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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 DERECK RONALDO SANCHEZ FUNES,) Case No. '26CV189 RBM DDL
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v)
PETITIONER,)
PETITION FOR WRIT OF
HABEAS CORPUS

13 Warden, Imperial Regional Adult Det. Facility;)
14 Gregory J. Archambeault, *Field Office Director,*)
15 *U.S. Immigration and Customs Enforcement;*) Expedited Hearing Requested
16 Todd M. Lyons, *Acting Director,*)
17 *U.S. Immigration and Customs Enforcement;*)
18 Kristi Noem, *Secretary of United States*)
19 *Department of Homeland Security;*)
20 Pam Bondi, *Attorney General of the*)
21 *United States, in their official capacities,*)
22 Respondents.)

23 INTRODUCTION

24 1. PETITIONER/PLAINTIFF, Dereck Ronaldo Sanchez Funes ("Petitioner" or "Mr.
25 Sanchez"), by and through his undersigned counsel, hereby petitions this Honorable Court
26 to issue a writ of habeas corpus to order his immediate release, or alternatively, order DHS
27 accept the Immigration Judge's ("IJ") alternative \$2000 bond amount, and release him
28 from detention once paid, as his continued detention is a violation of due process, and

1 constitutes an unlawful detention under the Immigration and Nationality Act (“INA”).

2 2. He is now unlawfully detained because the Department of Homeland Security (DHS) and
3 the Executive Office of Immigration Review (EOIR) have concluded that Petitioner is
4 subject to mandatory detention.
5

6 3. Petitioner is charged with inadmissibility and is placed in removal proceedings pursuant to
7 8 U.S.C. §1229. See **Exhibit A: Automated Case Finding; Exhibit C: Notice to Appear.**

8 4. Petitioner, who entered as an unaccompanied alien child (“UAC”) pursuant to 6 U.S.C.
9 §279, was released pursuant to the Trafficking Victims Protection Reauthorization Act
10 (“TVPRA”).
11

12 ~~5. Based on this allegation in Petitioner’s removal proceeding, DHS denied Petitioner release~~

13 from immigration custody, consistent with a new DHS policy issued on July 8, 2025,
14 instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
15 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
16 inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and
17 therefore subject to mandatory detention.
18

19 6. Petitioner sought a bond redetermination hearing before an immigration judge (IJ), but on
20 January 7, 2026, the IJ denied the bond request, finding no jurisdiction. See **Exhibit B:**
21 **Immigration Judge Bond Decision.** The IJ based this decision on the BIA decision in
22 Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). In essence, IJ has no jurisdiction
23 over an application for admission. Indeed, the DHS policy states it was issued “in
24 coordination with the Department of Justice (DOJ).” The IJ held, in the alternative, that a
25 bond of \$2000 was justified if a federal court found it had jurisdiction.
26

27 7. Petitioner’s detention on this basis violates Due Process and the plain language of the
28

1 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like
2 Petitioner who previously entered the United States as a UAC and are now residing in the
3 United States. **See Exhibit D: Petitioner’s Office of Refugee Resettlement Document.**
4 Instead, such individuals are subject to a different statute, § 1226(a), that allows for release
5 on conditional parole or bond. That statute expressly applies to people who, like Petitioner,
6 are charged as inadmissible for having entered the United States without inspection. *See*
7 *Lazaro Maldonado Bautista v. Ernesto Santacruz Jr*, 5:25-cv-01873 (C.D. Cal.).
8

9
10 8. Respondents’ new legal interpretation is plainly contrary to the statutory framework and
11 contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

12 9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately
13 released, or, in the alternative, that Respondent accept the \$2000 bond and release him.

