MICHAEL KAGAN
Nevada Bar No. 12318C
TIA ZGHAIB
RAYMOND WU
Student Attorneys Practicing
Under Nevada Supreme Court Rule 49.3
Attorneys for Petitioner
UNLV IMMIGRATION CLINIC
Thomas & Mack Legal Clinic
William S. Boyd School of Law
University of Nevada, Las Vegas
P.O. Box 71075
Las Vegas, Nevada 89170
Telephone: 702-895-3000
Facsimile: 702-895-2081
Email: michael.kagan@unlv.edu
Email: zghaib@unlv.nevada.edu
Email: wur7@unlv.nevada.edu

Counsel for Petitioner Kevin Eliel Aguirre Solis

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA (Las Vegas)

KEVIN ELIEL AGUIRRE SOLIS

Petitioner,

v.

KRISTI NOEM,
in her official capacity as Secretary, U.S. Department of Homeland Security; 245 Murray Lane SW, Washington, DC 20528;

U.S. DEPARTMENT OF HOMELAND SECURITY

PAMELA J. BONDI,
in her official capacity as Attorney General of the United States, 950 Pennsylvania Avenue, NW, Washington, DC, 20530;

U.S. DEPARTMENT OF JUSTICE

Case No.:

Agency No: [redacted]

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

TODD LYONS,
in his official capacity as Acting Director and Senior Official Performing the Duties of the Director for U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC 20536;

BRIAN HENKEY,
in his official capacity as Field Office Director, Salt Lake City Field Office Director, U.S. Immigration & Customs Enforcement, 2975 Decker Lake Drive Suite 100, West Valley City, UT 84119-6096

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

JOHN MATTOS,
in his official capacity as Warden, Nevada Southern Detention Facility, 2190 E. Mesquite Ave. Pahrump, NV 89060

Respondents.

INTRODUCTION

1. Kevin Eliel Aguirre Solis ("Petitioner", "Mr. Aguirre Solis") is a 29-year-old citizen of Nicaragua who entered the United States on or about July 28, 2020, without inspection after fleeing [redacted] *See* Exhibit A (Declaration of Kevin Eliel Aguirre Solis, Dated January 2, 2026) at 002–03; Exhibit B (Declaration of Kevin Eliel Aguirre Solis, Dated November 13, 2025) at 007; Exhibit C (I-213) at 012.

2. Petitioner has been the victim of at least two demonstrable government mistakes: The first wrongfully depriving him of the right to seek bond, and the second nearly deporting him illegally. He seeks relief from this Court so these errors no longer deprive him of his rights

or put him at risk. To remedy the first error, he asks for an immediate bond hearing in Immigration Court, as is his right under law.

3. Petitioner is in danger of persecution in Nicaragua and has already been nearly deported illegally by Respondent once while his case is pending. *See* Exhibit A at 002. Petitioner has no criminal convictions and has untreated mental health challenges that relate to past trauma in Nicaragua. *See* Exhibit B at 007–08. He will have been detained in immigration custody for nearly seven months (as of January 15, 2026). *See* Exhibit A at 002.

4. Petitioner was granted withholding of removal but denied asylum solely because he did not apply within one year of entry to the United States. *See* Exhibit D (Individual Hearing Order) at 019. He is appealing the asylum denial to the Board of Immigration Appeals. *See* Exhibit E (Notice of Appeal, Filing Confirmation, & Filing Receipt) at 025.

5. Government errors in Petitioner's case began from the moment U.S. Immigration and Customs Enforcement (ICE) detained him on June 15, 2025. *See* Exhibit F (Notice to Appear) at 029. ICE purportedly placed him in expedited removal proceedings, rather than full removal proceedings. *See* Exhibit A at 002; Exhibit C at 011. This led an Immigration Judge to conclude that she did not have jurisdiction to reconsider his custody and to grant bond. *See* Exhibit G (Custody Redetermination Order) at 033. However, Petitioner never could be legally in expedited removal because he had been present in the country for more than two years. ICE apparently acted on an assumption without evidence that he was a newcoming susceptible to expedited removal, in the process risking a dangerous deportation, extending his detention without a bond hearing, and depriving him of legally required process.

6. ICE has charged Petitioner with, among other things, entering the U.S. without inspection. *See* Exhibit F at 029. The Notice to Appear accurately alleges that Petitioner entered

the country in 2020, meaning that he had been present in the country for five years. *See id.* Under statute, he could only be placed in expedited removal if he had been in the country for less than two years. *See* 8 U.S.C. § 1225(b)(1)(A)(i), (iii). Yet ICE maintained and the Immigration Judge assumed that he had been in expedited removal and thus could not seek bond.

7. After the Immigration Judge granted withholding of removal on November 20, 2025, Petitioner remained detained. *See* Exhibit A at 002.

8. There is no final order of removal against Petitioner. Immigration Judge orders of removal are automatically stayed when appealed to the Board of Immigration Appeals. *See* 8 C.F.R. § 1003.6(a). Yet, Respondent ICE has already once tried to errantly deport Respondent from the United States to Mexico without legal authority, in violation of regulations, statutes and the due process clause of the Constitution. ICE transferred Petitioner from Nevada to Arizona on December 30, 2025, and attempted to remove him to Mexico on December 31, 2025. *See* Exhibit A at 002. After Petitioner's attorneys sent urgent emails to counsel for ICE, Petitioner was returned to the Nevada Southern Detention Center on or about New Years Eve or New Years Day. *See id*; Exhibit H (Attorney Email Correspondence to ICE Office of Principal Legal Advisor) at 036.

9. Mexico is not Petitioner's country of nationality. During the removal proceedings against Petitioner, the only country of removal designated was Nicaragua. *See* Exhibit D at 018. There is no order of removal, pending or final, to any other country. *See Id*. (provision for an order of removal to an alternative country left blank). There was no consideration of removal to any other country. Nor has Petitioner been given the opportunity to

be heard regarding removal to any other country. *See* Exhibit A at 002. Yet, Respondent has already attempted to remove him to a third country, namely Mexico.

10. Petitioner's asylum appeal is likely to take many months at the Board of Immigration Appeals. If the Board denies his appeal, a petition for review to the Ninth Circuit Court of Appeals will likely not be resolved for several years.

11. Petitioner does not ask this Court to reconsider the Immigration Judge's determination regarding removability, nor to adjudicate the denial of asylum. Instead, Petitioner seeks emergency relief to prevent his unlawful removal from the U.S. while in ICE custody and, and relief from detention without a bond hearing.

