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6 Attorney for Petitioner Francisco Javier Quiroz Figueroa

7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 FRANCISCO JAVIER QUIROZ) Case No. '25CV3623 AGS DEB
10 FIGUEROA [A )

11 Petitioner,)

12 v.)

13)
14 CHRISTOPHER J. LAROSE,) **PETITION FOR WRIT OF**
15 SENIOR WARDEN, OTAY MESA) **HABEAS CORPUS,**
16 DETENTION CENTER; JESUS) **PURSUANT TO 28 U.S.C. § 2241**
17 ROCHA, ACTING FIELD OFFICE)
18 DIRECTOR, UNITED STATES)
19 IMMIGRATION AND CUSTOMS)
20 ENFORCEMENT, ICE SAN DIEGO)
21 FIELD OFFICE; TODD M. LYONS,)
22 ACTING DIRECTOR, UNITED)
23 STATES IMMIGRATION AND)
24 CUSTOMS ENFORCEMENT;)
25 KRISTI NOEM, SECRETARY,)
26 UNITED STATES DEPARTMENT)
27 OF HOMELAND SECURITY; AND)
28 PAMELA JO BONDI, ATTORNEY)
GENERAL,)

Respondents.)

I.

INTRODUCTION

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4 1. Petitioner Francisco Javier Quiroz Figueroa, through counsel, brings
5 the instant petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2241, to
6 challenge his unlawful, unjustified arrest by the Respondents, and his continued
7 detention in the Respondents' custody.
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10 2. Mr. Quiroz Figueroa is a national and citizen of Venezuela, who
11 arrived in the United States on or about August 20, 2023. [Exh. A, pp. 1-2; Exh.
12 I, p. 33].¹ Officers of United States Customs and Border Protection (hereinafter
13 "CBP"), an agency within the United States Department of Homeland Security,
14 detained Mr. Quiroz Figueroa near Eagle Pass, Texas shortly after his arrival in
15 the United States. [Exh. A, p. 2]. On or about August 24, 2023, CBP officers
16 transferred Mr. Quiroz Figueroa to the custody of United States Immigration and
17 Customs Enforcement (hereinafter "ICE"). [Exh. A, p. 2]. The CBP officers
18 issued a Notice to Appear for removal proceedings under section 240 of the
19 Immigration and Nationality Act (hereinafter "INA"), 8 U.S.C. § 1229a, to Mr.
20 Quiroz Figueroa at the same time. [Exh. A, p. 2; Exh. B]. On September 27,
21 2023, ICE officers released Mr. Quiroz Figueroa from detention on his own
22 recognizance. [Exh. C].
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¹ "Exh." refers to the Exhibits that Mr. Quiroz Figueroa, through counsel, files with the instant Petition.

1 3. After the ICE officers released Mr. Quiroz Figueroa, he relocated to
2 Arlington, Virginia, where his father, Francisco Rafael Quiroz, his mother,
3 Magdalena Del Carmen Figueroa, his brothers, Francisco Jose Quiroz Figueroa
4 and Jose Joaquin Quiroz Figueroa, his sister, Francismar Guadalupe Quiroz
5 Figueroa, his sister-in-law, Anyelimar Gabriela Barrios Garboza, and his niece,
6 Anneglismar Nicole Quiros Barrios, reside. [Exh. C, p. 8; Exh. I, pp. 40-47, 57,
7 59-60]. In December of 2023, Mr. Quiroz Figueroa began working as a
8 dishwasher at For Five Coffee in Washington, D.C. [Exh. I, pp. 37, 49, 58, 60].
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12 4. On June 25, 2024, Mr. Quiroz Figueroa, through former counsel,
13 filed a Form I-589, Application for Asylum and Withholding of Removal with a
14 federal Immigration Judge in Annandale, Virginia. [Exh. F, p. 16]. He acquired
15 an Employment Authorization Document through his asylum application, a
16 Virginia Driver's License, and automobile insurance coverage. [Exh. I, pp. 34,
17 36]. When ICE officers detained him, he was in consolidated removal
18 proceedings with his brother, Francisco Jose Quiroz Figueroa, his sister-in-law,
19 Anyelimar Gabriela Barrios Garboza, and his niece, Anneglismar Nicole Quiros
20 Barrios, before a federal Immigration Judge in Annandale, Virginia. [Exh. F, p.
21 17]. The Immigration Judge scheduled a hearing on the merits of the applications
22 for relief from removal for Mr. Quiroz Figueroa and his family on October 20,
23 2025. [Exh. F, p. 17].
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1 5. Mr. Quiroz Figueroa has no criminal history. [Exh. A, pp. 1-2; Exh.
2 I, p. 35]. He complied with directives of the United States Department of
3 Homeland Security to appear for required appointments with the agency.
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5 6. On August 5, 2025, law enforcement officials stopped Mr. Quiroz
6 Figueroa in Arlington, Virginia. The law enforcement officials cited Mr. Quiroz
7 Figueroa for traffic violations, seized Mr. Quiroz Figueroa's motorcycle, and
8 instructed him to appear at a vehicle impoundment lot in Arlington, Virginia the
9 following day. [Exh. G, pp. 20-21]. On August 6, 2025, a police officer detained
10 Mr. Quiroz Figueroa at the impoundment lot, transported him to a nearby holding
11 facility, and transferred him to the custody of ICE officers, who then brought him
12 to the Farmville Detention Center in Farmville, Virginia. [Exh. H, p. 22]. On
13 August 28, 2025, ICE officers transferred Mr. Quiroz Figueroa to the Otay Mesa
14 Detention Center in San Diego, California. [Exh. H, p. 23].
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16 7. On August 27, 2025, Mr. Quiroz Figueroa, through counsel, filed a
17 Motion for Custody Redetermination and Bond with a federal Immigration Judge
18 in Annandale, Virginia. [Exh. I]. On September 3, 2025, the Immigration Judge
19 authorized Mr. Quiroz Figueroa's release from ICE custody on a \$1,500 bond.
20 [Exh. J]. On September 4, 2025, Government counsel filed a Notice of ICE
21 Intent to Appeal Custody Redetermination with the Immigration Judge. [Exh. L,
22 p. 66]. On September 9, 2025, Government counsel filed a Motion to Reconsider
23 Bond Order with the Immigration Judge. [Exh. L, pp. 67-89]. On September 9,
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1 2025, Immigration Judge granted the Motion to Reconsider Bond Order, vacated
2 her prior decision, and held that Matter of Yajure Hurtado, 29 I. & N. Dec. 216,
3 220-21 (BIA 2025), divested her of jurisdiction to consider Mr. Quiroz
4 Figueroa's eligibility for release on bond. [Exh. M].
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7 8. Mr. Quiroz Figueroa remains in ICE custody at the Otay Mesa
8 Detention Center. [Exh. N, p. 94]. He is in removal proceedings at the United
9 States Immigration Court in San Diego, California. [Exh. N, p. 92]. A federal
10 Immigration Judge in San Diego, California has scheduled a hearing on the
11 merits of Mr. Quiroz Figueroa's applications for relief from removal on January
12 5, 2026. [Exh. N, p. 92].
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15 9. The Respondents' warrantless arrest and detention of Mr. Quiroz
16 Figueroa on August 6, 2025 without probable cause or a reasonable suspicion of
17 his commission of an independent offense, apart from his traffic infractions,
18 violated the Fourth Amendment to the United States Constitution, U.S. Const.
19 amend. IV. The Respondents exceeded the authority granted to them under 8
20 U.S.C. § 1357(a) and 8 C.F.R. § 287.8(c) (2025) by conducting a warrantless
21 arrest and detention of Mr. Quiroz Figueroa, without reason to believe that he
22 was unlawfully present in the United States and was likely to escape before they
23 could obtain an arrest warrant.
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28 10. The Respondents' revocation of Mr. Quiroz Figueroa's conditional
release from federal immigration custody, without evidence that he would flee or

1 pose a danger to the community if he remained outside detention, deprived him
2 of his rights under the Due Process Clause of the Fifth Amendment to the United
3 States Constitution, U.S. Const. amend. V. The Respondents' failure to afford
4 Mr. Quiroz Figueroa notice and a meaningful opportunity to challenge the
5 legality of his confinement before they revoked his conditional release violated
6 his constitutional rights under the Due Process Clause.
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10 11. Section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), does not
11 authorize Mr. Quiroz Figueroa's detention for removal proceedings under section
12 240 of the INA, 8 U.S.C. § 1229a, because he is not an "applicant for admission"
13 who is "seeking admission" to the United States under the statutory scheme.
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15 12. Accordingly, Mr. Quiroz Figueroa, through counsel, asks the Court
16 to grant the instant petition for writ of habeas corpus. He asks the Court to issue
17 an Order, declaring that his arrest and detention violated the Fourth Amendment,
18 and statutory and regulatory mandates for ICE officers' arrest and detention of
19 undocumented persons under 8 U.S.C. § 1357(a) and 8 C.F.R. § 287.8 (2025).
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21 22. Mr. Quiroz Figueroa, through counsel, asks the Court to issue an
22 Order, declaring that the revocation of his conditional release and his detention
23 by the Respondents violate the Due Process Clause of the Fifth Amendment, and
24 was unauthorized by 8 U.S.C. § 1225(b)(2)(A).
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27 28. Mr. Quiroz Figueroa, through counsel, respectfully requests that the
28 Court issue an Order, directing the Respondents to immediately release him from

1 the Respondents' custody. Alternatively, he asks the Court to Order the
2 reinstatement of the \$1,500.00 bond that a federal Immigration Judge in
3 Annandale, Virginia set in his case on September 3, 2025. [Exh. J].
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5 15. If the Court orders his release from the Respondents' custody, Mr.
6 Quiroz Figueroa, through counsel, asks the Court to prohibit the Respondents
7 from imposing any additional conditions on his release from detention, such as
8 electronic monitoring, unless a neutral decisionmaker determines that such
9 conditions of release are necessary at a pre-deprivation hearing. He further
10 requests that the Court enjoin his re-arrest and re-detention by the Respondents
11 without constitutional safeguards, including pre-deprivation notice and a hearing
12 before a neutral adjudicator.
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16 16. To preserve the Court's jurisdiction, Mr. Quiroz Figueroa, through
17 counsel, asks the Court for an order, enjoining the Government from transferring
18 him to another detention facility outside this District and from removing him
19 from the United States for the duration of his habeas corpus proceedings.
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22 17. Finally, Mr. Quiroz Figueroa, through counsel, asks the Court to
23 issue an Order awarding him attorneys' costs, fees, and expenses, pursuant to the
24 Equal Access to Justice Act, 28 U.S.C. §§ 2412(a)(1) and 2412(b).
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II.

JURISDICTION AND VENUE

18. The Court has jurisdiction under 21 U.S.C. §§ 2241(a) and 2241(c)(3) to grant a writ of habeas corpus to a noncitizen in federal immigration detention who is “in custody in violation of the Constitution or laws or treaties of the United States[.]” 8 U.S.C. § 2241(c)(3). The Constitution states that “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” U.S. Const. Art. I, § 9, cl. 2. The Suspension Clause makes clear that some “‘judicial intervention in deportation cases’ is unquestionably ‘required by the Constitution.’” INS v. St. Cyr, 533 U.S. 289, 300 (2001) (quoting Heikkila v. Barber, 345 U.S. 229, 235 (1953)).

19. A petition for writ of habeas corpus “historically provides a remedy to noncitizens challenging executive detention.” Trinidad y Garcia v. Thomas, 683 F.3d 952, 956 (9th Cir. 2012) (citing St. Cyr, 533 U.S. at 301-03).

20. After the REAL ID Act of 2005, Pub. L. No. 109-13, Div. B, 119 Stat. 231, 231 (2005), the Court retains jurisdiction under 28 U.S.C. § 2241 to review constitutional and legal challenges to a noncitizen’s detention in federal immigration custody that are “‘independent of challenges of removal orders.’” Singh v. Holder, 638 F.3d 1196, 1211-12 (9th Cir. 2011) (quoting H.R. Rep. No. 109-72, at 175, reprinted in 2005 U.S.C.C.A.N. 240, 299).

1 21. The Court has original jurisdiction over Mr. Quiroz Figueroa's
2 petition for writ of habeas corpus under 28 U.S.C. § 1331 because he raises
3 federal questions arising under the United States Constitution and the laws of the
4 United States. This case involves the Respondents' construction and application
5 of the Fourth Amendment and the Fifth Amendment to the United States
6 Constitution, U.S. Const. amend. IV and V, and 8 U.S.C. § 1225(b)(2)(A).
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9 22. In the immigration context, “[t]he default rule is that agency actions
10 are reviewable under federal question jurisdiction, pursuant to 28 U.S.C. §
11 1331...even if no statute specifically authorizes judicial review.” Perez v. Wolf,
12 943 F.3d 853, 860 (9th Cir. 2019) (quoting ANA Int’l, Inc. v. Way, 393 F.3d 886,
13 890 (9th Cir. 2004), overruled on other grounds, Bouafra v. Mayorkas, 604 U.S.
14 6, 13, 19 (2024)).
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18 23. The Declaratory Judgment Act provides, in part, that “[i]n a case of
19 actual controversy within its jurisdiction,...any court of the United States, upon
20 the filing of an appropriate pleading, may declare the rights and other legal
21 relations of any interested party seeking such declaration, whether or not further
22 relief is or could be sought.” 28 U.S.C. § 2201(a). The law specifies that
23 “[f]urther necessary or proper relief based on a declaratory judgment or decree
24 may be granted, after reasonable notice and hearing, against any adverse party
25 whose rights have been determined by such judgment.” 28 U.S.C. § 2202.
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1 24. The All Writs Act, 28 U.S.C. § 1651(a), empowers federal district
2 courts to allows federal courts to “issue all writs necessary or appropriate in aid
3 of their respective jurisdictions and agreeable to the usages and principles of
4 law.” 28 U.S.C. § 1651(a). While the All Writs Act does not “enlarge” federal
5 courts’ jurisdiction, Clinton v. Goldsmith, 526 U.S. 529, 534-35 (1999), it
6 nonetheless confers “express authority...to issue such temporary injunctions as
7 may be necessary to protect its own jurisdiction[.]” F.T.C. v. Dean Foods Co.,
8 384 U.S. 597, 608 (1966).

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12 25. Venue lies in the United States District Court for the Southern
13 District of California under 28 U.S.C. §§ 1391(e)(1)(B) and 2241(a) because the
14 Respondents have detained Mr. Quiroz Figueroa at the Otay Mesa Detention
15 Center in San Diego, California. See Rumsfeld v. Padilla, 542 U.S. 426, 443
16 (2004) (declaring that “for core habeas petitions challenging present physical
17 confinement, jurisdiction lies in only one district: the district of confinement[.]”);
18 Doe v. Garland, 109 F.4th 1188, 1192, 1199 (9th Cir. 2024) (applying the
19 “district of confinement rules to core habeas petitions filed pursuant to 28 U.S.C.
20 § 2241, including those filed by immigrant detainees”) (citing Lopez-Marroquin
21 v. Barr, 955 F.3d 759, 760 (9th Cir. 2020)). The Otay Mesa Detention Center
22 lies within the Court’s territorial jurisdiction. See 28 U.S.C. § 84(b).
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III.

PARTIES

A. Petitioner.

26. Petitioner Francisco Javier Quiroz Figueroa is a national and citizen of Venezuela, who arrived in the United States on August 20, 2023. [Exh. A, pp. 1-2]. On September 27, 2023, ICE officers released Mr. Quiroz Figueroa from detention on his own recognizance. [Exh. C]. He resided in Arlington, Virginia before ICE officers re-detained him on August 6, 2025. [Exh. C, p. 8; Exh. G; Exh. I, pp. 36-37, 57]. On August 6, 2025, ICE officers arrested Mr. Quiroz Figueroa in Arlington, Virginia, and transported him to the Farmville Detention Center in Farmville, Virginia. [Exh. H, p. 22]. On August 28, 2025, ICE officers transferred Mr. Quiroz Figueroa to the Otay Mesa Detention Center in San Diego, California. [Exh. H, p. 23]. Mr. Quiroz Figueroa remains in the Respondents' custody at the Otay Mesa Detention Center. [Exh. N, p. 94].

