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April 27, 2026

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION**

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Gustavo Daniel LUNA-SANCHEZ,

Petitioner,

v.

Christopher J. LAROSE, in his official capacity  
as Warden of Otay Mesa Detention Center;  
Daniel A. BRIGHTMAN, in his official capacity  
as San Diego Field Office Director (FOD),  
Immigration & Customs Enforcement (ICE)  
Enforcement and Removal Operations (ERO);  
Todd LYONS, in his official capacity as Acting  
Director of ICE; and Markwayne MULLIN,  
in his official capacity as Secretary of Homeland  
Security, Todd BLANCHE, U.S. Attorney  
General; ICE;  
DEPARTMENT OF HOMELAND SECURITY,

Respondents.

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File No: '26CV2659 BJC BJW

Agency ID: 

**PETITION FOR WRIT  
OF HABEAS CORPUS &  
ORDER TO SHOW  
CAUSE; COMPLAINT  
FOR DECLARATORY  
& EMERGENCY  
RELIEF**

Petitioner Gustavo LUNA-SANCHEZ, through undersigned Pro Bono Counsel here, petitions this Court for a writ of Habeas Corpus under 28 U.S.C. section 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

## **I. INTRODUCTION**

1. Mr. LUNA-SANCHEZ is a Venezuelan asylum seeker detained at Otay Mesa Detention Center in San Diego, California. The torture he suffered in Venezuela includes being forced to maintain a standing position under running water for an entire night, being forced to stand all day in the sun while carrying a backpack full of rocks, being locked in a room full of tear gas, and deprivation of food and water over the course of five days.

2. On or about August 28, 2023, Mr. LUNA-SANCHEZ entered the United States. Border agents apprehended Mr. LUNA-SANCHEZ and he was detained for ten days.

3. Mr. LUNA-SANCHEZ was subsequently released on his own Recognizance<sup>1</sup> on September 6, 2023, and was issued a Notice to Appear ("NTA" DHS form I-862)<sup>2</sup> with a future hearing date of February 15, 2024.

4. Mr. LUNA-SANCHEZ then traveled from Texas to San Diego, California, to live with his step-father. Mr. LUNA-SANCHEZ filed an E-33 with

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<sup>1</sup> Exhibit A: DHS Form I-220A, Order of Release on Recognizance, dated September 6, 2023.

<sup>2</sup> Exhibit B: DHS Form I-862, NTA, dated September 6, 2023.

the immigration court, showing his change of address on February 12, 2024.

5. Since his release from custody, Mr. LUNA-SANCHEZ has complied with all terms of his release and has remained law-abiding.

6. On November 20, 2025, almost 2 years after Mr. LUNA-SANCHEZ entered the U.S., ICE approached Mr. LUNA-SANCHEZ while he was getting in a car and requested his documents. Mr. LOPEZ-FLORES showed the ICE officers his documents on his cell phone, and ICE officers seized the phone, turned it off, and took Mr. LOPEZ-FLORES into custody, without a warrant.

7. Mr. LUNA-SANCHEZ was not served with a new charging document after this arrest on November 20, 2025.

8. The government has not justified why Mr. LUNA-SANCHEZ was arrested on November 20, 2025, nor why he remains detained almost six months later. Moreover, ICE has not raised any bars to relief in Immigration Court based on support for known terrorist groups or history of committing particular serious crimes.

9. Mr. LUNA-SANCHEZ has never missed an ICE check-in appointment nor an Immigration Court hearing despite being unrepresented at the time.

10. Mr. LUNA-SANCHEZ's arrest is part of a new, nationwide DHS strategy of sweeping up people in the field, detaining them, and seeking to re-route them to fast-track deportations. Since early 2025, DHS has implemented a coordinated practice of leveraging immigration detention to strip people like Mr. LUNA-

SANCHEZ of their substantive and procedural rights and pressure them into deportation.<sup>3</sup> Immigration detention is civil, and thus is permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. But DHS did not arrest and detain Mr. LUNA-SANCHEZ — who demonstrably poses no risk of absconding from immigration proceedings or danger to the community—for either of these reasons. This stands in contrast to any claim by the government that it respects *legal* immigration. Here, Mr. LUNA-SANCHEZ complied with all terms of his release from immigration custody, has no criminal history, has presented himself for all immigration hearings and has been in removal proceedings for almost two years.

11. Despite apprehending Mr. LUNA-SANCHEZ without notice or due process, he is placed at risk of being transferred away from the Southern District of California while he remains in Respondents' physical and legal custody. *See* 8 U.S.C. § 1225. Respondents do so based not on Mr. LUNA-SANCHEZ's personal circumstances or individualized facts, but instead based on this nationwide strategy of sweeping up people in the field, detaining them, and seeking to re-route them to fast-track deportations.