12. Petitioner files this petition for a writ of habeas corpus ("Petition") because ICE's actions unlawfully interfere with his statutory and constitutional rights, including his right to be free from unlawful detention and to pursue appellate review. Petitioner brings this petition pursuant to 28 U.S.C. § 2241; the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101-1538 and its implementing regulations; and the U.S. Constitution to prevent further attempts to remove him from the U.S. He asks this court to order an immediate bond hearing, which is his right under the Immigration and Nationality Act. *See* 8 U.S.C. § 1225(a).

JURISDICTION AND VENUE

13. Petitioner is in the custody of Respondents. He is in the physical custody of the Nevada Southern Detention Center, 2190 E Mesquite Ave, Pahrump, NV 89060 ("NSDC") in Pahrump, Nevada. *See* Exhibit C at 011. NSDC is a private detention center operated by CoreCivic, Inc., under contract with ICE.

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

15. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

16. Venue is proper in this District under 28 U.S.C. § 2241; 28 U.S.C. § 1391(b); and 28 U.S.C. § 1391(e)(1) because when this Petition was filed Petitioner was detained within the geographic jurisdiction of the District of Nevada (Las Vegas). Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to the claim occurred in this district. *See* 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for a 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 (9th Cir. 2000) (citation omitted).

PARTIES

19. Mr. Aguirre Solis is a citizen of Nicaragua who has resided in the United States since approximately July 2020. *See* Exhibit B at 005; 007. He has been in immigration detention since June of 2025. *See* Exhibit A at 002.

20. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

21. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens. Respondent DHS is a legal custodian of Petitioner.

22. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR) and the immigration court system it operates is a component agency. She is sued in her official capacity.

23. Respondent Department of Justice (DOJ) is the federal agency responsible for adjudicating removal and related bond cases. EOIR, and its components the immigration courts and Board of Immigration Appeals (BIA) is a division of DOJ.

24. Respondent Todd Lyons is the Acting Director and Senior Officer Performing the Duties of the Director of ICE. Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants during their removal procedures. Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is sued in his official capacity.

25. Respondent ICE is the subagency of DHS that is responsible for carrying out removal orders and overseeing immigration detention. Respondent ICE is a legal custodian of Petitioner.

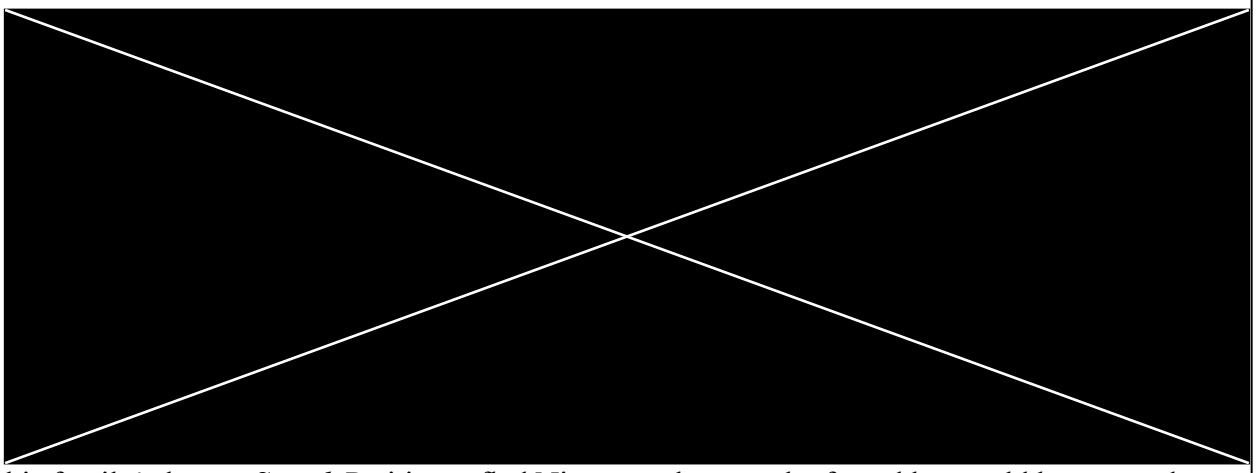
26. Respondent Brian Henkey is the Director of the Salt Lake City Field Office of ICE Enforcement and Removal Operations, a federal law enforcement agency within the Department of Homeland Security ("DHS"). ERO is a directorate within ICE whose responsibilities include operating the immigration detention system. In his capacity as ICE ERO Salt Lake City, Acting Field Office Director, Respondent Henkey exercises control over and is a custodian of immigration detainees held at NSDC. At all times relevant to this Complaint, Respondent Henkey was acting within the scope and course of his employment with ICE. He is sued in his official capacity.

27. Respondent John Mattos is the Warden of NSDC which detains individuals suspected of civil immigration violations pursuant to a contract with ICE. Respondent Mattos exercises physical control over immigration detainees held at NSDC. Respondent Mattos is sued in his official capacity.

28. Respondents individually and collectively will be referred to as "Respondents."

FACTS

29. In April 2018, the Nicaraguan government announced changes to the national pension system that reduced pensions for elderly and retired citizens, which triggered widespread peaceful protests. *See* Exhibit B at 005. [redacted]



his family's home. *See id.* Petitioner fled Nicaragua because he feared he would be tortured again or killed if he remained. *See id.* at 007.

31. Since arriving in the U.S., Petitioner has lived quietly without any criminal convictions beyond a few minor traffic citations: namely, a parking ticket on July 23, 2022 and a speeding ticket on January 16, 2025. *See id.* He was pulled over for an expired license plate on July 25, 2022, but the charge was later dismissed. *See id.* His partner, Sobeyda Dayana Izaguirre Cruz ("Dayana"), fled Nicaragua due to similar persecution and was later granted asylum in the U.S. *See id.* Petitioner and Dayana planned to marry before he was detained. *See id.*

32. Petitioner suffers from severe anxiety, depression, insomnia, flashbacks, and trauma-related symptoms stemming from his torture. *See id.* at 008. He reports that discussing his experiences triggers intense physical and psychological reactions, including shaking, sweating, and inability to speak. *See id.* These symptoms prevented him from filing for asylum within one year of entry. *See id.*

33. In June of 2025, the North Las Vegas police pulled Petitioner over. *See id.* at 007–08. They accused him of driving under the influence because he was shaking and sweating—a reaction he has whenever he sees police due to his prior torture by [redacted] *See id.* He was charged with four misdemeanors for driving under the influence

(DUI), headlamps not illuminated, failure to yield to an emergency vehicle, and failure to provide proof of insurance. *See id.* He attended his arraignment and paid $3,800 to be released on bond, but they never released him. *See id.* He has not been convicted. *See id.*

34. On June 15, 2025, ICE arrested Petitioner in Las Vegas, Nevada, and placed him in expedited removal proceedings. *See id.* at 008; Exhibit C at 011. He has remained in ICE custody since that date. *See* Exhibit A at 002.