B. Respondents.

27. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention Center, a private, for-profit immigration detention facility in San Diego, California owned and operated by CoreCivic. CoreCivic contracts with ICE to detain noncitizens for suspected civil immigration violations. The warden of a facility in which ICE officers have detained a noncitizen is a proper Respondent in a challenge to the noncitizen's confinement in federal immigration

1 custody in habeas corpus proceedings. See Padilla, 542 U.S. at 435, 447
2 (declaring that when a habeas petitioner challenges his “present physical
3 confinement” within the United States, “the default rule is that the proper
4 respondent is the warden of the facility where the prisoner is being held[]”); Doe,
5 109 F.4th at 1192, 1196-97, 1199 (applying the “immediate custodian” rule to a
6 habeas petition under 28 U.S.C. § 2241 that challenges a noncitizen’s detention
7 in federal immigration custody, and affirming that “the immediate custodian, not
8 a supervisory official who exercises legal control, is the proper respondent[]” for
9 the habeas petition) (quoting Padilla, 542 U.S. at 440) (other citations omitted).

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14 28. Respondent Jesus Rocha is the Acting Field Office Director for the
15 ICE San Diego Field Office in San Diego, California. He has a duty, delegated to
16 him by the Secretary of the United States Department of Homeland Security and
17 the Acting Director of ICE, to supervise the apprehension, detention, and removal
18 of noncitizens within the territorial jurisdiction of the United States District Court
19 for the Southern District of California, including San Diego County, California.

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22 29. Respondent Todd M. Lyons is the Acting Director of ICE. He has a
23 mandate, pursuant to 6 U.S.C. §§ 251(2) and 252(a)(3)(A)(ii) and 8 U.S.C. §§
24 1103(a)(1) and 1103(g)(2), to exercise any functions delegated to him by the
25 Secretary of the United States Department of Homeland Security, including the
26 enforcement of the INA and all other laws, regulations, and policies pertaining to
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1 the immigration and naturalization of immigrants, and the apprehension and
2 detention of noncitizens for removal from the United States.

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4 30. Respondent Kristi Noem is the Secretary of the United States
5 Department of Homeland Security. She has a mandate, pursuant to 8 U.S.C. §
6 1103(a), to administer and enforce the INA and other laws related to the
7 immigration and naturalization of aliens. She is responsible for “[c]arrying out
8 the immigration enforcement functions vested by statute in, or performed by, the
9 Commissioner of [the former] Immigration and Naturalization (or any officer,
10 employee, or component of the Immigration and Naturalization Service)[,]” 6
11 U.S.C. § 202(3), and for “[e]stablishing national immigration enforcement
12 policies and priorities.” 6 U.S.C. § 202(5).
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17 31. Respondent Pamela Jo Bondi is the Attorney General of the United
18 States. She has a mandate, pursuant to 8 U.S.C. §§ 1101(b)(4) and 1103(g), to
19 supervise the implementation and enforcement of the INA, including the
20 apprehension, detention, and removal of noncitizens from the United States.
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22 IV.

23 STATUTORY AND REGULATORY REFERENCES

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25 32. Section 287(a) of the INA, 8 U.S.C. § 1357(a), governs the
26 interrogation and warrantless arrests of undocumented persons by authorized
27 immigration officers. That statute provides, in pertinent part, that an authorized
28 officer or employee of the United States Department of Homeland Security “shall

1 have power without warrant...to interrogate any alien or person believed to be an
2 alien as to his right to be or to remain in the United States[.]” and to “arrest any
3 alien in the United States, if he has reason to believe that the alien so arrested is
4 in the United States in violation of any such law or regulation and is likely to
5 escape before a warrant can be obtained for his arrest[.]” 8 U.S.C. §§ 1357(a)(1),
6 1357(a)(2).
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9 33. Federal immigration regulations set forth at 8 C.F.R. pt. 287 address
10 federal immigration officials’ interrogation, arrest, and detention of
11 undocumented persons. Those regulations provide, in relevant part, that “[a]ny
12 immigration officer is hereby authorized and designated to exercise anywhere in
13 or outside the United States the power conferred by...Section 287(a)(1) of the
14 [INA, 8 U.S.C. § 1357(a)(1)] to interrogate, without warrant, any alien or person
15 believed to be an alien concerning his or her right to be, or to remain, in the
16 United States[.]” 8 C.F.R. § 287.5(a)(1) (2025). The regulations contain a list of
17 immigration officers who “are hereby authorized and designated to exercise the
18 arrest power conferred by section 287(a)(2) of the [INA],” 8 U.S.C. § 1357(a)(2),
19 see 8 C.F.R. § 287.5(c)(1) (2025), guidelines for the use of force during
20 immigration enforcement actions, see 8 C.F.R. § 287.8(a), and procedures for the
21 interrogation, detention, and arrest of undocumented persons by authorized
22 immigration officers. See 8 C.F.R. §§ 287.8(b), 287.8(c) (2025).
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1 34. Federal immigration regulations define an “interrogation[,]” for
2 purposes of immigration, as “questioning designed to elicit specific
3 information[,]” and authorize an immigration officer “to ask questions of anyone
4 as long as the immigration officer does not restrain the freedom of an individual,
5 not under arrest, to walk away.” 8 C.F.R. § 287.8(b)(1) (2025). The regulations
6 provide that an immigration officer who “has a reasonable suspicion, based on
7 specific articulable facts, that the person being questioned is, or is attempting to
8 be, engaged in an offense against the United States or is an alien illegally in the
9 United States...may briefly detain the person for questioning.” 8 C.F.R. §
10 287.8(b)(2) (2025). Any “[i]nformation obtained from this questioning may
11 provide the basis for a subsequent arrest” by an authorized immigration officer
12 under 8 C.F.R. § 287.5(c) (2025). 8 C.F.R. § 287.8(b)(3) (2025).

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18 35. Under federal immigration regulations, certain designated
19 immigration officers listed under 8 C.F.R. § 287.5 may arrest someone “when the
20 designated immigration officer has reason to believe that the person to be arrested
21 has committed an offense against the United States or is an alien illegally in the
22 United States.” 8 C.F.R. §§ 287.8(c)(1), 287.8(c)(2)(i) (2025). The regulations
23 provide, in part, that “[a] warrant of arrest shall be obtained except when the
24 designated immigration officer has reason to believe that the person is likely to
25 escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii) (2025). At
26 the time of an arrest, “the designated immigration officer shall, as soon as it is
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1 practical and safe to do so: (A) Identify himself or herself as an immigration
2 officer who is authorized to execute an arrest; and (B) State that the person is
3 under arrest and the reason for the arrest.” 8 C.F.R. § 287.8(c)(2)(iii) (2025).
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5 36. Section 236 of the INA “authorizes the Government to detain certain
6 aliens already in the country pending the outcome of removal proceedings” under
7 section 240 of the INA, 8 U.S.C. § 1229a. Jennings v. Rodriguez, 583 U.S. 281,
8 289 (2018); Rodriguez Diaz v. Garland, 53 F.4th 1189, 1196 (9th Cir. 2022)
9 (same). The statute “distinguishes between two different categories of aliens.”
10 Jennings, 583 U.S. at 288; Rodriguez Diaz, 53 F.4th at 1196 (same).
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14 37. Section 236(a) of the INA, 8 U.S.C. § 1226(a), establishes the
15 “‘default rule[]’” for arresting and detaining removable noncitizens, and gives
16 “the Attorney General ‘broad discretion’ over detention matters[.]” Rodriguez
17 Diaz, 53 F.4th at 1196 (quoting Nielsen v. Preap, 586 U.S. 392, 409 (2019), and
18 Jennings, 583 U.S. at 288). Section 236(a)(1) of the INA provides, in relevant
19 part, that “[o]n a warrant issued by the Attorney General, an alien may be
20 arrested and detained pending a decision on whether the alien is to be removed
21 from the United States.” 8 U.S.C. § 1226(a)(1); see also 8 C.F.R. §
22 236.1(b)(1)(A) (2025) (declaring that “[a]t the time of issuance of the notice to
23 appear, or at any time thereafter and up to the time removal proceedings are
24 completed, the respondent may be arrested and taken into custody under the
25 authority of Form I-200, Warrant of Arrest[]”). An ICE district director makes
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1 the initial custody determination, “including the setting of a bond.” 8 C.F.R. §
2 236.1(d) (2025). An immigration officer “authorized to issue a warrant of arrest
3 may, in the officer’s discretion, release an alien” who does not fall within section
4 236(c)(1) of the INA, 8 U.S.C. § 1226(c)(1), if the noncitizen “demonstrate[s] to
5 the satisfaction of the officer that such release would not pose a danger to
6 property or persons, and that the alien is likely to appear for any future
7 proceeding.” 8 C.F.R. § 236.1(c)(8) (2025).

11 38. Noncitizens who are detained under section 236(a) of the INA, 8
12 U.S.C. § 1226(a), are entitled to “receive bond hearings at the outset of
13 detention.” Jennings, 583 U.S. at 360 (citing 8 C.F.R. §§ 236.1(d)(1) and
14 1236.1(d)(1)). A noncitizen who disagrees with the initial custody determination
15 by an ICE officer may request a bond redetermination hearing before an
16 Immigration Judge at any time before the issuance of an administratively final
17 order of removal. See 8 C.F.R. § 236.1(d) (2025); Rodriguez Diaz, 53 F.4th at
18 1197 (citing 8 C.F.R. §§ 236.1(d)(1) and 1003.19). During a bond
19 redetermination hearing, an Immigration Judge “(1) may continue to detain the
20 arrested alien; and (2) may release the alien on - (A) bond of at least \$1,500 with
21 security approved by, and containing conditions prescribed by, the Attorney
22 General; or (B) conditional parole[,]” if the noncitizen does not fall within the
23 categories of “criminal aliens[,]” who face mandatory detention under section
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1 236(c)(1) of the INA, 8 U.S.C. § 1226(c)(1). 8 U.S.C. § 1226(a)(1); 8 C.F.R. §
2 236.1(d) (2025).

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4 39. During a bond redetermination hearing, if a noncitizen
5 “demonstrates by the preponderance of the evidence that he is not ‘a threat to
6 national security, a danger to the community at large, likely to abscond, or
7 otherwise a poor bail risk,’” an Immigration Judge “will order his release.”
8 Rodriguez Diaz, 53 F.4th at 1197 (quoting Matter of Guerra, 24 I. & N. Dec. 37,
9 40 (BIA 2006), and citing Matter of Barreiros, 10 I. & N. Dec. 536, 537-38 (BIA
10 1964)). An Immigration Judge “considers various factors” when deciding
11 whether to release a noncitizen from detention, “including the individual’s ties to
12 the United States as well as his employment history, criminal record, history of
13 immigration violations, and manner of entry into this country[.]” and assesses
14 “whether bond or other conditions on the alien’s release are appropriate.” Id.
15 (citing Guerra, 24 I. & N. Dec. at 40, and 8 U.S.C. § 1226(a)(2)). During bond
16 proceedings, “[t]he detainee may be represented by counsel and can submit
17 evidence in support of his claims.” Id. (citing 8 C.F.R. § 1003.19(b), and Matter
18 of Fatahi, 26 I. & N. Dec. 791, 792 (BIA 2016)). A noncitizen can challenge an
19 Immigration Judge’s adverse decision on a motion for bond redetermination in
20 the Board of Immigration Appeals, see 8 C.F.R. § 236.1(d)(3) (2025), or “request
21 an additional bond hearing whenever he experiences a material change in
22 circumstances.” Rodriguez Diaz, 53 F.4th at 1197 (citing 8 C.F.R. § 1003.19(e)).
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1 40. Section 236(c) of the INA, 8 U.S.C. § 1226(c), “carves out a
2 statutory category of [noncitizens] who may not be released under [8 U.S.C.] §
3 1226(a).” Jennings, 583 U.S. at 289. The statutory subsection mandates
4 detention of certain noncitizens “who fall[] into one of several enumerated
5 categories involving criminal offenses and terrorist activities[,]” id., and extends
6 to both “inadmissible” and “deportable” noncitizens with criminal history. 8
7 U.S.C. § 1226(c)(1). Federal immigration officials may only release a detainee
8 under 8 U.S.C. § 1226(c) “if necessary for witness protection purposes.”
9 Rodriguez Diaz, 53 F.4th at 1197 (citing 8 U.S.C. § 1226(c)(2), and Jennings,
10 583 U.S. at 289). The plain language of section 236(c) of the INA “implies that
11 the default discretionary bond procedures in Section 1226(a) apply to a
12 noncitizen who...is present without being admitted or paroled but has not been
13 implicated in any crimes as set forth in Section 1226(c).” Rodriguez v. Bostock,
14 779 F. Supp. 3d 1239, 1256-57 (W.D. Wash. 2025) (citing 8 U.S.C. § 1226(a),
15 and Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393,
16 400 (2010)).
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18 41. Section 235 of the INA, 8 U.S.C. § 1225, “applies primarily to
19 [noncitizens] seeking entry into the United States[.]” Jennings, 583 U.S. at 297.
20 Section 235(a)(1) of the INA states, in part, that a noncitizen who is “present in
21 the United States who has not been admitted or who arrives in the United States
22 (whether or not at a designated port of arrival and including an alien who is
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1 brought to the United States after having been interdicted in international or
2 United States waters) shall be deemed... an applicant for admission.” 8 U.S.C. §
3 1225(a)(1). All noncitizens “who are applicants for admission or otherwise
4 seeking admission or readmission to or transit through the United States shall be
5 inspected by immigration officers[.]” 8 U.S.C. § 1225(a)(3), to confirm “that
6 they may be admitted into the country consistent with U.S. immigration law.”
7 Jennings, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(3)). The inspection
8 process “generally begins at the Nation’s borders and ports of entry, where the
9 Government must determine whether an alien seeking to enter the country is
10 admissible.” Id.

15 42. Section 235(b) of the INA, 8 U.S.C. § 1255(b), divides applicants
16 for admission into the United States into “one of two categories, those covered by
17 [8 U.S.C.] § 1225(b)(1) and those covered by [8 U.S.C.] § 1225(b)(2).” Id.

19 43. Section 1225(b)(1) “applies to [noncitizens] initially determined to
20 be inadmissible due to fraud, misrepresentation, or lack of valid documentation,”
21 who are “normally ordered removed ‘without further hearing or review’ pursuant
22 to an expedited removal process.” Id. (quoting 8 U.S.C. §§ 1225(b)(1)(A)(i) and
23 1225(b)(1)(A)(ii)) (other internal citations omitted). Two classes of inadmissible
24 noncitizens qualify for expedited removal under 8 U.S.C. § 1225(b)(1) –
25 noncitizens who are “arriving in the United States[.]” and certain noncitizens
26 designated by the Attorney General, who “ha[ve] not been admitted or paroled
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1 into the United States” and cannot “affirmatively show[]” that they have been
2 “physically present in the United States continuously for the 2-year period
3 immediately prior to the date of the determination of inadmissibility.” 8 U.S.C.
4 §§ 1225(b)(1)(A)(i), 1225(b)(1)(A)(iii).

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7 44. A noncitizen in expedited removal proceedings under 8 U.S.C. §
8 1225(b)(1) who indicates “either an intention to apply for asylum...or a fear of
9 persecution[]” must be referred for an asylum interview, 8 U.S.C. §
10 1225(b)(1)(A)(ii), and “shall be detained” by federal immigration officials
11 “[p]ending the credible fear determination by an asylum officer and any review
12 of that determination by an immigration judge[.]” 8 C.F.R. § 235.3(b)(4)(ii)
13 (2025). If an immigration officer determines that a noncitizen in section
14 1225(b)(1) proceedings has a credible fear of persecution in his country of origin,
15 the noncitizen “shall be detained for further consideration of the application for
16 asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii). If an immigration officers finds that the
17 noncitizen does not have a credible fear of persecution, the immigration officer
18 “shall order the [noncitizen] removed from the United States without further
19 hearing or review[.]” unless the noncitizen requests a review of that finding by an
20 Immigration Judge. 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), 1225(b)(1)(B)(iii)(III). A
21 noncitizen with a negative credible fear determination “shall be detained pending
22 a final determination of credible fear of persecution and, if found not to have
23 such a fear, until removed.” 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

1 45. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), “serves as a
2 catchall provision that applies to all applicants for admission not covered by [8
3 U.S.C.] § 1225(b)(1)[,]” subject to certain exceptions. Jennings, 583 U.S. at 287
4 (citing 8 U.S.C. §§ 1225(b)(2)(A), 1225(b)(2)(B)). The statute provides that, “in
5 the case of an alien who is an applicant for admission, if the examining
6 immigration officer determines that an alien seeking admission is not clearly and
7 beyond a doubt entitled to be admitted, the alien shall be detained for a
8 proceeding under section 240 [of the INA, 8 U.S.C. § 1229a].” 8 U.S.C. §
9 1225(b)(2)(A). Federal immigration officials’ power to detain a noncitizen under
10 8 U.S.C. § 1225(b)(2)(A) ends when removal proceedings conclude. See
11 Jennings, 583 U.S. at 297.
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16 V.

