UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

HECTOR ARREGUIN MENDIETA,

***Petitioner*,**

v.

KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of the U.S. Immigration and Customs Enforcement;
DAREN K. MARGOLIN, in his official capacity as Director of the Executive Office for Immigration Review; and
MARY DE ANDA-YBARRA, in her official capacity as Acting Director of the El Paso Field Office of the U.S. Immigration and Customs Enforcement encompassing the Enforcement and Removal Operations Otero Sub-Office.

***Respondents*.**

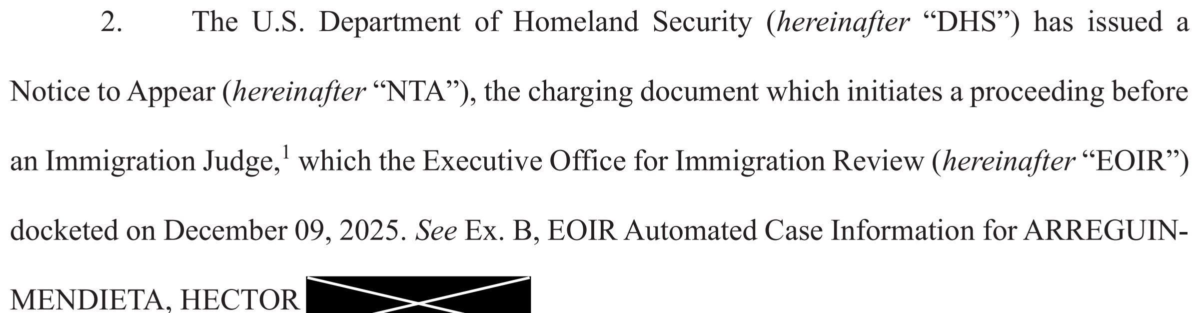
Civil Action No. ____________________

Immigration No.

PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner, Hector Arreguin Mendieta (*hereinafter* "Mr. Arreguin"), is a native and citizen of Mexico who has resided in the United States for approximately fourteen years. In December 2025, Mr. Arreguin came into the custody of the U.S. Immigration and Customs Enforcement (*hereinafter* "ICE") after state or local police in New Mexico stopped his vehicle for an alleged traffic violation. Mr. Arreguin is currently detained at the Otero Processing Center in Chaparral, NM. *See* Ex. A, Evidence of Detention in ICE Custody.

2. The U.S. Department of Homeland Security (*hereinafter* "DHS") has issued a Notice to Appear (*hereinafter* "NTA"), the charging document which initiates a proceeding before an Immigration Judge,[1] which the Executive Office for Immigration Review (*hereinafter* "EOIR") docketed on December 09, 2025. *See* Ex. B, EOIR Automated Case Information for ARREGUIN-MENDIETA, HECTOR 

3. Mr. Arreguin last entered the United States without being inspected and admitted or paroled in 2011. Further, other than his arrest for an alleged traffic violation in December 2025, Mr. Arreguin has never been arrested, charged, or convicted of a crime during the fourteen years he has lived in the United States. Therefore, Mr. Arreguin reasonably believes DHS charged him with removability as "an alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General," under 8 U.S.C. § 1182(a)(6)(A)(i) and placed Mr. Arreguin in removal proceedings under 8 U.S.C. § 1229a.

4. In recent months, immigration judges have routinely denied requests for release on an immigration bond to individuals similarly situated to Mr. Arreguin, due to a perceived lack of jurisdiction. These denials have relied rely on recent precedent from the Board of Immigration Appeals (*hereinafter* "BIA" or "the Board") in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. C, Recent BIA Decisions on Bond. However, this Court has made clear that aliens detained under 8 U.S.C. § 1226(a) are entitled to individualized bond hearings. *See*, *e.g.*, *Molina Ochoa v. Noem*, No. 1:25-CV-00881-JB-LF (D.N.M. Nov. 7, 2025); *Salazar v. Dedos*, No. 1:25-CV-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025).

