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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Ignacio Moreno-Rios,
Petitioner,

v.

Kristi Noem, Secretary of the United States
Department of Homeland Security, in her official
capacity; **Todd Lyons**, Acting Director U.S.
Immigration and Customs Enforcement, in his official
capacity; **John Cantu**, Field Office Director for ICE's
Enforcement and Removal Operation's ("ERO") Field
Office, in his official capacity; **Sirce Owen**, Acting
Director of Executive Office for Immigration Review,
in her official capacity; **Luis Rosa, Jr.**, Warden of the
Florence Service Processing Center, in his official
capacity,
Respondents.

Case No.

Agency No. 

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

INTRODUCTION

The Respondents are unlawfully detaining Petitioner Ignacio Moreno-Rios, at the
Florence Service Processing Center, due to the Department of Homeland Security
(DHS) recently changed its long-standing position with regard to the status of mandatory
detention. *See*, ICE Memo: Interim Guidance Regarding Detention Authority for

1 Applications for Admission filed herewith as Exhibit 1. The Board of Immigration
2 Appeals (BIA) issued a precedential decision on September 5, 2025, holding that all
3 noncitizens present in the United States without admission – no matter how long they
4 have resided here – are still “applicants for admission” under 8 U.S.C. § 1225(a) and
5 not entitled to bond hearings because they are subject to mandatory detention under §
6 1225(b)(2)(A). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) filed
7 herewith as Exhibit 2.

10 But this interpretation of the Immigration and Naturalization Act (INA) violates
11 both procedural and substantive Fifth Amendment protections, ignores the plain
12 statutory language of both § 1225 and § 1226, and is contrary to numerous recent Federal
13 Court decisions in this District that have rejected these exact arguments. *See e.g.*
14 10/3/2025 Order entered in *Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-
15 PHX-DWL (ESW), (D. Ariz. 10/3/2025), filed herewith as Exhibit 3.

18 Here, Respondents’ reliance on *Yajure-Hurtado* to justify Petitioner’s continued
19 detention without a bond hearing is legally and factually misplaced. Petitioner has lived
20 in the United States continuously since 2002 and is not a recent entrant or arriving alien.
21 *See Declaration of Counsel in Support of Petition for Writ of Habeas Corpus*, filed
22 herewith as Exhibit 5. He has no non-immigration criminal convictions. *Id.*

24 In addition to BIA decisions not being binding precedent upon this Court, the
25 Supreme Court decision last year in *Loper Bright Enterprises v. Raimondo*, 603 U.S.
26 369, 400 (2024), made clear that federal courts must independently interpret statutes and
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1 no longer defer under so-called “Chevron deference.” This Court is therefore in the best
2 position to determine whether the Respondents are misinterpreting the relevant federal
3 statutes and improperly denying alien detainees bond hearings on the grounds that they
4 are all subject to mandatory detention under § 1225(b)(2)(A). The petition for writ of
5 habeas corpus should be granted.
6

7 JURISDICTION & CUSTODY

8
9 1. Petitioner Ignacio Moreno-Rios, is in the physical custody of
10 Respondents and Immigration and Customs Enforcement (ICE), an agency within the
11 Department of Homeland Security.
12

13 2. Petitioner is currently detained at Florence Service Processing Center
14 and is under the direct control of Respondents and their agents.

15 3. This action arises under the Constitution of the United States and 8
16 U.S.C. § 1101 et seq.
17

18 4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of
19 the United States Constitution, 28 U.S.C. § 1331, and the common law. This Court may
20 grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. §
21 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
22

23 5. Congress has preserved judicial review of challenges to immigration
24 detention. *See Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8
25 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to prolonged
26 immigration detention).
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1 6. The Court must grant the petition for writ of habeas corpus or order
2 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28
3 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
4 “within three days unless for good cause additional time, not exceeding twenty days, is
5 allowed.” *Id.*

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7 7. The Court has inherent power to release the petitioner pending review
8 of his petition. *See Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

9
10 **VENUE**

11 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410
12 U.S. 484, 493- 500 (1973), venue lies in this Court, the federal judicial district in which
13 Petitioner is currently is in custody.

