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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

9
10 Roger Armando Urbina Zapata,)

11 Petitioner,)

12 v.)

13 Christopher Chestnut, Warden, California City)
14 ICE Detention Center;)
Orestes Cruz, Acting Director of San Francisco)
15 Field Office, U.S. Immigration and Customs)
Enforcement; Todd M. Lyons, Acting Director of)
16 Immigration and Customs Enforcement;)
17 Kristi Noem, Secretary of the U.S.)
Department of Homeland Security,)
18 in their official capacities,)

19 Respondents.)
20 _____)

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

21 **INTRODUCTION**

22 1. Petitioner Roger Armando Urbina Zapata is a native and citizen of Nicaragua. He
23 entered the United States on or about February 25, 2022 and was encountered by immigration
24 officers, but released with a requirement to report to ICE regularly. On November 17, 2025, Mr.
25 Urbina was detained by Immigration and Customs Enforcement at a regular check in
26 appointment. Petitioner's release is not reasonably foreseeable. Accordingly, to vindicate
27
28

PETITION FOR WRIT OF HABEAS CORPUS.

1 Petitioner's constitutional rights, this Court should grant the instant petition for a writ of habeas
2 corpus.

3 2. Absent an order from this Court, Petitioner will continue to be held in ICE
4 custody throughout his immigration process, away from evidence to support his case, and his
5 retained counsel.

6 3. Petitioner asks this Court to find that Petitioner's detention violates his due
7 process rights and order him to be released from custody.
8

9 JURISDICTION

10 4. This action arises under the Constitution of the United States and the Immigration
11 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

12 5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
13 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
14 Constitution (Suspension Clause).

15 6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*
16 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
17 § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
18

19 VENUE

20 7. Venue is proper because Petitioner is in Respondents' custody in California City
21 ICE Processing Center in California City, CA. See Rasul v. Bush, 542 U.S. 466, 478 (2004)
22 (holding that "because the writ of habeas corpus does not act upon the prisoner who seeks relief,
23 but upon the person who holds him in what is alleged to be unlawful custody," proper federal
24 district is dependent on the location of the custodian).
25

26 REQUIREMENTS OF 28 U.S.C. § 2241, 2243

27 8. The Court must grant the petition for writ of habeas corpus or issue an order to
28

1 show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28
2 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a
3 return “within *three days* unless for good cause additional time, not exceeding twenty days, is
4 allowed.” *Id.* (emphasis added).

5 9. Courts have long recognized the significance of the habeas statute in protecting
6 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
7 important writ known to the constitutional law of England, affording as it does a *swift* and
8 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
9 400 (1963) (emphasis added).
10

11 10. Petitioner is “in custody” for the purpose of §2241 because he was arrested by and
12 is detained by Respondents.

13 PARTIES

14 11. Petitioner is a native and citizen of Nicaragua who fled his home country to seek
15 asylum in the United States. Petitioner is currently detained at California City Processing Center
16 in California City, California. He is in the custody, and under the direct control, of Respondents
17 and their agents.
18

19 12. Respondent Christopher Chestnut is the Warden of California City detention
20 center, and he has immediate physical custody of Petitioner pursuant to the facility’s contract
21 with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian
22 of Petitioner.
23

24 13. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs
25 Enforcement. Respondent Lyons is a legal custodian of Petitioner and has authority to order his
26 release.

27 14. Respondent Orestes Cruz is the Acting Director of the San Francisco Field Office
28

1 of U.S. Immigration and Customs Enforcement. Respondent Cruz is a legal custodian of
2 Petitioner and has authority to release him.

3 15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the
4 U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible
5 for the implementation and enforcement of the Immigration and Nationality Act, and oversees
6 U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's
7 detention. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully
8 administering the immigration laws of the United States.
9

10 16. This action is commenced against all Respondents in their official capacities.