35. Petitioner requested a custody redetermination, which an Immigration Judge denied on August 15, 2025, stating that Petitioner was subject to mandatory custody pursuant to *Matter of M-S-*, 27 I&N 509 (A.G. 2019). *See* Exhibit G at 033. *Matter of M-S-* is an administrative decision by the Attorney General concerning asylum-seekers who are transferred from expedited removal to full (regular) removal proceedings, holding that in this situation the person is subject to mandatory detention under 8 U.S.C. § 1235(b)(1). Under Section 1225(b)(1), there is no immediate eligibility for a bond hearing in Immigration Court. By contrast, a person detained under Section 1226 would be normally eligible for an immediate bond hearing (custody redetermination) with an Immigration Judge while his removal case is pending case.

36. On November 20, 2025, an Immigration Judge granted Petitioner withholding of removal, recognizing that he faces a serious risk of harm if returned to Nicaragua, but denied asylum based on the one-year filing deadline. *See* Exhibit D at 019. Petitioner filed a timely Notice of Appeal with the BIA. *See* Exhibit E at 025.[1] The appeal involves a legal question

[1] These mental health issues were further illuminated during testimony in Immigration Court on November 20, 2025. Transcripts of these proceedings will normally be provided during the Board of Immigration Appeals appellate process, but have not yet been provided to Petitioner or his counsel.

about whether there is any time limit to how long his mental health issues justified an exception to the one-year filing deadline. *See id.* at 022. That issue is not part of this Petition; it will be litigated first at the Board of Immigration Appeals and if necessary reviewed by the Ninth Circuit Court of Appeals. *See generally* 8 U.S.C. § 1252 (judicial review of orders of removal). ICE did not appeal the grant of withholding of removal.

37. On December 30, 2025, at about 2 a.m., ICE transferred Petitioner out of NSDC to a building in Las Vegas without notice to counsel or family. *See* Exhibit A at 002. When Petitioner requested to contact his attorneys, he was denied the ability to do so. *See id.* He was only told that he would be removed "back to Mexico"—which is not his country of origin. *See id.*

38. Around 11 a.m. the same day, two ICE agents handed Petitioner documents that he could not understand. *See id.* When Petitioner asked for clarification and again to contact his attorneys, the ICE agents again denied him the chance to contact his attorneys. *See id.* ICE agents instead grabbed Petitioner's hand and forced him to sign the document. *See id.*

39. Later the same day, Petitioner was flown from Las Vegas to an ICE facility in Arizona. *See id.* Petitioner was left overnight in a freezing cold room with only an aluminum blanket. *See id.*

40. On December 31, 2025, Respondents attempted to remove Petitioner to Texas and, ultimately, to Mexico. *See id.* Petitioner's counsel received no advance notice of the transfer or removal and no opportunity to seek judicial review or a stay. After learning that Petitioner was being transferred, Petitioner's counsel sent multiple emails to ICE Office of Principal Legal Advisor. *See* Exhibit H at 036. On January 1, 2026, Petitioner was moved back to the Nevada Southern Detention Center. *See* Exhibit A at 002.

41. While Respondents were attempting to illegally remove Petitioner, he was "terrified, desperate, and anxious" during the entire process. *See id.* He did not know whether he would be removed to Mexico or Nicaragua—where he would "surely die if [he] ever returned." *See id.* Petitioner was in fear for his life, had "no clue what was happening," and his entire body shook due to the fear. *See id.*

42. Petitioner remains detained by Respondents.

LEGAL FRAMEWORK

General Principles

43. District courts have jurisdiction under 28 U.S.C. § 2241 to consider challenges to the legality of immigration detention and removal where a petitioner alleges that executive action violates the Constitution or federal law. See *I.N.S. v. St. Cyr*, 533 U.S. 289, 305 (2001) ("habeas corpus has always been available to review the legality of Executive detention.").

44. The Supreme Court has made clear that habeas jurisdiction extends to claims that executive detention or removal is unlawful, including claims asserting violations of statutory rights and due process rights. *Id.* The Constitution's Suspension Clause protects the availability of habeas corpus to test the legality of executive detention. U.S. Const. art. I, § 9, cl. 2.

45. The Constitution requires some "judicial intervention in deportation cases." *St. Cyr*, 533 U.S. at 300 (citing *Heikkila v. Barber*, 345 U.S. 229, 234–35 (1953)). Thus, where a noncitizen alleges that DHS has acted unlawfully in transferring or removing him in a manner that deprives him of statutory or constitutional protections, federal courts retain habeas jurisdiction to review that conduct. *See id.*

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The Right to Appeal Immigration Judge Denials

46. The United States Supreme Court held that if a non-citizen is ordered removed, they have the right to appeal to the BIA. *Reyes Mata v. Lynch*, 576 U.S. 143, 145 (2015). Congress has also provided noncitizens with a statutory right to seek administrative review of adverse immigration decisions, including the right to appeal a removal order to the BIA. *Lopez-Angel v. Barr*, 952 F.3d 1045, 1048 (9th Cir. 2020); 8 U.S.C. § 1229(c)(5). The Supreme Court has further emphasized that immigration statutes are governed by a strong presumption in favor of judicial review of administrative action. *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 229 (2020).

47. Immigration Judges' decisions may be appealed to the BIA, and the Notice of Appeal must be filed within 30 days after the Immigration Judge's oral decision. *See* 8 C.F.R. § 1003.38(a), (b). Immigration Judge Roberts ordered Petitioner removed on November 20, 2025, and Petitioner filed his Notice of Appeal 28 days later, on December 18, 2025. *See* Exhibit E at 024. The Immigration Judge's order of removal becomes final only "[u]pon dismissal of an appeal by the Board of Immigration Appeals," waiver of appeal, or expiration of the time to appeal without an appeal being filed. 8 C.F.R. § 1241.1. Because Respondent's timely appeal remains pending before the BIA, there is no administratively final order of removal, and DHS lacks authority to execute removal.