14
15 9. Venue is also properly in this Court pursuant to 18 U.S.C. § 1391(e)
16 because Respondents are employees, officers, and agencies of the United States.

17
18 **PARTIES**

19 10. Petitioner Ignacio Moreno-Rios was born on  in
20 Mexico. Petitioner is currently detained by ICE at Florence Service Processing Center.

21
22 11. Respondent Kristi Noem is the Secretary of the U.S. Department of
23 Homeland Security (“DHS”). In this capacity, Respondent Noem is a legal custodian of
24 Petitioner. Respondent Noem is sued in her official capacity.

1 12. Respondent DHS is a federal executive agency responsible for, among
2 other things, enforcing federal immigration laws and overseeing lawful immigration to
3 the United States. Respondent DHS is a legal custodian of Petitioner.
4

5 13. Respondent Todd M. Lyons is Acting Director and Senior Official
6 Performing the Duties of the Director of U.S. Immigration and Customs Enforcement
7 ("ICE"). Respondent Lyons is responsible for ICE's policies, practices, and procedures,
8 including those relating to the detention of immigrants during their removal procedures.
9 Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is sued in his
10 official capacity.
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12 14. Respondent ICE is a federal law enforcement agency within DHS.
13 Respondent ICE is responsible for the enforcement of immigration laws, including the
14 detention and removal of immigrants. Respondent ICE is a legal custodian of Petitioner.
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16 15. Respondent John Cantu is Field Office Director for ICE's Enforcement
17 and Removal Operation's ("ERO") Field Office. Respondent Cantu is a legal custodian
18 of Petitioner and is sued in his official capacity.
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20 16. Respondent Luis Rosa, Jr. is the Warden of the Florence Service
21 Processing Center. Respondent Rosa, Jr. is a legal custodian of Petitioner. Respondent
22 Rosa, Jr. is sued in his official capacity.
23

24 17. Respondent Sirce Owen is the Acting Director of the Executive Office
25 for Immigration Review (EOIR), a federal agency within the U.S. Department of Justice.
26 Respondent EOIR is responsible for the administration of immigration courts, and
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1 acceptance of forms and petitions related to adjudication of immigration claims, as well
2 as motions for bond. Respondent Sirce Owen is sued in her official capacity.

3
4 **STATEMENT OF FACTS**

5 18. Petitioner Ignacio Moreno-Rios was born on  in
6 Mexico.

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8 19. Petitioner first entered the United States prior to 1994. *See*, Declaration
9 of Counsel in Support of Petition for Writ of Habeas Corpus, filed herewith as Exhibit
10 5.

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12 20. Petitioner was previously placed in removal proceedings which
13 concluded on May 9, 1996, at which time he was granted voluntary departure. *Id.*

14 21. On September 17, 2025, Respondents arrested Petitioner near Tucson,
15 Arizona and subsequently initiated criminal proceedings against him for illegal reentry
16 under 8 U.S.C. § 1326(a). *See*, Criminal Complaint filed by the United States, filed
17 herewith as Exhibit 7.

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19 22. According to a criminal complaint filed in the United States District
20 Court for the District of Arizona, the government alleged that Petitioner had previously
21 been removed from the United States through Nogales, Arizona on September 25, 2000.
22 *Id.* However, the existence and validity of any such prior removal order is not reflected
23 in the administrative record currently available to Petitioner.
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26 23. Petitioner was later returned to the custody of the Department of
27 Homeland Security without any resulting conviction in the criminal matter.
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1 24. During his detention, Petitioner expressed a fear of return to Mexico
2 and was referred for reasonable fear proceedings, after which an Immigration Judge
3 concurred on November 6, 2025, with the Department of Homeland Security's
4 determination that Petitioner had not established a reasonable possibility of persecution
5 or torture if returned to his country. *See*, Order of the Immigration Judge Affirming DHS
6 Negative Credible Fear Determination, filed herewith as Exhibit 8.

