UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No.: -Civ- _____

JAVIER ALFREDO BANEGAS-BOQUEDANO,

Petitioner,

v.

PAM BONDI, in her official capacity as the Attorney General of the United States; **GARRETT J. RIPA,** in his official capacity as Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office; **TODD LYONS,** in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; **KRISTI NOEM,** in her official capacity as the Secretary of the U.S. Department of Homeland Security; **DAREN K. MARGOLIN,** in his official capacity as Director of the Executive Office for Immigration Review (EOIR), United States Department of Justice.

Respondents.
_____/

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS
Pursuant to 28 U.S.C. § 2241 (Expedited Review Requested)

Petitioner **JAVIER ALFREDO BANEGAS-BOQUEDANO**, by and through undersigned counsel, submits this emergency verified petition for writ of habeas corpus, and alleges as follows:

INTRODUCTION

1. Petitioner Javier Alfredo Banegas-Boquedano is a noncitizen and longtime resident of the United States who is harmed by Respondents' new, draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the

Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d).

2. Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.

3. Petitioner is a national from Honduras, and has lived in Key West, Florida for nearly two decades.

4. Petitioner has no criminal record.

5. DHS/ICE arrested Petitioner on November 18, 2025, and he is currently detained at the Broward Transitional Center, Pompano Beach, Florida.

6. DHS issued NTA on November 18, 2025. His next master calendar hearing is scheduled for February 4, 2026, before Immigration Judge Stuart Siegel.

7. It is unknown whether the government issued a I-200 Custody Determination upon the arrest and detention of the Petitioner.

8. In July 2025, DHS issued policy guidance. At the time of Petitioner's arrest, Respondents automatically reclassified the Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A); hindering the Petitioner to seek release from custody.

JURISDICTION

9. This action arises under the Constitution of the United States of America, 28 U. S. C. § 2241 et seq. (habeas corpus), the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., title 8 of the Code of Federal Regulations, and the Administrative Procedure Act (APA), 5 U.S.C. §§ 701, et seq.

10. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 2241 (habeas corpus). This Court may grant relief pursuant to the U.S. Const., art. I, § 9,

cl. 2 (Suspension Clause); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §§ 2201-02 (declaratory relief); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. §§ 702, 706.

11. Civil immigration ***detention challenges*** (habeas petitions, conditions-of-confinement claims, bond-related due-process claims, etc.) are not barred by 8 U.S.C. § 1252(g) — the provision that strips jurisdiction over claims "arising from" the Attorney General's decision to "commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.* (AADC), 525 U.S. 471 (1999).

EXHAUSTION OF REMEDIES

12. No exhaustion is required for the petitioner's habeas claim because "Section 2241 itself does not impose an exhaustion requirement," *Santiago-Lugo v. Warden,* 785 F. 3d 467, 474 (CA11 2015)," and because "a petitioner need not exhaust his administrative remedies 'where the administrative remedy will not provide relief commensurate with the claim,' " *Boz v. United States,* 248 F. 3d 1299, 1300 (CA11 2001), abrogated on other grounds recognized by *Santiago-Lugo*, 785 F. 3d, at 474–75 n. 5 (citation omitted).

13. No statute, regulation, or other legal source with binding authority exists to provide the remedy that the petitioner's habeas claims seek to remedy.

14. Further, "[b]ecause the BIA does not have the power to decide constitutional claims—like the validity of a federal statute— . . . certain due process claims need not be administratively exhausted." *Warsame v. U. S. Att'y Gen.,* 796 Fed. Appx. 993, 1006 (CA11 2020); accord *Haitian Refugee Ctr., Inc. v. Nelson,* 872 F. 2d 1555, 1561 (CA11 1989), aff'd sub nom. *McNary v. Haitian Refugee Ctr.,* Inc., 498 U. S. 479 (1991) (exhaustion had "no bearing" where petitioner sought to make a constitutional challenge to procedures adopted by the INS).

15. The petitioner urgently seeks and is entitled to habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. See *Boumediene v. Bush,* 553 U. S. 723, 783 (2008).

