Frederick Carroll (CA Bar No. 227628)
Andres Holguin-Flores (CA Bar No. 305860)
ACLU Foundation of San Diego and Imperial Counties
2760 Fifth Ave #300
San Diego, California 92101
(619) 232-2121
fcarroll@aclu-sdic.org
aholguinflores@aclu-sdic.org

Kathy Manley NYS 3935467*
Law Office of Kathy Manley
26 Dinmore Road
Selkirk, NY 12158
518-635-4005
Mkathy1296@gmail.com

**Pro hac vice forthcoming*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JORGE GUAMAN-PINTO,

Petitioner,

v.

GREGORY ARCHAMBEAULT, Enforcement and Removal Operations, San Diego Field Office Director, U.S. Immigration and Customs Enforcement; Todd Lyons, Acting Director of Immigration and Customs Enforcement; Kristi Noem, Secretary, U.S. Department of Homeland Security; CHRISTOPHER LAROSE, warden at Otay Mesa Detention Center; U.S. Department of Homeland Security; U.S. Immigration and Customs Enforcement,

Respondents.

Civil Case No. '26CV1716 JES BLM

COMPLAINT AND PETITION FOR WRIT OF HABEAS CORPUS AND INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioner Jorge Guaman-Pinto ("Mr. Guaman-Pinto" or "Petitioner") is a 20-year-old national of Ecuador who entered the United States without inspection (as a 17-year-old unaccompanied minor) on or about August 17, 2023. He soon encountered Customs and Border Parole agents and requested asylum. He was released to his sponsor (an uncle) by the Office of Refugee Resettlement on or about August 26, 2023 and given a Notice to Appear. He hired an immigration attorney, who has appeared for him in removal proceedings, but who has not filed an Asylum and Withholding Petition yet.

2. Mr. Guaman-Pinto was detained by ICE agents on January 12, 2026 when he was a passenger in a car which was pulled over in Schenectady, New York. He is in the physical custody of Respondents at the Otay Mesa Detention Center. He now faces unlawful detention because the Department of Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR") have concluded he is subject to mandatory detention.

3. Petitioner is charged with, inter alia, having entered the United States without admission or inspection *See* 8 U.S.C. § 1182(a)(6)(A)(i).

4. On September 5, 2025, the Board of Immigration Appeals ("BIA" or "Board") issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond, and

1 requires an individualized determination upon arrest That statute expressly applies to people
2 who, like Petitioner, are charged as inadmissible for having entered the United States without
3 inspection.

4 6. Petitioner's confinement is unlawful—as confirmed by a cascade of decisions,
5 including within this District, that have rejected Respondents' interpretation of Section
6 1225(b)(2). Accordingly, he brings this petition seeking immediate and unconditional release. He
7 also asks this Court to enjoin his transfer outside this District. *Local 1814, Intern.*
8 *Longshoremen's Ass'n, AFL-CIO v. New York Shipping Ass'n, Inc.*, 965 F.2d 1224, 1237 (2nd
9 Cir. 1992) ("Once the district court acquires jurisdiction over the subject matter of, and the
10 parties to, the litigation, the All Writs Act [28 U.S.C. § 1651] authorizes a federal court to protect
11 that jurisdiction" (cleaned up)), *Khalil v. Joyce*, No. 2.25-cv-1963 (MEF) (D.N.J) Mar. 19,
12 2025), ECF No. 81 (enjoining transfer and removal of an immigration habeas petitioner under
13 the All Writs Act). Alternatively, Petitioner respectfully asks the Court to issue an order to show
14 cause and hold a hearing pursuant to 28 U.S.C. § 2243 on the expedited basis set forth in the
15 statute, during which the Court should (1) find that Petitioner's detention violates federal law and
16 (2) order his release or order a bond hearing.
17
18
19 **JURISDICTION**

20 7. This action arises under the Constitution of the United States and the INA, 8 U.S.C
21 § 1101 *et seq*.

22 8. This Court has subject matter jurisdiction pursuant to 28 U.S.C § 2241 (the general
23 grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension
24 Clause"); and 28 U.S C § 1331 (federal question jurisdiction).