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18 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

19 46. Exhaustion of administrative remedies “can be either statutorily
20 required or judicially imposed as a matter of prudence.” Puga v. Chertoff, 488
21 F.3d 812, 815 (9th Cir. 2007) (citing Noriega-Lopez v. Ashcroft, 335 F.3d 874,
22 881 (9th Cir. 2003)).
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25 47. Exhaustion is a prudential requirement for a petition for writ of
26 habeas corpus under 28 U.S.C. § 2241. See Hernandez v. Sessions, 872 F.3d
27 976, 988 (9th Cir. 2017) (citing Singh, 638 F.3d at 1203 n.3) (other internal
28 citations omitted). A court may require prudential exhaustion when “(1) agency

1 expertise makes agency consideration necessary to generate a proper record and
2 reach a proper decision; (2) relaxation of the requirement would encourage the
3 deliberate bypass of the administrative scheme; and (3) administrative review is
4 likely to allow the agency to correct its own mistakes and to preclude the need for
5 judicial review.” Id. (citing Puga, 488 F.3d at 815). Even if those factors apply,
6 a court may nonetheless waive a prudential exhaustion mandate if
7 ““administrative remedies are inadequate or not efficacious, pursuit of
8 administrative remedies would be a futile gesture, irreparable injury will result,
9 or the administrative proceedings would be void.”” Id. (quoting Laing v.
10 Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004)).

15 48. Mr. Quiroz Figueroa, through counsel, filed a Motion for Custody
16 Redetermination and Bond with a federal Immigration Judge in Annandale,
17 Virginia on August 27, 2025. [Exh. I]. In his Motion, Mr. Quiroz Figueroa,
18 through counsel, argued that section 236(a) of the INA, 8 U.S.C. § 1226(a),
19 authorized the Immigration Judge to release him from detention on conditional
20 parole if she determined that he was not “a danger to the community or a flight
21 risk.” [Exh. I, p. 26]. On September 3, 2025, the Immigration Judge ordered Mr.
22 Quiroz Figueroa’s release from ICE custody on a \$1,500.00 bond. [Exh. J]. On
23 September 4, 2025, Government counsel filed a Notice of ICE Intent to Appeal
24 Custody Redetermination with the Immigration Judge, and obtained an automatic
25 stay of the Immigration Judge’s custody determination under 8 C.F.R. §
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1 1003.19(i)(2) (2025). [Exh. L, p. 66]. On September 9, 2025, Government
2 counsel filed a Motion to Reconsider Bond Order with the Immigration Judge.
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4 [Exh. L, pp. 67-89]. In the Motion to Reconsider, Government counsel argued
5 that section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and Matter of
6 Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), barred the Immigration Judge
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8 from considering a bond request for Mr. Quiroz Figueroa because he was present
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10 in the United States without admission. [Exh. L, pp. 70-84]. On September 9,
11 2025, the Immigration Judge granted the Motion to Reconsider, vacated her prior
12 order, and held that Matter of Yajure Hurtado precluded her from exercising
13
14 jurisdiction to consider Mr. Quiroz Figueroa’s bond request. [Exh. M].

15 49. Even if Mr. Quiroz Figueroa did not seek relief from his detention in
16 the Immigration Court, “[a]n exception to the exhaustion requirement has been
17 carved for constitutional challenges to...[DHS] procedures.” Iraheta-Martinez
18 v. Garland, 12 F.4th 942, 949 (9th Cir. 2021) (quoting Sola v. Holder, 720 F.3d
19 1134, 1135 (9th Cir. 2013) (per curiam) (other internal citations omitted)). Mr.
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21 Quiroz Figueroa contests the Respondents’ revocation of his conditional release,
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23 his arrest by ICE officers, and his detention in the Respondents’ custody under
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25 the Fourth Amendment and the Fifth Amendment. Neither an Immigration Judge
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27 nor the Board of Immigration Appeals has the authority to decide the
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constitutionality of immigration statutes. See Padilla-Padilla v. Gonzales, 463
F.3d 972, 977 (9th Cir. 2006) (citing Liu v. Waters, 55 F.3d 421, 425 (9th Cir.

1 1995)); Matter of G.K., 26 I. & N. Dec. 88, 96-97 (BIA 2013) (explaining that
2 “[n]either the [BIA] nor the Immigration Judges have the authority to rule on the
3 constitutionality of the statutes we administer[]”). Since those tribunals could not
4 address Mr. Quiroz Figueroa’s constitutional challenge to the legality of his
5 detention, the Court cannot require him to exhaust those claims before seeking
6 habeas relief. See Padilla-Padilla, 463 F.3d at 977 (excusing the petitioners from
7 exhausting a “constitutional due process claim” in the Board of Immigration
8 Appeals because the Board could not resolve the claim) (citing Liu, 55 F.3d at
9 426, and Garcia-Ramirez v. Gonzales, 423 F.3d 935, 938 (9th Cir. 2005)).
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14 50. Mr. Quiroz Figueroa, through counsel, challenges the Respondents’
15 judgment that section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A),
16 mandates his detention in federal immigration custody for the duration of his
17 removal proceedings. An administrative record is not necessary to resolve the
18 “purely legal question[]” of statutory interpretation presented in this case –
19 whether 8 U.S.C. § 1225(b)(2)(A) mandates his detention by the Respondents.
20
21 Hernandez, 872 F.3d at 989 (finding that “an administrative appellate record is
22 not necessary to resolve the purely legal questions presented by Plaintiffs’
23 challenge to the government’s policy of refusing to require ICE and IJs to
24 consider financial circumstances and alternative conditions of release in bond
25 determinations[]”) (citing Singh, 638 F.3d at 1203 n. 3).
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1 51. The Court’s decision to waive the prudential exhaustion requirement
2 will not “encourage the deliberate bypass of the administrative scheme” in
3 future cases. Id. (quoting Puga, 488 F.3d at 815). Mr. Quiroz Figueroa contests,
4 in part, his detention by the Respondents under section 235(b)(2)(A) of the INA,
5 8 U.S.C. § 1225(b)(2)(A). When this Court determines the legality of Mr. Quiroz
6 Figueroa’s confinement, the disputed issue “should cease to arise.” Id. (quoting
7 Singh, 638 F.3d at 1203 n.3.). While “similarly situated individuals” may “desire
8 to raise similar appeals in the district courts[,]” a “resolution of this question of
9 law at the district court level might provide expedient clarity and guidance to the
10 IJs and BIA, obviating the need for similar, subsequent bypassing of
11 administrative remedies.” Bautista v. Santacruz, U.S.D.C. No. 5:25-cv-01873-
12 SSS-BFM, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 171364, at *21 (C.D. Cal.
13 July 28, 2025).

14 52. While the Court must “consider whether ‘administrative review is
15 likely to allow the agency to correct its own mistakes and to preclude the need for
16 judicial review[,]’” in circumstances “where the agency’s position on the
17 question at issue appears already set, and it is very likely what the result of
18 recourse to administrative remedies would be, such recourse would be futile and
19 is not required.” Hernandez, 872 F.3d at 989 (quoting Noriega-Lopez v.
20 Ashcroft, 335 F.3d 874, 881 (9th Cir. 2003), and El Rescate Legal Servs., Inc. v.
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1 Exec. Office of Immigration Review, 959 F.2d 742, 747 (9th Cir. 1991)) (other
2 internal citations and quotation marks omitted).

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4 53. In Matter of Q. Li, the Board of Immigration Appeals held that a
5 noncitizen “who is arrested and detained without a warrant while arriving in the
6 United States, whether or not at a port of entry, and subsequently placed in
7 removal proceedings, is detained under section 235(b) of the INA, 8 U.S.C. §
8 1225(b), and is ineligible for any subsequent release on bond under section
9 1225(b), and is ineligible for any subsequent release on bond under section
10 236(a) of the INA, 8 U.S.C. § 1226(a).” Q. Li, 29 I. & N. Dec. at 69. On July 8,
11 2025, ICE officers issued a policy memorandum, “Interim Guidance Regarding
12 Detention Authority for Applications for Admission[,]” Francisco T. v. Bondi,
13 U.S.D.C. No. 25-CV-03219 (JMB/DTS), __ F. Supp. 3d __, 2025 U.S. Dist.
14 LEXIS 179562, at *2 n.2 (D. Minn. Aug. 29, 2025), in which it announced that
15 “all noncitizens who entered the United States without inspection shall now be
16 deemed applicants for admission and subject to mandatory detention under 8
17 U.S.C. § 1225(b)(2)(A).” Garcia v. Noem, U.S.D.C. No. 5:25-cv-02771-ODW
18 (PDx), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 209286, at *2-3 (C.D. Cal. Oct.
19 22, 2025) (other internal quotation marks omitted). Subsequently, the Board of
20 Immigration Appeals held that noncitizens “who are present in the United States
21 without admission are applicants for admission as defined under section
22 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the
23 duration of their removal proceedings[.]” without bond, even if the noncitizens
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1 resided in the United States for a number of years. Yajure Hurtado, 29 I. & N.
2 Dec. at 220-21 (citing Jennings, 583 U.S. at 300).

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4 54. Published decisions of the Board of Immigration Appeals “are
5 binding on all officers and employees of DHS or immigration judges in the
6 administration of the immigration laws of the United States[,]” 8 C.F.R. §
7 1003.1(g)(1) (2025), and “serve as precedents in all proceedings involving the
8 same issue or issues.” 8 C.F.R. § 1003.1(g)(2) (2025). The Board’s decisions in
9 Matter of Q. Li and in Matter of Yajure Hurtado preclude an Immigration Judge
10 from correcting the Board’s mistaken construction and application of 8 U.S.C. §
11 1225(b)(2)(A). As the agency’s position on Mr. Quiroz Figueroa’s detention
12 status is unlikely to change with agency action, the Court must conclude that any
13 attempted exhaustion of administrative remedies in the Immigration Court would
14 be futile. See Vasquez-Rodriguez v. Garland, 7 F.4th 888, 896 (9th Cir. 2021)
15 (declaring that the Court “will excuse a failure to exhaust if ‘it is very likely what
16 [the Board’s] result would have been[,]’” and “‘recourse to administrative
17 remedies is very likely futile[.]’”) (quoting Szonyi v. Barr, 942 F.3d 874, 891 (9th
18 Cir. 2019), and Sun v. Ashcroft, 370 F.3d 932, 943 (9th Cir. 2004)).

25 VI.

26 STATEMENT OF FACTS

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28 55. Petitioner Francisco Javier Quiroz Figueroa is a national and citizen
of Venezuela. [Exh. I, p. 33].

1 56. On August 20, 2023, Mr. Quiroz Figueroa entered the United States
2 without inspection near Eagle Pass, Texas. [Exh. A, pp. 1-2]. CBP officers
3 encountered Mr. Quiroz Figueroa shortly after his arrival in the United States,
4 arrested him, and transported him to a Border Patrol station. [Exh. A, p. 2].
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6 57. On August 24, 2023, a CBP officer issued a Notice to Appear for
7 removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a, to Mr.
8 Quiroz Figueroa. [Exh. A, p. 3; Exh. B]. Mr. Quiroz Figueroa's Notice to
9 Appear alleged that he was an "alien present in the United States who has not
10 been admitted or paroled." [Exh. B, p. 4]. The Notice to Appear charged Mr.
11 Quiroz Figueroa with being subject to removal from the United States under
12 section 212(a)(6)(A)(i) of the INA, 8 U.S.C. § 1182(a)(6)(A)(i), for being a
13 noncitizen who was present in the United States without admission or parole, or
14 for being a noncitizen who arrived in the United States "at any time or place
15 other than as designated by the Attorney General." [Exh. B, p. 4].
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21 58. On or about August 24, 2023, CBP officers transferred Mr. Quiroz
22 Figueroa to ICE custody. [Exh. A, p. 3]. ICE officials detained him at the South
23 Texas ICE Processing Center in Pearsall, Texas.
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25 59. On August 30, 2023, Mr. Quiroz Figueroa admitted the factual
26 allegations listed in his Notice to Appear and conceded the charge of removability
27 against him under 8 U.S.C. § 1182(a)(6)(A)(i), before a federal Immigration
28 Judge in Pearsall, Texas. [Exh. B, p. 4].

1 60. On September 14, 2023, ICE officers transferred Mr. Quiroz
2 Figueroa to the Eden Detention Center in Eden, Texas. On September 22, 2023,
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4 the Immigration Judge changed venue in Mr. Quiroz Figueroa's case to the
5 United States Immigration Court in Dallas, Texas.

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7 61. On September 27, 2023, ICE officers released Mr. Quiroz Figueroa
8 from federal immigration custody on his own recognizance. [Exh. C]. The ICE
9 officers instructed Mr. Quiroz Figueroa to appear at the agency's office in
10 Chantilly, Virginia after his release from detention. [Exh. C, pp. 7, 11].

12 62. After ICE officers released Mr. Quiroz Figueroa from their custody,
13 Mr. Quiroz Figueroa relocated to Arlington, Virginia, where his father, Francisco
14 Rafael Quiroz, his mother, Magdalena Del Carmen Figueroa, his brothers,
15 Francisco Jose Quiroz Figueroa and Jose Joaquin Quiroz Figueroa, his sister,
16 Francismar Guadalupe Quiroz Figueroa, his sister-in-law, Anyelimar Gabriela
17 Barrios Garboza, and his niece, Anneglistmar Nicole Quiros Barrios, reside.
18 [Exh. C, p. 8; Exh. I, pp. 40-47, 57, 59-60]. In December of 2023, Mr. Quiroz
19 Figueroa began working as a dishwasher at For Five Coffee in Washington, D.C.
20 [Exh. I, pp. 37, 49, 58, 60].

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25 63. On January 17, 2024, a federal Immigration Judge in Dallas, Texas
26 ordered Mr. Quiroz Figueroa removed *in absentia*. [Exh. D].

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28 64. On February 13, 2024, Mr. Quiroz Figueroa, through former
 counsel, filed a Motion to Reopen his removal proceedings and to rescind his *in*

1 *absentia* order of removal with a federal Immigration Judge in Dallas, Texas.
2 Mr. Quiroz Figueroa's Motion to Reopen asserted that exceptional circumstances
3 beyond his control, arising from federal immigration officials' mistaken
4 advisements about the date, the time, and the location of his removal
5 proceedings, excused his failure to appear before the Immigration Judge in Dallas
6 on January 17, 2024.
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9 65. On February 16, 2024, a federal Immigration Judge in Dallas, Texas
10 granted Mr. Quiroz Figueroa's Motion to Reopen. [Exh. E]. On March 11, 2024,
11 the Immigration Judge changed venue in Mr. Quiroz Figueroa's case to the
12 United States Immigration Court in Annandale, Virginia. Subsequently, the
13 Annandale Immigration Court consolidated Mr. Quiroz Figueroa's case with the
14 cases of his brother, Francisco Jose Quiroz Figueroa, his sister-in-law, Anyelimar
15 Gabriela Barrios Garboza, and his niece, Anneglismar Nicole Quiros Barrios,
16 before one Immigration Judge. [Exh. F, p. 17].
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21 66. On June 25, 2024, Mr. Quiroz Figueroa, through former counsel,
22 filed a Form I-589, Application for Asylum and Withholding of Removal with a
23 federal Immigration Judge in Annandale, Virginia. [Exh. F, p. 16]. He acquired
24 an Employment Authorization Document through his asylum application [Exh.
25 [Exh. I, p. 34]. Later, he acquired a Virginia Driver's License and automobile
26 insurance coverage. [Exh. I, p. 36].
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1 67. On information and belief, Mr. Quiroz Figueroa appeared for all
2 required hearings before a federal Immigration Judge in Annandale, Virginia
3 before ICE officers detained him on August 6, 2025.
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5 68. On information and belief, Mr. Quiroz Figueroa complied with the
6 terms and conditions of his conditional release between the date that ICE officers
7 released him on his own recognizance on September 27, 2023, and the date that
8 ICE officers re-detained him in Arlington, Virginia on August 6, 2025. Mr.
9 Quiroz Figueroa has no criminal history. [Exh. A, pp. 1-2; Exh. I, p. 35].
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11 69. On August 5, 2025, at about 2:48 p.m., Mr. Quiroz Figueroa was
12 driving his motorcycle near the Pentagon in Arlington, Virginia, when a law
13 enforcement officer stopped him at an access control point for the Pentagon at
14 North Rotary Road and Fern Street. [Exh. G, pp. 20-21]. The officer demanded
15 Mr. Quiroz Figueroa's vehicle registration. After Mr. Quiroz Figueroa gave a
16 Virginia Motor Vehicle Registration document for the motorcycle to the officer
17 [Exh. G, p. 19], more law enforcement officers arrived at the scene. A second
18 officer alleged that Mr. Quiroz Figueroa disregarded a stop sign, and asked for
19 his Virginia Driver's License. Mr. Quiroz Figueroa produced his Virginia
20 Driver's License for the officer. The officer examined the license, and informed
21 Mr. Quiroz Figueroa that he needed a motorcycle license to operate the
22 motorcycle. The officers seized Mr. Quiroz Figueroa's motorcycle, impounded
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1 the vehicle, and directed Mr. Quiroz Figueroa to contact someone who could pick
2 him up from their location.

