UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LUIS GUILLERMO AROCA ORTIZ, *Plaintiff*, v. KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; DAREN K. MARGOLIN, Director, Executive Office for Immigration Review, in his official capacity; JOSH JOHNSON, in his official capacity as Acting Director of the Dallas Field Office of ICE, Enforcement and Removal Operations encompassing the Prairieland Sub-Office; and *Respondents*.	Civil Action No. 4:25-cv-06274 Immigration No. [redacted] **PLAINTIFF'S ORIGINAL VERIFIED COPMLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Plaintiff LUIS GUILLERMO AROCA ORTIZ ([redacted]) is a native and citizen of Venezuela who has resided in the United States for many years, most recently in the North Texas area. He was recently transferred to ICE custody in Texas and is currently detained at the Eden Detention Center in Eden, Texas. *See* Ex. A, Proof of Detention in ICE Custody.

2. Mr. Ortiz has been placed into removal proceedings under INA § 240, 8 U.S.C. § 1229a, following his recent arrest by local police officers in Dallas, Texas outside of his hometown in Irving, Texas. *See* Ex. B, Notice to Appear.

3. In recent months, immigration judges have routinely denied requests for a bond hearing to individuals in situations substantially similar to that of Mr. Aroca, due to a perceived lack of jurisdiction. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. C, Recent BIA Decisions on Bond. However, numerous federal district court, including some from within the jurisdiction of the United States Court of Appeals for the Fifth Circuit, have made clear that noncitizens detained under INA § 236(a) are entitled to individualized bond hearings.

4. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Mr. Aroca with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous Board of Immigration Appeals precedent. The refusal to provide such a hearing violates the INA, the Due Process Clause of the Fifth Amendment, and the APA, because detention in § 240 proceedings is governed by INA § 236(a), which clearly provides that noncitizens are entitled to bond hearings.

5. Mr. Aroca therefore petitions this Court for declaratory and injunctive relief under 28 U.S.C. §§ 2201 & 2202, and he intends to seek a Temporary Restraining Order ("TRO") and preliminary injunctive relief, directing Respondents to provide him with immediate release under any conditions the Court deems reasonably necessary, or alternatively, to provide him with an individualized bond hearing without delay.[1]

[1] Petitioner hereby informs the Court that Petitioner intends to seek a Temporary Restraining Order through a separately filed motion subsequent to the initiation of this action.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

7. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor does he seek class-wide relief. Claims challenging detention are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018) (concerning claims only challenging detention and not the substantive removal proceedings). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

8. Venue is proper in this District, and in the Houston Division, because the agency responsible for refusing to afford Petitioner an immigration bond hear is the Conroe Immigration Court, which is located at 500 Hilbig Rd., Conroe, Texas 77301 and thus lies within the jurisdiction of the United States District Court for the Southern District of Texas. *See* Ex. A, Proof of Detention in ICE Custody.

III. PARTIES

9. Plaintiff, LUIS GUILLERMO AROCA ORTIZ ("Mr. Ortiz"), is a citizen and national of Venezuela who has lived in the United States for approximately three years. He was transferred to the Eden Detention Center, where he remains detained, following

his arrest by Dallas Police Department Officers outside of his hometown in Irving, Texas. Plaintiff is currently in active removal proceedings under 8 U.S.C. § 1229a (INA § 240), for which he is currently scheduled to appear in person before the Judge John McPhail of the Conroe Immigration Court, which is located within the detention center.[2] Plaintiff's next hearing in his § 240 removal proceedings is set before Immigration Judge McPhail on January 15, 2026, at 9:30 a.m. *See* Ex. D, EOIR Automated Case Information System.

10. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

11. Respondent TODD LYONS is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

12. Respondent DAREN K. MARGOLIN is the Director of the Executive Office for Immigration Review ("EOIR"), the component of the Department of Justice responsible for immigration court adjudications, including bond hearings for noncitizens in removal proceedings. He is sued in his official capacity because EOIR, through its Immigration Judges, exercises exclusive authority over the conduct and scheduling of bond hearings, and EOIR's refusal to provide Plaintiff with a constitutionally adequate bond hearing is an underlying basis of the unlawful detention challenged in this complaint.

13. Respondent JOSH JOHNSON is the Director of the Dallas Field Office of ICE – Enforcement and Removal Operations ("ERO"), and therefore, he oversees the Prairieland Sub-Office of ERO, which has jurisdiction over Plaintiff. He is sued in his official capacity as Plaintiff's local custodian and DHS's local decisionmaker.

