UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

IAN SANCHEZ ALARCON,
A **,**

Petitioner,

v.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General; ROBERT HAGAN, Field Office Director, Denver Field Office, Immigration and Customs Enforcement; and JUAN BALTAZAR, Warden of Denver Contract Detention Facility,

Respondents.

Case No. 1:26-cv-183

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

INTRODUCTION

1. Petitioner Ian Sanchez Alarcon ("Mr. Sanchez") is a native and citizen of Mexico who entered the United States when he was three years old. He first received Deferred Action for Childhood Arrivals ("DACA") in 2014 and the status was most recently approved until June 26, 2026. Despite being a DACA recipient, on May 20, 2025, U.S. Immigration and Customs Enforcement ("ICE") detained Mr. Sanchez in immigration custody pending completion of removal proceedings. Mr. Sanchez has been detained since this time, despite numerous motions to the immigration court to dismiss or terminate proceedings. Both DHS and the Executive Office for Immigration Review ("EOIR") have repeatedly failed in providing Mr. Sanchez even a modicum of process in this time.

2. DHS and EOIR appear to have concluded that Mr. Sanchez is subject to mandatory immigration detention under 8 U.S.C. § 1225(b)(2), as an "applicant for admission" who is "seeking admission" to the United States.

3. DHS's interpretation of its detention authority under 8 U.S.C. § 1225(b)(2) marks a complete reversal of the interpretation of the statute that the government has embraced since its inception three decades ago, its prior practice, Supreme Court precedent, and the plain language of the Immigration and Nationality Act ("INA").

4. This Court intervention is necessary to grant Mr. Sanchez's petition for a writ of habeas corpus and order his release from immigration custody.

JURISDICTION AND VENUE

5. Mr. Sanchez is detained at the Denver Contract Detention Facility in Aurora, Colorado, and is in physical custody of Respondents. *See* Ex. 1, ICE Detainee Locator.

6. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. §§ 2201-02 (declaratory relief). Mr. Sanchez's detention by Respondents is a "severe restraint" on his individual liberty. *See Hensley v. Municipal Court, San Jose Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973).

7. 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.

8. Venue is proper because Mr. Sanchez's immediate custodian at Denver Contract Detention Facility is located in this District and a "substantial part of the events or omissions giving rise to the claim" occurred in this District. 28 U.S.C. § 1391(e)(1).

PARTIES

9. Petitioner Ian Sanchez Alarcon is a native and citizen of Mexico. As of the filing of this Petition, ICE is detaining him at the Denver Contract Detention Facility in Aurora, Colorado.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is

responsible for Mr. Sanchez's detention. Secretary Noem has ultimate custodial authority over Mr. Sanchez and is sued in her official capacity.

11. 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 and the immigration court system it operates is a component agency. She is sued in her official capacity.

12. Respondent Robert Hagan is the Field Office Director of the ICE Denver Field Office and is responsible for ICE's operations in Colorado where Mr. Sanchez is held. He is sued in his official capacity.

13. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility and is the immediate custodian of Mr. Sanchez. He is sued in his official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

14. 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

15. 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).

16. Mr. Sanchez requests the Court issue an Order to Show Cause, and direct Respondents to file a response within three days, in light of the significant restraint on his liberty and clear Constitutional violations in this case.

EXHAUSTION

17. The failure to exhaust administrative remedies does not bar Mr. Sanchez's claim unless "Congress specifically mandates" exhaustion. *Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) (1993) (quoting *McCarthy v. Madigan*, 503. U.S. 140, 144 (1992)).

18. Moreover, because detaining Mr. Sanchez without a significant likelihood of removal in the reasonably foreseeable future violates his right to due process, administrative exhaustion is excused. *See Guitard v. U.S. Sec'y of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when . . . a plaintiff has raised a 'substantial constitutional question.'").

STATEMENT OF RELEVANT FACTS

19. Mr. Sanchez first entered the United States in June 2001, when he was three years old, without inspection. He has lived in Sarasota, Florida with his family since that time. Prior to May 2025, he has never had any encounters with ICE.