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4 70. The officers issued citations to Mr. Quiroz Figueroa for failing to
5 obey a traffic control device and for driving without a motorcycle operator's
6 license, in violation of 32 C.F.R. § 234.17 and Va. Code §§ 46-2.300 and 46.2-
7 830. [Exh. G, pp. 20-21]. They instructed Mr. Quiroz Figueroa to appear at an
8 impoundment lot in Arlington, Virginia to retrieve his motorcycle the following
9 day. After Mr. Quiroz Figueroa's encounter with the police officers ended, his
10 brother, Francisco Jose Quiroz Figueroa, arrived at the scene, and brought Mr.
11 Quiroz Figueroa to his parents' apartment in Arlington, Virginia.

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15 71. On August 6, 2025, Mr. Quiroz Figueroa appeared at the
16 impoundment lot in Arlington, Virginia to retrieve his motorcycle. When Mr.
17 Quiroz Figueroa arrived at the impoundment lot, he approached a police officer,
18 explained that he was cited for disobeying a stop sign and for operating a
19 motorcycle without a valid motorcycle operator's license, and asked to retrieve
20 his vehicle. The police officer asked Mr. Quiroz Figueroa about his ability to
21 retrieve his motorcycle without a valid motorcycle operator's license. Mr.
22 Quiroz Figueroa informed the police officer that his brother, Francisco Jose
23 Quiroz Figueroa, had arranged for a tow truck to take the motorcycle from the
24 impoundment lot.
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1 72. At the police officer's direction, Mr. Quiroz Figueroa paid a \$110
2 fee for the impoundment of his motorcycle. The police officer then instructed
3 Mr. Quiroz Figueroa to wait on the premises while he attended to another matter.
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5 73. A few minutes later, the police officer returned to Mr. Quiroz
6 Figueroa, and told him that "ICE needed to take him." The police officer asked
7 Mr. Quiroz Figueroa if he missed a "court date." Mr. Quiroz Figueroa insisted
8 that he attended required hearings in the Immigration Court, and had an
9 immigration attorney. At that time, the police officer informed Mr. Quiroz
10 Figueroa that he needed to arrest him. The police officer handcuffed Mr. Quiroz
11 Figueroa, removed him from the impoundment lot, and brought him to a nearby
12 holding location.
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16 74. At the holding location, ICE officers arrived on the premises, and
17 seized Mr. Quiroz Figueroa's Virginia Driver's License and Employment
18 Authorization Document. Mr. Quiroz Figueroa asked ICE officers about the
19 reason for his detention. An ICE officer responded, "because you are here
20 illegally." Mr. Quiroz Figueroa told the ICE officer that he had a pending matter
21 in the Immigration Court and had an immigration attorney. The ICE officer did
22 not respond.
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26 75. ICE officers took Mr. Quiroz Figueroa into their custody,
27 transported him to a local field office, and fingerprinted him. Later, ICE officers
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1 detained Mr. Quiroz Figueroa at the Farmville Detention Center in Farmville,
2 Virginia. [Exh. H, p. 22].
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4 76. On August 27, 2025, Mr. Quiroz Figueroa, through new counsel,
5 filed a Motion for Custody Redetermination and Bond with a federal Immigration
6 Judge in Annandale, Virginia. [Exh. I]. In his Motion, Mr. Quiroz Figueroa,
7 through counsel, argued that section 236(a) of the INA, 8 U.S.C. § 1226(a),
8 governed the detention of noncitizens who were present in the United States
9 without inspection, admission, or parole. [Exh. I, pp. 25-26]. He contended,
10 through counsel, that the statute empowered the Immigration Judge to release
11 him from detention on conditional parole if she determined that he was not “a
12 danger to the community or a flight risk.” [Exh. I, p. 26].
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16 77. Mr. Quiroz Figueroa, through counsel, acknowledged that the
17 Government treated all noncitizens who entered the United States without
18 inspection as “applicants for admission” under 8 U.S.C. § 1225(a)(1), who must
19 be detained for their removal proceedings. [Exh. I, p. 26]. He contended,
20 through counsel, that the Government’s construction of 8 U.S.C. § 1225 “defies
21 the plain text interpretation of the INA. Respondent who entered without
22 inspection through the Southern Border is not an applicant for admission which
23 normally has been understood to apply to people that present themselves at a port
24 of entry such a bridge or airport on the border for inspection.” [Exh. I, p. 26].
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1 78. On August 28, 2025, ICE officers transferred Mr. Quiroz Figueroa
2 from the Farmville Detention Center to the Otay Mesa Detention Center in San
3 Diego, California. [Exh. H, p. 23].
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5 79. On September 3, 2025, the Immigration Judge ordered Mr. Quiroz
6 Figueroa's release from ICE custody on a \$1,500.00 bond. [Exh. J].
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8 80. On September 4, 2025, Government counsel filed a Form EOIR-43,
9 Notice of ICE Intent to Appeal Custody Redetermination with the Immigration
10 Judge. [Exh. L, p. 66]. Government counsel's filing triggered an automatic stay
11 of the Immigration Judge's custody redetermination under 8 C.F.R. §
12 1003.19(i)(2) (2025). [Exh. L, p. 66].
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15 81. On September 4, 2025, Government counsel filed a Form I-261,
16 Additional Charges of Inadmissibility / Deportability with the Immigration
17 Judge. [Exh. K]. The Form I-261 lodged an additional charge of inadmissibility
18 against Mr. Quiroz Figueroa under section 212(a)(7)(A)(i)(I) of the INA, 8
19 U.S.C. § 1182(a)(7)(A)(i)(I), for being an immigrant who lacked "possession of a
20 valid unexpired immigrant visa, reentry permit, border crossing card, or other
21 valid entry document" required by the immigration laws at the time of his
22 application for admission into the United States. [Exh. K, p. 64].
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26 82. On September 9, 2025, Government counsel filed a Motion to
27 Reconsider Bond Order with the Immigration Judge. [Exh. L, pp. 67-89].
28 Government counsel's motion asserted that the Immigration Judge erred in

1 directing Mr. Quiroz Figueroa's release from ICE detention under 8 U.S.C. §
2 1226(a) because "[b]ased on the plain language of section 235(b)(2)(A) of the
3 INA [8 U.S.C. § 1225(b)(2)(A)], the Immigration Judge lacked authority to hear
4 the bond request or to grant bond to an alien who is present in the United States
5 without admission. Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)."
6 [Exh. L, p. 69]. Government counsel insisted that Mr. Quiroz Figueroa was an
7 "applicant for admission" under the immigration laws who was "subject to
8 detention" under 8 U.S.C. § 1225(b)(2)(A), and "ineligible for release but for a
9 release on parole by DHS pursuant to INA § 212(d)(5)[,]" 8 U.S.C. §
10 1182(d)(5)(A). [Exh. I, pp. 69-70].

15 83. On September 9, 2025, the Immigration Judge granted Government
16 counsel's Motion to Reconsider Bond Order. [Exh. M]. The Order of the
17 Immigration Judge stated, "[p]ursuant to Matter of Yajure Hurtado, issued on
18 9/5/25, the Court does not have jurisdiction to grant the Respondent's bond
19 request. See Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). As such,
20 the Court's prior bond grant is vacated." [Exh. M].

24 84. On September 17, 2025, a federal Immigration Judge in San Diego,
25 California sustained the additional charge of inadmissibility under 8 U.S.C. §
26 1182(a)(7)(A)(i)(I) against Mr. Quiroz Figueroa.

28 85. Mr. Quiroz Figueroa remains at the Otay Mesa Detention Center in
San Diego, California. [Exh. N, p. 94]. He is undergoing removal proceedings in

1 the United States Immigration Court in San Diego, California. The United States
2 Immigration Court has scheduled a hearing on the merits of Mr. Quiroz
3 Figueroa's Form I-589, Application for Asylum and Withholding of Removal on
4 January 5, 2026. [Exh. N, pp. 92-93].
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7 86. Due to Mr. Quiroz Figueroa's continued detention at the Otay Mesa
8 Detention Center, he has been indefinitely separated from his extensive network
9 of family and friends in Arlington, Virginia. His immediate family has lost the
10 financial support that he provided through his position of employment in the
11 United States. [Exh. I, pp. 37, 40-43, 49]. As a result of his continued detention
12 in the Respondents' custody, he has not cared for his father, Francisco Rafael
13 Quiroz, who suffers from high blood pressure, gallbladder disease, and
14 difficulties with his mobility, and his mother, Magdalena Del Carmen Figueroa,
15 who suffers from osteoporosis, high blood pressure, and a pre-diabetic condition.
16 [Exh. I, pp. 40-43, 50-56].
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21 87. Mr. Quiroz Figueroa's mother, Magdalena Del Carmen Figueroa,
22 has informed the undersigned counsel that ICE officers have pressured Mr.
23 Quiroz Figueroa to forfeit his asylum claim in the United States Immigration
24 Court and to depart the United States voluntarily while they have detained him at
25 the Otay Mesa Detention Center. Mr. Quiroz Figueroa and his attorneys of
26 record have not consented to Mr. Quiroz Figueroa's interactions with ICE
27 officers at the detention facility. ICE officers' intimidation tactics with Mr.
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1 Quiroz Figueroa have impeded his effective representation by his attorneys of
2 record during his removal proceedings, and have exacerbated the emotional
3 distress that he has faced in detention.
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5 **VII.**

6 **CLAIMS FOR RELIEF**

7 **FIRST CLAIM FOR RELIEF**

8 **Violation of the Fourth Amendment to the United States Constitution**

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11 88. The Petitioner, through counsel, incorporates by reference all
12 preceding paragraphs of the instant Petition, as stated therein.
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14 89. This Court may grant a writ of habeas corpus to a noncitizen in
15 federal immigration detention who is “in custody in violation of the Constitution
16 or laws or treaties of the United States[.]” 8 U.S.C. § 2241(c)(3).
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18 90. The Fourth Amendment guarantees the “right of the people to be
19 secure in their persons, houses, papers, and effects, against unreasonable searches
20 and seizures.” U.S. Const. amend. IV.
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22 91. The Fourth Amendment applies to “‘two categories of police
23 seizures’: (1) Terry stops, i.e., ‘brief, investigative stop[s]’ when police officers
24 ‘have reasonable suspicion that the person apprehended is committing or has
25 committed a criminal offense’; and (2) ‘full-scale arrests,’ which require probable
26 cause at the time of arrest that the person being arrested has committed a crime.”
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1 United States v. In, 124 F.4th 790, 794 (9th Cir. 2024) (quoting Reynaga
2 Hernandez v. Skinner, 969 F.3d 930, 937-38 (9th Cir. 2020)).

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4 92. Reasonable suspicion “exists when an officer is aware of specific,
5 articulable facts which, when considered with objective and reasonable
6 inferences, form a basis for particularized suspicion[]” of criminal involvement.
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8 United States v. Evans, 786 F.3d 779, 788 (9th Cir. 2015) (quoting United States
9 v. Montero-Camargo, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc)).

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11 93. The probable cause standard for arrests is more stringent than the
12 reasonable suspicion standard for brief detentions by law enforcement. See
13 Reynaga Hernandez, 969 F.3d at 938. Law enforcement officers’ “[p]robable
14 cause to arrest exists when officers have knowledge or reasonably trustworthy
15 information sufficient to lead a person of reasonable caution to believe that an
16 offense has been or is being committed by the person being arrested.” Ramirez
17 v. City of Buena Park, 560 F.3d 1012, 1023 (9th Cir. 2009) (quoting United
18 States v. Lopez, 482 F.3d 1067, 1072 (9th Cir. 2007)) (other internal citations
19 omitted). The probable cause standard does not require “conclusive evidence of
20 guilt[]” for an arrest, but “[m]ere suspicion, common rumor, or even strong
21 reason to suspect are not enough.” Id. (quoting McKenzie v. Lamb, 738 F.2d
22 1005, 1008 (9th Cir. 1984)) (other internal citations omitted).

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28 94. A person’s “seizure for a traffic violation justifies a police
investigation of that violation.” United States v. Steinman, U.S.D.A. No. 23-

1 1703, __ F.4th __, 2025 U.S. App. LEXIS 29804, at *15 (9th Cir. Nov. 13, 2025)
2 (quoting Rodriguez v. United States, 575 U.S. 348, 354 (2015)). Ordinarily, ““a
3 seizure for a traffic stop is a relatively brief encounter, more analogous to a so-
4 called Terry stop than to a formal arrest.”” Id. (quoting United States v. Taylor,
5 60 F.4th 1233, 1239 (9th Cir. 2023)) (other internal citations and quotation marks
6 omitted). As with a Terry stop, “the tolerable duration of police inquiries in the
7 traffic-stop context is determined by the seizure’s ‘mission’ - to address the
8 traffic violation that warranted the stop[.]” Rodriguez v. United States, 575 U.S.
9 at 354 (citing Illinois v. Caballes, 543 U. S., 405, 407 (2005)).
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14 95. A lawful traffic stop ““must be limited in its scope: an officer may
15 address the traffic violation that warranted the stop, make ordinary inquiries
16 incident to the traffic stop, and attend to related safety concerns[,]”” but ““[t]he
17 stop may last no longer than is necessary to effectuate these purposes and
18 complete the traffic mission safely.”” Steinman, 2025 U.S. App. LEXIS 29804,
19 at *15-*16 (quoting Taylor, 60 F.4th at 1239) (other internal citations and
20 quotation marks omitted). Constitutional “[a]uthority for the seizure thus ends
21 when tasks tied to the traffic infraction are - or reasonably should have been -
22 completed.” Rodriguez, 575 U.S. at 354 (citing United States v. Sharpe, 470
23 U.S. 675, 686 (1985)).
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28 96. Police officers’ “[l]awful inquiries incident to a traffic stop can
include checking a driver’s license, determining whether there are outstanding

1 warrants, and inspecting the automobile’s registration and proof of insurance.”
2 Steinman, 2025 U.S. App. LEXIS 29804, at *16 (citing United States v. Ramirez,
3 98 F.4th 1141, 1144 (9th Cir. 2024)). Police officers’ efforts to address “related
4 safety concerns include[] ‘certain negligibly burdensome precautions in order to
5 complete [the traffic] mission safely[,]’” such as “‘order[ing] the driver of a
6 vehicle to exit the vehicle during a traffic stop.’” Id. (quoting Ramirez, 98 F.4th
7 at 1144, and citing Pennsylvania v. Mimms, 434 U.S. 106, 110 (1977) (per
8 curiam)) (other internal citations omitted).

12 97. Under the Fourth Amendment, “a traffic stop ‘can become unlawful
13 if it is prolonged beyond the time reasonably required to complete the mission of
14 issuing a ticket for the violation.’” Id. at *16-*17 (quoting United States v.
15 Hylton, 30 F.4th 842, 847 (9th Cir. 2022), and citing Ramirez, 98 F.4th at 1144)
16 (other internal citations and quotation marks omitted). While “‘the Fourth
17 Amendment tolerate[s] certain unrelated investigations that [do] not lengthen the
18 roadside detention[,]’” a police officer “may not make unrelated investigation
19 inquiries ‘in a way that prolongs the stop.’” Id. at *17 (quoting Rodriguez, 575
20 U.S. at 354-55, and United States v. Landeros, 913 F.3d 862, 866 (9th Cir.
21 2019)). A traffic stop “‘may be extended to conduct an investigation into matters
22 other than the original traffic violation’ so long as ‘the officers have reasonable
23 suspicion of an independent offense.’” Id. (quoting Taylor, 60 F.4th at 1239)
24 (other internal citations and quotation marks omitted).