48. The right to appeal would be illusory if the government could effectively "terminate an appeal by removing a petitioner" before the appeal is adjudicated. *Lopez-Angel v. Barr*, 952 F.3d at 1049. Executive action may not nullify rights Congress has expressly conferred. *See Coyt v. Holder*, 593 F.3d 902, 907 (9th Cir. 2010); 8 C.F.R. § 1003.38(a) ("Decisions of Immigration Judges may be appealed to the Board of Immigration Appeals").

49. Habeas relief is appropriate to prevent executive action that would nullify a pending appeal and deprive Petitioner of the statutory right to meaningful administrative review. *See Coyt*, 593 F.3d at 907.

The Right to Due Process Before Third Country Removal

50. Even if there were a final order of removal against Petitioner, he cannot be removed to a third country without his case being reopened in Immigration Court to allow him to fully litigate the danger that any third country removal would pose to him.

51. When an Immigration Judge grants withholding of removal, she issues a removal order and simultaneously withhold or defer execution of that order with respect to the country or countries where the noncitizen faces a sufficient risk of persecution or torture. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). However, unlike in *Guzman Chavez*, Petitioner in this case was not in withholding-only proceedings. He also has an application for asylum, which is pending on appeal to the Board of Immigration Appeals, and no final order of removal against him.

52. Although DHS may remove a noncitizen ordered removed and granted withholding relief to an alternative country, that authority is strictly constrained by statute. 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f). Even when the order of removal becomes final, the government is statutorily prohibited from removing a noncitizen to the country where the individual would be persecuted or tortured. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2).

53. Critically, if Respondents seek removal to an alternative country, they may not do so summarily. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) ("if aliens would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of

available remedies…"). Rather, courts have recognized that DHS cannot immediately remove individuals granted withholding protection to a third country without first affording them notice and an opportunity to assert reasonable fear claims in immigration court. *See Romero*, 280 F. Supp. 3d at 847 n.24 (citing *Kossov v. I.N.S.*, 132 F.3d 405, 408–09 (7th Cir. 1998)).

54. This court has found that a petitioner with withholding or deferral of removal has the right to receive meaningful notice and opportunity to present a fear-based claim prior to removal to a third country. *See Cavieres Gomez v. Mattos*, No. 2:25-cv-00975-GMN-BNW, 2025 LX 535284, at *17 (D. Nev. Nov. 6, 2025). "A noncitizen must be given sufficient notice of a country of deportation that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation." *Id.* The Ninth Circuit has similarly ruled in an unpublished case that "[i]n the context of country of removal designations, last minute orders of removal to a country may violate due process if an immigrant was not provided an opportunity to address his fear of persecution in that country." *Najjar v. Lynch*, 630 Fed. Appx. 724, 724 (9th Cir. 2016).

55. This court in *Cavieres Gomez* granted the petitioner's amended petition for habeas relief and ordered that the petitioner could not be removed to a third country without "adequate notice of intent to seek removal to a third country" and an opportunity to seek to reopen his immigration court proceedings to seek "fear-based relief from removal." *Cavieres Gomez*, 2025 LX at 20–21.

Limits on Expedited Removal Authority

56. Normally, a non-citizen in removal proceedings may ask for bond through a custody redetermination hearing with an Immigration Judge under 8 U.S.C. § 1226(a). Petitioner tried this in this case, but was rebuffed because of a clear error: ICE alleged, and the

Immigration Judge believed, that he had been in expedited removal proceedings. *See* Exhibit G at 033 (denying custody redetermination for lack of jurisdiction based on *Matter of M-S-*).

57. Immigration Judge Roberts denied Petitioner's request for custody redetermination on the ground that he was "subject to mandatory custody pursuant to *Matter of M-S-*." *See* Exhibit G at 033; *Matter of M-S-*, 27 I.&N. Dec. 509 (A.G. 2019). *Matter of M-S-* is an administrative decision that addresses a narrow circumstance in which a noncitizen is properly placed in expedited removal, receives a positive credible fear determination, and is then placed into regular removal proceedings—holding that such individuals remain subject to detention under § 1225(b). 27 I.&N. at 515.

58. ICE had stated on the I-213 "Record of Deportable/Inadmissible Alien" that it had "processed AGUIRRE-SOLIS as a Notice and Order of Expedited Removal." *See* Exhibit C at 013. IJ Roberts appears to have relied on this in concluding that she did not have bond jurisdiction under *Matter of M-S-*.

59. However, Petitioner could not have been properly designated for expedited removal in the first place because he had been physically present in the U.S. for nearly five years at the time of DHS's determination. ICE knew that before the Immigration Judge ruled; in the charging document that initiated removal proceedings ICE stated that Petitioner entered the United States in 2020. *See* Exhibit F at 029.

60. *Matter of M-S-* itself states that expedited removal applies to noncitizens who have not "been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility." 27 I.&N. Dec. at 511 (internal citations omitted). Because Petitioner's expedited removal designation was improper,

Matter of M-S- does not govern Petitioner's custody status, and the Immigration Judge retains jurisdiction to consider bond under § 1226(a).

61. Expedited removal authority is a narrow, statutorily defined procedure that applies only to a limited class of noncitizens. Congress authorized expedited removal in 8 U.S.C. § 1225(b)(1)(A)(i), which provides that an immigration officer may order removal without further hearing or review only if the officer determines that a noncitizen "who is arriving in the United States or is described in clause (iii)" is inadmissible under 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7), unless the individual expresses an intention to apply for asylum or fear of persecution. 8 U.S.C. § 1225(b)(1)(A)(i), (ii).

62. Clause (iii) further limits the scope of expedited removal. Under 8 U.S.C. § 1225(b)(1)(A)(iii)(II), an individual who is not "arriving in the United States" may be placed in expedited removal only if the noncitizen "has not been admitted or paroled" and "has not affirmatively shown, to the satisfaction of an immigration officer, that the [noncitizen] has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." *See* 8 U.S.C. § 1225(b)(1)(A)(i), (iii) (emphasis added).

63. Prior to 2019, DHS limited expedited removal to noncitizens arrested within 100 miles of the border who could not prove that they had been in the U.S. for more than the prior two weeks. *E. Bay Sanctuary Covenant v. Barr*, 385 F. Supp. 3d 922, 934 (N.D. Cal.). In July 2019, DHS expanded the scope of expedited removal to eliminate the prior border-area restriction and extended the temporal window to two years after entry. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409-01 (July 23, 2019).