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<sup>3</sup> Steve Price, *Video shows ICE agents arresting immigrants at San Diego federal courthouse, raising due process concerns*, CBS8 LOCAL NEWS (June 11, 2025, 5:40 p.m. PDT), <https://www.cbs8.com/article/news/local/video-ice-agents-arrest-immigrants-at-san-diego-federal-courthouse-raises-due-process-concerns/509-49745585-774b-4144-81ff-3486c5fadbe9> (last visited January 8, 2026) (“The exact number of arrests is unclear, but footage shows agents detaining people immediately after court appearances.”).

12. The Fourth Amendment protects “[t]he right of the people to be secure in their persons...against unreasonable searches and seizures.” U.S. Const. Amend. IV.

13. The Constitution protects Mr. LUNA-SANCHEZ —and every other person present in this country—from arbitrary deprivations of his liberty, and guarantees his due process of law. The government’s power over immigration is broad, but as the Supreme Court has declared, it “is subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

14. “Except at the border and its functional equivalents,” immigration agents may stop individuals in public only after identifying “specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion” of a violation of immigration law. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975).

15. Immigration officers may arrest an individual without a warrant in limited circumstances. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012) (noting strong Congressional preference, as expressed in INA, for immigration arrests to be based on warrants).

16. The INA permits warrantless arrest if an immigration officer has reason to believe that a noncitizen (1) is in the United States in violation of the immigration laws and (2) “is likely to escape before a warrant can be obtained for his arrest”. 8 U.S.C. § 1357(a)(2); accord 8 C.F.R. § 287.8(c)(2)(i)-(ii). An officer has “reason to believe” when they have the equivalent of “the constitutional requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2<sup>nd</sup> 721, 725 (9<sup>th</sup> Cir. 1980).

17. Mr. LUNA-SANCHEZ seeks declaratory and injunctive relief to compel his immediate release from the immigration detention where he has been held by DHS since being unlawfully detained on November 20, 2025, without first being provided a due process hearing to determine whether his incarceration is justified.

18. Merely compelling the Immigration Court to grant him a bond hearing would not be equitable here given that the minimum bond those courts can set is one thousand five hundred dollars (\$1500). This would not put Mr. LUNA-SANCHEZ back in the position he found himself in before this deprivation of freedom because he would have to pay money for his release. This is especially burdensome given that Mr. LUNA-SANCHEZ’s ability to earn income was disrupted by this arrest.

19. Furthermore, a bond hearing before the Immigration Court would also be inadequate because of a new DHS policy where their attorneys appeal all bonds granted by Immigration Judges (IJ), even if set by virtue of Habeas Petitions. This results in continued detention by virtue of a stay of an IJ’s order, thus undermining

the granting of a Writ of Habeas Corpus grant.

20. Mr. LUNA-SANCHEZ therefore seeks a Writ of Habeas Corpus directing his immediate release.

21. In the alternative, Mr. LUNA-SANCHEZ seeks writ of Habeas Corpus directing a custody redetermination hearing in Immigration Court based on his prolonged detention wherein the government bears the burden to show Petitioner should not be released based on danger to the community or flight risk.

## **II. VENUE AND JURISDICTION**

22. This Court has jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus), 28 U.S.C. § 1331 (federal question jurisdiction), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act), as Mr. LUNA-SANCHEZ is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

23. The federal district courts have jurisdiction under Section 2241 to hear Habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018); *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 787 (2001) (same); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at 3 (D. Or. July 9, 2025) (same); *Garcia v.*



*Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at 7 (E.D. Cal. Aug. 21, 2025) (same).

24. Venue is proper because Mr. LUNA-SANCHEZ is detained in the Otay Mesa Detention Center, within the San Diego District, and Christopher J. LAROSE, in his official capacity as Warden of Otay Mesa Detention Center; and Daniel A. BRIGHTMAN, in his official capacity as San Diego Field Office Director (AFOD), as his immediate custodians. *See* 28 U.S.C. §§ 2241(d), 1391(e); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (Habeas Petition must be addressed to the federal district court of confinement). For these same reasons, venue should be found proper under Local Civil Rule HC.1.

### III. PARTIES

25. Petitioner, Mr. LUNA-SANCHEZ, is a 29-year-old Venezuelan being held in San Diego, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

26. Respondent Christopher J. LAROSE is the Warden of Otay Mesa Detention Center. Respondent LAROSE is responsible for the operation of the Detention Center where Mr. LUNA-SANCHEZ is detained. As such, Respondent LAROSE has immediate physical custody of the Petitioner. He is being sued in his official capacity.

27. Daniel A. BRIGHTMAN, in his official capacity as San Diego Field



Office Director, ICE-ERO. Respondent BRIGHTMAN is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent BRIGHTMAN is being sued in his official capacity.

28. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Mr. LUNA-SANCHEZ and is being sued in his official capacity.

29. Respondent Markwayne MULLIN is the Secretary of the Department of Homeland Security (“DHS”). As Secretary of DHS, Secretary MULLIN is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary MULLIN is being sued in his official capacity.

30. Respondent ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention, custody status, and removal of non-citizens.

31. Respondent DHS is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

#### **IV. EXHAUSTION OF REMEDIES**

32. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing*

*v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

33. Petitioner's previous parole was already revoked with this most recent warrantless arrest on November 20, 2025, thus this remedy against his initial detention two years earlier has failed.

34. Therefore, Mr. LUNA-SANCHEZ has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

## V. STATEMENT OF FACTS

35. Mr. LUNA-SANCHEZ entered the United States near El Paso, Texas on or about, **August 28, 2023**<sup>4</sup> and was arrested by border patrol agents.

36. Shortly thereafter, DHS determined Mr. LUNA-SANCHEZ was not a flight risk nor danger to the community, and released him on his own recognizance<sup>5</sup> on September 6, 2023.

37. Mr. LUNA-SANCHEZ was issued a Notice to Appear<sup>6</sup> ("NTA") with a future hearing date of February 15, 2024, and was ordered to report to an ICE office on October 19, 2023.

38. Mr. LUNA-SANCHEZ traveled from Texas to San Diego, California,

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<sup>4</sup> See Exhibit C: DHS Form I-213, Record of Deportable/Inadmissible Alien, dated September 6, 2023.

<sup>5</sup> See Exhibit A.

<sup>6</sup> See Exhibit B.

to live with his step-father. Mr. LUNA-SANCHEZ complied with the terms of his release and he remained law abiding.

39. On November 20, 2025, two years after Mr. LUNA-SANCHEZ entered the U.S., ICE arrested him without a warrant. Mr. LUNA-SANCHEZ was not served with a new charging document.

40. DHS has not justified why Mr. LUNA-SANCHEZ was detained.

41. Mr. LUNA-SANCHEZ has no criminal record and no prior immigration violations.<sup>7</sup>

42. Mr. LUNA-SANCHEZ's Individual Merits hearing was supposed to be held on April 6, 2026. However, the Immigration Court vacated the Merits hearing five minutes before the hearing was to take place. Mr. LUNA-SANCHEZ's rescheduled Individual Merits Hearing date is April 30, 2026.

## **VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT**

43. Habeas Corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

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<sup>7</sup> See Exhibit C.

44. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue Habeas Corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

## VII. CAUSES OF ACTION

### COUNT ONE (PROCEDURAL DUE PROCESS)

45. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

46. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001); *Trump v. J. G. C.*, 604 U.S. 670, 673 (2025)(“The Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.”).

47. Applying Zadvydas v. Davis, 533 U.S. 678, 698 (2001), Petitioner's liberty interest is paramount; the risk of deprivation of Mr. LUNA-SANCHEZ's interest is extreme considering the lack of a non-independent adjudicator here, the five-month absence from his family, and the mental suffering caused by the arbitrary arrest and detention.

48. Mr. LUNA-SANCHEZ has a vital liberty interest in remaining free from DHS custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at 4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension "has a substantial private interest in remaining out of custody" which includes an interest in "...obtaining necessary medical care, [and] maintaining her relationships in the community..."). While on release from DHS custody, Mr. LUNA-SANCHEZ was building his emotional support system that allowed him to deal with the emotional trauma he suffered in Venezuela.

49. While the government has discretion to detain individuals this discretion is not "unlimited" and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698. Moreover, 8 CFR §§241.4 and 241.13 address re-detention of longtime supervisees.

50. A noncitizen "who has been released under an order of supervision or

other conditions of release" who then "violates the conditions of release may be returned to custody." 8 C.F.R. § 241.4(l)(1) and 241.13 (h)(4)(i). Under this provision, "[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release," after which "[t]he alien will be afforded an initial informal interview promptly after his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." Here, Respondents never stated reasons for revoking Petitioner's release, and Petitioner was never given an opportunity to respond, in violation of 8 C.F.R. § 241.4(l)(1) 241.13 and 241.13 (h)(4)(i).

**COUNT TWO  
(SUBSTANTIVE DUE PROCESS)**

51. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

52. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

53. The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

54. Due process requires that government action be rational and non-

arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

55. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

56. Given that government filings with the Immigration Court show Mr. LUNA-SANCHEZ has no criminal history, no prior immigration violations, no indications he will abscond, and he complied with all ICE check-ins,<sup>8</sup> the Government’s continued detention here serves no legitimate purpose. Thus, continued confinement bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary and capricious.