1 98. Section 287 of the INA, 8 U.S.C. § 1357, and federal immigration
2 regulations set forth at 8 C.F.R. pt. 287 circumscribe ICE officers' arrest and
3 detention of undocumented individuals. Section 287(a) of the INA gives an
4 authorized officer or employee of the United States Department of Homeland
5 Security the "power without warrant...to interrogate any alien or person believed
6 to be an alien as to his right to be or to remain in the United States[.]" and to
7 "arrest any alien in the United States, if he has reason to believe that the alien so
8 arrested is in the United States in violation of any such law or regulation and is
9 likely to escape before a warrant can be obtained for his arrest[.]" 8 U.S.C. §§
10 1357(a)(1), 1357(a)(2).

15 99. Federal immigration regulations set forth at 8 C.F.R. pt. 287, which
16 are "intended to reflect constitutional restrictions on the ability of immigration
17 officials to interrogate and detain persons in this country,' thereby providing at
18 least as much protection as the Fourth Amendment[.]" Cruz v. Barr, 926 F.3d
19 1128, 1137 (9th Cir. 2019) (quoting Sanchez v. Sessions, 904 F.3d 643, 651-52
20 (9th Cir. 2017)), authorize certain immigration officers "to interrogate, without
21 warrant, any alien or person believed to be an alien concerning his or her right to
22 be, or to remain, in the United States[.]" if "the immigration officer does not
23 restrain the freedom of an individual, not under arrest, to walk away." 8 C.F.R.
24 §§ 287.5(a)(1), 287.8(b)(1) (2025). An immigration officer who "has a
25 reasonable suspicion, based on specific articulable facts, that the person being
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1 questioned is, or is attempting to be, engaged in an offense against the United
2 States or is an alien illegally in the United States...may briefly detain the person
3 for questioning.” 8 C.F.R. § 287.8(b)(2) (2025).
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5 100. The regulations permit certain authorized immigration officers to
6 arrest someone “when the designated immigration officer has reason to believe
7 that the person to be arrested has committed an offense against the United States
8 or is an alien illegally in the United States.” 8 C.F.R. §§ 287.8(c)(1),
9 287.8(c)(2)(i) (2025); see also 8 C.F.R. § 287.5(c)(1) (2025) (specifying the
10 authorized immigration officers who can “exercise the arrest power conferred by
11 section 287(a)(2) of the [INA],” 8 U.S.C. § 1357(a)(2)). The regulations provide,
12 in part, that “[a] warrant of arrest shall be obtained except when the designated
13 immigration officer has reason to believe that the person is likely to escape
14 before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii) (2025).
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19 101. On August 5, 2025, law enforcement officers stopped Mr. Quiroz
20 Figueroa while he drove a motorcycle in Arlington, Virginia, accused him of
21 allegedly disobeying a stop sign, and demanded his vehicle registration and his
22 Virginia Driver’s License. Mr. Quiroz Figueroa complied with their requests.
23 He submits, through counsel, a copy of his motorcycle registration document
24 from the Virginia Department of Motor Vehicles with this Petition. [Exh. G, p.
25 19]. A law enforcement officer examined Mr. Quiroz Figueroa’s Virginia
26 Driver’s License, and told him that he needed a motorcycle license to operate the
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1 motorcycle. Police officers asked Mr. Quiroz Figueroa to leave the motorcycle,
2 impounded the vehicle, and instructed him to contact someone to retrieve him
3 from the scene of the stop. Again, Mr. Quiroz Figueroa complied with the police
4 officers' requests. The police officers issued two citations to Mr. Quiroz
5 Figueroa for failing to obey a traffic control device and for driving without a
6 motorcycle operator's license, [Exh. G, pp. 20-21], released him to his brother,
7 Francisco Jose Quiroz Figueroa, and directed him to retrieve his motorcycle at a
8 vehicle impoundment lot in Arlington, Virginia the following day.

12 102. Law enforcement officials' authority for Mr. Quiroz Figueroa's
13 seizure ended when they issued Mr. Quiroz Figueroa's citations and impounded
14 his vehicle, and any "tasks tied to the traffic infraction are - or reasonably should
15 have been - completed." Rodriguez, 575 U.S. at 354 (citing Sharpe, 470 U.S. at
16 686). While a stop "'may be extended to conduct an investigation into matters
17 other than the original traffic violation' so long as 'the officers have reasonable
18 suspicion of an independent offense[,]'" Taylor, 60 F.4th at 1239 (quoting
19 Landeros, 913 F.3d at 867), no evidence indicates that law enforcement officials
20 harbored a reasonable suspicion of Mr. Quiroz Figueroa's involvement in
21 additional criminal activity.

26 103. Mr. Quiroz Figueroa's initial interactions with a police officer at the
27 vehicle impoundment lot in Arlington, Virginia on August 6, 2025 could not
28 form any basis for a "particularized suspicion" of Mr. Quiroz Figueroa's

1 involvement in criminal activity, Evans, 786 F.3d at 788 (other internal citations
2 and quotation marks omitted), as those interactions consisted of Mr. Quiroz
3 Figueroa presenting his traffic citations and paying an impoundment fee for his
4 motorcycle. After that initial encounter ended, the police officer instructed Mr.
5 Quiroz Figueroa to stay at the impoundment lot, and then left the area. The
6 police officer's ensuing statement to Mr. Quiroz Figueroa that "ICE needed to
7 take him" and his reference to a missed "court date" with the immigration
8 authorities suggest that the officer's communications with ICE caused him to
9 hold Mr. Quiroz Figueroa at the vehicle impoundment lot, rather than any other
10 conduct by Mr. Quiroz Figueroa.

15 104. A seizure under the Fourth Amendment "occurs only when a
16 reasonable person would not feel free to leave or decline the officer's requests."
17 Reynaga Hernandez, 969 F.3d at 938 n.2 (citing Brendlin v. California, 551 U.S.
18 249, 255 (2007)); see also Florida v. Bostick, 501 U.S. 429, 439 (1991)
19 (declaring that "in order to determine whether a particular encounter constitutes a
20 seizure, a court must consider all the circumstances surrounding the encounter to
21 determine whether the police conduct would have communicated to a reasonable
22 person that the person was not free to decline the officers' requests or otherwise
23 terminate the encounter[']"). After the police officer informed Mr. Quiroz
24 Figueroa that "ICE needed to take him," he told Mr. Quiroz Figueroa that he
25 needed to arrest him. The police officer then handcuffed Mr. Quiroz Figueroa,
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1 removed him from the vehicle impoundment lot, and transported him to a holding
2 facility. A reasonable person in Mr. Quiroz Figueroa's position would not have
3 felt free to leave or to decline his encounter with the police officer after the police
4 officer declared that he was under arrest, handcuffed him, and removed him to a
5 holding facility controlled by law enforcement so that ICE could detain him. See
6 Reynaga Hernandez, 969 F.3d at 934, 941 (concluding that Reynaga Hernandez
7 was arrested under the Fourth Amendment when a Deputy Sheriff handcuffed
8 him, removed him from a courthouse, and placed him in a patrol vehicle,
9 following brief questioning about his immigration status); see also Martinez-
10 Medina v. Holder, 673 F.3d 1029, 1034 (9th Cir. 2011), cited in Reynaga
11 Hernandez, 969 F.3d at 939-40 (finding that an encounter between two men and a
12 deputy sheriff at a gas station became a seizure under the Fourth Amendment
13 when the deputy sheriff told the men that "they could not leave the gas station
14 and that he was going to call 'Immigration'" after he questioned them about their
15 immigration status).

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22 105. Under the Fourth Amendment, "a search or seizure of a person
23 must be supported by probable cause particularized with respect to that person."
24 Cruz, 926 F.3d at 1138 (quoting Ybarra v. Illinois, 444 U.S. 85, 91 (1979)). As
25 was discussed above, see supra ¶ 103, no probable cause existed for the police
26 officer's arrest of Mr. Quiroz Figueroa at the vehicle impoundment lot.
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1 106. Mr. Quiroz Figueroa’s allegedly unlawful presence in the United
2 States did not furnish probable cause for his arrest and detention by either the
3 police officer at the vehicle impoundment lot or ICE officers at the holding
4 facility. A person’s “illegal presence” in the United States is not a federal crime.
5 Reynaga Hernandez, 969 F.3d at 938 (citing Martinez-Medina, 673 F.3d at
6 1036); see also Arizona v. United States, 567 U.S. 387, 407 (2012), (declaring
7 that “[a]s a general rule, it is not a crime for a removable alien to remain present
8 in the United States[]”). A person “who is illegally present in the United States
9 may have committed a civil violation - by overstaying a visa, changing her
10 student status, or acquiring prohibited employment - or a criminal violation, by
11 entering the country illegally.” Id. at 938-39 (citing Gonzales v. City of Peoria,
12 722 F.2d 468, 476-77 (9th Cir. 1983), overruled on other grounds by Hodgers-
13 Durgin v. de la Vina, 199 F.3d 1037 (9th Cir. 1999) (en banc)). Since a person’s
14 “mere unauthorized presence is not a criminal matter, suspicion of unauthorized
15 presence alone does not give rise to an inference that criminal activity is
16 afoot[,]” Id. at 939 (quoting Melendres v. Arpaio, 695 F.3d 990, 1001 (9th Cir.
17 2012)) (other internal citations and quotation marks omitted). Likewise, a
18 person’s alleged unlawful presence in the United States does not, alone, provide
19 the “probable cause of the criminal violation of illegal entry[]” necessary for an
20 arrest under the Fourth Amendment. Id. at 943-44 (citing Martinez-Medina, 673
21 F.3d at 1036, and Gonzales, 722 F.2d at 476-77).

1 107. Neither 8 U.S.C. § 1357 nor 8 C.F.R. pt. 287 authorized the police
2 officer's arrest of Mr. Quiroz Figueroa at the impoundment lot, because those
3 authorities only permit certain authorized employees of the United States
4 Department of Homeland Security to arrest and detain undocumented individuals.
5 See 8 U.S.C. § 1357(a) (empowering “[a]ny officer or employee of the Service
6 authorized under regulations prescribed by the Attorney General” to arrest
7 someone without a warrant); 8 C.F.R. § 287.5(c)(1) (2025) (listing the
8 immigration officers who “are hereby authorized and designated to exercise the
9 arrest power conferred by section 287(a)(2) of the [INA],” 8 U.S.C. §
10 1357(a)(2)); 8 C.F.R. §§ 287.8(c)(1), 287.8(c)(2)(i) (2025) (allowing only
11 “designated immigration officers” specified under 8 C.F.R. § 287.5 to arrest
12 someone “when the designated immigration officer has reason to believe that the
13 person to be arrested has committed an offense against the United States or is an
14 alien illegally in the United States[.]”).

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21 108. Section 287(a)(2) of the INA, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. §
22 287.8 (2025) did not permit Mr. Quiroz Figueroa's warrantless arrest by ICE
23 officers. Section 287(a)(2) of the INA empowers a certain designated ICE officer
24 to, “without warrant...arrest any alien in the United States, if he has reason to
25 believe that the alien so arrested is in the United States in violation of any such
26 law or regulation and is likely to escape before a warrant can be obtained for his
27 arrest[.]” 8 U.S.C. § 1357(a)(2). Federal immigration regulations authorize
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1 certain “designated immigration officers” listed under 8 C.F.R. § 287.5(c) to
2 arrest someone “when the designated immigration officer has reason to believe
3 that the person to be arrested has committed an offense against the United States
4 or is an alien illegally in the United States.” 8 C.F.R. §§ 287.8(c)(1),
5 287.8(c)(2)(i) (2025). The regulations mandate that “[a] warrant of arrest shall be
6 obtained except when the designated immigration officer has reason to believe
7 that the person is likely to escape before a warrant can be obtained.” 8 C.F.R. §
8 287.8(c)(2)(ii) (2025). As was noted above, see supra ¶ 106, Mr. Quiroz
9 Figueroa’s allegedly unlawful presence in the United States is not a criminal
10 offense, and does not support an inference of his involvement in criminal activity.
11 No evidence indicates that a designated immigration officer specified section
12 287(a)(2) of the INA, 8 U.S.C. § 1357(a)(2), or in 8 C.F.R. § 287.5(c) (2025)
13 obtained a warrant for Mr. Quiroz Figueroa’s arrest, or determined that he was
14 likely to flee before a warrant could be obtained. In fact, Mr. Quiroz Figueroa’s
15 prior appearances before ICE officers in Chantilly, Virginia and his voluntary
16 appearance at the impoundment lot on August 6, 2025 undermine any allegation
17 by the Respondents that he was likely to flee before ICE officers could obtain a
18 warrant for his arrest.

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109. Accordingly, Mr. Quiroz Figueroa, through counsel, asks the Court
for an Order, declaring that his arrest and detention by the Respondents violated

1 his rights under the Fourth Amendment to the United States Constitution, and
2 was unauthorized by law.

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4 110. Mr. Quiroz Figueroa, through counsel, asks the Court for an Order,
5 directing his immediate release from the Respondents' custody.

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7 **SECOND CLAIM FOR RELIEF**

8 **Violation of Fifth Amendment to the United States Constitution**

9 **(Substantive Due Process – Detention)**

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11 111. The Petitioner, through counsel, incorporates by reference all
12 preceding paragraphs of the instant Petition, as stated therein.

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14 112. This Court may grant a writ of habeas corpus to a noncitizen in
15 federal immigration detention who is “in custody in violation of the Constitution
16 or laws or treaties of the United States[.]” 8 U.S.C. § 2241(c)(3).

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18 113. The Due Process Clause of the Fifth Amendment states that no
19 person shall “be deprived of life, liberty, or property, without due process of
20 law.” U.S. Const. amend. V. The Constitution does not limit the “procedural
21 protections provided by the Fifth Amendment’s Due Process Clause” to citizens.
22 Washington v. Trump, 847 F.3d 1151, 1165 (9th Cir. 2017). Rather, the Due
23 Process Clause applies “to all persons within the United States, including
24 aliens,” regardless of “whether their presence here is lawful, unlawful, temporary,
25 or permanent.” Id. (quoting Zadvydas v. Davis, 533 U.S. 678, 693 (2001))
26 (other internal quotation marks omitted).
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1 114. Noncitizens “who have established connections in this country have
2 due process rights in deportation proceedings[,]” regardless of their immigration
3 status. Department of Homeland Security v. Thuraissigiam, 591 U.S. 103, 107
4 (2020); Hernandez, 872 F.3d at 983-84, 990 (holding that undocumented
5 noncitizens who resided in Los Angeles, California for years without lawful
6 admission or parole are entitled to due process in bond proceedings in the
7 Immigration Court).

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11 115. A person’s “[f]reedom from imprisonment - from government
12 custody, detention, or other forms of physical restraint—lies at the heart of the
13 liberty that Clause protects.” Hernandez, 872 F.3d at 990 (quoting Zadvydas,
14 533 U.S. at 690).

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17 116. Detention by the Government violates the Due Process Clause
18 “unless the detention is ordered in a criminal proceeding with adequate
19 procedural protections,...or, in certain special and ‘narrow’ non-punitive
20 ‘circumstances,’” when a “special justification, such as harm-threatening mental
21 illness, outweighs the ‘individual’s constitutionally protected interest in avoiding
22 physical restraint.”” Zadvydas, 533 U.S. at 690 (quoting Kansas v. Hendricks,
23 521 U.S. 346, 356 (1997), and Foucha v. Louisiana, 504 U.S. 71, 80 (1992), and
24 citing United States v. Salerno, 481 U.S. 739, 746 (1987)).

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28 117. In matters concerning immigration detention, “due process requires
adequate procedural protections to ensure that the government’s asserted

1 justification for physical confinement outweighs the individual’s constitutionally
2 protected interest in avoiding physical restraint.” Hernandez, 872 F.3d at 990
3 (citing Singh, 638 F.3d at 1203) (other internal citations omitted). The
4 Government has “has legitimate interests in protecting the public and in ensuring
5 that non-citizens in removal proceedings appear for hearings, but any detention
6 incidental to removal must ‘bear[] [a] reasonable relation to [its] purpose.’” Id.
7 (quoting Zadvydas, 533 U.S. at 690, and citing Tijani v. Willis, 430 F.3d 1241,
8 1249 (9th Cir. 2005) (Tashima, J., concurring)). When the conditions of a
9 noncitizen’s detention no longer relate to those purposes, they will run afoul of
10 due process. See Zadvydas, 533 U.S. at 690 (finding that a statute permitting the
11 indefinite detention of noncitizens with final removal orders raised “a serious
12 constitutional problem” when the statutory objective, “preventing flight[,]” was
13 “no longer practically attainable[,]” due to the low likelihood of the noncitizens’
14 repatriation to their countries of origin, and when their detention no longer
15 related “to the purpose for which the individual [was] committed[.]”) (quoting
16 Jackson v. Indiana, 406 U.S. 715, 738 (1972)).