[1] *See* 8 C.F.R. § 1003.13 (defining "charging document" as including an NTA).

5. Despite this posture, immigration judges continue to refuse to provide noncitizens like Mr. Arreguin with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous Board precedent. The refusal to provide such a hearing violates the Immigration and Nationality Act (*hereinafter* "INA"), the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act (*hereinafter* "APA"), because the governing law for noncitizens who are in removal proceedings under 8 U.S.C. § 1229k is the detention statute under 8 U.S.C. § 1226, which clearly provides that noncitizens detained under § 1226 are entitled to bond hearings.

6. Mr. Arreguin therefore petitions this Court for habeas relief under 28 U.S.C. § 2241, and seeks immediate injunctive relief, including a Temporary Restraining Order (*hereinafter* "TRO") directing Respondents to provide him an individualized custody hearing or release him under reasonable conditions without delay.

II. JURISDICTION AND VENUE

7. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

8. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit because Mr. Arreguin does not challenge a final order of removal or seek class wide relief. Detention-based habeas claims are not channeled by 8 U.S.C. § 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final 8 U.S.C.§ 1229a removal proceeding

into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999). Further, individual injunctive relief is not barred by 8 U.S.C. § 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

9. Venue is proper in this District because Mr. Arreguin is detained at the Otero County Processing Center in Chaparral, New Mexico, within the Court's jurisdiction. *See* Ex. A, Evidence of Detention in ICE Custody.

III. PARTIES

10. Mr. Arreguin is a citizen and native of Mexico who has resided in the United States for approximately fourteen years. In December 2025, Mr. Arreguin came into ICE after police in New Mexico stopped his vehicle for an alleged traffic violation. Mr. Arreguin remains detained at the Otero Processing Center in Chaparral, NM since then. *See* Ex. A, Evidence of Detention in ICE Custody. Mr. Arreguin is currently in active removal proceedings under 8 U.S.C. § 1229a. However, a future hearing before an immigration judge has yet to be scheduled. *See* Ex. B, EOIR Automated Case Information.

11. Respondent, Kristi Noem, is the Secretary of DHS. She is sued in her official capacity.

12. Respondent, Todd Lyons, is the Acting Director of ICE, an executive branch agency within DHS. He is sued in his official capacity.

13. Respondent, Daren K. Margolin, is the Director of EOIR, the component of the U.S. Department of Justice responsible for immigration court adjudications, including bond hearings for noncitizens in removal proceedings. He is sued in his official capacity because EOIR, through its Immigration Judges, exercises exclusive authority over the conduct and scheduling of

bond hearings, and EOIR's refusal to provide Mr. Arreguin with a constitutionally adequate bond hearing is an underlying basis of the unlawful detention challenged in this habeas petition.

14. Respondent, Mary De Anda-Ybarra, is the Acting Director of the El Paso Field Office of ICE, Enforcement and Removal Operations (*hereinafter* "ERO"), which encompasses the ERO Otero Sub-Office that has custody and control over Mr. Arreguin. She is sued in her official capacity as Mr. Arreguin's physical custodian and DHS's local decisionmaker.

15. Respondents Noem, Lyons, and Margolin who represent DHS, ICE, and EOIR are properly included as the executives of federal agencies within the meaning of the APA.

IV. FACTUAL BACKGROUND

16. Mr. Arreguin is a native and citizen of Mexico who has resided in the United States since 2011. His first and last entry into the United States occurred sometime in 2011 upon which he entered without being inspected and admitted or paroled.

17. Mr. Arreguin's first and only encounter with immigration authorities occurred in December 2025 after police stopped Mr. Arreguin's vehicle in New Mexico for an alleged traffic violation. Mr. Arreguin was physically within the state of New Mexico for work-related purposes.

18. Mr. Arreguin has no other arrests and has never been charged with or convicted of a criminal offense during the fourteen years he has lived in the United States.