64. DHS expressly stated that the expanded rule would apply "to [noncitizens] encountered anywhere in the United States for up to two years after the [noncitizen] arrived in the United States." *See id.* As DHS itself made clear, the expansion replaced the prior geographic and short-term temporal limitations with a two-year physical presence limitation, such that expedited removal applies only to noncitizens encountered within two years of arrival and not to those encountered after that period has elapsed. *See E. Bay Sanctuary Covenant*, 385 F. Supp. 3d at 934 (describing DHS's 2019 rule as expanding expedited removal to apply to noncitizens "encountered anywhere in the United States for up to two years after the alien arrived in the United States").

65. Courts in the Ninth Circuit have repeatedly recognized this statutory and regulatory limitation. As the court explained in *United States v. Carrillo-Moreno*, "under DHS regulations, expedited removal applies to noncitizens not in the United States for two years prior to the date of determination of inadmissibility." *See* 670 F. Supp. 3d 921, 926 (D. Ariz. 2023) (citing *United States v. De La Mora-Cobian*, 18 F.4th 1141, 1146, n. 1 (9th Cir. 2021)). These decisions confirm that two years of continuous physical presence places a noncitizen outside the class subject to expedited removal. *See id.*

66. Expedited removal turns on a noncitizen's physical presence in the U.S. for the preceding two years, not on whether that presence was lawful. As the Ninth Circuit has explained, "no case has held that § 1225(b)(1) allows an immigration officer to apply § 1182(a)(7) to noncitizens who are physically but unlawfully present in the United States." *Torres v. Barr*, 976 F.3d 918, 929 (9th Cir. 2020).

67. This Court has held that § 1225 does not govern noncitizens who have resided in the U.S. for more than two years. Immigration judges have determined that "§ 1225(b)(2) sets

forth a screening and referral process for 'applicants for admission' that only applies to [noncitizens] who have not been present continuously for at least a two year period prior to the determination of inadmissibility," and therefore "§ 1226, not § 1225 applies." *See Herrera v. Knight*, 798 F. Supp. 3d 1184, 1194 (D. Nev. 2025).

68. Executive branch adjudicators have also held that where a noncitizen "was not a recent entrant within the past two years, and was not apprehended near the border," the immigration judge retained jurisdiction to issue a bond determination under § 1226(a). *See id.* at 1195 (citing *Matter of Q Li*, 29 I. & N. Dec. 66 (BIA 2025)); *Vazquez v. Bostock*, Case No. 3:25-cv-054240-TMC (W.D. Wash. 2022).

69. Here, Respondents' placement of Petitioner into expedited removal, if it happened at all, was statutorily improper and clear error. Petitioner had been physically present in the U.S. since July 28, 2020, a fact ICE itself acknowledged by listing that date as his entry in his Notice to Appear. *See* Exhibit F at 029. Petitioner was not apprehended at the border and was not encountered by immigration officials until June 2025—the earliest date mentioned in his I-213. *See* Exhibit B at 007; Exhibit C at 012. Therefore, Petitioner had been present in the U.S. for nearly five years at the time DHS initiated removal proceedings.

70. Under the plain text of § 1225(b)(1), DHS's own 2019 expansion notice, and legal precedent, Petitioner falls outside the class of noncitizens subject to expedited removal. As a result, DHS lacked authority to designate Petitioner for expedited removal, and his detention and processing under that framework are unlawful.

71. In shorter form, to be susceptible to expedited removal a non-citizen but either be arriving at the border, or have been present for less that two years. By contrast, Petitioner –

according to Respondents' own charging documents – entered without inspection and was present in the country for five years. *See* Exhibit F at 029.

72. Respondents cannot rely on their own error to deprive Petitioner of due process rights, in this case, of the right of a man with no criminal convictions to have a bond hearing so that he does not spend months or years in detention while he litigates his asylum case. He is entitled to a bond hearing under § 1226(a).

Due Process Limitations on Prolonged Detention

73. Even assuming *arguendo* that Petitioner was properly placed in expedited removal, due process requires a bond hearing because Petitioner will have been detained for seven months by the middle of January 2026 and has been granted withholding of removal; continued detention without a custody determination violates constitutional limits on prolonged detention.

74. Congress authorized civil detention of noncitizens in removal proceedings for specific, nonpunitive purposes. *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018); *Demore v. Kim*, 538 U.S. 510, 515–16; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention is either discretionary, 8 U.S.C. § 1226(a), or mandatory, §§ 1225(b), 1226(c), 1231(a).

75. In the context of immigration detention, "[it] is well established that the Fifth Amendment entitles [noncitizens] to due process of law in [removal] proceedings." *Reno v. Flores*, 507 U.S. 292, 306 (1993). This right extends to noncitizens who seek a bond hearing after prolonged detention, so that even if detention is statutorily "mandatory," the Fifth Amendment right to due process provides relief to noncitizens who have been detained for too long. *See Arechiga v. Archambeault*, No. 2:23-cv-00600-CDS-VCF, 2023 U.S. Dist. LEXIS 140947, at *8 (D. Nev. Aug. 11, 2023).

76. In *Jennings v. Rodriguez*, the Supreme Court remanded to the Ninth Circuit to consider the constitutional arguments against prolonged detention under § 1226(c). 538 U.S. 281, 312 (2018). However, the Ninth Circuit remanded the case to the district court, and as the Eastern District of California noted in a decision less than one year ago, "[t]here has been a dearth of guidance regarding the point at which an immigration detainee's continued mandatory detention becomes unconstitutional." *Walter A.T. v. Facility Adm'r, Golden State Annex*, No. 1:24-cv-01513-EPG-HC, 2025 LX 127939, at *9 (E.D. Cal. June 23, 2025).

77. In 2024, the Second Circuit held that the constitutional right to due process forbids indefinite detention without a bond hearing under § 1226(c). *See Black v. Dir. Thomas Decker*, 103 F.4th 133 (2d Cir. 2024). *Black* involved dual habeas petitions by people detained without bond hearings under § 1226(c), one for seven months, and one for 21 months. *Id.* at 137. The Second Circuit applied the three-part test of due process in *Mathews v. Eldridge*, 424 U.S. 319 (1976), and held that due process required a bond hearing in both cases, and that in that hearing, the government must show the necessity of continued detention by clear and convincing evidence. *Id.* at 138.