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24 118. No evidence suggests that Mr. Quiroz Figueroa is a flight risk or
25 danger to the community. Mr. Quiroz Figueroa has no contacts with law
26 enforcement officials, apart from the traffic violation that led to his re-detention
27 by the Respondents. [Exh. A, pp. 1-2; Exh. I, p. 35]. ICE officers released Mr.
28 Quiroz Figueroa into the United States on his own recognizance on September

1 27, 2023. [Exh. C]. By authorizing Mr. Quiroz Figueroa's release from
2 detention, ICE officers implicitly found that he posed no risk of flight or a danger
3 to the community if they released him from federal immigration custody. See 8
4 C.F.R. § 236.1(c)(8) (2025) (permitting "[a]ny officer authorized to issue a
5 warrant of arrest" to release a noncitizen from detention, at the officer's
6 discretion, if the noncitizen is not described in 236(c)(1) of the INA, 8 U.S.C. §
7 1226(c)(1) (pertaining to criminal noncitizens), and "demonstrate[s] to the
8 satisfaction of the officer that such release would not pose a danger to property or
9 persons, and that the alien is likely to appear for any future proceeding[]").
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14 119. Mr. Quiroz Figueroa's detention is punitive because it bears no
15 "reasonable relation" to any legitimate government purpose. Zadvydas, 533
16 U.S. at 690 (finding that immigration detention is civil and is "nonpunitive in
17 purpose and effect") (quoting Jackson, 406 U.S. at 738). As the "Due Process
18 Clause prohibits arbitrary deprivations of liberty," this Court must question
19 whether Mr. Quiroz Figueroa's detention "is not to facilitate deportation, or to
20 protect against risk of flight or dangerousness, but to incarcerate for other
21 reasons[.]" Demore v. Hyung Joon Kim, 538 U.S. 510, 532-33 (2003) (Kennedy,
22 J., concurring) (citing Zadvydas, 533 U.S. at 684-86 (Kennedy, J., dissenting)),
23 such as the Government's objective of making 3,000 arrests per day as part of an
24 "immigration crackdown." Make the Road N.Y. v. Noem, U.S.D.C. No. 25-cv-
25 190 (JMC), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 169432, at *17-*18
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1 (D.D.C. Aug. 29, 2025) (describing the present administration’s mass
2 immigration arrests) (other internal quotation marks omitted).

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4 120. Accordingly, Mr. Quiroz Figueroa asks the Court to issue an Order,
5 declaring that his detention in the Respondents’ custody violates his rights under
6 the Fifth Amendment to the United States Constitution.
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8 121. Mr. Quiroz Figueroa respectfully requests that the Court issue an
9 Order, mandating his immediate release from the Respondents’ custody.
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11 **THIRD CLAIM FOR RELIEF**

12 **Violation of Fifth Amendment to the United States Constitution**

13 **(Procedural Due Process)**

14
15 122. The Petitioner, through counsel, incorporates by reference all
16 preceding paragraphs of the instant Petition, as stated therein.
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18 123. The Fifth Amendment to the United States Constitution “entitles
19 aliens to due process of law in the context of removal proceedings.” A.A.R.P. v.
20 Trump, 605 U.S. 91, 94 (2025) (quoting Trump v. J.G.G., 604 U. S. 670, 673
21 (2025) (per curiam)) (other internal quotation marks omitted). Under the Fifth
22 Amendment, “[p]rocedural due process rules are meant to protect” against “the
23 mistaken or unjustified deprivation of life, liberty, or property.” Id. (quoting
24 Carey v. Piphus, 435 U. S. 247, 259 (1978)).
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28 124. The Supreme Court has “long held that ‘no person shall be’ removed
from the United States ‘without opportunity, at some time, to be heard.’” Id.

1 (quoting The Japanese Immigrant Case, 189 U. S. 86, 101 (1903)). The Due
2 Process Clause “requires notice that is ‘reasonably calculated, under all the
3 circumstances, to apprise interested parties’ and that ‘afford[s] a reasonable time
4 ...to make [an] appearance.’” Id. at 95 (quoting Mullane v. Central Hanover
5 Bank & Trust Co., 339 U. S. 306, 314 (1950)).
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8 125. To ascertain whether a noncitizen’s procedural due process rights
9 have been violated, a court “first ask[s] whether there exists a liberty or property
10 interest of which a person has been deprived, and if so we ask whether the
11 procedures followed by the [government] were constitutionally sufficient.”
12 Zerezghi v. United States Citizenship & Immigration Servs., 955 F.3d 802, 808
13 (9th Cir. 2020) (quoting Swarthout v. Cooke, 562 U.S. 216, 219 (2011)).
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16 126. While “certain constitutional protections” do not extend to
17 noncitizens “outside of our geographic borders,” after a noncitizen “enters the
18 country, the legal circumstance changes, for the Due Process Clause applies to all
19 persons within the United States, including aliens, whether their presence here is
20 lawful, unlawful, temporary, or permanent.” Zadvydas, 533 U.S. at 693. A
21 noncitizen who has entered the United States retains a “weighty” liberty interest
22 in remaining, as they “stand[] to lose the right to stay and live and work in this
23 land of freedom,” and “may lose the right to rejoin [their] immediate family, a
24 right that ranks high among the interests of the individual.” Landon v. Plasencia,
25 459 U.S. 21, 34 (1982). Accordingly, the Due Process Clause “requires some
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1 kind of a hearing before the State deprives a person of liberty or property.”

2 Zinermon v. Burch, 494 U.S. 113, 127 (1990).

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4 127. A person’s “[f]reedom from imprisonment - from government
5 custody, detention, or other forms of physical restraint - lies at the heart of the
6 liberty that Clause protects[,]” even for those individuals “who face significant
7 constraints on their liberty[.]” Pinchi v. Noem, __ F. Supp. 3d __, U.S.D.C. No.
8 5:25-cv-05632-PCP, 2025 U.S. Dist. LEXIS 142213, at *7 (N.D. Cal. July 24,
9 2025) (quoting Zadvydas, 533 U.S. at 690, and citing Ortega v. Bonnar, 415 F.
10 Supp. 3d 963, 970 (N.D. Cal. 2019)) (other internal citations omitted). While
11 “the initial decision to detain or release an individual may be within the
12 government’s discretion[]” in some cases, “the government’s decision to release
13 an individual from custody creates ‘an implicit promise,’ upon which that
14 individual may rely, that their liberty ‘will be revoked only if [they] fail[] to live
15 up to the...conditions [of release].” Id. at *7-*8 (quoting Morrissey v. Brewer,
16 408 U.S. 471, 482 (1972)). That individual’s liberty “‘is valuable and must be
17 seen as within the protection of the [Due Process Clause].” Id. at *8 (quoting
18 Morrissey, 408 U.S. at 482). Accordingly, “even when ICE has the initial
19 discretion to detain or release a noncitizen pending removal proceedings, after
20 that individual is released from custody she has a protected liberty interest in
21 remaining out of custody.” Id. (citing Romero v. Kaiser, U.S.D.C. No. 22-cv-
22 02508, 2022 U.S. Dist. LEXIS 82538, at *2 (N.D. Cal. May 6, 2022)) (other
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1 internal citations omitted); see also Sequen v. Albarran, U.S.D.C. No. 25-cv-
2 06487-PCP, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 203758, at *19-*20 (N.D.
3 Cal. Oct. 15, 2025) (finding that noncitizens released from immigration detention
4 “on their own recognizance subject to certain conditions[]” were “entitled to due
5 process under the Fifth Amendment with respect to their protected liberty interest
6 in remaining out of immigration custody”); Ramirez Clavijo v. Kaiser, U.S.D.C.
7 No. 25-cv-06248-BLF, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 163056, at *13
8 (N.D. Cal. Aug. 21, 2025) (noting that “[c]ourts have previously found that
9 individuals released from immigration custody on bond have a protectable liberty
10 interest in remaining out of custody on bond[]”) (citing Ortiz Vargas v. Jennings,
11 U.S.D.C. No. 20-cv5785, __ F. Supp. 3d __, 2020 U.S. Dist. LEXIS 153579, at
12 *8 (N.D. Cal. Aug. 23, 2020), and Ortega v. Bonnar, 415 F. Supp. 3d 963, 969
13 (N.D. Cal. 2019)) (other internal citations omitted); cf. Ortega-Cervantes v.
14 Gonzales, 501 F.3d 1111, 1115 (9th Cir. 2007) (equating a noncitizen’s “release
15 on recognizance” for removal proceedings to the “conditional parole” examined
16 by the Supreme Court in Morrissey v. Brewer).

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24 128. To assess the constitutional sufficiency of procedures to protect a
25 noncitizen’s liberty interest in remaining free from detention, this Court must
26 apply the following three-factor test delineated in Mathews v. Eldridge, 424 U.S.
27 319 (1976): “[f]irst, the private interest that will be affected by the official
28 action; second, the risk of an erroneous deprivation of such interest through the

1 procedures used, and the probable value, if any, of additional or substitute
2 procedural safeguards; and finally, the Government's interest, including the
3 function involved and the fiscal and administrative burdens that the additional or
4 substitute procedural requirement would entail.” Hernandez, 872 F.3d at 993
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6 (quoting Mathews, 424 U.S. at 335).
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8 129. The private interest at issue here “is ‘fundamental[,]’” as “freedom
9 from imprisonment is at the ‘core of the liberty protected by the Due Process
10 Clause.”” Hernandez, 872 F.3d at 993 (quoting Foucha, 504 U.S. at 80). A
11 noncitizen who is released from immigration detention “can be gainfully
12 employed and is free to be with family and friends and to form the other enduring
13 attachments of normal life[,]” subject to the conditions of his release from
14 confinement. Morrissey, 408 U.S. at 482. The Respondents’ termination of Mr.
15 Quiroz Figueroa’s conditional release and his re-detention in federal immigration
16 custody deprives him of that liberty interest, and risks separating him from his
17 extensive network of family and friends in the United States.
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22 130. The risk of an erroneous deprivation of Mr. Quiroz Figueroa’s
23 protected liberty interest in remaining free from detention is high. Mr. Quiroz
24 Figueroa’s “[c]ivil immigration detention is permissible only to prevent flight or
25 protect against danger to the community,...but the government has offered no
26 evidence...that [his] detention would serve either purpose.” Pinchi, 2025 U.S.
27 Dist. LEXIS 142213, at *13 (citing Zadvydas, 533 U.S. at 690). Yet, the
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1 Respondents have not articulated a valid basis for revoking his conditional
2 release from federal immigration custody and re-detaining him. The
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4 Respondents will struggle to offer a valid justification for its decisions in Mr.
5 Quiroz Figueroa’s case, as ICE officers re-detained him after they released him
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7 into the United States on his own recognizance [Exh. A, p. 3; Exh. C], and after
8 he attended required immigration proceedings without incident for almost two
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10 years. See Pinchi, 2025 U.S. Dist. LEXIS 142213, at *13; see also Mohit Kumar
11 v. Wamsley, __ F. Supp. 3d __, U.S.D.C. No. 2:25-cv-01772-JHC-BAT, 2025
12 U.S. Dist. LEXIS 182775, at *9-*10 (W.D. Wash. Sept. 17, 2025) (finding that
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14 the “risk of erroneous deprivation” resulting from the petitioner’s unjustified
15 detention at an ICE appointment was high, in part, because “it is undisputed that
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17 Petitioner’s arrest was not preceded by a finding that Petitioner was a flight risk
18 nor a danger to the community[,]” and ICE offered no “valid legal justification
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20 for his arrest”).

21 131. As was noted above, see supra ¶¶ 41-45, section 235(b) of the INA,
22 8 U.S.C. § 1225(b), mandates the detention of certain noncitizens for removal
23
24 proceedings, unless federal immigration officials elect to parole them into the
25 United States. See 8 U.S.C. §§ 1225(b)(1)(B)(ii), 1225(b)(1)(B)(iii)(IV),
26 1225(b)(2)(A). The Board of Immigration Appeals’ decisions in Matter of Q. Li
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28 and In re Yajure Hurtado and ICE Policy Guidance, discussed above, see supra ¶
53, indicate that ICE officers will detain Mr. Quiroz Figueroa under 8 U.S.C. §

1 1225(b)(2)(A) for the duration of his removal proceedings in the United States
2 Immigration Court in the absence of judicial intervention, because he is present
3 in the United States without admission. In fact, a federal Immigration Judge in
4 Annandale, Virginia vacated a prior decision to grant Mr. Quiroz Figueroa's
5 release on a \$1,500.00 bond on September 9, 2025, and concluded that Matter of
6 Yajure Hurtado precluded her from exercising jurisdiction to consider Mr. Quiroz
7 Figueroa's bond request. [Exh. M]. When a habeas petitioner "'has not received
8 any bond or custody... hearing, the risk of an erroneous deprivation [of liberty] is
9 high' because neither the government nor [the petitioner] has had an opportunity
10 to determine whether there is any valid basis for [his] detention." Pinchi, 2025
11 U.S. Dist. LEXIS 142213, at *12-*13 (quoting Singh v. Andrews, U.S.D.C. No.
12 1:25-cv-00801-KES-SKO (HC), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
13 132500, at *18 (E.D. Cal. July 11, 2025)).

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19 132. When a habeas petitioner's "substantial liberty interest" is at stake,
20 "the government must prove by clear and convincing evidence that an alien is a
21 flight risk or a danger to the community" to justify depriving him of his liberty.
22 Singh, 638 F.3d at 1203. The Respondents' failure to proffer any evidence that
23 Mr. Quiroz Figueroa poses a risk of flight or a danger to the community suggests
24 that his continued detention in the Respondents' custody without a hearing is
25 likely to be in error. See Ramirez Clavijo, 2025 U.S. Dist. LEXIS 163056, at
26 *17-*18 (N.D. Cal. Aug. 21, 2025).

1 133. The “probable value, if any, of additional or substitute procedural
2 safeguards” is high. Hernandez, 872 F.3d at 993. The risk of “an erroneous
3 deprivation” of Mr. Quiroz Figueroa’s protected liberty interest would likely
4 decrease if he “had received notice of the basis for his re-detention and an
5 opportunity to be heard before a neutral decisionmaker prior to his arrest.” Mohit
6 Kumar, 2025 U.S. Dist. LEXIS 182775, at *10. The “procedural safeguard of a
7 pre-detention hearing will have significant value in helping ensure that any future
8 detention has a lawful basis.” Sequen, 2025 U.S. Dist. LEXIS 203758, at *36.

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12 134. The Government’s interest in Mr. Quiroz Figueroa’s continued
13 detention in federal immigration custody is minimal. The Government “has no
14 legitimate interest in detaining individuals who have been determined not to be a
15 danger to the community and whose appearance at future immigration
16 proceedings can be reasonably ensured by a lesser bond or alternative
17 conditions[]” of supervision. Hernandez, 872 F.3d at 994 (citing Pugh v.
18 Rainwater, 572 F.2d 1053, 1057 (5th Cir. 1978)). Mr. Quiroz Figueroa has no
19 criminal convictions [Exh. A, pp. 1-2; Exh. I, p. 35], has complied with any
20 required appearances before federal immigration officials, and was previously
21 released from immigration detention on his own recognizance. [Exh. C]. After
22 his initial release from the Respondents’ custody on September 27, 2023, [Exh.
23 C], he relocated to Arlington, Virginia, where the members of his immediate and
24 extended family reside, began working in the United States, sought asylum, and
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1 obtained an Employment Authorization Document, a Virginia Driver’s License,
2 and automobile insurance coverage. [Exh. C, p. 8; Exh. F, p. 16, Exh. I, pp. 34,
3 36, 37, 40-47, 49, 57, 58-60].
4

5 135. The Respondents have offered no evidence that “any material
6 circumstances have changed that would warrant reassessment of [his] risk of
7 flight or dangerousness.” Pinchi, 2025 U.S. Dist. LEXIS 142213, at *17. At
8 bottom, “due process prohibits detaining an individual without justification.”
9
10 Noori v. Larose, U.S.D.C. No. 25-cv-1824-GPC-MSB, __ F. Supp. 3d __, 2025
11 U.S. Dist. LEXIS 194953, at *30-*31 (S.D. Cal. Oct. 1, 2025) (quoting
12 Mohammed H. v. Trump, No. CV 25-1576 (JWB/DTS), __ F. Supp. 3d __, 2025
13 U.S. Dist. LEXIS 117197, at *16 (D. Minn. June 17, 2025)).
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16 136. The Respondents have not shown that providing additional
17 procedures before revoking Mr. Quiroz Figueroa’s release and detaining him for
18 removal proceedings will impose any heightened administrative or financial
19 burdens on the Government. See Hernandez, 872 F.3d at 994. To comport with
20 due process, the Government needed to provide Mr. Quiroz Figueroa with notice
21 of the revocation of his conditional release and his detention for removal
22 proceedings, and an opportunity to contest those decisions before a “neutral
23 decisionmaker.” Pinchi, 2025 U.S. Dist. LEXIS 142213, at *17. Hearings in the
24 Immigration Court are “routine and impose a minimal cost.” Id. (quoting
25 Singh, 2025 U.S. Dist. LEXIS 132500, at *20 (other citations and quotation
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1 marks omitted).