16. And with respect to the petitioner's APA claim, an agency's failure to take action is reviewable agency action, *Norton v. S. Utah Wilderness Alliance*, 542 U. S. 55, 61–62 (2004), and there are no administrative remedies available that the petitioner is required to exhaust under *Darby v. Cisneros*, 509 U. S. 137 (1993).

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.,* 208 F. 3d 1116, 1120 (CA 9 2000)(citation omitted); *See also, Johnson v. Rogers,* 917 F.2d 1283, 1284 (10th Cir. 1990).

VENUE

19. Venue is proper in this District under 28 U.S.C. § 1391(e) and § 2241(d), as Petitioner is in the physical custody of Respondents and is detained at the Broward Transitional Center, Pompano Beach, Florida, and the acts complained of occurred here.

20.

PARTIES

21. Petitioner **JAVIER ALFREDO BANEGAS-BOQUEDANO** (A# [redacted]) is a Honduran national who was arrested and is currently detained by ICE at the Broward Transitional Center, South Florida, since November 18, 2025—over 30 days with no individualized bond hearing and no removal order. After arresting him, DHS/ICE did not determine custody release under 1226(a) bond and instead reclassified this detention as mandatory under 8 U.S.C. § 1225(b)(2)(A). Petitioner has resided in the Florida Keys for approximately two decades.

22. Respondent **PAM BONDI** is sued in her official capacity as the Attorney General of the United States, which encompasses the BIA and the Immigration Judges as sub-agencies of the Executive Office of Immigration Review (EOIR). Attorney General Bondi shares responsibility for the implementation and enforcement of the immigration laws and is a legal custodian of the petitioner.

23. Respondent **GARRETT J. RIPA** is sued in his official capacity as the Field Office Director for the U.S. Immigration and Customs Enforcement (ICE) Miami Field Office. In this capacity, he has jurisdiction over the detention facility in which the petitioner is held, is authorized to release the petitioner, and is a legal custodian of the petitioner.

24. Respondent **TODD LYONS** is sued in his official capacity as the Acting Director of ICE. In this capacity, he has responsibility for the enforcement of the immigration laws. As such, he is a legal custodian of the petitioner.

25. Respondent **KRISTI NOEM** is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS), the arm of the U.S. government responsible for the enforcement of the immigration laws. Because ICE is a sub-agency of the DHS, Secretary Noem is a legal custodian of the petitioner.

26. Respondent **DAREN K. MARGOLIN** is sued in his official capacity as Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings.

FACTUAL ALLEGATIONS

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

28. Based on this allegation in Petitioner's removal proceedings, DHS' position in keeping the unlawful detention is that the ***petitioner is subject to mandatory detention*** under an erroneous misinterpretation of the statutes §§1225 and 1226. Consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone alleged to be inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be deemed "applicants for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore eligible for release only on parole.

29. Petitioner's detention on this basis violates the plain language of INA and its implementing regulations. Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended on arrival in the United States. It states that an "applicant for admission" who is "seeking admission" shall be detained for a removal proceeding. ***It does not apply to individuals like Petitioner***, who are arrested and detained by ICE after having entered and begun residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

30. Respondents' new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Defendants have applied § 1226(a) to

people like Petitioner. Defendants' new policies are thus not only contrary to law, but arbitrary and capricious in violation of the Administrative Procedure Act (APA). They were also adopted without complying with the APA's procedural requirements.

31. Accordingly, Petitioner seeks an individualized habeas corpus as a noncitizen harmed by these agency policies and practices denying him the opportunity to seek bond. Petitioner is entitled to individualized habeas corpus relief despite the class action in *Maldonado Bautista v. Santacruz* in the Central District of California, as enforcement of the judgment varies and Respondents continue to disregard it in some cases. 5:25-cv-01873 (C.D. Cal.). Appx. Exh. B, Class Membership Order.

32. As of the day of this filing, Respondents are denying bond hearings since ICE had wrongly categorized his detention under 1225 instead of 1226, despite the *Maldonado Bautista* final judgment. *Id.* The government's position is still stripping the statutory and constitutional due process rights of the Petitioner.