25 9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C § 2241 *et*
26 *seq* , the Declaratory Judgement Act, 28 U.S.C § 2201 *et seq* , and the All Writs Act, 28 U.S.C §
27 1651.
28

VENUE

10. Venue is proper in the Southern District of California because Mr. Guaman-Pinto is physically detained in the Otay Mesa Detention Center, which is located in this district. *See Rumsfeld v Padilla*, 542 U.S. 426, 428 (2004) ("[T]he traditional rule has always been that habeas relief is issuable only in the district of confinement...").

PARTIES

11. Petitioner Jorge Guaman-Pinto is an Ecuadoran national who was detained in by ICE in Schenectady, New York on January 12, 2026. Mr. Guaman-Pinto is detained at the Otay Mesa Detention Center. (Exhibit "A," ICE Detainee Locator)

12. Respondent Todd Lyons is the Acting Director of the DHS ICE. As such, Todd Lyons is responsible for Mr. Guaman-Pinto's detention and removal. He is sued in his official capacity.

13. Respondent Kristi Noem is the Secretary of the DHS. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Mr. Guaman-Pinto's present DHS detention. Ms. Noem has ultimate custodial authority over Mr. Guaman-Pinto and is sued in her official capacity. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

14. 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 ("EOIR") and the immigration court system it operates is a component agency. She is sued in her official capacity. Respondent EOIR is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

15. Respondent Gregory Archambeault is the Field Office Director of the San Diego Field Office of ICE Enforcement Removal Operations.

16. Respondent Christopher Larose is the Warden of the Otay Mesa Detention Center - he is Mr. Guaman-Pinto's immediate custodian.

EXHAUSTION

17. Petitioner is not required to exhaust administrative remedies because doing so would be futile.

18. Exhaustion of administrative remedies in immigration detention cases is considered a prudential concern, rather than a statutory requirement. *Velazquez-Beltran v. Noem,* 2026 US Dist. LEXIS 39070 (SDCA 2026.)

19. Such exhaustion may be excused when any of the following apply: "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Beharry v Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003).

20. Petitioner's case meets every requirement. Not only will he face irreparable injury if his detention continues, and not only does his petition raise substantial constitutional questions, but it is clear than an administrative appeal would be futile and unable to provide a genuine opportunity for adequate relief. Courts in this District have held that exhaustion of administrative remedies would be futile in these circumstances. *Velazquez-Beltran v. Noem,* supra; *Garcia v. Noem*, 2025 US Dist. LEXIS 171714 (SDCA 2025); *Andrade-Anaya v Noem,* 2025 US Dist. LEXIS 232849 (SDCA 2025); *Esquivel-Ipina v LaRose,* 2025 US Dist. LEXIS 210275 (SDCA 2025), *Lopez v Larose,* 2025 US Dist. LEXIS 214488 (SDCA 2025)

A. STATEMENT OF FACTS AND PROCEDURAL HISTORY

21. Jorge Guaman-Pinto is a 20-year-old Ecuadoran national who fled Ecuador due to extreme violence and entered the United States as an unaccompanied minor, at the age of 17, on or about August 17, 2023. (Exhibit "B," at 1, Notice to Appear) He made a credible fear claim at that time. (Exhibit "C, Form I-213)

22. Petitioner was released to his sponsor, Ruben Dario Guaman Tenegusñay (his uncle), by the Office of Refugee Resettlement on or about August 26, 2023 and given a Notice to Appear. (Exhibit "B" at 1, 6) He always appeared when directed. Mr. Guaman-Pinto was residing with his uncle in Albany, New York between August, 2023 and his arrest on January 12, 2026.

23. No circumstances have changed that make Mr Guaman-Pinto a flight risk or danger to the community, nor has ICE even sought to claim any such change in circumstances.

24. On January 12, 2026, Mr. Guaman-Pinto was a passenger in a vehicle in Schenectady, New York, which was pulled over by law enforcement. He was then detained by ICE, and taken to the Buffalo Federal Detention Center, where he remained until approximately February 23, 2026, when he was transferred to the Otay Mesa Detention Center near San Diego, CA, where he remains. Upon information and belief, at no time following Mr. Guaman-Pinto's arrest did ICE give any individualized reason for his detention.