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3 137. Accordingly, Mr. Quiroz Figueroa, through counsel, asks the Court
4 for an Order declaring that the Respondents' revocation of his conditional release
5 and his detention in the Respondents' custody violated his rights under the Due
6 Process Clause of the Fifth Amendment, U.S. Const. amend. V.
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8 138. Mr. Quiroz Figueroa, through counsel, asks the Court for an Order
9 directing his immediate release from the Respondents' custody. He further
10 requests that this Court issue an Order enjoining his rearrest or re-detention by
11 the Respondents without an Order from this Court or a pre-deprivation hearing, at
12 which the Government will bear the burden of proving, by clear and convincing
13 evidence, that he poses a danger to the community or a risk of flight if he remains
14 outside immigration detention.
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18 **FOURTH CLAIM FOR RELIEF**

19 **(Detention of the Petitioner by the Respondents Without Lawful Authority)**
20

21 139. The Petitioner, through counsel, incorporates by reference all
22 preceding paragraphs of the instant Petition, as stated therein.
23

24 140. As was noted above, see supra ¶¶ 48, 82, the Government contends
25 that section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates Mr.
26 Quiroz Figueroa's detention in the Respondents' custody for the duration of his
27 removal proceedings because he is a noncitizen who is present in the United
28 States without inspection and admission or parole. [Exh. L, pp. 70-84]. A

1 federal Immigration Judge agreed with the Government, and determined that she
2 lacked jurisdiction to consider Mr. Quiroz Figueroa's bond request under Matter
3 of Yajure Hurtado. [Exh. M].
4

5 141. Section 235(b)(2)(A) of the INA provides that "in the case of an
6 alien who is an applicant for admission, if the examining immigration officer
7 determines that an alien seeking admission is not clearly and beyond a doubt
8 entitled to be admitted, the alien shall be detained for a proceeding under section
9 240[]" of the INA, 8 U.S.C. § 1229a. 8 U.S.C. § 1225(b)(2)(A). Section
10 235(a)(1) of the INA states, in part, that a noncitizen "present in the United States
11 who has not been admitted or who arrives in the United States...shall be deemed
12 for purposes of this Act an applicant for admission." 8 U.S.C. § 1225(a)(1).
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16 142. In Matter of Q. Li, the Board of Immigration Appeals observed that
17 the United States Supreme Court treated a noncitizen "'who tries to enter the
18 country illegally...as an applicant for admission[]'" under 8 U.S.C. § 1225(a)(1).
19
20 Q. Li, 29 I. & N. Dec. at 68. The Board "clarified that 'an alien who is detained
21 shortly after unlawful entry cannot be said to have effected an entry,' and is in the
22 same position as an alien seeking admission at a port of entry." Id. (quoting DHS
23 v. Thuraissigiam, 591 U.S. 103, 140 (2020)) (other citations and quotation marks
24 omitted). The Board noted that it treated noncitizens "'who [are] apprehended'
25 just inside 'the southern border, and not at a point of entry, on the same day
26 [they] crossed into the United States[]'" as noncitizens who "arrive in the United
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1 States” under 8 U.S.C. § 1225(a)(1), and mandated the detention of certain
2 applicants for admission in expedited removal proceedings under section
3 235(b)(1) of the INA, 8 U.S.C. § 1225(b)(1), “until the final adjudication of
4 the[ir] asylum application[.]” Id. (quoting Matter of M-D-C-V-, 28 I&N Dec. 18,
5 23 (BIA 2020), and citing Matter of M-S-, 27 I&N Dec. 509, 516 (A.G. 2019)).
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8 As noncitizens “arriving in the United States who are detained under section
9 235(b)(1) or (b)(2) are ineligible for release on bond because both provisions
10 ‘mandate detention of applicants for admission until certain proceedings have
11 concluded[,]’” the Board determined, it held that “an applicant for admission who
12 is arrested and detained without a warrant while arriving in the United States,
13 whether or not at a port of entry, and subsequently placed in removal proceedings
14 is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible
15 for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. §
16 1226(a)[,]” even if federal immigration officials declined to subject the
17 noncitizen to expedited removal proceedings. Id. at 69-70 (quoting Jennings, 583
18 U.S. at 298).
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24 143. In Matter of Yajure Hurtado, the Board of Immigration Appeals held
25 that an Immigration Judge lacked jurisdiction to consider the bond request of a
26 noncitizen, who entered the United States without inspection and admission and
27 who later resided in the United States without a lawful immigration status.
28 Yajure Hurtado, 29 I. & N. Dec. at 220. Based upon a “plain reading” of the

1 statutory text, the Board ruled that noncitizens “who are present in the United
2 States without admission are applicants for admission as defined under section
3 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the
4 duration of their removal proceedings.” Id. (citing Jennings, 583 U.S. at 300)
5 (other internal citations omitted).
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8 144. Consistent with Matter of Q. Li, the Board observed that 8 U.S.C. §
9 1225(a)(1) declared that “an alien present in the United States who has not been
10 admitted” was an “applicant for admission[,]” who remained in that status
11 “unless an immigration officer determines that they are ‘clearly and beyond a
12 doubt entitled to be admitted.’” Id. at 288 (quoting 8 U.S.C. § 1225(b)(2)(A),
13 and Thuraissigiam, 591 U.S. at 109, and citing Matter of Lemus, 25 I. & N. Dec.
14 734, 743 (BIA 2012)) (other internal citations omitted). The Board noted that a
15 noncitizen who “[f]ail[s] to clearly and beyond a doubt demonstrate that they are
16 entitled to admission...‘shall be detained for a proceeding under section 240.’”
17 Id. (quoting Thuraissigiam, 591 U.S. at 109, and citing Jennings, 583 U.S. at
18 288). The Board rejected the Respondent’s contentions that “[r]emaining in the
19 United States for a lengthy period of time following entry without inspection[]”
20 or “being arrested pursuant to a warrant and placed into removal proceedings”
21 were admissions under 8 U.S.C. § 1101(a)(13)(A) that enabled noncitizens who
22 entered the United States without inspection to avoid mandatory detention. Id.
23 Accordingly, the Board held that “just as Immigration Judges have no authority
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1 to redetermine the custody of arriving aliens who present themselves at a port of
2 entry, they likewise have no authority to redetermine the custody conditions of an
3 alien who crossed the border unlawfully without inspection, even if that alien has
4 avoided apprehension for more than 2 years.” Id.

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7 145. Under Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024),
8 courts have no obligation to defer to the Board of Immigration Appeals’
9 construction of the immigration laws. Murillo-Chavez v. Bondi, 128 F.4th 1076,
10 1086 (9th Cir. 2025) (citing Loper Bright, 603 U.S. at 412-13). Rather, “courts
11 must exercise independent judgment in determining the meaning of statutory
12 provisions.” Loper Bright, 603 U.S. at 394. The Board’s decisions have only the
13 “power to persuade[,]” and courts “may not defer to an agency interpretation
14 of the law simply because a statute is ambiguous.” Murillo-Chavez, 128 F.4th at
15 1086-87 (quoting Loper Bright, 603 U.S. at 402, 413) (other internal citations and
16 quotation marks omitted). Since the Board’s construction and application of
17 section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), conflicts with the
18 text, structure, and history of sections 235 and 236 of the INA, 8 U.S.C. §§ 1225
19 and 1226(a), and with federal immigration officials’ longstanding practices, for
20 the reasons set forth below, the Court should declare Mr. Quiroz Figueroa
21 detained under section 236(a) of the INA, 8 U.S.C. § 1226(a), and should direct
22 his immediate release from the Respondents’ custody.
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146. The Court’s analysis of 8 U.S.C. §§ 1225 and 1226 begins with the

1 “‘language of the statute.’” Esquivel-Quintana v. Sessions, 581 U.S. 385, 391
2 (2017) (quoting Leocal v. Ashcroft, 543 U.S. 1, 8 (2004)) (other internal citations
3 omitted). The Court does not “construe words ‘in a vacuum[,]’” but instead reads
4 the statutory language “‘in their context and with a view to their place in the
5 overall statutory scheme.’” Gundy v. United States, 588 U.S. 128, 141 (2019)
6 (quoting National Ass’n of Home Builders v. Defenders of Wildlife, 551 U. S.
7 644, 666 (2007)) (other internal citations omitted). In addition to the statutory
8 language, context, and structure, the Court examines the statute’s “‘history [and]
9 purpose’ to divine the meaning of language.” Id. (quoting Maracich v. Spears,
10 570 U. S. 48, 76 (2013)).

15 147. Section 236(a) of the INA, 8 U.S.C. § 1226(a), establishes the
16 “default rule” for arresting and detaining noncitizens “already present in the
17 United States[]” by “permitting - but not requiring - the Attorney General to issue
18 warrants for their arrest and detention pending removal proceedings[,]” and by
19 authorizing the Attorney General or her delegates to release those noncitizens on
20 bond or conditional parole, unless the noncitizens “fall[] into one of the
21 enumerated categories involving criminal offenses and terrorist activities.”
22 Jennings, 583 U.S. at 288, 303 (citing 8 U.S.C. §§ 1226(a) and 1226(c)). While
23 the statute “expressly carves out certain criminal noncitizens from its
24 discretionary framework, it does not similarly carve out noncitizens who would
25 be subject to mandatory detention under Section 1225(b)(2).” Gomes v. Hyde,

1 U.S.D.C. No. 1:25-cv-11571-JEK, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS
2 128085, at *16-17 (D. Mass. July 7, 2025) (citing 8 U.S.C. § 1226(a)). The
3
4 ‘express exception’ to Section 1226(a)’s discretionary framework ‘implies that
5 there are no other circumstances under which’ detention is mandated for
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7 noncitizens...who are subject to Section 1226(a).” *Id.* at *17 (quoting *Jennings*,
8 583 U.S. at 300) (other internal citations omitted) (emphasis omitted).

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10 148. Even if the Court considers Mr. Quiroz Figueroa an “applicant for
11 admission” under 8 U.S.C. § 1225(a)(1), the Court need not conclude that section
12 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), governs his detention in the
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14 Respondents’ custody. Section 235(b)(2)(A) of the INA provides that “in the
15 case of an alien who is an applicant for admission, if the examining immigration
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17 officer determines that an alien seeking admission is not clearly and beyond a
18 doubt entitled to be admitted, the alien shall be detained for a proceeding under
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20 section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). For section 235(b)(2)(A)
21 to apply to Mr. Quiroz Figueroa, “several conditions must be met - in particular,
22 an ‘examining immigration officer’ must determine that the individual is: (1) an
23
24 ‘applicant for admission’; (2) ‘seeking admission’; and (3) ‘not clearly and
25 beyond a doubt entitled to be admitted.’” *Lepe v. Andrews*, U.S.D.C. No. 1:25-
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27 cv-01163-KES-SKO (HC), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 187233, at
28 *10 (E.D. Cal. Sep. 23, 2025) (quoting *Martinez v. Hyde*, U.S.D.C. No. CV 25-
11613-BEM, __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 141724, at *6-*7 (D.

1 Mass. July 24, 2025), and citing Lopez Benitez v. Francis, U.S.D.C. No. 25 Civ.
2 5937 (DEH), __ F. Supp. 3d __, 2025 U.S. Dist. LEXIS 157214, at *16
3 (S.D.N.Y. Aug. 13, 2025)).
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5 149. While CBP officers apprehended Mr. Quiroz Figueroa near Eagle
6 Pass, Texas on August 20, 2023, [Exh. A, p. 2], no evidence indicates that a
7 qualified “examining immigration officer” determined that he was an “applicant
8 for admission,” was “seeking admission” to the United States, and was “not
9 clearly and beyond a doubt entitled to be admitted[.]” to this country on that date.
10 8 U.S.C. § 1225(b)(2)(A). Instead, a CBP officer issued a Notice to Appear for
11 removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a, to Mr.
12 Quiroz Figueroa. [Exh. A, p. 3; Exh. B]. ICE officers later released him on his
13 own recognizance to await hearings in the United States Immigration Court.
14 [Exh. C]. The absence of evidence that an “examining immigration officer”
15 made the requisite findings under the statute precludes his mandatory detention
16 for the duration of his removal proceedings under 8 U.S.C. § 1225(b)(2)(A). See
17 Echeverria v. Bondi, U.S.D.C. No. CV-25-03252, __ F. Supp. 3d __, 2025 U.S.
18 Dist. LEXIS 196174, at *13-*14 (D. Ariz. Oct. 3, 2025); Lepe, 2025 U.S. Dist.
19 LEXIS 187233, at *10 (same).
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26 150. The Board’s holdings in Matter of Q. Li and in Yajure Hurtado that
27 noncitizens who are present in the United States without admission are
28 “applicants for admission” who face mandatory detention under section

1 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), regardless of the length of
2 their presence in this country or “whether they ever took any affirmative step to
3 seek admission...ignores the plain meaning of the phrase ‘seeking admission[]’”
4 within the statute. Lepe, 2025 U.S. Dist. LEXIS 187233, at *10 (citing Martinez,
5 2025 U.S. Dist. LEXIS 141724, at *6).

8 151. The plain meaning of the term “seeking” refers to “‘asking for’ or
9 ‘trying to acquire or gain[]’” something. Id. (quoting Merriam-Webster
10 Dictionary, <https://www.merriam-webster.com/dictionary/seeking>). The statute’s
11 “use of a present participle, ‘seeking,’ ‘necessarily implies some sort of present-
12 tense action.’” Id. at *10-*11 (quoting Martinez, 2025 U.S. Dist. LEXIS 141724,
13 at *13). The INA defines the term “admission” as “‘the lawful entry of the alien
14 into the United States after inspection and authorization by an immigration
15 officer[,]’” and an “entry” into the United States “has long been understood to
16 mean ‘a crossing into the territorial limits of the United States.’” Lepe, 2025
17 U.S. Dist. LEXIS 187233, at *11 (quoting 8 U.S.C. § 1101(a)(13)(A)), and Hing
18 Sum v. Holder, 602 F.3d 1092, 1100-01 (9th Cir. 2010)) (other internal citations
19 omitted). Taken together, “the phrase ‘seeking admission’ means that one must
20 be actively ‘seeking’ ‘lawful entry[]’” into this country. Id. (quoting Lopez
21 Benitez, 2025 U.S. Dist. LEXIS 157214, at *19).

28 152. As someone who has already entered the United States, Mr. Quiroz
Figuroa is seeking to remain in the United States, rather than seeking lawful

1 entry into this country. See id. (emphasis omitted); see also Lopez-Campos v.
2 Raycraft, U.S.D.C. No. 2:25-CV-12486, __ F. Supp. 3d __, 2025 U.S. Dist.
3 LEXIS 169423, at *16 (E.D. Mich. Aug. 29, 2025), cited in Lepe, 2025 U.S. Dist.
4 LEXIS 187233, at *12 (noting that the term “seeking admission” in 8 U.S.C. §
5 1225(b)(2)(A) “implies action - something that is currently occurring, and in this
6 instance, would most logically occur at the border upon inspection[.]”). As the
7 Lopez Benitez court explained,

11 [S]omeone who enters a movie theater without purchasing a ticket and
12 then proceeds to sit through the first few minutes of a film would not
13 ordinarily then be described as ‘seeking admission’ to the theater.
14 Rather, that person would be described as already present there. Even
15 if that person, after being detected, offered to pay for a ticket, one
16 would not ordinarily describe them as ‘seeking admission’ (or
17 ‘seeking’ ‘lawful entry’) at that point - one would say that they had
18 entered unlawfully but now seek a lawful means of remaining there.
19 As § 1225(b)(2)(A) applies only to those noncitizens who are actively
20 ‘seeking admission’ to the United States, it cannot, according to its
21 ordinary meaning, apply to [petitioner], because hc has already been
22 residing in the United States for more than two years.