33. Immigration Courts and DHS are bound by the Central District of California's order in *Maldonado Bautista v. Santacruz*, which certified a nationwide Bond Eligible Class and granted partial summary judgment declaring the DHS policy unlawful under the INA and APA, yet DHS and EOIR have continued to disregard and dismiss the order by denying bond hearings to class members (*Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Dkt. 92, at 8-9 (C.D. Cal. Dec. 18, 2025)). Immigration Judges are bound because EOIR is an agency under the executive branch of DOJ, and the order found troublesome the evidence that DOJ/EOIR (through the Office of Immigration Litigation's memorandum) and DHS have been working to deprive class members of their rights by instructing adherence to *Matter of Yajure Hurtado* despite the court's contrary ruling, leading to denials in at least ten states (id. at 9).

34. Notably, the final judgment in *Maldonado-Bautista* was spurred by the Court's annoyance that immigration judges are noncompliant and resistant and made a finding to vacate the respondents' policy of deeming anyone who entered without inspection as an applicant for admission and under mandatory detention. *Id,* at 6. The Court went on to find that class member ARE NOT "applicants for admission" *Id.* (emphasis added).

35. For decades, noncitizens who entered without inspection, were arrested in the United States and were placed into removal proceedings were generally subject to discretionary detention under 8 U.S.C. § 1226(a) (and its predecessor statute). Under that framework, they could be considered for release on bond or conditional parole by the Department of Homeland Security ("DHS") and receive a bond hearing in immigration court before an IJ who could order release if found not to pose an undue flight risk or danger that justified continued detention.

36. The government upended this long-held understanding of the law in 2025. First, on July 8, 2025, U.S. Immigration and Customs Enforcement ("ICE") issued an interim guidance memo stating that anyone who entered without inspection was ineligible for release on bond and could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States. As a result, DHS attorneys started arguing, and some IJs started finding that such individuals were not eligible for bond hearings in immigration court. Then, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedential decision, binding on all IJs, holding that an IJ had no authority to consider bond requests for any person who entered the United States without inspection. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for release on bond. As a result, thousands

of people including the Petitioner are facing months or years in detention without any individualized consideration for whether they should be detained.

37. Mandatory detention under 8 U.S.C. § 1225(b)(2)(A) applies "in the case of [a noncitizen] who is an applicant for admission, if the examining immigration officer determines that [a noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted[.]" The government's position is that anyone who entered without inspection remains an "applicant for admission" who is "seeking admission" and thus subject to § 1225(b)(2). The vast majority of district court judges who have considered this legal issue, however, have rejected the government's position and have held that such individuals are subject to § 1226(a) and thus eligible for a bond hearing.

LEGAL FRAMEWORK AND ARGUMENTS

38. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, see 8 U.S.C. § 1226(c).

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

40. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

41. This case concerns the detention provisions § 1226(a) not § 1225(b)(2).

42. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.

43. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

44. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole.

45. Consistent with the DHS's misapplication of the categorized detention under §1225, Immigration Judges nationwide are now holding that they lack jurisdiction to determine bond for any person who has entered the United States without inspection, even if that person has resided here for months, years or decades. Instead, consistent with the BIA decision and the new DHS policy, the IJs conclude that such people are subject to mandatory detention under § 1225(b)(2)(A).

46. Nationwide, pursuant to its July 8, 2025, policy, DHS is now asserting that all persons who entered without inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

47. While some IJs in other immigration courts have continued to grant bond to people like Petitioner, consistent with its new policy, DHS also has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination. This notice not only appeals to any IJ decision granting bond but also triggers an automatic stay of the bond decision during the appeal. See 8 C.F.R. § 1003.19(i)(2).

48. The "auto-stay" provision of 8 C.F.R. § 1003.19(i)(2) prevents noncitizens from posting bond and being released even in jurisdictions where IJs have rejected DHS's unlawful reinterpretation of § 1225(b)(2) and have granted bond.

49. ICE and DOJ have adopted this new and unprecedented position on bond even though federal courts have rejected this exact conclusion.

50. DHS's and DOJ's interpretation defy the INA. ICE and DOJ have adopted this new and unprecedented position on bond even though federal courts have rejected this exact conclusion.

51. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

52. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must

determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

53. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who had already entered and was residing in the United States at the time he was apprehended.