14 10. In support of this petition, the Petitioner states by and through counsel as follows:

15 **JURISDICTION**

16
17 11. This action arises under the Constitution, the Immigration & Nationality Act of 1990, as
18 amended (“INA”), 8 U.S.C. §1101 et seq.,. This Court has habeas jurisdiction pursuant to
19 28 U.S.C. §2241, Art. 1, §9, Cl. 2 of the United States Constitution (the “Suspension
20 Clause”); and the common law. This Court may also exercise jurisdiction pursuant to 28
21 U.S.C. §1331 and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C.
22 §2201 et seq., and the All Writs Act, 28 U.S.C. §1651.
23

24 12. On May 11, 2005, Congress passed the REAL ID Act of 2005, Pub. L. No. 109-13, 119
25 Stat. 231. The REAL ID Act divested federal district courts of jurisdiction to review final
26 orders of deportation, exclusion, and/or removal. However, federal district courts still
27
28

1 retain jurisdiction through habeas corpus over the detention of aliens through habeas
2 corpus.

3 **VENUE**

4 13. The venue lies in the United States District Court for the Southern District of California,
5 the judicial district of confinement, as the petitioner is physically being held in custody at
6 the Imperial Regional Adult Detention Facility, in Calexico, CA. This is in accordance
7 with the decision of the United States Supreme Court in Rumsfeld v. Padilla, 124 S.Ct.
8 2711, 2725 (2004) (“Whenever a §2241 habeas petitioner seeks to challenge his present
9 physical custody within the United States, he should name his warden as respondent and
10 file the petition in the district of confinement”).
11
12

13 **REQUIREMENTS OF 28 U.S.C. § 2243**

14 14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
15 (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28
16 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to
17 file a return “within *three days* unless for good cause additional time, not exceeding twenty
18 days, is allowed.” *Id.* (emphasis added).

19
20 15. Courts have long recognized the significance of the habeas statute in protecting individuals
21 from unlawful detention. The Great Writ has been referred to as “perhaps the most
22 important writ known to the constitutional law of England, affording as it does a *swift* and
23 imperative remedy in all cases of illegal restraint or confinement.” Fay v. Noia, 372 U.S.
24 391, 400 (1963) (emphasis added).
25

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PARTIES

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2 16. Petitioner, Dereck Ronaldo Sanchez Funes, is a native and citizen of Guatemala who has
3 been held in continuing detention by DHS-ICE since December 15, 2025. He is currently
4 detained at the Imperial Regional Detention Facility located in Calexico, California.
5

6 17. The Warden of the Imperial Regional Detention Facility is sued in their official capacity
7 as the Warden of the Imperial Regional Detention. The warden has chief executive
8 authority over the administration of the Imperial Regional Detention Facility. In this
9 capacity, they have direct responsibility for the confinement of Dereck Ronaldo Sanchez
10 Funes.
11

12 ~~18. Respondent, Gregory J. Archambeault, is sued in his official capacity as the Director of the~~
13 San Diego Field Office of U.S. Immigration and Customs Enforcement. Respondent
14 Gregory J. Archambeault is a legal custodian of Petitioner and has the authority to release
15 him.
16

17 19. Respondent, Todd M. Lyons, is sued in his official capacity as the Acting Director of U.S.
18 Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of
19 Petitioner and has the authority to release him.
20

21 20. Respondent, Kristi Noem, is sued in her official capacity as the Secretary of the U.S.
22 Department of Homeland Security (DHS). In this capacity, Respondent Noem is
23 responsible for the implementation and enforcement of the Immigration and Nationality
24 Act, and oversees U.S. Immigration and Customs Enforcement, the component agency
25 responsible for Petitioner's continued detention. Respondent Noem is a legal custodian of
26 Petitioner.
27
28

1 21. Respondent, Pam Bondi, is sued in her official capacity as the Attorney General of the
2 United States and the senior official of the U.S. Department of Justice (DOJ). In that
3 capacity, she has the authority to adjudicate removal cases and to oversee the Executive
4 Office for Immigration Review (EOIR), which administers the immigration courts and the
5 BIA. Respondent Bondi is a legal custodian of Petitioner.
6

7 **LEGAL FRAMEWORK**

8 **A. Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful, and his custody**
9 **is properly governed by 8 U.S.C. § 1226(a).**

10 22. According to 6 U.S.C. §279(g)(2), a UAC is a child who has no lawful immigration status
11 in the United States; has not reached 18 years of age; and there is no parent or legal guardian
12

13 in the United States or no parent or legal guardian in the United States is available to
14 provide care and physical custody. A UAC is not released under 1225(b)(2) and is not an
15 applicant for admission when entered.