9 25. On October 31, 2025, his legal counsel filed a Motion to Reopen and
10 Terminate his prior removal proceedings in the Tucson Immigration Court, challenging
11 the validity of the prior removal order issued in 1996. *See*, File-Stamped Cover Page of
12 Respondent's Motion to Reopen filed with the Immigration Court, filed herewith as
13 Exhibit 9. Petitioner's request to terminate proceedings is based on a combination of
14 newly available legal relief, humanitarian considerations, and procedural grounds. *See*,
15 USCIS Documents Relating to Petitioner's Form I-360 Violence Against Women Act
16 (VAWA) Self-Petition, filed herewith as Exhibit 10. Petitioner is a victim of domestic
17 violence and has received a prima facie determination from USCIS for his I-360 self-
18 petition under VAWA. *Id.* Because of his VAWA eligibility, he is also prima facie
19 eligible for adjustment of status to that of a lawful permanent resident. He has a pending
20 I-485 application and a work permit valid until 2030. *Id.* While Petitioner has a potential
21 issue regarding reentry without inspection, this is specifically waivable for VAWA self-
22 petitioners.
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1 26. On January 13, 2026, Immigration Judge Irene Feldman issued an
2 order addressing Petitioner's Motion to Reopen, noting that the Immigration Court had
3 not received the original Record of Proceedings ("ROP") from the Records Center. *See*,
4 Order Addressing Petitioner's Motion to Reopen, filed herewith at Exhibit 11. Because
5 the administrative file could not be located, the court ordered the parties to submit copies
6 of any relevant, non-confidential documents in their possession so that the record could
7 be recreated and the motion adjudicated. *See*, Order Directing the Parties to Submit
8 Documents to Recreate the Record of Proceedings, filed herewith as Exhibit 12.
9

10 27. Petitioner remains detained while the Immigration Court attempts to
11 reconstruct the missing administrative record necessary to adjudicate his Motion to
12 Reopen.
13

14 28. Since his arrest, Petitioner has remained continuously detained in the
15 custody of U.S. Immigration and Customs Enforcement and, as of the filing of this
16 Petition, has been detained for approximately **198 calendar days without any custody**
17 **determination** by an immigration judge regarding whether he poses a danger to the
18 community or a risk of flight, resulting in prolonged detention.
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20 29. Petitioner has no criminal history. *See*, Declaration of Counsel in
21 Support of Petition for Writ of Habeas Corpus, filed herewith as Exhibit 5.
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23 30. Respondents rely on the framework established in *Matter of*
24 *Yajure-Hurtado* to deny Petitioner access to a custody redetermination hearing before
25 an Immigration Judge. Petitioner has remained detained for months while the
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1 Immigration Court attempts to reconstruct the missing Record of Proceedings necessary
2 to adjudicate his motion to reopen. At the same time, Respondents have not executed
3 any prior removal order despite the conclusion of reasonable fear proceedings in
4 November 2025. Thus, Petitioner finds himself in a procedural limbo.

6 LEGAL FRAMEWORK

7
8 31. The length of time that a petitioner has been living in the United States
9 is a constitutionally relevant consideration, because “once an alien enters the country,
10 the legal circumstance changes, for the Due Process Clause applies to all ‘persons’
11 within the United States, including aliens, whether their presence here is lawful,
12 unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It
13 is therefore reasonable to read these statutes “against [that] backdrop.” *See Hewitt v.*
14 *United States*, 145 S. Ct. 2165, 2173 (2025).

15
16 32. Due process thus requires “adequate procedural protections” to ensure
17 that the government’s asserted justification for a noncitizen’s physical confinement
18 “outweighs the individual’s constitutionally protected interest in avoiding physical
19 restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

20
21 33. In the immigration context, the Supreme Court has recognized only
22 two valid purposes for civil detention: to mitigate the risks of danger to the community
23 and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a
24 noncitizen based on any other justification.
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1 34. Congress has granted the Attorney General discretion to decide
2 whether to detain or release certain noncitizens pending a removal decision. *See* 8 U.S.C.
3 § 1226(a). The Attorney General has delegated that authority to IJs. 8 C.F.R. §§ 1003.19,
4 1236.1.
5

6 35. On July 8, 2025, DHS adopted a new policy on mandatory detention
7 for noncitizens who have been residing in the United States. *See*, ICE Memo: Interim
8 Guidance Regarding Detention Authority for Applications for Admission filed herewith
9 as Exhibit 1.
10