11 **LEGAL FRAMEWORK**

12 17. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a
13 right to apply for asylum to individuals seeking safe haven in the United States. The purpose of
14 the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent
15 needs of persons subject to persecution in their homelands." Refugee Act of 1980, §101(a), Pub.
16 L. No. 96-212, 94 Stat. 102 (1980).
17

18 18. The "motivation for the enactment of the Refugee Act" was the United Nations
19 Protocol Relating to the Status of Refugees, "to which the United States had been bound since
20 1968." INS v. Cardoza-Fonseca, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a
21 legislative purpose "to give 'statutory meaning to our national commitment to human rights and
22 humanitarian concerns.'" Duran v. INS, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
23

24 19. The Refugee Act established the right to apply for asylum in the United States and
25 defined the standards for granting asylum. It is codified in various sections of the INA.

26 20. The INA gives the Attorney General or the Secretary of Homeland Security
27 discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that
28

1 definition, individuals generally are eligible for asylum if they have experienced past persecution
2 or have a well-founded fear of future persecution on account of race, religion, nationality,
3 membership in a particular social group, or political opinion, and if they are unable or unwilling
4 to return to and avail themselves of the protection of their homeland because of that persecution
5 of fear. 8 U.S.C. § 1101(a)(42)(A).

6 21. Although a grant of asylum may be discretionary, the right to apply for asylum is
7 not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
8 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. §
9 1158(a)(1).
10

11 22. Because of the life-or-death stakes, the statutory right to apply for asylum is
12 robust. The right necessarily includes the right to counsel, at no expense to the government, see 8
13 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, see 8 U.S.C. §
14 1158(d)(4), and the right to access information in support of an application, see § 1158(b)(1)(B)
15 (placing the burden on the applicant to present evidence to establish eligibility.).
16

17 23. Noncitizens seeking asylum are guaranteed Due Process under the Fifth
18 Amendment to the U.S. Constitution. Reno v. Flores, 507 U.S. 292, 306 (1993).

19 24. Noncitizens who are applicants for asylum are entitled to a full hearing in
20 immigration court before they can be removed from the United States. 8 U.S.C. § 1229a.
21 Consistent with due process, noncitizens may seek administrative appellate review before the
22 Board of Immigration Appeals of removal orders entered against them and judicial review in
23 federal court upon a petition for review. 8 U.S.C. § 1252(a) et seq.
24

25 25. Immigration detention should not be used as a punishment and should only be
26 used when, under an individualized determination, a noncitizen is a flight risk because they are
27 unlikely to appear for immigration court or a danger to the community. Zadvydas v. Davis, 533
28

U.S. 678, 690 (2001).

STATEMENT OF FACTS

26. Petitioner is a 32-year-old native and citizen of Nicaragua. Before being arrested, Respondent lived in Hayward, California with his aunt.

27. Petitioner arrived in the United States on or around January 2022, seeking asylum as a political activist targeted by [REDACTED] Respondent was encountered by immigration officials and issued a Notice to Appear. Petitioner was then released with a requirement to check in with ICE regularly. Petitioner's Notice to Appear was never filed with the Immigration Court.

28. On November 24, 2025, Petitioner was detained at a regular ICE check in appointment, and was informed that he was subject to expedited removal. Respondent expressed a fear of return. An Immigration Judge found that the Petitioner demonstrated a credible fear of persecution or torture on December 16, 2025. Respondent was not given a reason why the initial conditions of his release had changed.

29. To date, no Notice to Appear has been filed in Petitioner's case. He is currently being held without charges pending in detention.

30. Petitioner is not a flight risk and wishes to have his asylum case heard by the Immigration Judge while not in detention.

31. Petitioner is not a danger to his community. He has no criminal history anywhere in the world.

CLAIMS FOR RELIEF

COUNT ONE

**Violation of Fifth Amendment Right to Due Process
Procedural Due Process**

32. The allegations in the above paragraphs are realleged and incorporated herein.

1 33. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
2 prohibits the federal government from depriving any person of “life, liberty, or property, without
3 due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the
4 United States, including [non-citizens], whether their presence here is lawful, unlawful,
5 temporary, or permanent.” Zadvydas, 533 U.S. at 693.
6

7
8 34. Due process requires that government action be rational and non-arbitrary. See
9 U.S. v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007).