16 23. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for
17 noncitizens in removal proceedings.
18

19 24. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited
20 removal proceedings before an immigration judge (IJ). See 8 U.S.C. § 1229a. Individuals
21 in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, see 8
22 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with,
23 or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).
24

25 25. Second, the INA provides for mandatory detention of noncitizens subject to expedited
26 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
27 referred to under § 1225(b)(2).
28

26. Last, the Act also provides for detention of noncitizens who have been previously ordered

1 removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–
2 (b).

3 27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

4 28. The detention provisions at §§ 1226(a) and 1225(b)(2) were enacted as part of the Illegal
5 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-
6 –208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
7 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L.
8 No.119-1, 139 Stat. 3 (2025).

9 29. Following enactment of the IIRIRA, DOJ drafted new regulations explaining that, in
10
11 ~~general, people who had entered the country without inspection and had been continuously~~

12
13 present in the United States for over two years were not considered detained under § 1225,
14 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
15 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
16 Asylum Procedures, 62 Fed. Reg. 10312, 10355 (Mar. 6, 1997).

17 30. Thus, in the decades that followed, most people who entered without inspection—unless
18 they were subject to some other detention authority—received bond hearings. That practice
19 was consistent with many more decades of prior practice, in which noncitizens who were
20 not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing
21 officer. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
22 (noting that § 1226(a) simply “restates” the detention authority previously found at §
23 1252(a)).

24 31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected
25
26 well-established understanding of the statutory framework and reversed decades of
27
28

1 practice.

2 32. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants
3 for Admission,” claims that all persons who entered the United States without inspection
4 shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore are
5 subject to the mandatory detention provision under § 1225(b)(2)(A). The policy applies
6 regardless of when a person is apprehended, and affects those who have resided in the
7 United States for months, years, and even decades.

8
9 33. In a September 5, 2025, published decision from the Board of Immigration Appeals (BIA),
10 EOIR adopts this same position. That decision holds that all noncitizens who entered the
11 United States without admission or parole are considered applicants for admission and are

12
13 ineligible for immigration judge bond hearings. Matter of Yajure Hurtado, 29 I&N Dec.
14 216 (BIA 2025).

15 34. This case is binding on Immigration Judges and essentially strips the Immigration Judges
16 of jurisdiction to grant bonds to individuals caught within the U.S. who were not admitted
17 or paroled, like the petitioner.

18
19 35. ICE and EOIR have adopted this position even though federal courts have rejected this
20 exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court
21 stopped providing bond hearings for persons who entered the United States without
22 inspection and who have since resided here, the U.S. District Court in the Western District
23 of Washington found that such a reading of the INA is likely unlawful and that § 1226(a),
24 not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
25 States. Rodriguez Vazquez v. Bostock, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash.
26 Apr. 24, 2025); *see also* Gomes v. Hyde, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at
27
28

1 *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion). *See Lazaro*
2 *Maldonado Bautista v. Ernesto Santacruz Jr*, 5:25-cv-01873 (C.D. Cal.).

3 36. DHS's and DOJ's interpretation defies the INA. As the pending class action and over 600
4 court cases explain, the plain text of the statutory provisions demonstrates that § 1226(a),
5 not § 1225(b), applies to people like Petitioner.
6

7 37. Section 1226(a) applies by default to all persons "pending a decision on whether the
8 [noncitizen] is to be removed from the United States." These removal hearings are held
9 under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."
10

11 38. The text of § 1226 also explicitly applies to people charged as being inadmissible, including
12 those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s

13 reference to such people makes clear that, by default, such people are afforded a bond
14 hearing under subsection (a). As the *Bautista* court explained, "All noncitizens in the
15 United States without lawful status who (1) have entered or will enter the United States
16 without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not
17 or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the
18 time of the Department of Homeland Security marks an initial custody determination are
19 subject to § 1226(a)." *See Lazaro Maldonado Bautista v. Ernesto Santacruz Jr*, 5:25-cv-
20 01873 (C.D. Cal.).
21