[2] The Immigration Court in Conroe is now the administrative control docket due to ICE's transfer of Plaintiff despite his lengthy residence in North Texas, likely an effort to engage in forum-shopping.

14. Respondents Noem, Lyons, and Margolin who represent DHS, ICE, and EOIR are properly included as the executives of federal agencies within the meaning of the Administrative Procedure Act ("APA").

IV. FACTUAL BACKGROUND

1. Plaintiff LUIS GUILLERMO AROCA ORTIZ is a twenty-five-year-old citizen of Venezuela who has made the United States his home for many years. He entered the United States without inspection on or about more three years ago, and he has lived here continuously since that date.

2. Until his recent transfer into a remote immigration facility in Eden, Texas, Mr. Ortiz had lived and worked in the North Texas area for many years, where he developed close ties to his community. He has no history of violence and no disqualifying convictions that would justify treating him as a danger to society.

3. On or about September 21, 2025, Dallas County Police Officers apprehended Mr. Ortiz related to a DWI charge in Dallas County, Texas. Following this, the Department of Homeland Security ("DHS") served Mr. Ortiz with a Notice to Appear ("NTA"), formally charging him as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] for entry without inspection, despite his valid Temporary Protected Status and pending Asylum Application. *See* Ex. B, Documentation of Immigration History.

4. Critically, when Mr. Ortiz's case was filed with the immigration court and served upon him, it placed him into § 240 removal proceedings. As a result of this, Mr. Ortiz is entitled to the full panoply of due process guaranteed by the INA, including a hearing on

relief from removal and a bond hearing under § 236(a), and not merely a summary expulsion—a natural result, in view of his lengthy history in this country.

5. Despite this posture, Mr. Ortiz has been treated for bond immigration purposes as though he were subject to the harshest form of "arriving alien" detention, even though he has been properly placed in § 240 proceedings. Instead of being allowed to seek release on bond before an immigration judge, ICE has categorically denied him any chance to demonstrate that he is neither a danger to the community nor a flight risk. This blanket denial is not based on any individualized finding, but on the government's insistence on applying the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Those decisions—issued without notice-and-comment rulemaking, and in direct tension with binding circuit law—purport to strip immigration judges of authority to hold bond hearings for individuals like Mr. Ortiz.

6. As a result, Mr. Ortiz now finds himself locked away at the Eden Detention Center in Eden, Texas, a remote facility hundreds of miles from his community North Texas. *See* Ex. A. He is held under conditions indistinguishable from those reserved for dangerous criminals, despite the absence of any criminal conviction that would bar his release under Section 236(c) of the INA. Each day of confinement exacerbates the harm—separating him from family and community support, impeding his ability to consult with counsel, and inflicting the psychological strain that prolonged and unnecessary detention inevitably produces.

7. In sum, Mr. Ortiz is a man with deep roots in the United States, strong claims for humanitarian protection, and no disqualifying criminal record. He has been thrust into

prolonged civil detention solely because of the government's reliance on recent, non-binding BIA decisions that contravene the plain language of the INA and the controlling law of this Circuit. His detention, absent the possibility of an individualized bond hearing, is unlawful, arbitrary, and profoundly unjust.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determinations.

8. Immigration detention is governed primarily by two provisions of the INA: Section 235(b) [8 U.S.C. § 1225(b)] and Section 236(a) [8 U.S.C. § 1226(a)]. Whereas Section 236(a) of the INA authorizes the Attorney General to release noncitizens on bond pending removal proceedings, in contrast, Section 235(b) applies to certain categories of "arriving aliens" and mandates detention pending completion of expedited or threshold screening.

9. Congress designed § 236(a) to govern the detention of individuals who, like Plaintiff, are in regular removal proceedings under § 240. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

10. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 235(b) mandatory detention and § 236(a) discretionary custody). The Board of Immigration Appeals itself recognized for decades that individuals in § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

11. Despite this clear statutory scheme, DHS has invoked recent BIA decisions (*i.e.*, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)) to strip immigration judges of bond authority in cases such as those of Plaintiff. Those decisions, however, cannot override the plain language of the statute.

12. Recently, multiple district courts in 2025 have addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing similar petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and unambiguous language of Section 236 of the INA permits noncitizens who arrived without being inspected and admitted—persons who are in precisely the same legal circumstances as Mr. Omarov—are eligible to request bond hearings before the immigration court.

13. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that federal court relief was proper to correct statutory misclassification and to preserve the petitioner's due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under § 1226(a), rejecting the Government's assertion that § 1225(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause.

14. Similarly, *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (W.D. Tex. Sept. 21, 2025), confirms that courts are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a).