11 36. On September 5, 2025, the BIA entered the precedential decision
12 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 2,
13 which holds that all noncitizens who enter without inspection are “applicants for
14 admission” under 8 U.S.C. § 1225(a) and therefore subject to mandatory detention under
15 § 1225(b)(2), without regard for the length of time they have lived in the United States.
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18 37. The Ninth Circuit has held that § 1226(a) is the “default” detention
19 statute for aliens in removal proceedings “[8 U.S.C. §1226(a) (“Subsection A”)] is the
20 default detention statute for noncitizens in removal proceedings and applies to
21 noncitizens “[e]xcept as provided in [Subsection C].” 8 U.S.C. § 1226(a).” *Avilez v.*
22 *Garland*, 69 F. 4th 525, 529-530 (9th Cir. 2022). *Accord*, *Rodriguez Diaz v. Garland*,
23 83 F. 4th 1177, 1179 (9th Cir. 2023); *Sarr v. Scott*, 765 F. Supp. 3d 1091, 1095 (WD
24 Wash. 2025); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). *Casas-*
25 *Castrillon v. DHS*, 535 F.3d 942 (9th Cir. 2008).
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1 38. In 1997, after Congress amended the INA through the Illegal
2 Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and
3 the then-Immigration and Naturalization Service issued an interim rule to interpret and
4 apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
5 Detention of Aliens,” the agencies explained that:

6 Despite being applicants for admission, aliens who are
7 present without having been admitted or paroled (formerly
8 referred to as aliens who entered without inspection) *will be*
9 *eligible* for bond and bond redetermination.
10

11 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that
12 individuals who had entered without inspection *were* eligible for consideration for
13 bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing
14 regulations.
15

16 39. Thus, for almost 30 years, all participants in the immigration system
17 have understood that people arrested inside the United States generally fall within §
18 1226 for detention purposes and are therefore required to receive a bond hearing upon
19 request—even if they initially entered the country without permission. *See Martinez v.*
20 *Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025) (citing the
21 United States Solicitor General’s representation to the Supreme Court at oral argument
22 that “DHS’s long-standing interpretation has been that 1226(a) applies to those who
23 have crossed the border between ports of entry and are shortly thereafter apprehended”).
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26 40. This Court and numerous district courts have rejected that
27 interpretation, holding that § 1226(a) governs detention of long-present noncitizens
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1 apprehended within the United States and requires access to bond hearings. *See*
2 *Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW) (D. Ariz. Oct. 3, 2025)
3 (collecting cases). While a minority of courts have adopted Respondents' position, those
4 decisions are not binding and conflict with the statutory text, legislative history, and
5 overwhelming district court authority.

6
7 41. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM
8 (C.D. Cal. Feb. 18, 2026), the district court vacated *Matter of Yajure-Hurtado* under the
9 Administrative Procedure Act as resting on an identical, incorrect interpretation of law.
10 *See, Maldonado Bautista*, filed herewith as Exhibit 4. The court held that EOIR and
11 DHS may not "privilege an executive agency's legal interpretation over a federal district
12 court's legal interpretation," reaffirming that "[i]t is the province and duty of the judicial
13 department to say what the law is." The court further rejected the government's reliance
14 on rhetoric about detaining the "worst of the worst," where the record showed detainees
15 with no criminal history and strong community ties.

16
17 42. Accordingly, the court restored Immigration Judges' jurisdiction to
18 conduct bond hearings under 8 U.S.C. § 1226(a) for individuals previously denied
19 custody redeterminations based solely on entry without inspection and ordered
20 classwide notice to ensure detainees are informed of their right to seek release on bond
21 or conditional parole.