22
23 39. Section 1226, therefore, leaves no doubt that it applies to people who face charges of being
24 inadmissible to the United States, including those who are present without admission or
25 parole.
26

27 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
28 entered the United States. The statute's entire framework is premised on inspections at the

1 border of people who are “seeking admission” to the United States. 8 U.S.C. §
2 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention
3 scheme applies “at the Nation’s borders and ports of entry, where the Government must
4 determine whether a[] [noncitizen] seeking to enter the country is admissible.” Jennings v.
5 Rodriguez, 583 U.S. 281, 287 (2018).
6

7 41. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people
8 like Petitioner, who have already entered and were residing in the United States at the time
9 they were apprehended. Specifically, Petitioner entered as a UAC and was detained
10 pursuant to 8 U.S.C. §1232 and 6 U.S.C. §279, and after being arrested by ICE again, is
11 likely being detained pursuant to § 1226(a), as he was not caught at the border.
12

13 **B. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and**
14 **Detention.**

15 42. The Constitution establishes due process rights for “all ‘persons’ within the United States,
16 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
17 permanent.” Hernandez v. Sessions, 872 F.3d 976, 990 (9th Cir. 2017) (quoting Zadvydas,
18 533 U.S. at 693 (2001)). These due process rights are both substantive and procedural.
19

20 43. First, “[t]he touchstone of due process is protection of the individual against arbitrary
21 action of government,” Wolff v. McDonnell, 418 U.S. 539, 558 (1974), including “the
22 exercise of power without any reasonable justification in the service of a legitimate
23 government objective,” Cnty. of Sacramento v. Lewis, 523 U.S. 833, 846 (1998).
24

25 44. These protections extend to noncitizens facing detention, as “[i]n our society liberty is the
26 norm, and detention prior to trial or without trial is the carefully limited exception.” United
27 States v. Salerno, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
28 imprisonment—from government custody, detention, or other forms of physical restraint—

1 lies at the heart of the liberty that [the Due Process] Clause protects.” Zadvydas, 533 U.S.
2 at 690.

3 45. Substantive due process thus requires that all forms of civil detention—including
4 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See*
5 Jackson v. Indiana, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two
6 permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s
7 appearance at immigration proceedings and preventing danger to the community.
8 Zadvydas, 533 U.S. at 690–92; *see also* Demore v. Kim, 538 U.S. 510 at 519–20, 527–28,
9 31 (2003).

10
11
12 ~~46. Second, the procedural component of the Due Process Clause prohibits the government~~
13 from imposing even permissible physical restraints without adequate procedural
14 safeguards. Generally, “the Constitution requires some kind of a hearing before the State
15 deprives a person of liberty or property.” Zinermon v. Burch, 494 U.S. 113, 127 (1990).

16
17 47. This is so even in cases where that freedom is lawfully revocable. *See* Hurd v. D.C., Gov’t,
18 864 F.3d at 683 (*citing* Young v. Harper, 520 U.S. 143, 152 (1997) (re-detention after pre-
19 parole conditional supervision requires pre-deprivation hearing)); Gagnon v. Scarpelli, 411
20 U.S. 778, 782 (1973) (same, in probation context); Morrissey v. Brewer, 408 U.S. 471
21 (1972) (same, in parole context).

22
23 48. After an initial release from custody on conditions, even a person paroled following a
24 conviction for a criminal offense for which they may lawfully have remained incarcerated
25 has a protected liberty interest in that conditional release. Morrissey at 408 U.S. at 482. As
26 the Supreme Court recognized, “[t]he parolee has relied on at least an implicit promise that
27 parole will be revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever
28

1 name, the liberty is valuable and must be seen within the protection of the [Constitution].”