25. Mr. Guaman-Pinto had hired an immigration attorney, Rochelle Inger, who has since appeared for him a few times in removal proceedings. However, she stated to undersigned counsel that she does not do asylum applications[1]. (Undersigned counsel does not practice in immigration court.)

---

[1] Ms. Inger stated to undersigned counsel that she intended to pursue Special Immigrant Juvenile Status for Mr. Guaman-Pinto, but that she was unable to pursue that while he was in detention.

26. However, on March 6, 2026, Petitioner hired a new immigration attorney who will prepare his asylum and withholding application very soon.

B. LEGAL FRAMEWORK

a. Immigration Detention Framework

27. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

29. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

30. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). Detention under Section 1226(a) is discretionary, not mandatory; the government "may release the [noncitizen] on—(A) a bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole[.]" 8 U.S.C.§ 1226(a)(2)(A)–(B).20.

31. Under the Section 1226 framework, release is appropriate where a noncitizen "demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8). *See, i e. Lopez Benitez v Francis*, No. 25-CV-5937, 2025 WL 2371588, at *20 (S.D.N.Y. Aug. 13, 2025). If, after an individualized consideration, ICE chooses to detain

the noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. §1003.19.

32. In contrast with Section 1226, which applies to "certain [noncitizens] already in the country," *Jennings v Rodriguez*, 583 U.S. 281, 289 (emphasis added), Section 1225(b) governs detention of noncitizens seeking entry into the United States (i.e., "applicants for admission"). In other words, Section 1225(b) mandates detention for those noncitizens subject to it, and they are not eligible to be considered for release.

33. Section 1225(b)(2)(A) applies to a narrower subset of applicants for admission. It provides that, "if the examining officer determines that a[] [noncitizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] *shall be detained* for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

34. For decades after the enactment of detention provisions at § 1226(a) and § 1225(b)(2), people who entered the country without inspection but who were already in the United States at the time of an ICE arrest were detained under § 1226(a) rather than § 1225(b)(2). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). As the Supreme Court has made clear, "Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an [noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Jennings*, 583 U.S. at 287-89.

35. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy[2] that rejected well-established understanding of the statutory framework and reversed decades of

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

practice. The policy claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A), regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

36. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*[3]. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

37. Since Respondents adopted their new policy, the vast majority of district courts that have confronted this issue have found that Section 1226(a) applies in these circumstances, and that the government's current position belies the text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice. For examples in this District, see, i.e. *Zayas v. Gordon,* 2026 US Dist. LEXIS 21405 (SDCA 2026); *Velazquez-Beltran v Noem,* 2026 US Dist. LEXIS 39070 (SDCA 2026); *Raudales-Valle v. Driver,* 2026 US Dist. LEXIS 37925 (SDCA 2026); *Lucero v Bondi,* 2026 US Dist. LEXIS 37781 (SDCA 2026); *Tekbas v LaRose,* 2025 US Dist. LEXIS 268487 (SDCA 2025.) See also *J.Y.L.C. v. Bostock,* 2025 US Dist. LEXIS 222436 (DOR 2025) (listing many cases across the country) and *Mercado v Francis*, 2025 U.S. Dist. LEXIS 232876 (SDNY 2025) (Appendix A, citing 350 cases across the country)

38. Courts have rejected DHS's and EOIR's new interpretation because it defies the INA. The government's recently adopted position also ignores the text of § 1225(b)(2). For §

---

[3] *Yajure Hurtado* was recently abrogated in *Maldonado Bautista v Santacruz*, 2025 US Dist. LEXIS 262265 (CDCA 2025) but, upon information and belief, immigration judges are still following the guidance in *Yajure Hurtado*

1225(b)(2) to apply, an examining immigration officer must make three separate determinations: that a person is 1) an applicant for admission; 2) seeking admission; and 3) not clearly and beyond a doubt entitled to be admitted. Section 1225(a)(1) 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." The term "seeking admission . . . necessarily implies some sort of present-tense action." *Zayas v. Gordon*, supra, at *6. The government's interpretation that all inadmissible individuals are "seeking admission" within the meaning of § 1225(b) renders the meaning of the term identical to the statutorily defined term "applicant for admission." Such an interpretation violates rule of surplusage and negates the plain meaning of text.