20. Mr. Sanchez first applied for DACA on March 6, 2014. The U.S. Citizenship and Immigration Services ("USCIS") approved the application on June 26, 2024, granting him DACA from June 26, 2014 through June 25, 2016. Ex. 2, I-797C, Notice of Action, June 26, 2014.

21. Mr. Sanchez continued to apply for DACA, and USCIS most recently granted his application on June 21, 2024, approving DACA from June 21, 2024, through June 20, 2026. Ex. 3, I-797C, Notice of Action, June 21, 2024.

22. On July 26, 2021, Mr. Sanchez filed an Application for Employment Authorization with USCIS, which was approved on April 4, 2022.

23. Mr. Sanchez sought and was granted Advanced Parole on December 1, 2023. He left the United States and returned on January 5, 2024, pursuant to 8 U.S.C. § 1182(d)(5). This parole expired the following day, on January 6, 2024. Ex.4, I-512L, Authorization for Parole of an Alien in the United States. As noted, USCIS renewed his DACA status after his January 2024 parole. Ex. 3.

24. On May 24, 2025, the Tampa Police Department arrested Mr. Sanchez for driving under the influence ("DUI"). Ex. 5, Form I-213, Record of Deportable/Inadmissible Alien.

25. On May 30, 2025, ICE encountered Mr. Sanchez, placed him in removal proceedings and detained him. *Id*,

26. ICE issued the first Notice to Appear ("NTA") on May 30, 2025, charging Mr. Sanchez as removable under 8 U.S.C. § 1182(a)(7)(A)(i)(I) of the Immigration and Nationality Act ("INA") 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 8 U.S.C. § 1181. Ex. 6, May 30, 2025, NTA.

27. Mr. Sanchez's immigration counsel filed several motions to terminate these proceedings based on his grant of DACA. After two different immigration judges denied the first motion to terminate and a motion to reconsider, a third immigration judge granted the second motion to terminate because ICE did not file a response to the motion. Ex. 7, Immigration Judge Orders (July 16, 2025, Aug. 11, 2025, Aug. 25, 2025).

28. Instead of filing a response to Mr. Sanchez's motion to terminate, ICE simply filed a second NTA, on August 28, 2025, three days after the motion to terminate was granted. Ex. 8, Aug. 28, 2025, NTA. This NTA alleges the exact same charges and allegation of removability.

29. Again, Mr. Sanchez's immigration counsel filed a motion to dismiss the NTA, which an immigration judge denied on September 29, 2025. A different immigration judge denied a motion to terminate and a separate motion to reconsider on October 24, 2025, and ordered Mr. Sanchez's removal to Mexico. Ex. 9, Immigration Judge Orders (Sept. 29, 2025, October 24, 2025).

30. Mr. Sanchez has appealed the October 24, 2025 decision to the Board of Immigration Appeals. Ex. 14,

31. On October 22, 2025, almost five months after ICE detained Mr. Sanchez and initiated removal proceedings, USCIS issued a Notice of Intent to Terminate ("NOIT") Mr. Sanchez's DACA status. This notice indicates that ICE did not reach out to USCIS until October 17, 2025. Ex. 10, Notice of Intent to Terminate. This NOIT indicates that ICE sought termination of DACA for Mr. Sanchez due to his *arrest* for a DUI.

32. By keeping Mr. Sanchez in detention, ICE prevented him from participating in the diversion program offered by the Assistant State Attorney in his criminal case. Upon completion of this program, Mr. Sanchez would not be convicted of any offense. Ex. 11, Email Forward of Offer from Assistant State Attorney.

33. Instead, on December 23, 2025, Mr. Sanchez entered a plea of nolo contendere to a charge of reckless driving and sentenced to probation. This is his only criminal conviction. Ex. 12, Judgment and Sentence.

34. On December 10, 2025, USCIS approved Mr. Sanchez's Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Thus, his DACA has not been terminated. Ex. 13, USCIS Case Status.