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23 43. Although the Fifth Circuit recently adopted a contrary interpretation in
24 *Buenrostro-Mendez v. Bondi*, No. 25-20496, slip op. at 9 (5th Cir. Feb. 6, 2026),
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1 concluding that noncitizens who entered without inspection are subject to mandatory
2 detention under 8 U.S.C. § 1225(b)(2) based on an equivalence between the terms
3 “applicant for admission” and “seeking admission,” that decision is not binding on this
4 Court and represents a minority view. Courts within this Circuit, including the court in
5 *Maldonado Bautista*, have rejected that interpretation as inconsistent with the INA’s
6 structure distinguishing border inspection under § 1225 from interior detention under §
7 1226.
8

9
10 44. Respondents continue to misclassify long-present noncitizens under §
11 1225(b)(2) and deny access to bond hearings in violation of statutory authority, binding
12 precedent, and due process. Petitioner’s continued detention without a custody
13 redetermination hearing is therefore unlawful and warrants habeas relief.
14

15 **CLAIMS FOR RELIEF**
16 **FIRST CLAIM FOR RELIEF**
17 **Violation of Fifth Amendment – Substantive Due Process**

18 45. Petitioner realleges and incorporates herein the allegations contained
19 in the preceding paragraphs of the petition as if fully set forth herein.
20

21 46. The Due Process Clause of the Fifth Amendment forbids the
22 government from depriving any “person” of liberty “without due process of law,”
23 including noncitizens. U.S. Const. amend. V.
24

25 47. Substantive due process asks whether a person’s life, liberty, or
26 property is deprived without sufficient purpose. There is no question that Petitioner has
27 been deprived of his liberty in this case.
28

1 48. The government's continued detention of Petitioner is not supported
2 by any special interest or compelling justification that outweighs his liberty interest.

3 49. Petitioner's ongoing detention when so many federal courts have held
4 that he is entitled to be considered for release upon posting an appropriate bond under §
5 1226 constitutes prolonged detention and violates his substantive due process rights.
6

7
8 **SECOND CLAIM FOR RELIEF**
9 **Violation of Fifth Amendment Right - Procedural Due Process**

10 50. Petitioner realleges and incorporates herein the allegations contained
11 in the preceding paragraphs of the petition as if fully set forth herein.

12 51. The Due Process Clause of the Fifth Amendment guarantees Petitioner
13 the right to procedural due process in seeking a bond redetermination and the
14 government may not unreasonably restrict this right.
15

16 52. The government's knowing misclassification of Petitioner as an
17 "applicant for admission" under § 1225 in order to justify its argument for mandatory
18 detention is not supported by any special interest or compelling justification that
19 outweighs Petitioner's liberty interest.
20

21 53. The continued detention of Petitioner is not supported by any special
22 interest or compelling justification that outweighs his liberty interest.
23

24 **PRAYER FOR RELIEF**

25 **WHEREFORE** Petitioner Ignacio Moreno-Rios respectfully requests that the
26 Court grant the following relief:
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1. Assume jurisdiction over this matter;
2. Order Respondents not to transfer Petitioner out of this District during the pendency of these proceedings, to preserve jurisdiction;
3. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order Respondents to immediately release Petitioner from custody or, in the alternative, order Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226, and without regard to the holding of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), within three (3) business days;
4. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
5. Grant any further relief the Court deems just and proper.

Dated this 3rd day of March, 2026.

By: /s/ Erica Sanchez
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner Ignacio Moreno-Rios and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 3rd day of March, 2026.

By: /s/ *Erica Sanchez*
Erica Sanchez, Esq.

LIST OF EXHIBITS

Exhibit 1	<u>ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission</u> (last visited September 8, 2025)
Exhibit 2	<i>Matter of Yajure Hurtado</i> , 29 I&N Dec. 216 (B.I.A. 2025).
Exhibit 3	<i>Echevarria v. Bondi</i> , No. CV-25-03252-PHX-DWL (ESW), (D. Ariz. Oct. 3, 2025)
Exhibit 4	<i>Maldonado Bautista v. Santacruz</i> , No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026)
Exhibit 5	Declaration of Counsel in Support of Petition for Writ of Habeas Corpus
Exhibit 6	Criminal Complaint filed by the United States
Exhibit 7	Order of the Immigration Judge Affirming DHS Negative Credible Fear Determination
Exhibit 8	File-Stamped Cover Page of Respondent's Motion to Reopen filed with the Immigration Court
Exhibit 9	USCIS Documents Relating to Petitioner's Form I-360 VAWA Self-Petition (Prima Facie Determination, I-797 Receipt Notice, and Employment Authorization Document)
Exhibit 10	Order Addressing Petitioner's Motion to Reopen
Exhibit 11	Order Directing the Parties to Submit Documents to Recreate the Record of Proceedings