39. The legislative history further shows that § 1226(a) was intended to "restate[] the [then-]current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." *Rodriguez v Bostock*, 779 F. Supp. 3d 1239, 1260 (WDWA 2025) (quoting H R. Rep. No. 104-469, at 229 (1996)). Indeed, shortly after IIRIRA's enactment, the former Immigration and Naturalization Service and the Executive Office for Immigration Review ("EOIR," which houses the Immigration Courts and BIA) issued an interim rule to implement the statute that expressly stated: "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." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

40. Thus, for almost 30 years, all participants in the immigration system have understood that people arrested inside the United States generally fall within § 1226 for detention purposes and therefore, unless subject to bars not applicable here, are required to receive a bond hearing upon request—even if they initially entered the country without permission. Such a longstanding and consistent interpretation "is powerful evidence that interpreting the Act in [this] way is natural and reasonable." *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J.,

dissenting); *see also Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying in part on "over 60 years" of government interpretation and practice to reject government's new proposed interpretation of the law at issue).

41. The LRA amendments to § 1226 that occurred recently, § 119, 139 Stat. 3, also confirmed widespread understanding that individuals not admitted or paroled were still detained pursuant to § 1226(a) if they were detained while already in the United States. Congress expressly included inadmissible individuals who have been convicted of certain crimes as subject to mandatory detention under § 1226(c)(1)(E). Again, if every noncitizen who was present without being admitted was already subject to mandatory detention under § 1225(b)(2), Congress would have had no reason to pass an entirely new provision in order to make those individual subject to mandatory detention under § 1226(c)(1)(E) if they committed one of the listed crimes.

42. Petitioner was arrested after more than two years of continuous presence in the United States, not while "seeking admission." Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended. His detention is governed by § 1226(a), and his continued detention under § 1225(b)(2) is in excess of statutory authority and *ultra vires.*

b. Noncitizens' Procedural Due Process Rights

43. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). As clearly enunciated by the Supreme Court, the protection of the Due Process Clause applies to noncitizens in the United States "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001) (citations omitted).

44. Stated simply, "while [DHS] might want to enforce this country's immigration laws efficiently, it cannot do that at the expense of fairness and due process." *Ceesay v.*

1 *Kurzdorfer*, 2025 WL 1284720, at *1 (WDNY 2025) (citing *United States ex. rel Accardi v*
2 *Shaughnessy*, 347 U.S. 260, 266–68 (1954)).
3 45. Further, noncitizens are entitled to procedural due process protections, even in the
4 face of policy shifts between administrations. While a "new administration can change the
5 rules . . . it cannot change them and make up new rules as it goes along when the new rules
6 abridge constitutional rights." *Velasquez v. Kurzdorfer*, 2025 WL 1953796, at *14 (WDNY
7 2025).
8
9 46. In the context of immigration detention due process claims, courts, including in
10 the Ninth Circuit, have applied the three-factor balancing test set forth in *Mathews v. Eldridge* to
11 determine what due process requires. See, i.e. *Rodriguez-Diaz v. Garland,* 53 F.4th 1189 (9th Cir.
12 2022.) These factors are: (i) the private interest that will be affected by the official action; (ii) the
13 risk of an erroneous deprivation of such interest through the procedures used, and the probable
14 value, if any, of additional or substitute procedural safeguards; and (iii)the Government's
15 interest, including the function involved and the fiscal and administrative burdens that the
16 additional or substitute procedural requirement would entail *Torres v. Hermosillo,* 2026 US
17 Dist. LEXIS 36722 (WDWA 2026)
18
19 47. In light of a noncitizen's due process rights and the procedural rights conferred by
20 Section 1226(a) and the implementing regulations, a decision to detain a noncitizen requires an
21 individualized determination as to the noncitizen's risk of flight and danger to the community.
22 *See Velesaca v Decker*, 458 F. Supp. 3d 224, 235 (SDNY 2020); *Lopez Benitez*, 2025 WL
23 2371588, at *10, *Kelly v Almodovar*, 2025 WL 2381591, at *3 (SDNY 2025).
24
25 48. Under the *Mathews* rubric, freedom from imprisonment, physical restraint, or
26 other forms of government custody is "the most elemental of liberty interests." *Hamdi v.*
27 *Rumsfeld*, 542 U.S. 507, 529 (2004); *Lopez Benitez*, 2025 WL 2371588, at *9 ("[Petitioner]
28 invokes the most significant liberty interest there is—the interest in being free from

