the United States without inspection, DHS is categorizing him as
19 subject to mandatory detention under 8 U.S.C. § 1225(b)(2), pursuant to its nationwide
20 policy regarding applicants for admission. Additionally, under the Board of Immigration
21 Appeals’ recent precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216,
22 220–28 (BIA 2025), individuals in Petitioner’s circumstances are deemed ineligible for
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1 bond. Consequently, Petitioner has been deprived of any meaningful opportunity to seek
2 release from custody.

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4 38. Mr. Venegas Banuelos poses no danger to the community. Throughout his twenty-two
5 years of residence in the United States, he has maintained an exemplary record, with one
6 DUI occurring on November 23, 2025, a misdemeanor, which case remains pending.

7
8 39. Mr. Venegas Banuelos has maintained overall good moral character, has longstanding
9 residence in the United States, and has strong equities in the form of family and
10 community ties, employment history, demonstrating he is not flight risk.

11 40. Further, Mr. Venegas Banuelos is prima facie eligible for asylum related relief because
12 he has fear of returning to Mexico.

13 41. In light of Mr. Venegas Banuelos unlawful detention, it is both necessary and appropriate
14 for this Court to exercise its authority to consider the merits of his request for a bond
15 hearing under 8 U.S.C. §1226(a) under the present Petition. Mr. Venegas Banuelos
16 continued detention serves no legitimate purpose and only exacerbates the hardship
17 already suffered by his family.
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CLAIMS FOR RELIEF

I. Statutory Violation

42. Petitioner re-alleges and incorporates by reference paragraphs 1 through 41, above.

43. The Department's new position, reaffirmed by the BIA's precedential decision in *Matter of Yajure Hurtado* contravenes the plain text of the statute. Section §1226(a), not §1225(b), applies to individuals like the Petitioner.

44. Section 1226(a) governs by default all individuals in removal proceedings under § 1229a, which determine inadmissibility or deportability. The statute explicitly covers those charged as inadmissible, including entrants without inspection, and ensures they are entitled to bond hearings under subsection (a). On the other hand, § 1225(b) applies only to individuals arriving at ports of entry or immediately after entry, as it is built around inspection of applicants for admission. Thus, the mandatory detention provision of § 1225(b)(2) does not extend to the Petitioner.

45. Therefore, Respondents' continued detention of Petitioner is therefore unlawful and contravenes 8 U.S.C. § 1226(a), and the U.S. Constitution. Accordingly, Respondent's continued detention of Petitioner is contrary to statute.

II. Violation of Fifth Amendment Due Process

46. Petitioner re-alleges and incorporates by reference paragraphs 1 through 45, above.

47. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained or removed.

1 of confinement impose further harms, including incarceration in jail-like facilities,
2 inadequate medical care, and other substandard living conditions.

3 53. Therefore, his mandatory detention without a bond hearing infringes upon the
4 fundamental liberty interest in freedom from physical restraint. Accordingly,
5 Respondents cannot show a “sufficiently strong special justification” for continuing to
6 deprive Mr. Venegas Banuelos of his fundamental human rights.
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner prays that the Court grant the following relief:
10

- 11 1. Assume jurisdiction over this matter;
- 12 2. Enjoin Respondents from transferring Petitioner outside of this judicial district pending
13 litigation of this matter or his removal proceedings;
- 14 3. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action
15 brought under chapter 153 (habeas corpus) of Title 28;
- 16 4. Pursuant to 28 U.S.C. § 2243 issue an order directing Respondents to show cause why the
17 writ of habeas corpus should not be granted;
- 18 5. Grant Petitioner a writ of habeas corpus directing the Respondents to immediately provide
19 a bond hearing under 8 U.S.C. §1229(a), and if the Immigration Judge grants a bond, to
20 further enjoin the government from filing an automatic stay under
21 8 C.F.R. § 1003.19(i)(2);
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- 1 6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA),
2 as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under
3 law; and
4
- 5 7. Grant any other and further relief as the Court deems just and proper.
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7 Dated: December 12, 2025

8 /S/ SYLVIA L. ESPARZA
9 Sylvia L. Esparza, Esq.
10 Attorney for Petitioner
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1 **VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF**
2 **PURSUANT TO 28 U.S.C. § 2242**

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

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8 Dated: December 12, 2025

9 **/S/ SYLVIA L. ESPARZA**
10 Sylvia L. Esparza, Esq.
11 Attorney for Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading/document was mailed certified mail, return receipt requested, and personal delivery, to the following, above mentioned Respondents on December 12, 2025 at the following addresses:

1. United States Attorney for the District of Nevada.
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, NV 89101-6519
2. Kristi NOEM, Secretary of the United States Department of Homeland Security.
Washington, D.C. 20528-0001
3. Pamela BONDI, Attorney General of the United States.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
4. Jason KNIGHT, Acting Field Office Director Office of Detention and Removal Operations, ICE.
2975 Decker Lake Drive, Suite 100
West Valley City, UT, 84119-6094
5. John MATTOS, Warden at Nevada Southern Detention Center.
2190 East Mesquite Avenue
Pahrump, NV 89060-3427

Dated: December 12, 2025

/S/ SYLVIA L. ESPARZA
Sylvia L. Esparza, Esq.
Attorney for Petitioner