LEGAL BACKGROUND

Deferred Action for Childhood Arrivals, 8 C.F.R. §§ 236.21-25

35. DHS initiated DACA in 2012 "to allow certain noncitizens who arrived in the U.S. as children to apply for forbearance from removal." *Intriago-Sedgwick v. Noem*, No. 1:25-CV-01065-MIS-LF, 2025 WL 3688155, at *4 (D.N.M. Dec. 19, 2025) (citing *Dept' of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 8–9 (2020)). Former DHS Secretary Napolitano "emphasized that for the Department to use its limited resources in a sensible manner, it necessarily must exercise prosecutorial discretion, . . . observ[ing] that these 'young people . . . were brought to this country as children and know only this country as home' and as a general matter 'lacked the intent to violate the law.' " Deferred Action for Childhood Arrivals, 87 Fed. Reg. 53152-01, 53153 (Aug. 30, 2022). She reasoned that limited enforcement resources should not be expended to "remove productive young people to countries where they may not have lived or even speak the language." *Id.* "In 2022, pursuant to 'the consistent judgment that has been maintained by [DHS]—and by three presidential administrations since the policy first was announced—that DACA recipients should not be a priority for removal,' *id.* at 53155, the policy was codified in the Code of Federal Regulations, *see* 8 C.F.R. §§ 236.21–.25." *Intriago-Sedgwick*, 2025 WL 3688155, at *4.

36. A request for DACA "may be granted only if USCIS determines in its sole discretion that the requestor meets specific threshold criteria and merits a favorable exercise of discretion" 8 C.F.R. § 236.22(b). "This temporary forbearance from removal does not confer any right or entitlement to remain in or reenter the United States. A grant of deferred action under this section does not preclude DHS from commencing removal proceedings at any time or prohibit DHS or any other

Federal agency from initiating any criminal or other enforcement action at any time." 8 C.F.R. § 236.21(d)(1).

37. During this period of forbearance, "a DACA recipient is considered 'lawfully present' under the provisions of 8 CFR 1.3(a)(4)(vi)." 8 C.F.R. § 236.21(d)(3). Once DACA is granted, "USCIS may grant employment authorization . . . to DACA recipients who have demonstrated an economic need." 8 C.F.R. § 236.21(c)(2).

38. "USCIS may terminate a grant of [DACA] at any time in its discretion." 8 C.F.R. § 236.23(d)(1). In order to do so, however, the agency "provide[s] a Notice of Intent to Terminate and an opportunity to respond prior to terminating a grant of [DACA]." *Id.* The only time that "USCIS may terminate a grant of [DACA] without a Notice of Intent to Terminate and an opportunity to respond [is] if the [DACA] recipient is *convicted of* a national security-related offense involving conduct described in 8 U.S.C. § 1182(a)(3)(B)(iii), (iv), or § 1227(a)(4)(A)(i), or an egregious public safety offense." *Id.* (emphasis added).

39. USCIS guidance instructs officers that the "termination of a DACA grant must comply with the Administrative Procedure Act (APA)," and that "USCIS must comply with DACA regulations" that "require notice and an opportunity to respond before an alien's DACA grant is terminated." *Intriago-Sedgwick*, 2025 WL 3688155, at *5 (citing U.S. Citizenship & Immigr. Servs., Policy Memorandum, 2025 WL 2779169, at *2 (Sept. 26, 2025)).

40. A conviction for reckless driving is not an egregious public safety offense, nor is it a basis to terminate a DACA application. *See* 8 C.F.R. § 236.22(b)(6) (discussing misdemeanor convictions that will disqualify a DACA applicant).

41. The government's actions in this case in detaining Mr. Sanchez for over 6 months, preventing him from completing the diversion program in order to avoid a criminal conviction, failing to

follow its own regulatory guidelines for termination, and the repeated denials to terminate the removal proceedings violate the Constitution and agency's regulations. This Court should order Mr. Sanchez's release.

Immigration Detention Authority (8 U.S.C. §§ 1225 and 1226)

42. In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), Pub. L. 104-208, which set forth separates procedures for the removal and detention of arriving or recently arrived noncitizens and those who have entered and established a presence in the United States, even those who have done so in violation of the immigration laws. *Compare* 8 U.S.C. § 1225 ("Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing"), *with* 8 U.S.C. §§ 1226 ("Apprehension and detention of aliens"), 1229a ("Removal proceedings"). For those individuals with an established presence in the United States, the INA mandates that "an immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of a [noncitizen]." 8 U.S.C. § 1229a(a)(1). Removal proceedings under 8 U.S.C. § 1229a(a)(1) "shall be the sole and exclusive procedure from the United States" unless otherwise specified in the INA. 8 U.S.C. § 1229a(a)(3).