imprisonment") (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)) (citing *Hamdi*, 542 U.S. at 529); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (NDCA 2019) (noncitizens in immigration custody had an arguably even greater liberty interest in remaining out of detention than criminal parolees who required due process protection).

49. With respect to the second *Mathews* factor, given the strong liberty interest at stake, the Fifth Amendment's guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. *Trump v. J G G.*, 604 U.S. 670, 673 (2025). Further, due process requires that "notice must be afforded within a reasonable time and in such manner as will allow [noncitizens] to actually seek . . . relief[.]" *Id.*

50. For the third *Mathews* factor, "the Attorney General's discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate government purpose." *Velasco Lopez*, 978 F.3d at 854. The recognized government interests in immigration detention are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Zadvydas*, 533 U.S. at 690. Where, as in this case, the individual was released after an evaluation as to dangerousness and risk of flight, re-detention generally requires a showing of a material change in circumstances. *Torres v Hermosillo,* supra, at *16; *Saravia v. Sessions,* 280 F.Supp.3d 1168, 1197 (NDCA 2017), *aff'd sub nom. Saravia for A H. v. Sessions,* 905 F.3d 1137 (11th Cir. 2018.)

51. Recent decisions by federal courts in various jurisdictions confirm that due process requires the government to make individualized determinations to detain noncitizens and give them notice and a meaningful opportunity to be heard when challenging their detention. Further, if a noncitizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. This is particularly clear where, as in the instant case, the government, by

releasing Petitioner in 2023 already made a determination that he was not a flight risk or a danger - no change of circumstance justifies re-detention.

52. As a result, many courts have ordered a noncitizen's immediate release where their pre-detention due process rights have been violated. Here, immediate release is appropriate because Respondents have not—and cannot—show that they conducted an individualized determination regarding Petitioner before re-detaining him on January 12, 2026, especially given his status as an unaccompanied minor. *Tekbas v. LaRose,* 2025 US Dist. LEXIS 268487 (SDCA 2025) (granting immediate release to petitioner who entered the US in 2023 and was released on his own recognizance the next day, but then was detained by ICE in October, 2025); *Cornejo v. Andrews,* 2026 US Dist. LEXIS 17546 (EDCA 2026)(granting immediate release to petitioner who entered the US in 2024 as an unaccompanied minor and was then detained at an ICE check-in on November 9, 2025); *F S S M v Wolford,* 2025 US Dist. LEXIS 254953 (EDCA 2025)(granting immediate release to petitioner who entered the US in 2019 as an unaccompanied minor and was then detained by ICE while working on August 6, 2025); *Carranza v. Chestnut,* 2026 US Dist. LEXIS 40156 (EDCA 2026)(granting immediate release to petitioner who entered the US in 2023 as an unaccompanied minor and was then detained at an ICE check-in on December 29, 2025)

53. In the alternative, Petitioner seeks at a minimum a bond hearing within 7 days of the decision herein.

c. Unaccompanied Minor Status

54. Because Mr. Guaman-Pinto entered the United States as an unaccompanied minor, and was then released pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA), he has a very strong liberty interest because "[p]etitioner's release pursuant to the TVPRA created a reasonable expectation that he would be entitled to retain his liberty under the TVPRA's protection." *.S.S M v. Wolford,* supra, at *13.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