23 Lopez Benitez, 2025 U.S. Dist. LEXIS 157214, at *21, quoted in Lepe, 2025
24 U.S. Dist. LEXIS 187233, at *11-*12; see also Echeverria, 2025 U.S. Dist.

1 LEXIS 196174, at *17 (rejecting the Government’s position that “Petitioner
2 somehow existed in a perpetual state of ‘seeking’ admission during the 24-year
3 period between when he first became an ‘applicant for admission’ in 2001, by
4 virtue of his entry into the country, and when he was encountered and inspected
5 by an immigration officer in 2025”). The Government’s classification of Mr.
6 Quiroz Figueroa as an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A)
7 because he is allegedly an “alien present in the United States who has not been
8 admitted,” 8 U.S.C. § 1225(a)(1), even though he is already present in this
9 country, would read the term “seeking admission” out of the statute, and would
10 require courts to ignore their obligation to give effect to each word of a statute
11 that Congress passes. See Lepe, 2025 U.S. Dist. LEXIS 187233, at *11-*12-*13
12 (citing Martinez, 2025 U.S. Dist. LEXIS 141724, at *13, and Lopez Benitez,
13 2025 U.S. Dist. LEXIS 157214, at *18); see also Shulman v. Kaplan, 58 F.4th
14 404, 410-11 (9th Cir. 2023) (requiring a court to “‘interpret the statute as a
15 whole, giving effect to each word and making every effort not to interpret a
16 provision in a manner that renders other provisions of the same statute
17 inconsistent, meaningless or superfluous[.]’”) (quoting Rodriguez v. Sony
18 Computer Ent. Am., LLC, 801 F.3d 1045, 1051 (9th Cir. 2015)).

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153. Courts’ construction of statutory terms within 8 U.S.C. § 1225 supports a narrowing of mandatory detention under 8 U.S.C. § 1225(b)(2)(A) to noncitizens who are detained while seeking to enter the country, instead of

1 noncitizens who already reside in the United States. See Rodriguez, 779 F. Supp.
2 3d at 1257-58. In Jennings v. Rodriguez, the Supreme Court described
3 inspections under 8 U.S.C. § 1225 as “part of a process that ‘generally begins at
4 the Nation’s borders and ports of entry, where the Government must determine
5 whether an alien seeking to enter the country is admissible.’” Id. at 1258
6 (quoting Jennings, 583 U.S. at 287). The Supreme Court noted that the
7 immigration laws “authorize[] the Government to detain certain [noncitizens]
8 seeking admission into the country under [8 U.S.C.] §§ 1225(b)(1) and (b)(2)[,]”
9 and “also authorize[] the Government to detain certain [noncitizens] already in
10 the country pending the outcome of removal proceedings under [8 U.S.C.]
11 §§1226(a) and (c).” Id. at 289. In Torres v. Barr, a panel of the Ninth Circuit,
12 construing a ground of inadmissibility for a noncitizen who lacked valid entry
13 documents “at the time of application for admission” at 8 U.S.C. §
14 1182(a)(7)(A)(i)(I), discerned that the statutory term “refers to the particular
15 point in time when a noncitizen submits an application to physically enter into
16 the United States.” Torres v. Barr, 976 F.3d 918, 924 (9th Cir. 2020). The Court
17 rejected the Government’s argument that the “time of application for admission”
18 within 8 U.S.C. § 1182(a)(7)(A)(i)(I) “continues, potentially for years or
19 decades[,]” after an immigrant enters the country. Id. at 926. The Court
20 explained that, “[g]iven that an immigrant submits an ‘application for admission’
21 at a distinct point in time, stretching the phrase ‘at the time of application for
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1 admission' to refer to a period of years would push the statutory text beyond its
2 breaking point.” Id. (quoting 8 U.S.C. § 1182(a)(7)(A)(i)(I), and citing Kyong
3 Ho Shin v. Holder, 607 F.3d 1213, 1220 (9th Cir. 2010)). Likewise, interpreting
4 the phrase “applicant for admission” in 8 U.S.C. § 1235(b)(2)(A) to conclude that
5 noncitizens are still “seeking admission” into the United States years after their
6 entry into this country would “push the statutory text beyond the breaking point.”
7 Echeverria, 2025 U.S. Dist. LEXIS 196174, at *19 (citing Vazquez v. Feeley,
8 U.S.D.C. No. 2:25-cv-01542-RFB-EJY, __ F. Supp. 3d __, 2025 U.S. Dist.
9 LEXIS 182412, at *12-*13 (D. Nev. Sept. 17, 2025)).

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14 154. The statutory context supports limiting the scope of section
15 235(b)(2)(A)’s mandatory detention provision to noncitizens detained while
16 attempting to enter the country, rather than noncitizens who are already present in
17 the United States. First, “the title of a statute and the heading of a section are
18 tools available for the resolution of a doubt about the meaning of a statute.”
19 Yates v. United States, 574 U.S. 528, 54 (2015) (quoting Almendarez-Torres v.
20 United States, 523 U.S. 224, 234 (1998)).

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24 155. The title of section 235 of the INA, “Inspection by immigration
25 officers; expedited removal of inadmissible arriving aliens; referral for
26 hearing[,]” refers to an “inspection,” a procedure “that occurs at the border or
27 other ports of entry.” Lepe, 2025 U.S. Dist. LEXIS 187233, at *14 (citing Posos-
28 Sanchez v. Garland, 3 F.4th 1176, 1183 (9th Cir. 2021), and 8 C.F.R § 235.1(a));

1 see also Zumba v. Bondi, U.S.D.C. No. 25-CV-14626 (KSH), __ F. Supp. 3d __,
2 2025 U.S. Dist. LEXIS 190052, at *23 (D.N.J. Sept. 26, 2025) (stating, in part,
3 that “the titles and headings of [8 U.S.C.] § 1225 repeatedly cabin its application
4 to Inspections, which...occur at ports of entry, their functional equivalent, or near
5 the border[.]”) (other internal quotation marks omitted). The title “refers to
6 ‘expedited removal,’ which applies to a noncitizen ‘who is arriving in the United
7 States’ and ‘is inadmissible.’” Lepe, 2025 U.S. Dist. LEXIS 187233, at *14
8 (quoting 8 U.S.C. § 1225(b)(1)(A)). The references to “arriving” individuals in
9 the statutory title and text “‘indicat[es] that the statute governs ‘arriving’
10 noncitizens, not those present already.” Hernandez v. Baltazar, U.S.D.C. No.
11 1:25-cv-03094-CNS, 2025 U.S. Dist. LEXIS 210449, at *15 (D. Colo. Oct. 24,
12 2025) (quoting Barrera v. Tindall, U.S.D.C. No. 3:25-cv-541-RGJ, 2025 U.S.
13 Dist. LEXIS 184356, at *8 (W.D. Ky. Sep. 19, 2025)); see also Coalition for
14 Humane Immigrant Rights v. Noem, __ F. Supp. 3d __, U.S.D.C. No. 25-cv-872
15 (JMC), 2025 U.S. Dist. LEXIS 148615, at *87 (D.D.C. Aug. 1, 2025)
16 (determining that a “noncitizen ‘arriving’ in the United States” under 8 U.S.C. §
17 1225(b)(1)(A) “would be one who is in the process of reaching his or her
18 destination (the United States) and making an appearance here[.]”). Apart from
19 the title, “multiple other provisions” of 8 U.S.C. § 1225 “use ‘arrive,’ or some
20 conjugation thereof, to refer to physical arrival at a port of entry[.]” rather than a
21 person’s physical presence in the United States. Coalition for Humane

1 Immigrant Rights, 2025 U.S. Dist. LEXIS 148615, at *84-*85, *87 (citing 8
2 U.S.C. §§ 1225(b)(1)(F), 1225(b)(2)(C), and 1225(d)(2)).
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4 156. Congress' recent amendments to the mandatory detention provisions
5 at 8 U.S.C. §§ 1225 and 1226 undermine the Board's holding that all noncitizens
6 who are present in the United States without inspection or admission are
7 "applicants for admission," who qualify for mandatory detention under 8 U.S.C.
8 § 1225(b)(2)(A). In January of 2025, Congress passed the Laken Riley Act,
9 which amended 8 U.S.C. §§ 1225 and 1226, in part, to subject certain
10 inadmissible noncitizens who were "present in the United States without being
11 admitted or paroled," and who have been arrested, charged with, or convicted of
12 certain crimes[,] to mandatory detention for their removal proceedings.
13 Rodriguez, 779 F. Supp. 3d at 1259 (quoting Laken Riley Act, Pub. L. No. 119-1,
14 139 Stat. 3 (2025) (codified at 8 U.S.C. § 1226(c)(1)(E), and 8 U.S.C. §
15 1182(a)(6)(A)(i)). If members of Congress thought that every "applicant for
16 admission" who was present in the United States without admission under 8
17 U.S.C. § 1225(a)(1) already faced mandatory detention under 8 U.S.C. §
18 1225(b)(2)(A), they did not need to amend the immigration laws to require the
19 detention of certain inadmissible noncitizens under 8 U.S.C. § 1182(a)(6)(A)(i)
20 who were "charged with, arrested for, or admit[] to" committing certain
21 offenses for their removal proceedings. See Lepe, 2025 U.S. Dist. LEXIS
22 187233, at *15 (quoting 8 U.S.C. § 1226(c)(1)(E)). The construction of 8 U.S.C.
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1 § 1225(b)(2)(A) advanced by the Board and other agency pronouncements, see
2 supra ¶¶ 53, 142-144, would render 8 U.S.C. § 1226(c)(1)(E) superfluous, Lepe,
3 2025 U.S. Dist. LEXIS 187233, at *15 (citing Gomes, 2025 U.S. Dist. LEXIS
4 128085, at *18) (other internal citations omitted), and would disregard the
5 Supreme Court’s admonition against construing laws to render statutory terms
6 meaningless. See Corley v. United States, 556 U.S. 303, 314 (2009) (stating that
7 “[a] statute should be construed so that effect is given to all its provisions, so
8 that no part will be inoperative or superfluous, void or insignificant”) (quoting
9 Hibbs v. Winn, 542 U.S. 88, 101 (2004)).
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14 157. Congress enacted the Laken Riley Act “against the backdrop of
15 longstanding agency practice applying Section 1226(a) to inadmissible
16 noncitizens already residing in the country[,]” including noncitizens “who
17 entered the country without inspection.” Rodriguez, 779 F. Supp. 3d at 1259-60.
18 In circumstances “[w]hen Congress adopts a new law against the backdrop of a
19 ‘longstanding administrative construction,’ this Court generally presumes the
20 new provision should be understood to work in harmony with what has come
21 before.” Velázquez v. Bondi, 604 U.S. 712, 725 (2025) (quoting Haig v. Agee,
22 453 U. S. 280, 297-298 (1981)). Indeed, the Board admits that it previously
23 considered noncitizens who were present in the United States without admission
24 or parole to be eligible for bond. See Yajure Hurtado, 29 I. & N. Dec. at 216
25 n.16, cited in Lepe, 2025 U.S. Dist. LEXIS 187233, at *19 (stating that “[w]e
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1 acknowledge that for years Immigration Judges have conducted bond hearings
2 for aliens who entered the United States without inspection”); see also Lopez
3 Benitez, 2025 U.S. Dist. LEXIS 157214, at *23 (noting “‘DHS’s longstanding
4 interpretation’ of [8 U.S.C.] § 1226(a) as ‘appl[ying] to those who have crossed
5 the border between ports of entry and are shortly thereafter apprehended[.]’”)
6 (quoting Martinez, 2025 U.S. Dist. LEXIS 141724, at *12 n.9). The
7 “‘longstanding practice of the government - like any other interpretive aid - ‘can
8 inform [a court’s] determination of what the law is.’” Lopez Bright, 603 U.S. at
9 385-86 (quoting NLRB v. Noel Canning, 573 U.S. 513, 525 (2014)). Federal
10 immigration officials’ longstanding application of section 236(a) of the INA, 8
11 U.S.C. § 1226(a), to people in Mr. Quiroz Figueroa’s circumstances refutes the
12 Board’s construction of 8 U.S.C. § 1225(b)(2)(A), and supports Mr. Quiroz
13 Figueroa’s assertion that 8 U.S.C. § 1225(b)(2)(A) does not mandate his
14 detention by the Respondents. See Lepe, 2025 U.S. Dist. LEXIS 187233, at *19
15 (citing Lopez Benitez, 2025 U.S. Dist. LEXIS 157214, at *23-*24).

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22 158. As a noncitizen who has remained in the United States continuously
23 since August 20, 2023, Mr. Quiroz Figueroa is no longer an applicant for
24 admission who is “seeking admission” into the United States at a border crossing
25 or a Port of Entry, within the meaning of 8 U.S.C. § 1225(b)(2)(A). Moreover,
26 federal immigration officials have not treated Mr. Quiroz Figueroa as a
27 noncitizen, who faces expedited removal and mandatory detention under 8 U.S.C.
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1 § 1225(b)(1). Instead, federal immigration officials issued a Notice to Appear for
2 removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a, to Mr.
3 Quiroz Figueroa, which alleged that he was “an alien present in the United States
4 who has not been admitted or paroled[,]” rather than an “arriving alien.” [Exh. B,
5 p. 4]. Mr. Quiroz Figueroa’s Form I-261, Additional Charges of Inadmissibility /
6 Deportability, which ICE officers filed with the Immigration Court after they re-
7 detained him [Exh. H; Exh. K], does not treat Mr. Quiroz Figueroa as an arriving
8 alien, who is ineligible for release on bond. Mr. Quiroz Figueroa has attended
9 hearings in full removal proceedings with federal Immigration Judges in Texas,
10 Virginia, and California since his case was filed with the United States
11 Immigration Court on or about August 30, 2023. [Exh. B]. A federal
12 Immigration Judge in San Diego, California has scheduled another removal
13 hearing in his case on January 5, 2026. [Exh. N, p. 92].

19 159. Section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), does not
20 mandate Mr. Quiroz Figueroa’s continued detention in the Respondents’ custody.
21 Accordingly, he respectfully requests that the Court issue an Order, declaring that
22 the “default rule” set forth at section 236(a) of the INA, 8 U.S.C. § 1226(a),
23 governs his detention. Jennings, 583 U.S. at 288.

26 160. As section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), does
27 not require his detention, Mr. Quiroz Figueroa, through counsel, asks the Court to
28 issue an Order, directing his immediate release from the Respondents’ custody.

1 Alternatively, he asks the Court to issue an Order, reinstating the \$1,500.00 that a
2 federal Immigration Judge issued in his case on September 3, 2025. [Exh. J].
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4 **VIII.**

5 **PRAYER FOR RELIEF**

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7 WHEREFORE, the Petitioner prays that this Court grant the following
8 requests for relief:

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10 1. That this Court grant a writ of habeas corpus, which directs the
11 Respondents to show cause why the Petitioner should not be immediately
12 released from their custody;

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14 2. That this Court issue an Order, enjoining the Respondents from
15 removing Mr. Quiroz Figueroa from the United States District Court for the
16 Southern District of California or from the United States, pursuant to the All
17 Writs Act, 28 U.S.C. § 1651(a);

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19 3. That this Court declare that the Petitioner's continued detention in
20 the Respondents' custody violates the Fourth Amendment and the Due Process
21 Clause of the Fifth Amendment, and is not authorized by section 235(b)(2)(A) of
22 the INA, 8 U.S.C. § 1225(b)(2)(A);

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24 4. That this Court issue an Order, directing Mr. Quiroz Figueroa's
25 immediate release from the Respondents' custody, or, alternatively, the
26 reinstatement of the \$1,500.00 bond that a federal Immigration Judge in
27 Annandale, Virginia set in his case on September 3, 2025;
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner Francisco Javier Quiroz Figueroa, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus, Pursuant to 28 U.S.C. § 2241, are true and correct to the best of my knowledge. Dated this 16th day of December, 2025.

s/ Lori B. Schoenberg
LORI B. SCHOENBERG