**COUNT THREE**  
**(SUBSTANTIVE DUE PROCESS)**

**Violation of the Administrative Procedure Act (APA) – 5 U.S.C. § 706(2)(A)**  
**Not in Accordance with Law and in Excess of Statutory Authority, Unlawful**  
**Detention**

57. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

58. Under the APA, a court shall “hold unlawful and set aside agency action...” that is “...(A) arbitrary, capricious, an abuse of discretion, or otherwise

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<sup>8</sup> See Exhibit C.



not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-(B).

59. 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.*, U.S. 29, 43 (1983)).

60. To survive an APA challenge, the 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). No such explanation exists here.

61. The INA provides that Respondents may, as they did in 2023 in Petitioner’s case, release an individual from apprehension or custody based on an individualized determination of their danger and flight risk. See 8 U.S.C. § 1226(a); *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). After such a release decision is made, a revocation of the custody determination may be made only when warranted by an individual’s specific facts and circumstances. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9). Again, no such facts or circumstances

have been presented here by the DHS.

62. In *Y-Z-H-L v Bostock*, 2025 WL 1898025, at 10-12 (D. Or. July 9, 2025), the Court explained the process of discretionary release from custody in immigration cases and noted that before revoking the release, the non-citizen must be given written notice of the impending revocation, which must include a cogent description of the reasons. Under the APA, non-citizens are entitled to determinations related to their release revocations that are not arbitrary, capricious or an abuse of discretion. See *Id.* at 10.

63. By categorically revoking Mr. LUNA-SANCHEZ's release from DHS custody, and detaining him without notice or consideration of his individualized facts and circumstances, Respondents have violated the INA, and implementing regulations, and the APA.

64. Respondents have made no finding that Petitioner is a danger to the community.

65. Respondents have made no finding that Petitioner is a flight risk because, in fact, he was in compliance with all required check-ins and monitoring.

66. On information and belief, by detaining Mr. LUNA-SANCHEZ categorically and without notice, Respondents have further abused their discretion because, since the agency made its initial custody determination, on information and belief, there have been no changes to Mr. LUNA-SANCHEZ's specific facts or

circumstances that support the revocation of his release from custody on his own recognizance.

67. Respondents have already considered Mr. LUNA-SANCHEZ's facts and circumstances and determined that he was not a flight risk or danger to the community. This is why he was released on his own recognizance in 2023. On information and belief, there have been no changes to the facts of Mr. LUNA-SANCHEZ's proceedings that justify this revocation of his release from DHS custody. The fact that Mr. LUNA-SANCHEZ has previously been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider Mr. LUNA-SANCHEZ, on an individualized basis, to be a danger to the community or a flight risk.

#### **COUNT FOUR**

##### **Violation of the Fourth Amendment of the Constitution**

68. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

69. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. The Supreme Court has recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil,

but the Fourth Amendment still applies to the “seizure” of the person).

70. The Fourth Amendment requires that arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

71. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration officers with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

72. Mr. LUNA-SANCHEZ, at the moment of the arrest by Respondents, was lawfully present based on Respondents’ prior grant of release from DHS

custody.<sup>9</sup> He did not receive any judicial determination of probable cause for his arrest or continued detention by Respondents.

73. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment's reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. Mr. LUNA-SANCHEZ was granted release from DHS custody in 2023 and did not pose any danger to any person in the community at large.

74. Respondents' warrantless arrest of Mr. LUNA-SANCHEZ constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of Habeas Corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision because merely compelling the Immigration Court to grant a bond hearing would not be equitable here given that the minimum bond courts can set is one thousand five hundred dollars (\$1500). This would not put Mr. LUNA-SANCHEZ back in the position he found himself in before this deprivation of freedom because he would have to pay money for his release. This would be an unreasonable burden given that Mr. LUNA-SANCHEZ's ability to earn income was disrupted by this arrest.

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<sup>9</sup> See Exhibit A.

- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Order discharge on admitted facts without a hearing pursuant to *Walker v. Johnston*, 312 U.S. 275, 284 (1941); *Tijerina v. Thornburgh*, 884 F.2d 861, 866 (5th Cir. 1989).
- 6) Alternatively, issue a writ of Habeas Corpus requiring Respondents to release Petitioner unless they provide a bond hearing with an Immigration Judge under 8 U.S.C. § 1226(a) within seven days;
- 7) Alternatively, issue a writ of Habeas Corpus requiring the Immigration Court find they have jurisdiction to hold a bond hearing;
- 8) Alternatively, issue a writ of Habeas Corpus requiring, as a matter of equity, the Immigration Court grant release without bond if it finds Petitioner is not a danger to the community or a flight risk;
- 9) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- 10) Grant any other and further relief which this Court deems just and proper.

Respectfully submitted April 27, 2026.

/s/Eduardo (Ed) Perez  
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