55. In addition, the TVPRA mandates that the government place unaccompanied minors in the "least restrictive setting" possible, in the best interests of the child. *Cornejo v Andrews*, supra, at *18. And in releasing Petitioner, HHS had to have concluded that he was neither a flight risk nor a danger to the community. *Id*, at *20.

d. Fourth Amendment Issues

56. The Fourth Amendment bars arrest without probable cause or a proper warrant. *See, e.g*, *Gamez Lira v Noem*, 2025 WL 2581710, at *3–4 (DNM 2025) (finding habeas petitioner's Fourth Amendment claim likely to succeed in showing arrest and continued detention unconstitutional when Respondents failed to make a probable cause determination before re-arresting and detaining noncitizen in removal proceedings). In this case, Petitioner was arrested only because he was a passenger in a car which was pulled over by law enforcement, and ICE then decided to detain him unlawfully.

57. The appropriate remedy for this violation is release from detention. *See, e.g*, *Rosado v Figueroa*, 2025 US Dist. LEXIS 156344, at *51-53 (DAZ 2025), *report and recommendation adopted*, 2025 U.S Dist. LEXIS 156336 (ordering habeas petitioner's "release from detention . . . granted because her Fourth Amendment rights were violated.").

C. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION:

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a) AND IMPLEMENTING REGULATIONS

58. Petitioner realleges and incorporates by reference each and every allegation contained above.

59. Petitioner was, at the time of arrest and detention by Respondents, *not* "seeking admission" to the United States He was already residing in the United States. Section 1226 governs the detention of individuals residing within the United States, like Petitioner, and implements a discretionary detention regime with the opportunity for release.

60. Because Petitioner was not "seeking admission," he is not lawfully detained under 8 U.S.C. § 1225(b)(2) and his detention pursuant to that statute is *ultra vires* and not lawful.

61. Rather, the proper statutory interpretation of the INA, consistent with decades of practice, is that an individual in Petitioner's circumstances who is placed into removal proceedings is detained under 8 U.S.C. § 1226(a.) Because Petitioner detention should be governed by Section 1226, the application of the mandatory detention statute, 8 U.S.C. §1225(b), to Petitioner is unlawful under the Immigration and Nationality Act.

SECOND CAUSE OF ACTION:

ICE'S FAILURE TO EXERCISE ITS DISCRETION VIOLATES DUE PROCESS AND THE IMMIGRATION AND NATIONALITY ACT U.S. CONST. AMEND. V; 8 U.S.C. § 1226(a)

62. Petitioner realleges and incorporates by reference each and every allegation contained above.

63. Because Petitioner was detained by ICE under a discretionary statute, 8 U.S.C. § 1226(a), the agency was required to exercise its discretion in deciding whether or not to detain

him. However, because ICE arrested and detained Petitioner under 8 U.S.C. § 1225(b)(2), the agency necessarily failed to exercise its discretion.

64. By refusing to exercise any discretion at all in his case, ICE denied Petitioner the process that he was due under the discretionary detention statute, violating both the statute itself and the Due Process Clause of the Constitution.

THIRD CAUSE OF ACTION:

ICE'S DETENTION OF PETITIONER VIOLATES DUE PROCESS BECAUSE HE WAS RELEASED UNDER THE TVPRA

65. Petitioner realleges and incorporates by reference each and every allegation contained above.

66. The Because Petitioner was detained by ICE after being released pursuant to the TVPRA, his detention is a violation of his due process rights. *F.S S M. v Wolford,* supra; *Cornejo v Andrews,* supra.

FOURTH CAUSE OF ACTION:

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

67. Petitioner realleges and incorporates by reference each and every allegation contained above.

68. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious or contrary to law. 5 U.S.C. § 706(2)(A). ICE officers' authority to conduct warrantless arrests is prescribed in 8 U.S.C. 1357(a)(2). That statute requires that officers have "reason to believe" a person is in the U.S. in violation of laws *and* "is likely to escape before a warrant can be obtained for his arrest." That assessment must be individualized.

