

1 Rene L. Valladares  
2 Federal Public Defender  
3 Nevada State Bar No. 11479  
4 \*Laura Barrera  
5 Assistant Federal Public Defender  
6 Michigan State Bar No. P80957  
7 411 E. Bonneville Ave., Ste. 250  
8 Las Vegas, Nevada 89101  
9 (702) 388-6577  
10 Laura\_Barrera@fd.org

\*Attorney for Petitioner Israel Nunez Figueroa

11 UNITED STATES DISTRICT COURT  
12 DISTRICT OF NEVADA

13 Israel Nunez Figueroa,

14 Petitioner,

15 v.

16 John Mattos, NSDC Warden; Michael  
17 Bernacke, Field Director, West Valley City  
18 Office of ICE ERO; Todd Lyons, ICE  
19 Acting Director; Kristi Noem DHS  
20 Secretary; Pam Bondi, U.S. Attorney  
21 General,

22 Respondents.

Case No. 2:26-cv-00184-RFB-MDC

**First Amended Petition**

23 INTRODUCTION

24 Petitioner Israel Nunez Figueroa has lived in the United States for over  
25 twenty years after entering without inspection. Immigration and Customs  
26 Enforcement (ICE) detained him in Las Vegas on December 15, 2025, and have held  
27 him without bond since then. On January 15, 2026, an immigration judge informed  
Nunez Figueroa that the immigration court did not have jurisdiction to grant him  
bond, presumably because of ICE's now widely-rejected interpretation of the

1 immigration detention authorities of 8 U.S.C. §§ 1225 and 1226(a).<sup>1</sup> *See Gimenez*  
2 *Rivero v. Mina, et al.*, No. 6:26-CV-66-RBD-NWH, 2026 WL 199319, at \*5 (M.D. Fla.  
3 Jan. 26, 2026) (“Judges across the country—the vast majority who have considered  
4 this question—have told the Government many times in the past few months that  
5 its interpretation of the law is wrong... judges appointed by every President from  
6 Ronald Reagan through Donald Trump have said so.”).

7 The only authority under which ICE may lawfully detain Nunez Figueroa is 8  
8 U.S.C. §1226(a), pursuant to which he must receive a bond hearing. Accordingly,  
9 Respondents have violated the Immigration and Nationality Act and the Due  
10 Process Clause of the Fifth Amendment by subjecting Nunez Figueroa to the  
11 mandatory detention provisions of 8 U.S.C. § 1225. Accordingly, this Court should  
12 order that he promptly receive a bond hearing in immigration court or be released.

#### 13 JURISDICTION AND VENUE

14 This Court has jurisdiction pursuant to 28 U.S.C. §2241 (granting general  
15 habeas authority to district courts); Art. 1 § 9, cl. 2 of the U.S. Constitution (the  
16 “Suspension Clause”); 28 U.S.C. §1331 (federal question jurisdiction); and 28 U.S.C.  
17 § 2201, 2202 (Declaratory Judgment Act).

18 Federal district courts have jurisdiction to hear habeas claims by non-citizens  
19 challenging the lawfulness of their detention. *See e.g. Zadvydas v. Davis*, 533 U.S.  
20 678 (2001). Federal courts also have federal question jurisdiction, through the APA  
21 to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an  
22 abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).  
23 APA claims are cognizable in habeas. 5 U.S.C. § 703. The APA affords a right of  
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25 <sup>1</sup> 8 U.S.C. § 1225(b)(2)(A) provides for mandatory detention for noncitizens  
26 seeking admission to the United States if the “examining immigration officer”  
27 determines the applicant for admission is not clearly entitled to admission. Section  
1226(a) provides for discretionary detention for noncitizens encountered within the  
United States.

1 review to a person who is “adversely affected or aggrieved by agency action.” 5  
2 U.S.C. § 702.

3 Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28  
4 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at  
5 Nevada Southern Detention Center.

6 Accordingly, Petitioner’s habeas petition is properly before this court.

7 **PARTIES**

8 Israel Nunez Figueroa is a native and citizen of Mexico who entered the  
9 United States without inspection more than 20 years ago. He is currently detained  
10 at the Nevada Southern Detention Center in Pahrump, Nevada.

11 John Mattos is the warden of Nevada Southern Detention Center. Mattos, in  
12 his official capacity, is the immediate custodian of Nunez Figueroa.

13 Michael Bernacke is the Field Director of the West Valley City Office of  
14 Immigration and Customs Enforcement (ICE) Enforcement and Removal  
15 Operations, which has jurisdiction of enforcement and removal operations over  
16 detention facilities in Nevada, including Nevada Southern Detention Center where  
17 Nunez Figueroa is detained. Bernacke, in his official capacity, is a legal custodian of  
18 Nunez Figueroa.

19 Todd Lyons is the Acting Director of Immigration and Customs Enforcement,  
20 which is responsible for administering and enforcing immigration laws, including  
21 the detention and removal of immigrants. Lyons, in his official capacity, is a legal  
22 custodian of Nunez Figueroa.

23 Kristi Noem is the Secretary of the Department of Homeland Security (DHS),  
24 which oversees ICE. Noem, in her official capacity, is the ultimate legal custodian of  
25 Nunez Figueroa.

26 Pam Bondi is the Attorney General of the United States. She oversees the  
27 immigration court system, which is housed within the Executive Office for

1 Immigration Review (EOIR) and includes all immigration courts and the Board of  
2 Immigration Appeals (BIA). She is named in her official capacity.