2 *Id.*

3 49. This reasoning applies with equal if not greater force to people found within the U.S. who
4 were never caught at the border, like Petitioner. After all, noncitizens living in the United
5 States like Petitioner have a protected liberty interest in their ongoing freedom from
6 confinement. *See Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of
7 immigration detention], [the] liberty interest [of noncitizens released from custody] is
8 arguably greater than the interest of parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970
9 (N.D. Cal. 2019).
10
11

12 **STATEMENT OF FACTS**

13 50. Mr. Sanchez, a 23-year-old native and citizen of Guatemala, entered the United States on
14 or about March 18, 2013, over 13 years ago. After Mr. Sanchez entered the Country as a
15 UAC, he was apprehended by ICE and placed in a group home. **See Exhibit D.**
16

17 51. Having resided in the U.S. for over 13 years, he has a stable residence, a financial sponsor,
18 and he has family and community ties, including his U.S. Citizen nieces and nephews. He
19 has been gainfully employed. Petitioner is not a flight risk, nor a danger to society.

20 52. He was encountered by ICE agents while working as a truck driver on December 15, 2025.
21 Mr. Sanchez currently has pending removal proceedings pursuant to 8 U.S.C. §1229.
22

23 53. While his removal proceedings are pending, the Immigration Judge (“IJ”) on January 7,
24 2025, denied bond, indicating she lacked jurisdiction pursuant to Matter of Yajure Hurtado.
25 **See Exhibit B.**

26 54. To this date, Mr. Sanchez has been detained for over 25 days pending removal proceedings
27 and will remain detained and separated from his family for months or even years. His next
28

1 hearing before the Immigration Judge is a Master Calendar hearing (preliminary) scheduled
2 for January 9, 2026.

3 55. If released, Mr. Sanchez would return to his home in Corona, CA, and reside with his
4 family, who have promised to provide him with shelter and to take him to all his future
5 hearing dates.
6

7 **EXHAUSTION OF REMEDIES**

8 56. There is no statutory exhaustion requirement in 28 U.S.C § 2241. However, the Court may
9 require prudential exhaustion. Courts may waive the prudential exhaustion requirement if
10 “administrative remedies are inadequate or not efficacious, pursuit of administrative
11 remedies would be a futile gesture, irreparable injury will result, or the administrative
12

13 proceedings would be void.” Laing v. Ashcroft, 370 F.3d 994, 1000 (9th Cir. 2004)
14 (quoting S.E.C. v. G.C. George Sec., Inc., 637 F.2d 685, 688 (9th Cir. 1981).

15 57. In detention cases, appeals to the Board of Immigration Appeals (BIA) can take months or
16 years. Thus, requiring habeas petitioners to appeal to the BIA to prudentially exhaust is
17 not efficient, would cause irreparable harm by continuing to deprive a person of their
18 liberty, and/or would be futile. Petitioner has exhausted his administrative remedies to the
19 extent required by law, and his only remedy is by way of this judicial action.
20

21 58. Despite the fact that Mr. Sanchez properly requested a bond redetermination hearing before
22 an Immigration Judge, he was denied a full and fair hearing due to the Board of
23 Immigration Appeals’ decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).
24 This case strips jurisdiction from the IJ’s to redetermine bonds for individuals like
25 Petitioner. Further, 1226(e) and 1252(g) bar receive of a bond decision by the federal
26 courts.
27
28

1 59. Given an appeal before the BIA, which decided Matter of Yajure Hurtado is futile,
2 requiring waiting for the Petitioner to appeal and waiting for the BIA to decide on the
3 appeal causes irreparable harm to Mr. Sanchez.

4
5 60. Additionally, while Petitioner is detained, his removal proceedings continue in an
6 expedited manner intended to order deportation before release; such that he is no longer
7 eligible for a bond post-removal order.

8 61. Accordingly, any efforts to obtain release from custody from the Department of Homeland
9 Security or from the Board of Immigration Appeals would be futile. Petitioner is currently
10 in removal proceedings, so there is no possibility of removal in the near future. The federal
11 district court retains authority to grant release on bond or any other condition of release.
12

13 **CLAIMS FOR RELIEF**

14 **1. COUNT ONE**
15 **Violation of Fifth Amendment Right to Due Process**
16 **(Substantive Due Process—Detention)**

17 62. Petitioner restates and realleges all paragraphs as if fully set forth here.