19. Mr. Arreguin has been and remains in ICE custody at the Otero Processing Center in Chaparral, New Mexico since December 2025. *See* Ex. A, Evidence of Detention in ICE Custody. No hearing before an immigration judge has been set in his removal proceedings yet. *See* Ex. B, EOIR Automated Case Information.

V. LEGAL FRAMEWORK

20. Immigration detention, in relevant part, is governed primarily by two provisions: 8 U.S.C. § 1225(b) (mandatory detention for expedited removal) and 8 U.S.C. § 1226 (general custody provisions). Whereas § 1226(a) authorizes the Attorney General to release noncitizens on bond pending removal proceedings, section 1225(b) applies to certain categories of "arriving aliens" and mandates detention pending completion of expedited or threshold screening.

21. Congress designed 8 U.S.C. § 1226 to govern the detention of individuals who, like Mr. Arreguin, are in non-expedited or "regular" removal proceedings under § 1229a. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

22. The Supreme Court of the United States has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 1225(b) mandatory detention and § 1226(a) discretionary release from custody); *see also Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999) (custody determinations of aliens in removal proceedings who are not subject to mandatory detention under 8 U.S.C. § 1226(c) are governed by general custody provisions at § 1226(a)). The BIA itself recognized for decades that individuals in § 1229a proceedings after entry without inspection were eligible for bond and custody redetermination hearings. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

23. Despite this clear statutory scheme and decades of established Board precedent, the interpretation of the law "suddenly changed" approximately four months after President Donald Trump and his administration came into office in January 2025. *See Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board decisions in *Matter of Q. Li* and *Matter of Yajure Hurtado* completely strip immigration judges of jurisdiction

to consider bond requests of noncitizens who entered the United States without being inspected and admitted or paroled like Mr. Arreguin. These decisions, however, cannot override the plain language of the statute.

24. In recent weeks, multiple district courts in 2025 have directly addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and unambiguous language of 8 U.S.C. § 1226(a) which permits noncitizens who entered the United States without inspection and admission or parole – persons in precisely the same legal circumstances as Mr. Arreguin —are eligible to request bond hearings before the immigration court.

25. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the district court emphasized that habeas relief is proper to correct statutory misclassification and to preserve the petitioner's due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the district court ordered bond eligibility under § 1226(a), rejecting the Government's assertion that § 1225(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause. Similarly, *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), this confirms that courts are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a).

26. These holdings reflect a growing consensus that district courts retain jurisdiction to intervene where his detention rests on a statutory misapplication and results in ongoing

constitutional harm. The cumulative weight of these decisions underscores that Mr. Arreguin is entitled to release from immigration custody under 8 U.S.C. § 1226(a) despite last entering the United States without inspection and admission or parole in 2011.

VI. CLAIMS FOR RELIEF

Count I – Violation of 8 U.S.C. § 1226(a)

24. Mr. Arreguin incorporates by reference the above factual allegations and re-asserts them as thoroughly stated fully herein.

25. Respondents' refusal to provide Mr. Arreguin with an individualized custody redetermination hearing violates the immigration laws of the United States and controlling precedent of the United States Court of Appeals for the Tenth Circuit.

26. Section 1226(a) of Title 8 of the United States Code provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole . . . ." *Id.* By its plain text, § 1226(a) applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 1226(c) applies.

27. In interpreting the plain language of § 1226(a), various federal district courts confirmed that noncitizens detained under § 1226(a) are statutorily eligible for individualized bond determinations before an immigration judge. Therefore, the Attorney General must consider bond requests by detained aliens pending the outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

28. Mr. Arreguin is now in removal proceedings under 8 U.S.C. § 1229a and his case has been placed on the detained docket of the Otero Immigration Court in Otero, New Mexico. Because he is detained in the context of ongoing removal proceedings, his custody is governed by § 1226(a), not § 1225(b).