10 35. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C.
11 § 1158(a)(1). Any noncitizen who is “physically present in the United States or who arrives in
12 the United States (whether or not at a designated port of arrival . . .), irrespective of such
13 [noncitizen’s] status, may apply for asylum.” Id.
14

15
16 36. Because the denial of the right to apply for asylum can result in serious harm or
17 death, the statutory right to apply is robust and meaningful. It includes the right to legal
18 representation and notice of that right, see id. §§ 1229a(b)(4)(A), 1362, 1158(d)(4); the right to
19 present evidence in support of asylum eligibility, see id. § 1158(b)(1)(B); the right to appeal an
20 adverse decision to the Board of Immigration Appeals and to the federal circuit courts, see id. §§
21 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a decision
22 determining removability, see id. § 1229a(c)(6)-(7).
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1 37. As a detainee, hundreds of miles from his retained counsel, Petitioner is deprived
2 of his retained counsel, and thus, his due process right to said counsel. Petitioner is also, and
3 relatedly, deprived of the opportunity to present evidence in support of his asylum eligibility
4 because of his detention away from any supporting evidence he may have for his asylum claim,
5 which was filed with USCIS prior to his detention.

6
7 38. For these reasons, Petitioner's detention violates the Due Process Clause of the
8 Fifth Amendment.

9
10 **COUNT TWO**
11 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and**
12 **Nationality Act – 8 U.S.C. § 1226, and Federal Regulations**
13 **Not in Accordance with Law and in Excess of Statutory Authority**
14 **Unlawful Detention**

15 39. The allegations in the above paragraphs are realleged and incorporated herein.

16 40. Under the APA, a court shall “hold unlawful and set aside agency action” that is
17 an abuse of discretion. 5 U.S.C. § 706(2)(A).

18 41. An action is an abuse of discretion if the agency “entirely failed to consider an
19 important aspect of the problem, offered an explanation for its decision that runs counter to the
20 evidence before the agency, or is so implausible that it could not be ascribed to a difference in
21 view or the product of agency expertise.” Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551
22 U.S. 644, 658 (2007) (quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto.
Ins. Co., 463 U.S. 29, 43 (1983)).

23 42. To survive an APA challenge, the agency must articulate “a satisfactory
24 explanation” for its action, “including a rational connection between the facts found and the
25 choice made.” Dep't of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

26 43. Respondents released Petitioner without a bond upon his entry to the United
27 States in January 2022. By revoking this status, and transferring Petitioner away from the district
28

1 without consideration of Petitioner's individualized facts and circumstances, Respondents have
2 violated the INA, implementing regulations, and the APA.

3 44. On information and belief, Respondents have made no finding that Petitioner is a
4 danger to the community.

5 45. On information and belief, Respondents have made no finding that Petitioner is a
6 flight risk because, in fact, Petitioner was arrested while appearing at a scheduled check-in with
7 Immigration officers.

8 46. By detaining and transferring the Petitioner categorically, Respondents have
9 further abused their discretion because, since the agency made its initial determination to release
10 Petitioner into the United States without a bond and with only reporting requirements, on
11 information and belief, there have been no changes to Petitioner's facts or circumstances that
12 support detention.
13

14 47. Respondents have already considered Petitioner's facts and circumstances and
15 determined that Petitioner was not a flight risk or danger to the community. On information and
16 belief, there have been no changes to the facts that justify his detention.
17

18 48. For these reasons, Petitioner's detention violates 5 U.S.C. § 706(2)(A) and 8
19 U.S.C. § 1226.

20 **PRAYER FOR RELIEF**

21 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 22 (1) Assume Jurisdiction over this matter;
23
24 (2) Issue an Order to Show Cause ordering Respondents to Show Cause why this petition
25 should not be granted within three days;
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27
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- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 5 U.S.C. § 706(2)(A), and/or the Immigration and Nationality Act – 8 U.S.C. § 1226;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from custody;
- (5) In the alternative, issue a Writ Of Habeas Corpus, and promptly thereafter, order a hearing within 14 days, where Respondents must establish the necessity of further detention by clear and convincing evidence, and where the adjudicator evaluates Petitioner's ability to pay when setting a bond, and considers alternative conditions of release that reasonably assure the safety of the community and Petitioner's appearances;
- (6) Award petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Marco A. Garzon

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Dated: December 18, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Roger Armando Urbina Zapata, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 18th day of December, 2025.

s/Marco A. Garzon
Attorney for Petitioner