78. District courts in this circuit have taken a variety of approaches to this question, but they have generally found that mandatory detention cannot be unlimited. *See Walter A.T.*, 2025 LX 127939, at *13–14 (E.D. Cal. 2025) (collecting cases). Several have followed the same reasoning as the Second Circuit in *Black*, applying the *Mathews* test to impose a limitation on § 1226 detention. *See, e.g., id.* at *16–22 (petitioner detained for 17 months); *Hilario M.R. v. Warden, Mesa Verde Det. Ctr.*, No. 1:24-cv-00998-EPG-HC, 2025 LX 171037, at *19-23 (E.D. Cal. Apr. 21, 2025) (petitioner detained for 8 months); *Doe v. Andrews*, No. 1:25-cv-00506-SAB-HC, 2025 LX 331427, at *15 (E.D. Cal. Sep. 8, 2025) (petitioner detained for 16 months).

79. In case in this District under § 1225(b) involving prolonged detention of arriving aliens, *Arechiga v. Archambeault*, the petitioner was detained under § 1225(b) and after an appeal to the Ninth Circuit, waited for his case to proceed through the BIA on remand. *Id.* at *4–5. He remained detained the entire time. *Id.* at *1–2. The court held that petitioner had a constitutional right to seek a bond hearing. *Id.* at *7–8. This bond hearing would require the government to prove by clear and convincing evidence that his continued detention was justified. *Id.*

80. Similarly, in *Kydyrali v. Wolf*, the Southern District of California recognized that noncitizens have a due process right to be free from prolonged detention. 499 F. Supp. 3d 768, 771–72 (S.D. Cal. 2020). In *Kydyrali*, the petitioner filed a petition for review and motion for stay of removal at the Ninth Circuit. *Id.* at 769. The Ninth Circuit granted that stay. *Id.* He remained detained, under § 1225(b), for over 27 months as he waited for a decision on his petition. *Id.* at 774. The court rejected the government's arguments that constitutional protections do not apply to noncitizens. *Id.* at 770–72. Due to the petitioner's already prolonged detention and the likelihood that detention would continue as he waited for the Ninth Circuit's decision, the court held that due process required him to have a bond hearing. *Id.* at 774.

81. Courts vary on how long a noncitizen must be detained before due process mandates the opportunity for a bond hearing. Courts have previously imposed a limitation on detention after seven, eight or nine months of detention. *See, e.g., See Black v. Decker*, 103 F.4th 133, 151 (2d Cir 2024) (seven months*)*; *Hilario M.R.*, 2025 LX at *19–23 (petitioner detained for 8 months); *Perez v. Decker*, No. 18-CV-5279 (VEC), 2018 U.S. Dist. LEXIS 141768, at *13-16 (S.D.N.Y. Aug. 20, 2018) (holding that a bond hearing was required after 9 months of detention).

82. Nationwide, many courts outside of the Ninth Circuit recognize that prolonged detention will at some point trigger the due process right to a bond hearing. *See e.g., Lopez v. Garland*, 631 F. Supp. 3d 870, 880 (E.D. Cal. 2022) (holding that a bond hearing is required after 12 months of detention); *Franklin K. B. v. Warden, Hudson Cnty. Corr. Facility*, Civil Action No. 18-9933 (KSH), 2019 U.S. Dist. LEXIS 94754, at *12 (D.N.J. June 3, 2019) (holding that a bond hearing was required after 16 months of detention); *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1107 (W.D. Wash. 2019) (upholding a magistrate ruling compelling a bond hearing after 18 months of detention); *Sibomana v. LaRose*, No. 3:22-cv-933-LL-NLS, 2023 U.S. Dist. LEXIS 69635, at *9 (S.D. Cal. Apr. 20, 2023) (holding that a bond hearing was required after 19 months of detention); *Jamal A. v. Whitaker*, 358 F. Supp. 3d 853, 861 (D. Minn. 2019) (holding that a bond hearing was required after 19 months of detention); *Kydyrali*, 499 F. Supp. 3d at 774 (holding that a bond hearing was required after 27 months of detention); *Leke v. Hott*, 521 F. Supp. 3d 597, 605 (E.D. Va. 2021) (holding that a bond hearing was required after 24 months of detention).

83. While many courts have used the *Mathews v. Eldridge* test to determine whether due process necessitates a bond hearing, several courts, including the District of Nevada in *Arechiga*, have adopted the six-factor analysis from *Banda v. McAleenan*, 385 F. Supp. 3d: "(1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the Government; and (6) the likelihood that the removal proceedings will result in a final order of removal." *Arechiga*, 2023 U.S. Dist. LEXIS at *9–10 (citing *Banda*, 385 F. Supp. 3d at 1106). In *Arechiga*, the court held that the petitioner was

entitled to a bond hearing only based on the first two factors weighing in his favor. 2023 U.S. Dist. LEXIS at *12.

84. Petitioner would prevail under *Banda*, just as he would under *Mathews*. Immigration Judge Roberts denied Petitioner's request for a custody redetermination, citing only that he was subject to mandatory detention under *Matter of M-S-*. *See* Exhibit G at 033. As a result, Petitioner has never received an individualized custody redetermination on the merits of his continued detention.

85. Notably, Petitioner's initial request for custody redetermination was made before he was granted withholding of removal. He has now been granted withholding and thus even if his asylum case were not on appeal he could not be removed to the only country names on the removal order due to a serious risk of persecution or death. Yet he remains detained without any bond hearing. Because Petitioner has no final order of removal and faces continued detention with no foreseeable end, his detention is effectively indefinite. Under these circumstances, as in *Banda*, the *Mathews* balancing test is not an adequate vehicle to determine his due process rights.

86. Rather, the six-factor test set out in *Banda* and adopted by *Arechiga* can properly determine whether due process requires that Petitioner receive a bond hearing. Under the six-factor test, Petitioner's right to due process does require the government to prove by clear and convincing evidence why he should remain detained.

87. The first factor, the length of detention, is the "most important," weighs in favor of Petitioner. *Arechiga*, 2023 U.S. Dist. LEXIS at *10. As of January 15, 2026, Petitioner will have been detained for seven months. Courts have previously required bond hearings based on prolonged detention for similar periods of detention. *See Black v. Decker*, 103 F.4th 133, 151 (2d

Cir 2024) (seven months of immigration detention requires a bond hearing because "any immigration detention exceeding six months without a bond hearing raises serious due process concerns"). *See also Perez*, 2018 U.S. Dist. LEXIS at *13-16 (holding that a bond hearing was required after 9 months of detention). Because Petitioner's detention has already lasted over six months and has no foreseeable end, this factor therefore weighs in favor of granting Petitioner a bond hearing. And because this factor is the most important, it significantly compels a holding that Petitioner deserves a bond hearing under the Constitution.