CLAIMS FOR RELIEF

COUNT I

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

54. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

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

56. Nonetheless, DHS and the Immigration Court have adopted a policy and practice of applying § 1225(b)(2) to Petitioner.

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

COUNT II

Violation of the Administrative Procedure Act Contrary to Law and

Arbitrary and Capricious Agency Policy

58. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

59. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

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

61. Nonetheless, DHS and the Immigration Court IJs have a policy and practice of applying § 1225(b)(2) to Petitioner even after the final binding decision under *Maldonado-Bautista*, citing that because the decision in *Maldonado-Bautista* did not vacate the BIA case *Matter of Yajure-Hurtado*. This non-acquiescence of the respondents[1] () requires a strong response from this Court for the petitioner's APA claim.

62. Moreover, Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important

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[1] despite the *Maldonado-Bautista* Court explaining that the petitioners did not include a request to vacate Yajure-Hurtado and that the Court's decision in Maldonado-Bautista in effect renders Yajure-Hurtado no longer tenable. *Maldonado-Bautista* at 6.

aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

63. The application of § 1225(b)(2) and the non-acquiescence to a binding class action final order of which the Petitioner is a class member constitutes arbitrary and capricious action, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT III

Violation of the Administrative Procedure Act Failure to Observe Required Procedures

64. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

65. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law." 5 U.S.C. § 706(2)(D). Specifically, the APA requires agencies to follow public notice-and-comment rulemaking procedures before promulgating new regulations or amending existing regulations. See 5 U.S.C. § 553(b), (c).

66. Respondents failed to comply with the APA by adopting their policy and departing from their regulations without any rulemaking, let alone any notice or meaningful opportunity to comment. Respondents failed to publish any such new rule despite affecting the substantive rights of thousands of noncitizens under the INA, as required under 5 U.S.C. § 553(d).

67. Had Respondents complied with the advance publication and notice-and-comment rulemaking requirements under the APA, members of the public and organizations that advocate on behalf of noncitizens like Petitioner would have submitted comments opposing the new policies.

68. The APA's notice and comment exceptions related to "foreign affairs function[s] of the United States," id. § 553(a)(1), and "good cause," id. § 553(d)(3), are inapplicable.

69. Respondents' adoption of their no-bond policies therefore violates the public notice-and-comment rulemaking procedures required under the APA.

COUNT IV

Violation of Fifth Amendment Due Process Clause

70. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

71. The Fifth Amendment provides that "[n]o person" shall be "deprived of life, liberty, or property, without due process of law."

72. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

73. Moreover, "[t]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." Id. at 693.

74. Defendants' mandatory detention of Petitioner without consideration for release on bond or access to a bond hearing violates his due process rights.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Set this matter for expedited consideration pursuant to 28 U.S.C. § 1657;
3. Enter an Order to Show Cause against the respondents;
4. Schedule this matter for a temporary restraining order hearing;

5. Order the respondents to refrain from transferring the petitioner out of the jurisdiction of this Court during the pendency of this proceeding and while the petitioner remains in the respondents' custody;
6. Grant the petitioner a writ of habeas corpus that orders his immediate release from the custody of the respondents unless a bond hearing is provided;
7. Declare that Respondents' policy and practice of denying consideration for bond based on § 1225(b)(2) to Petitioner and stripping the Immigration Judge's jurisdiction to review custody redetermination violates the INA, its implementing regulations, the APA, and the Due Process Clause;
8. Declare that DHS's practice of using Form EOIR-43 to subject Petitioner to continue detention after an IJ sets bond violates the INA, its implementing regulations, and the APA where the basis for Form EOIR-43 is DHS's new policy;
9. Issue a writ of habeas corpus requiring that Respondents release Petitioner or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or the Due Process Clause within 7 days;
10. Set aside Defendants' unlawful detention policy under the APA, 5 U.S.C. § 706(2), as contrary to law, arbitrary and capricious, and contrary to constitutional right;
11. Award the petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 2412, and on any other basis justified under law; and
12. Grant any other and further relief that the Court deems just and proper.

Dated: December 23, 2025

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VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Regilucia Smith, am submitting this verification on behalf of the petitioner because I am the petitioner's attorney. I have discussed with the petitioner the events described in this petition in Spanish. On the basis of that discussion, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 23, 2025

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