43. During the pendency of standard removal proceedings under 8 U.S.C. § 1229a, § 1226 provides for the detention of noncitizens already in the United States, even those who entered illegally or without inspection. While § 1226(c) mandates the detention of certain classes of criminal noncitizens, § 1226(a) sets forth the rule for noncitizens subject to discretionary detention under § 1226. Under 8 U.S.C. § 1226(a), a noncitizen "may be arrested and detained pending a decision on whether the alien is to be removed from the United States[.]" 8 U.S.C. § 1226(a). After an arrest, the noncitizen may continue to be detained, released on conditional parole, or released on a bond of at least $1,500. *Id.*

44. Once a noncitizen is detained, DHS makes an initial custody determination. 8 C.F.R. §§ 1003.19(a), 1236.1(d). The noncitizen may have the initial custody determination reviewed by an immigration judge, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), and ultimately by the Board, *see* 8 C.F.R. § 1236.1(d)(3).

45. As part of IIRIRA, Congress created an expedited removal process to be implemented during inspection at the border for certain "applicants for admission" deemed to be "arriving aliens." 8 U.S.C. § 1225(b). The INA defines an applicant for admission as a noncitizen "present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including a [noncitizen] who is brought to the United States after having been interdicted in international or United States waters)." 8 U.S.C. § 1225(a)(1). The INA further clarifies that the term "application for admission" has "reference to the application for admission *into* the United States," making clear that the term applies to those applying to enter into the United States. 8 U.S.C. § 1101(a)(4) (emphasis added). Notably, individuals subject to expedited removal are not eligible for bond pending completion of their removal hearings. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *see id.* at 303 (distinguishing individuals subject to § 1225(b) from those "already present in the United States").

46. Critically, expedited removal proceedings do not apply to all "applicants for admission." Instead, they may be applied only to: (1) individuals who are arriving in the United States at a port of entry without valid documents; and (2) those without valid documents who have been in the United States for less than two years and have not been admitted or paroled and have been encountered within a time and distance from the border as so designated by DHS. 8 U.S.C. § 1225(b)(1)(A)(iii)(II); *see Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 (2020). Individuals subject to expedited removal under § 1225(b)(1) who assert a fear of removal "shall

be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iv).

47. Separately, § 1225(b)(2) mandates the detention of certain "applicants for admission" not covered by § 1225(b)(1). Yet in keeping with the statute's focus on arriving aliens, the statute does not mandate detention for all applicants for admission. Instead, § 1225(b)(2)(A) only mandates the detention of "an applicant for admission" when "the examining immigration officer determines" that the noncitizen who "seeking admission is not clearly and beyond a doubt entitled to be admitted."

48. Courts and the U.S. Government have consistently taken the position that noncitizens who have entered without inspection and are encountered in the United States years after their initial entry are entitled to removal proceedings under § 1229a and subject to detention under § 1226. *See, e.g.*, *Jennings*, 583 U.S. at 303 ("While the language of §§ 1225(b)(1) and (b)(2) is quite clear, §1226(c) is even clearer. As noted, § 1226 applies to aliens *already present in the United States*.") (emphasis added); IIRIRA Implementing Regulation, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination."). This is because these individuals are not "seeking admission." *See Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025) (holding that a noncitizens who has been residing in the United States for more than two years cannot be classified as an "alien seeking admission"); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); (rejecting the Government's "novel interpretation" that 1225(b) applies to noncitizens detained while present in the United States).

49. Despite amending the INA numerous times since passing IIRIRA, *see, e.g.*, REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302, Congress has never seen fit to clarify or alter this universally accepted interpretation of the statute.