18 63. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the
19 federal government from depriving any person of "life, liberty, or property, without due
20 process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the
21 United States, including [non-citizens], whether their presence here is lawful, unlawful,
22 temporary, or permanent." Zadvydas, 533 U.S. at 693. Immigration detention is
23 constitutionally permissible only when it furthers the government's legitimate goals of
24 ensuring the noncitizen's appearance during removal proceedings and preventing danger to
25 the community. *See id.*

26
27 64. Here, the Petitioner has resided with his U.S. Citizen family in California for over 13 years,
28 is gainfully employed, and involved in his community in Corona, CA. He has established a

1 stable home and has not committed any crimes. Additionally, he is in removal proceedings
2 pursuant to 8 U.S.C. § 1229 and cannot be removed until an immigration judge orders his
3 removal. Having a stable residence, strong family ties, eligibility for relief, and no criminal
4 history, he is neither a flight risk nor a danger to society. Additionally, in the IJ's alternative
5 order, she indicated that if jurisdiction existed, Petitioner was not a flight risk and \$2000 was
6 appropriate.
7

8 65. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any
9 legitimate government purpose. *Id.* (finding immigration detention is civil and thus
10 ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention
11 appears to be "not to facilitate deportation or to protect against risk of flight or
12

13 dangerousness, but to incarcerate for other reasons"—namely, to meet newly-imposed
14 DHS quotas and transfer immigration court venue to an expedited docket. Demore, 538
15 U.S. at 532–33 (Kennedy, J., concurring).
16

17 66. Because Petitioner's detention has no reasonable relation to his being a flight risk or a
18 danger to society, his continued confinement violates the Fifth Amendment.
19

20 2. COUNT TWO

21 Violation of Fifth Amendment Right to Due Process 22 (Procedural Due Process—Detention)

23 67. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this
24 Petition as if fully set forth herein.

25 68. "[I]n the context of immigration detention, it is well-settled that due process requires adequate
26 procedural protections to ensure that the government's asserted justification for physical
27 confinement outweighs the individual's constitutionally protected interest in avoiding physical
28 restraint." Hernandez, 872 F.3d at 990; Zinermon, 494 U.S. at 127 (Generally, "the

1 Constitution requires some kind of a hearing before the State deprives a person of liberty or
2 property.”). In the immigration context, for such hearings to comply with due process, the
3 government must bear the burden to demonstrate, by clear and convincing evidence, that the
4 noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196,
5 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

6
7 69. Petitioner’s detention without a pre-deprivation hearing violates due process. Having resided
8 in the U.S. for over 13 years without any criminal history, with no explanation of the
9 justification for his detention, and no opportunity to contest his detention before a neutral
10 adjudicator before being taken into custody, Petitioner has not been provided notice and an
11 opportunity to be heard.
12

13 70. Petitioner has a profound personal interest in his liberty. Because he received no procedural
14 protections, the risk of erroneous deprivation is high. The IJ’s alternative decision only applies
15 if she is ordered to have jurisdiction. And the government has no legitimate interest in detaining
16 Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration
17 proceedings, and nothing in Petitioner’s record suggested that he would abscond or endanger
18 the community before a bond hearing could be carried out. *See, e.g., Jorge M.F. v. Wilkinson*,
19 2021 WL 783561, at 3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at 3
20 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that delay in scheduling a hearing could
21 exacerbate flight risk or danger is unsubstantiated in light of petitioner’s strong family ties and
22 his continued employment during the pandemic as an essential agricultural worker”). As a
23 result, Respondent’s failure to provide an opportunity to prove he is not a flight risk nor a
24 danger violated his due process rights afforded to him by the Constitution.
25
26
27

28 ///

1 **3. COUNT THREE**
2 **Violation of INA**

3 71. Petitioner incorporates by reference the allegations of fact set forth in the preceding
4 paragraphs.

5 72. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens
6 residing in the United States who are subject to § 212(a)(6)(a)(i) the grounds of inadmissibility.
7 As relevant here, it does not apply to those who previously entered the country and have been
8 residing in the United States prior to being apprehended and placed in removal proceedings by
9 the Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to §
10 1225(b)(1), § 1226(c), or § 1231. Additionally, Petitioner was designated as a UAC pursuant
11 to 6 U.S.C. §279(g)(2). Given that Petitioner is a UAC, he is not an applicant for admission
12 and must therefore be detained pursuant to §1226(a).