29. By adopting a policy refusing to provide Mr. Arreguin with an individualized bond hearing that comports with 8 U.S.C. § 1226(a), Respondents have acted contrary to statutory authority requiring consideration of such bond application. This policy supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

30. Accordingly, this Court should grant the writ and order that Mr. Arreguin receive an individualized bond hearing under 8 U.S.C. § 1226(a), as mandated by controlling law in this Circuit.

Count II – Fifth Amendment Due Process Violation

31. Mr. Arreguin incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

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

33. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

34. Because Mr. Arreguin is detained by ICE at the Otero County Processing Center, he is categorically barred from presenting evidence that he is not a danger to the community and that he poses no flight risk. The blanket denial of access to a bond hearing strips Mr. Arreguin of the individualized determination required by due process and the plain language of 8 U.S.C. § 1226(a).

35. Unlike noncitizens subject to mandatory detention for serious criminal offenses under 8 U.S.C. § 1226(c), Mr. Arreguin has no qualifying convictions that justify a categorical denial of release. His only arrest was conducted by ICE as a result of perceived alienage. The government has no legitimate basis to insist that Mr. Arreguin's detention be mandatory, yet he remains confined with no opportunity for release.

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

37. Mr. Arreguin is a long-time resident of the United States, with more than a decade of continuous physical presence in this country. He has strong family and community ties in North Texas. There has been no finding that he is a danger to the community or a flight risk. Yet, solely because of recent, erroneous BIA decisions—decisions rejected by federal district courts from across the country—he has been categorically denied the process to which he is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

38. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Mr. Arreguin be afforded an immediate bond hearing, or that he be released from custody pending the final outcome of his removal proceedings under 8 U.S.C. § 1229a.

Count III – Unlawful Agency Action (APA)

39. Mr. Arreguin incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

40. Respondents' continued detention of Mr. Arreguin without affording him a bond hearing also constitutes unlawful agency action under the APA, 5 U.S.C. §§ 701–706. The abrupt departure from longstanding precedent without reasoned explanation violates the APA.

41. For decades, immigration judges exercised bond jurisdiction over individuals detained under 8 U.S.C. § 1226(a), including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *Matter of Aguilar Aquino*, 24 I&N Dec. 747 (BIA 2009); *Matter of R-A-V-P-*, 27 I&N Dec. 803 (BIA 2020) (considering bond request under § 1226(a) for noncitizen who "only recently arrived in the United States, having entered without inspection"); *see also* Exs. D-E. That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);
- *Matter of Aguilar Aquino*, 24 I&N Dec. 747, 748 (BIA 2009) (discussing bond procedures under § 1226(a) and pertinent regulations when seeking amelioration of terms of release from custody in case of noncitizen who "entered the United States without inspection");

- *Matter of R-A-V-P-*, 27 I&N Dec. 803, 805 (BIA 2020) (considering bond request under § 1226(a) for noncitizen who "only recently arrived in the United States, having entered without inspection");
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");
- I*n re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

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

43. The APA requires agencies to engage in reasoned decision-making and prohibits arbitrary or capricious action. *See* 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition

of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

44. Although Mr. Arreguin has not filed a bond application since entering ICE custody in December 2025, doing so would be futile, as immigration judges refuse to exercise jurisdiction, expressly relying on this recent BIA policy shift. *See* Ex. F, Sample Immigration Judge Bond Decisions. By treating individuals such as Mr. Arreguin as subject to mandatory detention under 8 U.S.C. § 1225(b), Respondents have applied an unlawful, arbitrary interpretation of the statute that is inconsistent with the plain language of 8 U.S.C. § 1226(a) and unsupported by reasoned analysis.

45. Accordingly, Respondents' refusal to provide Mr. Arreguin with an individualized bond and custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant habeas relief to remedy the violation.