50. Yet in July 2025, the Government abruptly rejected the reading of 8 U.S.C. § 1226(a) it had embraced when IIRIRA was first enacted and over three decades since. In a complete reversal, "DHS, in coordination with the Department of Justice (DOJ) . . . revisited its legal position on detention and release authorities," and issued guidance instructing all ICE employees that 8 U.S.C. § 1225 rather than § 1226 "is the applicable immigration detention authority for all applicants for admission." Ex. 15, ICE Memorandum: Interim Guidance Regarding Detention Authority for Applicants for Admission. This policy has since been vacated. *Maldonado Bautista v. Santacruz*, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

51. And in September 2025, the Board of Immigration Appeals adopted DHS's novel statutory reading of 8 U.S.C. § 1225(b)(2)(A) in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board found no distinction between the statutory terms "applicant for admission" and "seeking admission," and concluded that § 1225(b)(2) must be read to include all noncitizens who have not been inspected and admitted at any point. *Id.* at 221-22. Further, the Board asserted that legislative history supported its construction, although it did not cite any legislative history addressing the detention statutes. *Id.* at 223-25.

52. Courts that have reviewed this issue have almost universally rejected Respondents' new reading of the statute. *See, e.g., Nava Hernandez v. Baltazar*, 2025 WL 2996643 (D. Colo. Oct. 24, 2025); *Hernandez Vazquez v. Baltasar*, 1:25-cv-3049 (D. Colo. Oct. 23, 2025); *Loa Caballero v. Baltazar*, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Moya Pineda v. Baltasar*, No. 1:25-cv-2966 (D. Colo. Oct. 20, 2025); *Mendoza Gutierrez v. Baltasar*, 2025 WL 2962908 (D. Colo. Oct. 17,

2025); *Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Maldonado Bautista*, 2025 WL 3678485; *Salazar v. Dedos*, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Galdamez Martinez v. Noem, et al.*, 2025 WL 3471575 (W.D. Tex. Nov. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025).

53. Notwithstanding the resounding rejection of DHS and DOJ's policy, Respondents continue to defend the policy. Yet this policy deprives Mr. Sanchez of any process by subjecting him—with limited criminal history and with many years residence in the United States—to the same mandatory detention provisions as applicants at the border seeking to initially enter the United States.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Substantive Due Process

54. Mr. Sanchez realleges and incorporates by reference the paragraphs above.

55. The Substantive Due Process Clause protects a person's freedom from arbitrary confinement. U.S. Const. amend. V; *see generally Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). 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.

56. The "Fifth and Fourteenth Amendments' guarantee of 'due process of law' [] include[s] a substantive component, which forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (emphasis in original). In the context of immigration, this interest is usually to ensure an individual's appearance before the immigration court and that he is not a danger to the community. *Gamez Lira v. Noem*, 2025 WL 2581710, at *3 (D.N.M. Sept. 5, 2025).

57. Mr. Sanchez is neither a flight risk nor a danger to the community. The renewal of DACA, including during these immigration proceedings, constitutes a robust showing regarding lack of flight risk or danger to the community. *Id.* Mr. Sanchez has repeatedly demonstrated that he came to the United States before the age of 16, he has had continuous residence in the United States since 2007 and undergone a criminal background check. *See* 8 C.F.R. § 236.22(b)(1)–(6). And while ICE detained him after he was arrested for a DUI, Mr. Sanchez was not convicted of that crime, but rather for reckless driving. Therefore, he is neither a flight risk nor danger to the community that would justify his 6-month detention pending the adjudication of his removal proceedings. Mr. Sanchez's substantive due process rights have been violated.

COUNT TWO
Violation of Procedural Due Process
(*Accardi* Claim – Violation of 8 C.F.R. § 236.23(d))

58. Mr. Sanchez realleges and incorporates by reference the paragraphs above.

59. The Supreme Court's decision in *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954) established the well-settled principle that agency actions in violation of its own regulations and procedures offends due process. *Id.* at 267-68 (finding that the agency must exercise its judgment in a habeas case because the agency committed itself by regulation).

60. The *Accardi* doctrine applies with particular force "[w]here the rights of individuals are affected." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). The doctrine's purpose is "to prevent the arbitrariness which is inherently characteristic of an agency's violation of its own procedures." *United States v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969).