3 **STATEMENT OF FACTS<sup>2</sup>**

4 Nunez Figueroa came to the United States from Mexico in 2003. He has lived  
5 in the United States since that time and has raised two U.S. citizen children here.  
6 He was detained by ICE on or around December 15, 2025, in Las Vegas and was  
7 placed in removal proceedings. He has remained detained. Nunez Figueroa sought  
8 to be released on bond, but on January 15, 2026, the immigration judge told him he  
9 could not be released on bond because the Immigration Court did not have  
10 jurisdiction to grant bond. Nunez Figueroa's family has struggled in his absence,  
11 especially his pregnant daughter who lives with Nunez Figueroa and for whom he  
12 provides for financially.

13 **CLAIMS FOR RELIEF**

14 **Ground One: Petitioner's detention without a bond hearing violates the**  
15 **Immigration and Nationality Act and his Fifth Amendment right to due**  
16 **process.**

17 As this Court indicated in the order to show cause, this case falls squarely  
18 under this Court's prior decision in *Escobar Salgado v. Mattos*, No. 2:25-CV-01872-  
19 RFB-EJY, 2025 WL 3205356 (D. Nev. Nov. 17, 2025).<sup>3</sup> Nunez Figueroa was  
20 detained by ICE for the first and only time more than twenty years after he entered  
21 the United States without inspection. Furthermore, he was detained by ICE in Las  
22 Vegas, Nevada, not at or near the United States border. He was not, at that point,  
23 an applicant for admission to the United States, nor were the ICE officers who  
24 arrested him "inspecting officers" inspecting Nunez Figueroa upon request for

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25 <sup>2</sup> These factual allegations are made on information and belief. The  
26 documents that could corroborate these facts are in the possession of the Federal  
27 Respondents.

<sup>3</sup> ECF No. 4 at 1.

1 admission. See 8 U.S.C. §§ 1225(b)(2)(A), (b)(4); §§1225(a)(3), (b)(1), (b)(2), (d). As a  
2 result, Nunez Figueroa cannot lawfully be subjected to mandatory detention as an  
3 “arriving alien” pursuant to §1225(b). *Escobar Salgado v. Mattos*, No. 2:25-CV-  
4 01872-RFB-EJY, 2025 WL 3205356, at \*14 (D. Nev. Nov. 17, 2025) (“the notion that  
5 an ICE officer conducting removal operations within the continental United States,  
6 far from any port of entry, is engaging in ‘Inspection of Applicants for Admission’ as  
7 contemplated in § 1225(b) contradicts the plain meaning of the text when placed in  
8 context of the overall Section and its headings.”) “This distinction is critical because  
9 ‘aliens who have established connections in this country’ have greater due process  
10 rights than ‘an alien at the threshold of initial entry.’” *Id.* at \*16, quoting *Dep’t of*  
11 *Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).

12 Just as it was for the petitioners in *Escobar Salgado*, confining Nunez  
13 Figueroa in mandatory detention pursuant to §1225(b) is unlawful under the INA  
14 and unconstitutional under the Due Process Clause. Nunez Fugueroa’s detention is  
15 only authorized under the discretionary detention authority of §1226(a).  
16 Accordingly, he is entitled to a bond hearing.

17 Petitioner is amenable to receiving a ruling on the papers and is willing to  
18 waive a hearing, unless this Court believes that relief on this claim is not  
19 warranted, in which case Petitioner requests a chance to be heard in oral argument.

#### 20 PRAYER FOR RELIEF

21 Accordingly, Israel Nunez Figueroa respectfully requests that this Court:

- 22 1. Declare that Petitioner’s continued detention without a bond hearing  
23 violates the Immigration and Nationality Act, 8 U.S.C. §1231(a)(6); and/or the Due  
24 Process Clause of the Fifth Amendment to the U.S. Constitution;
- 25 2. Order that Petitioner be released or be promptly granted a bond  
26 hearing in immigration court with the burden on the government to justify  
27 detention; and



**DECLARATION UNDER PENALTY OF PERJURY**

I declare under penalty of perjury under the laws of the United States of America and the State of Nevada that the facts alleged in this petition are true and correct to the best of counsel's knowledge, information, and belief.

Dated February 4, 2026.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

*/s/ Laura Barrera*  
Laura Barrera  
Assistant Federal Public Defender

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been filed on February 4, 2026. I personally served a true and correct copy of the foregoing index and exhibits in support of the first amended petition by CM/ECF to the following individuals:

Summer Allegra Johnson US Attorney's Office, District of Nevada 501 Las Vegas Blvd. South Las Vegas, NV 89101 Email: summer.johnson@usdoj.gov	Ashlee Hesman Struck Love Acedo, PLC 3100 West Ray Road, Suite 300 Chandler, AZ 85226 Email: ahesman@strucklove.com
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I further certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

Israel Nunez Figueroa,  Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89060	John Mattos, Warden Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89060
Virginia Tomova DOJ-USAO 501 Las Vegas Blvd., S. Suite 1100 Las Vegas, NV 89101 Email: virginia.tomova@usdoj.gov	Todd Lyons 500 12th St SW Washington, DC 20536
Pam Bondi Attorney General U.S. Department of Justice 950 Pennsylvania Ave, NW, Washington, DC, 20530	Michael Bernanke Salt Lake City ICE Field Office Director 2975 Decker Lake Drive, Ste 100 West Valley City, UT 84119
Kristi Noem Secretary of the Department of Homeland Security 2707 Martin Luther King Jr. Ave SE, Washington, DC 20528	Sigal Chattah First Assistant, District of Nevada 501 Las Vegas Blvd, Ste 1100 Las Vegas, NV 89101 Email: Sigal.Chattah@usdoj.gov

*/s/ Victoria Lenzi*

An Employee of the  
 Federal Public Defender