15. These holdings reflect a growing consensus that district courts retain jurisdiction to intervene where detention rests on a statutory misapplication and results in ongoing constitutional harm. The cumulative weight of these decisions underscores that Mr. Ortiz is entitled to bond consideration under § 1226(a).

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

16. Plaintiff incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

17. Respondents' refusal to provide Plaintiff with an individualized custody redetermination hearing violates the INA and controlling precedent of the United States Court of Appeals for the Fifth Circuit.

18. INA § 236(a), 8 U.S.C. § 1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

19. By its plain text, Section 236(a) applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) applies.

20. In interpreting the plain language of Section 236(a), various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond application by detained aliens pending the outcome of their

removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

21. Plaintiff is now in removal proceedings under Section 240 of the INA [8 U.S.C. § 1229a], and his case has been placed on the detained docket of the Conroe Immigration Court. Because Plaintiff is detained in the context of ongoing removal proceedings, his custody is governed by § 236(a), not § 235(b).

22. By adopting a policy refusing to provide Plaintiff with an individualized bond hearing that comports with INA § 236(a), Respondents have acted contrary to statutory authority requiring consideration of such bond application. This policy supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Plaintiff's continued detention without access to an individualized custody redetermination violates the INA and must be addressed in federal court.

23. Accordingly, this Court should grant declaratory and injunctive relief and order that Plaintiff receive an individualized bond hearing under INA § 236(a), in line with the recent decisions of other federal district courts from around the country.

Count II – Fifth Amendment Due Process Violation

24. Plaintiff incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

25. Plaintiff's continued detention without access to an individualized custody redetermination hearing also violates the Due Process Clause of the Fifth Amendment. Prolonged detention without bond review is arbitrary, punitive, and unconstitutional.

26. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the

heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

27. Because Plaintiff is detained by ICE at the Eden Detention Center, he is categorically barred from presenting evidence that he is not a danger to the community and that he poses no flight risk. The blanket denial of access to a bond hearing strips Plaintiff of the individualized determination required by due process and by the plain language of Section 236(a).

28. Unlike noncitizens subject to mandatory detention for serious criminal offenses under Section 236(c) [8 U.S.C. § 1226(c)], Plaintiff has no qualifying convictions that justify a categorical denial of release. His only arrest was conducted by Dallas Police Officers as a result of DWI Charge. The government has no legitimate basis to insist that Plaintiff's detention be mandatory, yet he remains confined with no opportunity for release.

29. Denying Plaintiff any access to a bond hearing deprives him of procedural protections guaranteed by the Due Process Clause. Moreover, prolonged detention without meaningful review violates the substantive limits of due process, as articulated in *Zadvydas* and *Demore v. Kim*, 538 U.S. 510 (2003).

30. Plaintiff is a long-time resident of the United States, with approximately three years of continuous presence. He has strong family and community ties in North Texas. There has been no finding that he is a danger to the community or a flight risk. Yet, solely because of recent, erroneous BIA decisions—decisions not binding in this

Circuit—he has been categorically denied the process to which he is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

31. Accordingly, the Court should grant declaratory and injunctive relief on constitutional grounds and order that Petitioner be released from custody pending the final outcome of his § 240 removal proceedings, or alternatively, that he be afforded a bond hearing before the Conroe Immigration Court at once.

Count III – Unlawful Agency Action (APA)

32. Plaintiff incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

33. Respondents' continued detention of Plaintiff without affording him a bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. The abrupt departure from longstanding precedent without reasoned explanation violates the Administrative Procedure Act.

34. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a), including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *see also* Ex. E, Pre-2025 Unpublished BIA Bond Decisions. That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);

- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");
- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

35. In 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that certain noncitizens who entered without inspection are subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). These decisions abruptly stripped immigration judges of bond authority for a large class of detainees, including Plaintiff, without notice-and-comment rulemaking and without reasoned explanation for abandoning prior precedent.

36. The APA requires agencies to engage in reasoned decision-making and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

37. Although Plaintiff did not file a new bond redetermination application following his most recent apprehension, the record establishes that such a request would have been futile. Immigration judges across the country, including those from within the Fifth Circuit like the Conroe Immigration Court, have expressly declined to exercise jurisdiction over custody redeterminations in light of the Board's decisions in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025)—even after a recent injunction was issued for a nationwide class of aliens that includes Petitioner, who have been improperly subjected to mandatory detention. *See* Ex. F, Sample IJ Order Denying Bond Post-*Maldonado Bautista*. Indeed, it is for this reason that Petitioner now seeks declaratory and injunctive relief through this Court, because immigration courts nationwide are refusing to follow *Maldonado Bautista*.