VII. REQUEST FOR INJUNCTIVE RELIEF

46. Mr. Arreguin respectfully requests that this Court grant injunctive relief directing Respondents to provide him an immediate individualized custody redetermination hearing under 8 U.S.C. § 1226(a) [INA § 236(a)] within seven (7) days, or, in the alternative, to release his under reasonable conditions of supervision. Mr. Arreguin further intends to request preliminary injunctive relief and a Temporary Restraining Order, as appropriate, in a filing separate from this initial petition.

47. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *See Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Mr. Arreguin satisfies each of these factors.

A. Mr. Arreguin Is Likely To Succeed On The Merits Of His Petition.

48. Mr. Arreguin has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts, including some from within the Tenth Circuit, have already determined that noncitizens in circumstances substantially like that of Mr. Arreguin, who are detained under 8 U.S.C. § 1226(a), are entitled to individualized bond hearings before an immigration judge.

49. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Mr. Arreguin might file—due to the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of 8 U.S.C. § 1226(a).

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

51. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken*, 556 U.S. at 434, likelihood of success is the most critical factor in evaluating interim relief. Here, Mr. Arreguin's claim is exceptionally strong.

B. Mr. Arreguin Will Suffer Irreparable Harm If an Injunction Does Not Issue.

52. If this Court does not grant immediate relief, Mr. Arreguin will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *See Zadvydas*, 533 U.S. at 690. Everyday Mr. Arreguin remains

confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

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

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

54. The balance of equities tips decisively in Mr. Arreguin's favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent precedents that this Court has recently rejected repeatedly.

55. There is no evidence that Mr. Arreguin poses a danger to the community or presents a risk of flight. Mr. Arreguin has no criminal history, steady employment, and worked in his community without issue. By contrast, each additional day of detention imposes substantial and irreparable harm on Mr. Arreguin, and when these equities are weighed, they overwhelmingly favor immediate relief.

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

56. Finally, the public interest strongly supports the issuance of an injunction. The Supreme Court in *Nken*, 556 U.S. at 435, explained that when the government is the opposing party, the balance of equities and the public interest merge. *See id.* The public has no interest in

perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

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

58. Each factor of the equitable test weighs heavily in Mr. Arreguin's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of 8 U.S.C. § 1226(a) by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

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

VIII. PRAYER FOR RELIEF

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

a. Issue a writ of habeas corpus ordering Respondents to provide Mr. Arreguin with an individualized bond hearing under INA § 236(a), 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

b. Mr. Arreguin intends to file a separate Motion for Temporary Restraining Order.

c. Upon filing of that motion, Mr. Arreguin respectfully requests that the Court grant a TRO and preliminary injunction requiring an individualized bond hearing or, alternatively, Mr. Arreguin's immediate release;

d. Issue a declaration that DHS may not initiate or pursue expedited removal against Mr. Arreguin while his removal proceedings under 8 U.S.C. § 1229a remain non-final and while he seeks relief from removal before an Immigration Judge;

e. Issue a declaration that the plain language of 8 U.S.C. § 1226(a) permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

f. Grant permanent injunctive relief as appropriate;

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

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

Date: January 28, 2025 .

Respectfully submitted,

/s/ Yadira Juarez

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Attorney for Petitioner

VERIFICATION

STATE OF NEW MEXICO §
§
COUNTY OF OTERO §

I, Hector Arreguin Mendieta, state the following under penalty of perjury:

1. I am the Petitioner to whom the foregoing Petition for Write of Habeas Corpus under 28 U.S.C. § 2241 and Request for Declaratory and Injunctive Relief.

2. I am above the age of twenty-one (21) years of age, am of sound mind, and am in all ways competent to execute this verification.

3. Pursuant to 28 U.S.C. § 1746, I hereby declare and acknowledge that I am familiar with the substance of the foregoing document, that I have personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of my knowledge and belief.

/s/ Hector Arreguin Mendieta January 28, 2026
HECTOR ARREGUIN MENDIETA DATE
Declarant