61. 8 C.F.R. § 236.23(d) sets forth the procedures to terminate DACA, permitting USCIS to "terminate a grant of [DACA] at any time in its discretion." 8 C.F.R. § 236.23(d)(1). In order to do so, however, the agency "provide[s] a Notice of Intent to Terminate and an opportunity to respond prior to terminating a grant of [DACA]." *Id.* The only time that "USCIS may terminate a

grant of [DACA] without a Notice of Intent to Terminate and an opportunity to respond [is] if the [DACA] recipient is convicted of a national security-related offense involving conduct described in 8 U.S.C. § 1182(a)(3)(B)(iii), (iv), or § 1227(a)(4)(A)(i), or an egregious public safety offense." *Id.*

62. ICE placed Mr. Sanchez in proceedings and detention over four months before contacting USCIS regarding termination of his DACA. Ex. 10. DHS did not follow the regulatory procedure for terminating DACA, instead forcing Mr. Sanchez to file numerous motions to terminate his removal proceedings to prevent deportation from the only country he has ever known and preventing him from participating in the diversion program that would have removed any offense from his record.

63. After six months in detention, USCIS again granted Mr. Sanchez DACA on December 10, 2025.

64. As the Supreme Court has stated, "[t]he defining feature of deferred action is the decision to defer removal (and to notify the affected alien of that decision)." *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1911 (2020). Mr. Sanchez is not likely to be removed before June 24, 2026, when his DACA ends.

65. The government's attempt to remove Mr. Sanchez and effectively terminate his DACA without following the regulatory process is arbitrary, has prejudiced Mr. Sanchez, and violated his due process rights.

COUNT THREE
Violation of Procedural Due Process
Property Interest in DACA Status

66. Mr. Sanchez realleges and incorporates by reference the paragraphs above.

67. While the regulations indicate that DACA is a form of enforcement discretion and not an

entitlement, 8 C.F.R. § 236.21(c)(1), "courts have recognized that DACA recipients gain a property interest in retaining their DACA status that is protected by due process." *Intriago-Sedgwick*, 2025 WL 3688155, at *5 (citing *Gamez Lira*, 2025 WL 2581710, at *3; *Santiago v. Noem*, 2025 WL 2792588, at *10–*11 (W.D. Tex. Oct. 5, 2025); *Inland Empire - Immigrant Youth Collective v. Nielsen*, 2018 WL 4998230, at *19 (C.D. Cal. Apr. 19, 2018); *Medina v. U.S. Dep't of Homeland Sec.*, 2017 WL 5176720, at *9 (W.D. Wash. Nov. 8, 2017)).

68. A procedural due process challenge is governed by a three-factor balancing test weighing: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, or additional or substitute procedural safeguards"; and (3) "the Government's interest." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Here, these factors all weigh in Mr. Sanchez's favor.

69. Mr. Sanchez has a property interest in his DACA. His deferred action cannot be taken away without notice and an opportunity to respond. 8 C.F.R. § 236.23(d)(1); *see Inland Empire - Immigrant Youth Collective*, 2018 WL 4998230, at *19; *Medina*, 2017 WL 5176720, at *9. Yet, terminating his DACA without review is exactly what the government intended to do by placing him in removal proceedings and seeking his removal to Mexico without first engaging in the formal process. *See* ¶¶ 26-32. And the government can claim no interest in ignoring its own regulatory process and violating the due process rights of an individual.

70. Mr. Sanchez's detention without providing him notice and opportunity to respond to the de facto termination of his DACA violates his procedural due process rights.

COUNT FOUR
Violation of Procedural Due Process
Freedom from Detention

71. Mr. Sanchez realleges and incorporates by reference the paragraphs above.

72. The private interest in freedom from physical detention is the most elemental of liberty interests. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

73. The Supreme Court has been clear that for noncitizens "on the threshold of initial entry . . . [w]hatever the procedure authorized by Congress is, it is due process." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (emphasis added). It is well established that noncitizens like Mr. Sanchez who "once passed through our gates, even illegally" are entitled to greater constitutional protections. *Id.*; *see also Zadvydas*, 553 U.S. at 693 ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to [noncitizens] outside of our geographic borders.").