38. Accordingly, Respondents' refusal to provide Plaintiff an individualized custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant declaratory and injunctive relief to remedy the violation.

VII. REQUEST FOR INJUNCTIVE RELIEF (INCLUDING TRO)

39. Plaintiff respectfully requests that this Court issue a Temporary Restraining Order directing Respondents to provide him an immediate individualized custody redetermination hearing under INA § 236(a) within seven (7) days, or, in the alternative, to release him under reasonable conditions of supervision. Plaintiff further requests preliminary and permanent injunctive relief as appropriate.

40. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of

equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Plaintiff satisfies each of these factors.

A. Mr. Ortiz Is Likely to Succeed on the Merits of His Petition.

41. Mr. Ortiz has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts including some from within the Fifth Circuit, have already determined that noncitizens in circumstances substantially similar to that of Mr. Ortiz, who are detained under Section 236(a), are entitled to individualized bond hearings before an immigration judge.

42. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Mr. Ortiz might file—due to the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of Section 236(a).

43. Additionally, Mr. Ortiz raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

44. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Plaintiff's claim is exceptionally strong.

B. Mr. Ortiz Will Suffer Irreparable Harm If a TRO Does Not Issue.

45. If this Court does not grant immediate relief, Mr. Ortiz will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Everyday Mr. Ortiz remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

46. Even if Mr. Ortiz were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. 556 U.S. at 435. Mr. Ortiz's ongoing imprisonment without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Mr. Ortiz's Favor.

47. The balance of equities tips decisively in Plaintiff's favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent, and in this Circuit nonbinding, precedents.

48. There is no evidence that Plaintiff poses a danger to the community or a risk of flight, and the dismissal of his recent criminal indictment further diminishes any legitimate basis for continued detention. In contrast, every additional day of unlawful confinement inflicts significant harm on Plaintiff. When weighed against each other, the equities clearly support granting immediate relief.

49. Additionally, the undersigned Counsel for Plaintiff has undertaken to contact Counsel for the Department of Homeland Security by emailing the Office of Principal

Legal Advisor for Eden, Texas, as well as Assistant U.S. Attorney Lacy McAndrews, in a good faith effort to notify Respondents of Plaintiff's intent to obtain a hearing on this TRO request as soon as practicable.

D. There Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

50. Finally, the public interest strongly supports the issuance of a TRO. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

51. Granting Plaintiff an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Plaintiff's interest, but in the interest of the public at large.

52. Each factor of the equitable test weighs heavily in Mr. Ortiz's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

53. For these reasons, this Court should issue a Temporary Restraining Order at the earliest possible opportunity, requiring Respondents to provide Mr. Ortiz an immediate bond hearing or release.

VIII. PRAYER FOR RELIEF

54. For the above and foregoing reasons, Plaintiff respectfully requests that this Court take the following actions:

a. Issue a declaration that the plain language of INA § 236(a) permits immigration judges to consider bond requests of noncitizens who are present without admission and unless their most recent arrest occurs while at the threshold of entry;

b. Issue an injunction enjoying Respondents to release him immediately, or in the alternative, to provide Petitioner with an individualized bond hearing under INA § 236(a), 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

c. Issue an injunction enjoining DHS from initiating or pursuing expedited removal against Mr. Omarov while his § 240 removal proceedings remains non-final and while he seeks relief from removal before an Immigration Judge;

d. Grant injunctive relief requiring Respondents not to re-detain Petitioner without providing him with an individualized bond hearing under INA § 236(a);

e. Grant permanent injunctive relief as appropriate;

f. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

g. Grant such other relief as this Court deems just and proper.

DATE: December 24, 2025.

Respectfully submitted,

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By: */s/ John M. Bray*
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UNSWORN VERIFICATION

STATE OF TEXAS §
§
COUNTY OF DALLAS §

My name is MARIA MONSERRAT FLORES ("Declarant"), and I am Petitioner's spouse. I hereby declare pursuant to 28 U.S.C. § 1746 that I am above the age of twenty-one (21) years of age, I am of sound mind, and I am in all ways competent to execute this verification, and I further acknowledge that I have provided the facts contained in the foregoing document, that I have personal knowledge of the facts contained in it, and that the factual statements contained therein are true and correct to the best of my knowledge and belief.

/s/ Maria Monserrat Flores Date: 12/24/2025.
MARIA MONSERRAT FLORES,
Declarant