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15 73. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and
16 violates the INA.

17 **PRAYER FOR RELIEF**

18
19 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 20 (1) Assume jurisdiction over this matter;
- 21 (2) Issue an Order to Show Cause ordering Respondents to show cause why this
22 Petition should not be granted within three days;
- 23 (3) Declare that Petitioner's detention violates the Due Process Clause of the
24 Fifth Amendment;
- 25 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
26 custody;
- 27 (5) Declare that Petitioner is being detained pursuant to 8 U.S.C. § 1226(a) and order
28

1 DHS accept the IJ's alternative order granting bond of \$2000.

- 2 (6) Issue an Order prohibiting the Respondents from transferring Petitioner from the
3 district without the court's approval;
- 4 (7) Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered
5 at a custody hearing before a neutral arbiter in which the government bears the
6 burden of proving, by clear and convincing evidence, that Petitioner is a flight risk
7 or danger to the community; and
- 8 (8) Grant any further relief this Court deems just and proper.
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12 Respectfully submitted

Dereck Ronaldo Sanchez Funes
By his attorney:

13
14 Dated: 1/12/2026

Signed: /s/ Mitchell H. Shen

15 MITCHELL H. SHEN, ESQ.
16 Attorney for Petitioner
17 Law Office of Mitchell H. Shen & Associates
18 617 S. Olive St., Ste. 810
19 Los Angeles, CA 90014
20 Tel. (213) 878-0333; Fax (213) 402-2169
21 E-mail: MshenLaw @ gmail.com
22
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VERIFICATION OF COMPLAINT

1
2 I, Mitchell H. Shen, Esq., state under penalty of perjury that I am the attorney for the Petitioner,
3 Dereck Ronaldo Sanchez Funes, in the foregoing petition, and declare the facts alleged here to
4 be true, except those made on information and belief, which I believe to be true, and further
5 state that the sources of my information and belief are documents and information provided to
6 me by the Petitioner and his associates and family members.
7

8
9 Los Angeles, CA

Signed: /s/ Mitchell H. Shen

10 Dated: 1/12/2026

MITCHELL H. SHEN, ESQ.

Attorney for Petitioner

Law Office of Mitchell H. Shen & Associates

617 S. Olive St., Ste. 810

Los Angeles, CA 90014

Tel. (213) 878-0333; Fax (213) 402-2169

E-mail: MshenLaw @ gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via Certified Mail / Return Receipt to:

United States Attorney's Office
516 Industry Way,
Imperial, CA 92251
At: efile.dkt.civ@usdoj.gov
Cindy.cipriani@usdoj.gov

Warden, Imperial Regional Detention Facility
1572 Gateway Road
Calexico, CA 92231

Gregory J. Archambeault
U.S. Immigration and Customs Enforcement (ICE)
880 Front Street #2242
San Diego, CA 92101

Todd M. Lyons, Acting Director
U.S. Immigration and Customs Enforcement (ICE)
500 12th St SW
Washington, DC 20536

Kristi Noem, Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Pam Bondi, Attorney General of the United States
950 Pennsylvania Ave., N.W. Room 45-45
Washington, DC 20530-0001; upon the date given below.

Date: 1/12/2026

Signature: /s/ Mitchell H. Shen
MITCHELL H. SHEN, ESQ.
Attorney for Petitioner
Law Office of Mitchell H. Shen & Associates
617 S. Olive St., Ste. 810
Los Angeles, CA 90014
Tel (213) 878-0333; Fax (213) 402-2169
E-mail: MshenLaw @ gmail.com

**PETITION FOR WRIT OF HABEAS CORPUS
DERECK RONALDO SANCHEZ FUNES**

Exhibit Document

A. Automated Case Finding1
B. Immigration Judge Bond Decision2-3
C. Petitioner’s Notice to Appear.....4-7
D. Petitioner’s Office of Refugee Resettlement Document.....8