88. The second factor, the likely duration of future detention, strongly favors Petitioner. He has already been granted withholding of removal, meaning he cannot lawfully be returned to his home country for the foreseeable future. Yet he remains detained with no definite end in sight, rendering his detention effectively indefinite. This detention is further prolonged by his pending appeal before the BIA, which could be followed by a petition for review to the Ninth Circuit. As the court notedin *Kydyrali*, where the petitioner sought Ninth Circuit review of an asylum claim, pending review is likely to lead to at least several more months of detention. 499 F. Supp. 3d at 774. This delay was enough to weigh in favor of the petitioner. *Id.* It should also be enough to weigh in favor of Petitioner, as like *Kydyrali*, he is facing a similar waiting period with his BIA appeal. BIA appeals can "typically take six months or more to be resolved. *Alvarez v. Noem*, No. 1:25-cv-1090, 2025 LX 489608, at *9 (W.D. Mich. Oct. 17, 2025). Because Petitioner faces continued detention for a substantial and indeterminate period during the pendency of his appeal—and thereafter—this factor weighs decisively in favor of granting him a bond hearing.

89. The third factor, conditions of detention, weighs in favor of Petitioner. While detained, Petitioner was recently transferred and removed from Nevada without notice to

counsel or his family, despite the absence of a final order of removal. *See* Exhibit A at 002. That experience subjected Petitioner to extreme fear and distress, as he did not know whether he would be sent back to Nicaragua, where "[he] would surely die." *See id.* at 003. During this process, Petitioner's body began shaking uncontrollably, and he was "terrified, desperate, and anxious." *See id.* The risk that Petitioner may again be transferred or removed without notice or an opportunity to be heard compounds the hardship of his detention. These conditions, marked by psychological harm and the ongoing threat of improper removal, weigh in favor of an individualized bond hearing.

90. The fourth factor, delays caused by the detainee, weighs in favor of Petitioner. Although Petitioner has sought review of the Immigration Judge's denial of asylum by filing a timely appeal to the BIA, that action constitutes the exercise of a statutory right—not dilatory conduct. Petitioner has not requested continuances, sought to delay proceedings, or engaged in any conduct intended to prolong his detention. To the contrary, Petitioner has consistently pursued relief in an orderly and timely manner while detained, and previously requested a custody redetermination for his release from detention. *See* Exhibit G at 033. This Court should be wary of faulting noncitizens who assert their rights to appeal and to seek the full levels of protection that the law provides to them. *See Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015) (holding that a noncitizen could not be punished for asserting his right to appeal unless it was made in bad faith). Petitioner's BIA appeal is brought in good faith because it raises a legitimate legal question about whether a long-standing mental health condition can excuse a delayed asylum filing when that condition continuously prevented him from applying earlier. This factor weighs in favor of granting Petitioner a bond hearing.

91. The fifth factor, delays caused by the government, weighs in favor of Petitioner. Despite Petitioner's continued cooperation with immigration authorities, the government has prolonged his detention through its own actions, including maintaining custody after his withholding grant and attempting to remove Petitioner while his appeal was pending and before any final order of removal existed. These actions created uncertainty, instability and danger, requiring the present petition to prevent unlawful removal, and extended Petitioner's confinement well beyond what was necessary to adjudicate his case, weighing strongly in favor of a bond hearing.

92. The sixth factor, the likelihood of a final order of removal, weighs in favor of Petitioner because he is not likely to be removed within a reasonable period of time. Again, Petitioner was granted withholding of removal to defer his removal to Nicaragua. Although the government suddenly decided to try and remove Petitioner to Mexico, that removal is not likely to occur in a reasonable period for three reasons. First, Petitioner does not have a final order of removal due to his BIA appeal, and thus this attempt was lawless. Immigration Judge orders of removal are automatically stayed when appealed to the Board of Immigration Appeals. *See* 8 C.F.R. § 1003.6(a). Due to the length of time that BIA appeals can take, this stay alone means that any removal is not likely to occur within a reasonable time. Second, there is no guarantee that even if the government could remove Petitioner to Mexico, that Mexico would accept him or be able to grant him any rights or liberties. Third, Petitioner is seeking a grant of asylum in his BIA appeal, which would eliminate the possibility of a final order of removal. While this court does not need to assess the likelihood of success of Petitioner's BIA appeal, the fact that he needs to pursue that appeal indicates that he will not be removed in a reasonable period of time. All this means that he will remain detained for a substantial amount of time, on top of his

already prolonged detention, unless this court intervenes. Because the likelihood of a final order of removal within a reasonable time is small, this factor weighs in favor of granting Petitioner a bond hearing.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA – Illegal Attempted Removal

93. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

94. The Immigration and Nationality Act provides noncitizens with statutory rights to seek review of removal orders, including review before the BIA. *See* 8 U.S.C. §§ 1229(c)(5), 1252(a)(1), and 1252(b). The INA does not authorize DHS or ICE to remove a noncitizen in a manner that deprives him of the opportunity to pursue available administrative and judicial review, and without a final order of removal.

95. By removing Petitioner from the U.S. before completion of appellate review, Respondents would violate the INA and unlawfully foreclose Petitioner's ability to pursue review of his immigration case.

96. Respondents further violated the INA by placing Petitioner in expedited removal proceedings despite the undisputed fact that he had been physically present in the U.S. for nearly five years at the time of his June 2025 arrest, was not apprehended at or near the border, and therefore fell outside the statutory and regulatory scope of expedited removal under the INA.

COUNT II

Violation of Due Process – Third Country Removal

97. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

98. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Constitution. Amend. V.

99. Petitioner has a fundamental interest in life and liberty and in being free from removal to a country that may persecute or torture him or may deport him onward to a place where he would be persecuted or tortured.

100. Respondents attempted to remove Petitioner to a country, Mexico, where he may face persecution and harm without the opportunity to have his fear-based claims heard by an immigration court. This is in violation of Petitioner's due process right to life and liberty to be free from persecution and harm and the right to the opportunity to be heard.

101. Petitioner's due process rights require that he have reasonable notice of possible third country removal and that he have an opportunity to be fully heard in immigration court regarding any fear-based claims about being removed to Mexico before Respondents attempt any such removal.