69. Upon information and belief, no individualized assessment of flight risk was conducted for Petitioner and Respondents did not have probable cause to believe he was likely to escape before a warrant could be obtained.

70. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs Ass'n of U S , Inc. v State Farm Mut Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). An agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

71. Respondents' decision to detain Petitioner and suddenly subject him to mandatory detention under Section 1225(b)(2) irrespective Petitioner's individual circumstances, is arbitrary and capricious and contrary to law.

FIFTH CAUSE OF ACTION

VIOLATION OF THE FOURTH AMENDMENT TO THE CONSTITUTION (FREEDOM FROM UNLAWFUL STOP AND SEIZURE)

72. Petitioner realleges and incorporates by reference each and every allegation contained above.

73. The Fourth Amendment protects "the right of the people to be secure in their persons . . . against unreasonable searches and seizures" and establishes that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing . . . the persons or things to be seized." U.S. Const. amend. IV.

74. Except at the border and its functional equivalents, the Fourth Amendment prohibits Respondents from conducting a detentive stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States. *See United States v Brignoni-Ponce*, 422 U.S. 873, 884 (1975). The Government bears the burden of providing

"specific and articulable facts" to support reasonable suspicion. *See Terry v. Ohio*, 392 U.S. 1, 21 (1968).

75. Petitioner's detention violates the Fourth Amendment because he was arrested without probable cause or a proper warrant. *See, e g , Gamez Lira v Noem*, No. 1:25-CV-00855, 2025 WL 2581710, at *3–4 (D.N.M. Sept. 5, 2025) (finding habeas petitioner's Fourth Amendment claim likely to succeed in showing arrest and continued detention unconstitutional when Respondents failed to make a probable cause determination before re-arresting and detaining noncitizen in removal proceedings).

76. The appropriate remedy for this violation is release from detention. See, i.e. *Rosado v. Figueroa,* 2025 US Dist. LEXIS 156344, at *51-53 (DAZ 2025), *report and recommendation adopted*, 2025 U.S. Dist. LEXIS 156336 (ordering habeas petitioner's "release from detention . . . granted because her Fourth Amendment rights were violated ").

PRAYER FOR RELIEF

WHEREFORE, Mr. Guaman-Pinto requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Mr. Guaman-Pinto's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

c. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from custody without any additional restraints on his liberty (as occurred in *Tekbas v. LaRose,* 2025 US Dist. LEXIS 268487 [SDCA 2025]), and enjoining any re-detention under 8 U.S.C. § 1225(b)(2);

d. In the alternative, the Court should conduct a constitutionally adequate, individualized bond hearing for the Petitioner within fourteen days. If, instead, Respondents are ordered to carry out such a hearing in front of an impartial adjudicator, the Court should direct that at that hearing:

1. ICE must bear the burden of establishing by clear and convincing evidence that continued detention is justified;

2. Especially given the prior release under TVPRA, the adjudicator must meaningfully consider alternatives to imprisonment such as release on recognizance, parole or electronic monitoring; and

3. The adjudicator must meaningfully consider Petitioner's ability to pay if setting a monetary bond.

e. Award Petitioner costs and reasonable attorneys' fees; and

f. Order such other relief as this Court may deem just and proper.

Respectfully submitted this 18th day of March, 2026.

By: s/ Frederick Carroll
Frederick Carroll (CA Bar No. 227628)
Andres Holguin-Flores (CA Bar No. 305860)
ACLU Foundation of San Diego and Imperial Counties
2760 Fifth Ave #300
San Diego, California 92101
(619) 232-2121
fcarroll@aclu-sdic.org
aholguinflores@aclu-sdic.org

Kathy Manley NYS 3935467*
Law Office of Kathy Manley
26 Dinmore Road
Selkirk, NY 12158
518-635-4005
Mkathy1296@gmail com

**Pro hac vice forthcoming*

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2026, I caused a true and correct copy of the foregoing document to be filed with the Clerk of the Court for the United States District Court – Southern District of California by using the CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the CM/ECF system.

/s/Andres Holguin-Flores

Andres Holguin-Flores