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**PETITION FOR WRIT OF HABEAS CORPUS
DERECK RONALDO SANCHEZ FUNES**

EXHIBIT A

An official website of the United States government [Here's how you know](#) ▼



EOIR | Automated Case Information

Court Closures Today January 12, 2026

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

[Home](#) > **SANCHEZ-FUNES, DERECK RONALDO (205-833-559)**



Automated Case Information

Name: SANCHEZ-FUNES, DERECK RONALDO | A-Number:



Docket Date: 12/17/2025

Next Hearing Information

Your upcoming **MASTER** hearing is on **January 23, 2026 at 9:00 AM.**

JUDGE

Simpson, Scott

COURT ADDRESS

2409 LA BRUCHERIE ROAD
IMPERIAL, CA 92251

Court Decision and Motion Information

This case is pending.

1 **PETITION FOR WRIT OF HABEAS CORPUS**
2 **DERECK RONALDO SANCHEZ FUNES**

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EXHIBIT B



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT

Respondent Name:

SANCHEZ-FUNES, DERECK RONALDO

To:

Shen, Mitchell H
617 S. Olive St., Ste. 810
Los Angeles, CA 90014

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

01/07/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:


Denied, because

The Court lacks jurisdiction to set bond in this matter, Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).

- Granted. It is ordered that Respondent be:
 - released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:

Other:

If it is determined at a later date that the court has jurisdiction, the court will make the following alternative findings:
Bond in the amount of \$2000;
Respondent cannot violate any laws of the United States, federal, state or local -- he cannot drive without a valid drivers' license nor work without a valid work permit;
Respondent must present to the court a sponsor who resides in his local area who can support him and ensure his appearances in court prior to any release on bond



Immigration Judge: Perry, Anne Kristina 01/07/2026

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due: 02/06/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : SANCHEZ-FUNES, DERECK RONALDO | A-Number : 

Riders.

Date: 01/09/2026 By: Murga, Maria, Court Staff

1 **PETITION FOR WRIT OF HABEAS CORPUS**
2 **DERECK RONALDO SANCHEZ FUNES**

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EXHIBIT C

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS [REDACTED]

File No: [REDACTED]

DOB: [REDACTED]

Event No: [REDACTED]

In the Matter of:

Respondent: DERECK RONALDO SANCHEZ-FUNES

currently residing at:

1572 GATEWAY RD CALEXICO, CALIFORNIA, 92231-9532

+1 (760) 618-7200

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States.
2. You are a native of GUATEMALA and a citizen of GUATEMALA.
3. You arrived in the United States at or near Santa Teresa, NM, on or about March 18, 2013.
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act;

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

2409 LA BRUCHERIE ROAD IMPERIAL CA US 92251

(Complete Address of Immigration Court, including Room Number, if any)

on December 29, 2025 at 08:30 AM to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

ANGELA RAMOS
Date: 2025.12.16 09:13:08-08:00
0130835066.CBP

Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer)

Date: December 16, 2025

Imperial, California

(City and State)

EOIR - 1 of 4

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.dhs.gov/contact-us>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Upon information and belief, the language that the alien understands is ENGLISH

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Refused to Sign

(Signature of Respondent)

Before:

ROBERTO MOYRON
Date: 2025.12.16 09:09:46
0116076642.CBP

Border Patrol Agent

(Signature and Title of Immigration Officer)

Date: 12/16/2025

Certificate of Service

This Notice To Appear was served on the respondent by me on December 16, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- In person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the ENGLISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused to Sign

(Signature of Respondent if Personally Served)

ROBERTO MOYRON
Date: 2025.12.16 09:09:46
0116076642.CBP

Border Patrol Agent

(Signature and Title of officer)

EOIR - 2 of 4

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Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opa/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.


For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Continuation Page for Form 1862

Alien's Name DERECK RONALDO SANCHEZ-FUNES	File Number 	Date December 16, 2025
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ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature	ANGEL A RAMOS Date: 2025.12.16 05:05 -08:00 0130835066.CBF	Title Acting/Patrol Agent in Charge
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4 of 4 Pages

EOIR - 4 of 4

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