74. Mr. Sanchez is no longer on the threshold of initial entry. Although he entered in January 2024 on advanced parole, that parole expired the next day, and USCIS subsequently renewed his status as a DACA recipient. Mr. Sanchez "was detained after living, studying, and working over the course of two decades, it cannot be denied that [he] was already in the country" and the Due Process Claus applies to him. *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *9 (W.D. Tex. Oct. 2, 2025) (internal quotations and citations omitted).

75. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews*, 424 U.S. at 333. Because Mr. Sanchez is not properly detained under § 1225(b)(2), his detention does not comply with due process.

76. Mr. Sanchez has a strong private interest in remaining free from detention. Indeed, the Supreme Court has affirmed that even for noncitizens, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. And the Supreme Court, recognizing the strong private interest in remaining free from detention, has held "that detention

violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, or, in certain special and narrow non-punitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (cleaned up).

77. While the government has an interest in ensuring Mr. Sanchez's appearance at his removal proceedings and protecting the community, as discussed above (¶ 57), the fact that Mr. Sanchez has been granted DACA for over a decade in conjunction with his lack of criminal history suggests that this interest is minimal.

78. Finally, this case demonstrates the high risk of erroneous deprivation that results from DHS's policy to detain noncitizens like Mr. Sanchez without any opportunity to challenge his detention. Without an order from this Court, there is a high probability that Mr. Sanchez will continue to be detained despite the fact that he remains a DACA recipient.

79. In Respondents' contrasting version of the INA, as espoused in *Matter of Yajure Hurtado*, Mr. Sanchez may be stripped of any mechanism to require the government to justify his detention. Such a lack of any process, necessarily leading to an erroneous deprivation of liberty, cannot be supported by the Constitution.

COUNT FIVE
Violation of the Immigration and Nationality Act
Arbitrary Detention; 8 U.S.C. §§ 1225 and 1226

80. Mr. Sanchez realleges and incorporates by reference the paragraphs above.

81. Despite the overwhelming authority across the country concluding to the contrary, Respondents may argue that 8 U.S.C. § 1225(b)(2) permits mandatory detention of individuals who have historically been understood to be detained under 8 U.S.C. § 1226(a). This contrary reading of the statute has been overwhelmingly rejected in more than fifteen hundred district courts

decisions that have ruled on the issue and on a class-wide basis. *See supra* ¶ 52; *see also, e.g.*, *Morales Rodriguez v. Arnott*, 2025 WL 3218553 (W.D. Mo. Nov. 18, 2025); *Singh v. Lyons*, 2025 WL 2932635 (E.D. Va. Oct. 14, 2025); *Sampiao v. Hyde*, -- F. Supp. 3d --, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Gomes*, 2025 WL 1869299; *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

82. As the Supreme Court recognized in *Jennings*, § 1225(b) focuses on individuals arriving at the border and ports of entry and thus are in the process of "seeking admission." *Jennings*, 583 U.S. at 297, 303; *see also* 8 C.F.R. § 1.2 (addressing noncitizens who are geographically "coming or attempting to come into the United States."). Conversely, § 1226(a) focuses on individuals who are in the United States and the government is seeking to remove through removal proceedings. *Id.* at 303. The INA further clarifies that the term "application for admission" has "reference to the application for admission into the United States," making clear that the term applies to those applying to enter into the United States physically. 8 U.S.C. § 1101(a)(4). Mr. Sanchez cannot reasonably be described as "seeking admission" to a country he has resided in for years. The titles of the two statutory sections make this distinction clear. *Compare* 8 U.S.C. § 1225 (titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing"), *with* 8 U.S.C. § 1226 ("Apprehension and detention of aliens").