COUNT III

Violation of APA – Third Country Removal

102. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

103. The APA entitles "a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action . . . to judicial review." 5 U.S.C. § 702. The APA calls for a court to "hold unlawful and set aside agency action, findings, and conclusions found to be. . . arbitrary [or] capricious, . . . otherwise not in accordance with law," or "short of

statutory right." *Id.* § 706(2)(A-C). The APA also compels a reviewing court to "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).

104. In the course of attempting to remove Petitioner to Mexico, Respondents failed to allow Petitioner any opportunity to be heard regarding potential fear-based claims related to his removal to a third country. This conduct deprived him of the due process he is legally entitled to, and thus this process is not in accordance with law.

COUNT IV

Detention Without Bond Hearing as Required Under 8 U.S.C. § 1226(a)

105. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

106. Petitioner could not be properly placed in expedited removal under § 1225(b)(1). He entered the U.S. in July 2020 and was not encountered by immigration officials until June 2025. Because Petitioner had been physically present in the U.S. for well over two years and was not apprehended at or near the border, he is not subject to expedited removal and thus is not subject to detention under § 1225.

107. Petitioner's detention is therefore governed by § 1226(a), which authorizes release on bond following an individualized custody determination.

108. Respondents have detained Petitioner without providing the bond hearing required under § 1226(a), based solely on an erroneous expedited removal designation. By denying Petitioner the custody redetermination hearing required, Respondents are acting in violation of the INA.

109. Petitioner is entitled to a prompt bond hearing before an immigration judge or, in the alternative, immediate release from custody.

//

COUNT V

Violation of Due Process – Unlawfully Prolonged Detention

110. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

111. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690.

112. Petitioner has a fundamental interest in liberty and being free from restraint.

113. The government continues to detain Petitioner, in violation of his due process right to liberty to be free from prolonged and indefinite or unnecessarily prolonged detention.

114. Petitioner's due process rights require his immediate release or at a minimum a bond hearing (custody redetermination) with an immigration judge.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Declare that Respondents' past attempt to remove Petitioner from the United States to Mexico was in violation of law.

c. Enjoin Respondents from removing Petitioner from the United States without a final order of removal;

d. Enjoin Respondents from removing Petitioner to Nicaragua so long as his withholding of removal order remains in place;

e. Enjoin Respondents from removing Petitioner to a third country other than Nicaragua without providing Petitioner with adequate notice of intent to seek removal to a third country and due process in the form of reopening Petitioner's immigration court proceedings to seek fear-based relief from removal.

f. Enjoin Respondents from further removing or transferring Petitioner outside the District of Nevada pending resolution of these proceedings;

g. Declare that Petitioner was not lawfully subject to expedited removal and that his detention is governed by 8 U.S.C. § 1226.

h. Issue a writ of habeas corpus requiring that an Immigration Judge schedule a bond hearing within seven days, or in the alternative, order Petitioner's immediate release from detention.

i. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

j. Grant any other and further relief that this Court deems just and proper.

DATED this 10th day of January, 2026.

Respectfully Submitted,

/s/Michael Kagan
Michael Kagan
Nevada Bar. No. 12318C

/s/Tia A. Zghaib
Tia A. Zghaib
Student Attorney Practicing
Under Nevada Supreme Court Rule 49.3

/s/Raymond Wu
Raymond Wu
Student Attorney Practicing
Under Nevada Supreme Court Rule 49.3

UNLV IMMIGRATION CLINIC
Thomas & Mack Legal Clinic
William S. Boyd School of Law
University of Nevada, Las Vegas
P.O. Box 71075
Las Vegas, Nevada 89170
Telephone: 702-895-3000
Facsimile: 702-895-2081

28 U.S.C. § 2242 VERIFICATION STATEMENT

We are submitting this verification on behalf of Petitioner because we are two of the Petitioner's attorneys. We have discussed with Petitioner the events described in this Petition. On the basis of those discussions, we hereby verify that the statements made in this Verified Petition for Writ of Habeas Corpus are true and correct to the best of our knowledge.

Dated: January 10, 2026

/s/Tia A. Zghaib
Tia A. Zghaib
Student Attorney Practicing
Under Nevada Supreme Court Rule 49.3

/s/Raymond Wu
Raymond Wu
Student Attorney Practicing
Under Nevada Supreme Court Rule 49.3

Under the Supervision of:

/s/Michael Kagan
Michael Kagan
Nevada Bar. No. 12318C

UNLV Immigration Clinic
Thomas & Mack Legal Clinic
University of Nevada, Las Vegas
P.O. Box 71075
Las Vegas, Nevada 89170
zghaib@unlv.nevada.edu
wur7@unlv.nevada.edu
Telephone: 702-895-3000
Facsimile: 702-895-2081

LOCAL RULE IA 11-5 STATEMENT
REGARDING LAW STUDENT APPEARANCE

Petitioner in this matter is co-represented by third-year law students who are certified student attorneys under Nevada Supreme Court Rule 49.3. They are students in the UNLV Immigration Clinic, part of the Thomas & Mack Legal Clinic at the William S. Boyd School of Law.

I am a member of the faculty at the William S. Boyd School of Law and Director of the UNLV Immigration Clinic. I have been a licensed attorney since 2000, and I am the supervising attorney of the student attorneys in this case.

I hereby certify that I have and will ensure full compliance with all requirements of LR IA 11-5 governing appearance by law students in this court.

/s/ Michael Kagan
Michael Kagan
Nevada Bar. No. 12318C

UNLV Immigration Clinic
Thomas & Mack Legal Clinic
University of Nevada, Las Vegas
P.O. Box 71075
Las Vegas, Nevada 89170
zghaib@unlv.nevada.edu
wur7@unlv.nevada.edu
Telephone: 702-895-3000
Facsimile: 702-895-2081

EXHIBIT LIST

Exhibit	Document	Page
A	Declaration of Kevin Eliel Aguirre Solis Dated January 2, 2026	001-003
B	Declaration of Kevin Eliel Aguirre Solis Dated November 13, 2025	004-009
C	I-213	010-014
D	Individual Hearing Order	015-019
E	Notice of Appeal, Filing Confirmation, & Filing Receipt	020-027
F	Notice to Appear	028-031
G	Custody Redetermination Order	032-034
H	Attorney Email Correspondence to ICE Office of Principal Legal Advisor	035-037