83. Furthermore, equating the term "applicant for admission" with "seeking admission," as EOIR has concluded in *Matter of Yajure Hurtado*, would render the phrase "seeking admission" superfluous because it violates principle that Congress is presumed to have acted intentionally in choosing different words in a statute, such that different words and phrases should be accorded different meanings." *Lopez Benitez*, 795 F. Supp. 3d at 489; *TRW Inc. v. Andrews*, 534 U.S. 19, 31

(2001) ("[N]o clause, sentence, or word shall be superfluous, void, or insignificant."); *accord Mendoza Gutierrez*, 2025 WL 2962908, at *7. Section 1225's mandatory detention regime applies to noncitizens who meet three criteria; first, the noncitizen must be "an 'applicant for admission' (a 'term of art' in the INA that includes noncitizens who 'arrive[] in the United States,' as well as those already 'present in the United States who ha[ve] not been admitted," second, the noncitizen must be "actively 'seeking admission' to the country," and third, the noncitizen must be "one whom an examining immigration officer determines 'is not clearly and beyond a doubt entitled to be admitted.'" *Lopez Benitez*, 795 F. Supp. 3d at 488 (quoting *Martinez*, 792 F. Supp. 3d at 214).

84. The ordinary meaning of the terms "seeking" and "admission" do not apply to noncitizens, like Mr. Sanchez, who are not actively seeking inspection to enter the United States but instead have been residing in the country for years. *Jose Alejandro v. Olson*, 2025 WL 2896348 (S.D. Ind. Oct. 11, 2025).

85. Additionally, applying § 1225(b)(2) to all noncitizens except those who have been admitted could not have been Congress's intent because it would render other mandatory detention provisions, such as § 1226(c)(1)(E), unnecessary. *Sampiao*, 2025 WL 2607924, at *8; *Rodriguez Vasquez*, 779 F. Supp. 3d at 1259; *Gomes*, 2025 WL 1869299, at *7. Section 1225(c) requires mandatory detention for individuals who are present in the United States without being admitted or paroled and who are subject to specific criminal conduct criteria. *Sampiao*, 2025 WL 2607924, at *8. If all noncitizens who are inadmissible are subject to mandatory detention, there would be no reason for Congress to have enumerated which inadmissible noncitizens are subject to mandatory detention under § 1226(c). *Id.* If Congress intended § 1225(b) detention to extend to all noncitizens who have not been admitted, the recent amendments would be surplusage. *Sampiao*, 2025 WL 2607924, at *8 (citing *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013) ("The

canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme."). For these reasons, the plain language of § 1225(b)(2)(A) demonstrate that an individual, such as Mr. Sanchez, is not an "applicant for admission" who is "seeking admission" to the United States.

86. Thus, this Court must find that to subject Mr. Sanchez to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) would be a clear violation of the INA.

PRAYER FOR RELIEF

Based on the foregoing, Mr. Sanchez requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Issue an order requiring Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Mr. Sanchez's detention, as a DACA recipient, violates the INA and regulations;

(4) Declare that Mr. Sanchez's detention, as a DACA recipient, violates his due process rights;

(5) Order that Mr. Sanchez be released from immigration custody with all of his personal belongings, including identification cards, without any further conditions on his release from custody;;

(6) Declare that 8 U.S.C. § 1226(a) governs Mr. Sanchez detention by U.S. immigration authorities

(7) Alternatively, order a bond hearing as authorized under 8 U.S.C. § 1226(a) at which 8 U.S.C. § 1225(b) cannot be applied, DHS bears the burden of proof, and the immigration judge considers Mr. Sanchez's ability to pay bond as part of the factors in setting bond; and

(8) Grant any other and further relief this Court deems just and proper.

(9) Grant attorneys' fees and costs of this suit under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412(2), *et seq.*;

(10) Grant any further relief this Court deems just and proper.

Dated: January 15, 2026

Respectfully submitted,

/s/ Sarah L. Vuong
SARAH L. VUONG
CA Bar No. 258528
Ariela Lake Law & Consulting PLLC
3355 Hudson St., #7098
Denver, CO 80207
Ph: (202) 996-5757
Email: sarah@allc.law

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

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have reviewed documents provided by Petitioner and his family and spoken with Petitioner's family relating to the events described in this Petition. Based on those discussions and documents Petitioner's family has provided to me, I hereby verify that the statements made in this Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 15, 2025

Respectfully submitted,

/s/ Sarah L. Vuong
SARAH L. VUONG
CA Bar No. 258528
Ariela Lake Law & Consulting PLLC
3355 Hudson St., #7098
Denver, CO 80207
Ph: (202) 996-5757
Email: sarah@allc.law