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**UNITED STATES DISTRICT COURT**
**FOR THE MIDDLE DISTRICT OF GEORGIA**
**COLUMBUS DIVISION**

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| LUIS ORLANDO LAVANDERO PÉREZ, by and through his Next Friend, BIBIANA GUADALUPE ORTIZ ACUÑA, | ) | Civil Action No. _____ |
| Petitioner, | ) | |
| v. | ) | |
| WARDEN, in his or her official capacity, Stewart Detention Center; | ) | |
| SEAN GALLAGHER, in his official capacity as Field Office Director, U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Atlanta Field Office; | ) | |
| DAVID VENTURELLA, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; | ) | |
| KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; | ) | |
| PAMELA BONDI, in her official capacity as Attorney General of the United States, | ) | |
| Respondents | ) | |

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241; VERIFIED EMERGENCY MOTION FOR IMMEDIATE BOND HEARING OR RELEASE AND FOR EXPEDITED CONSIDERATION**

Petitioner Luis Orlando Lavandero Pérez, by and through his Next Friend, Bibiana Guadalupe Ortiz Acuna, appearing pro se, respectfully submits this Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, together with a Verified Emergency Motion for Immediate Bond Hearing or Release, and in support thereof states as follows:

## I. INTRODUCTION

1. Petitioner Luis Orlando Lavandero Pérez ("Petitioner" or "Mr. Lavandero Pérez"), A# [redacted] by and through his Next Friend, Bibiana Guadalupe Ortiz Acuna, respectfully petitions this Court for a Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging his continued civil immigration detention by the U.S. Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE") at the Stewart Detention Center in Lumpkin, Georgia, within the Middle District of Georgia, Columbus Division.

2. Petitioner is not an undocumented immigrant awaiting a first determination of his status. He is a lawful permanent resident of the United States — a status carrying with it settled expectations of stability, family unity, and continued residence in this country. Notwithstanding that status, Petitioner has now been held in ICE custody for approximately twenty (20) days, since on or about July 30, 2026, without ever having received a bond hearing before an Immigration Judge, without any individualized determination that his continued confinement is necessary, and without any opportunity to be heard on the question of his release.

3. The manner in which Petitioner was taken into custody underscores the absence of any urgent public-safety justification for his detention. Petitioner was not apprehended during the commission of any offense, nor was he the subject of an active fugitive operation. Rather, ICE agents contacted him by ordinary telephone call. An unfamiliar number called Petitioner once while he was at work, and he did not answer. When the same number called a second time, Petitioner with nothing to hide and no reason to believe he was doing anything wrong — answered the call, explained that he was at work, and was asked to send his location so that ICE could perform what was described to him as a routine "verification." Petitioner cooperated fully and voluntarily. He was taken into custody shortly thereafter.

4. The predicate for Petitioner's detention traces back to a single domestic-related matter involving his spouse, Next Friend Bibiana Guadalupe Ortiz Acuna, which had already been fully and finally resolved in the state criminal system well before ICE took him into custody. That matter was closed by way of a plea of nolo contendere, following which Petitioner was placed on probation. Notably, Petitioner had also previously faced an earlier, separate allegation of the same general nature involving his spouse; in that earlier matter he was found not guilty and released outright, as his spouse did not testify against him. When ICE took Petitioner into custody on July 30, 2026, it was this same underlying history already litigated, already resolved, and already accounted for through a term of supervised probation — that was again invoked as the basis for his detention.

5. Critically, Petitioner had complied, without exception, with every term of that probation. On every prior occasion when he was required to check in or was contacted by supervising authorities,

he appeared as required and was permitted to leave. Neither Petitioner nor his family had any reason to anticipate that a routine telephone contact would instead result in his being taken into ICE custody and held, to date, for weeks, without any hearing of any kind.

6 Petitioner's continued detention, without any bond hearing whatsoever, and without any individualized assessment of whether continued confinement is justified in light of his status as a lawful permanent resident, his fully resolved criminal history, and his unbroken record of compliance with the terms of his probation, violates the Due Process Clause of the Fifth Amendment and exceeds the authority granted to Respondents under the Immigration and Nationality Act ("INA") Petitioner further seeks emergency relief given the urgent and mounting needs of his family, including his two minor daughters, for whom he provides daily care and support, and who — together with Next Friend — now bear the burden of his prolonged, unexplained absence.

## II. JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(a) and (c)(3), which authorizes federal district courts to grant writs of habeas corpus to persons held "in custody in violation of the Constitution or laws or treaties of the United States." Jurisdiction further arises under 28 U.S.C. § 1331 and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. It is well settled that federal courts retain jurisdiction under § 2241 to review the legality of prolonged civil immigration detention, independent of any pending removal proceedings. See Zadvydas v. Davis, 533 U.S. 678 (2001); Demore v. Kim, 538 U.S. 510 (2003).

8. This Court is further authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651(a), and may fashion whatever remedy is necessary to ensure that Petitioner's constitutional rights are vindicated without further delay.

9. Venue is proper in this Court under 28 U.S.C. § 1391(e) and the immediate-custodian rule articulated in Rumsfeld v. Padilla, 542 U.S. 426 (2004), because Petitioner is presently confined at the Stewart Detention Center, located in Lumpkin, Georgia, within the Middle District of Georgia, Columbus Division. Because Petitioner is confined within this District at the time of filing, jurisdiction has properly attached and would not be defeated by any subsequent transfer. See Ex parte Endo, 323 U.S. 283 (1944).

## III. PARTIES

10. Petitioner Luis Orlando Lavandero Pérez, A# [redacted] is a native and citizen of Cuba and a lawful permanent resident of the United States, currently detained by ICE at the Stewart Detention Center in Lumpkin, Georgia. He has no final order of removal.

11. Next Friend Bibiana Guadalupe Ortiz Acuna is Petitioner's spouse. She brings this action on Petitioner's behalf under Rule 17(c) of the Federal Rules of Civil Procedure and the "next friend" doctrine recognized in Whitmore v. Arkansas, 495 U.S. 149 (1990). The basis for Next Friend standing is set forth in Section IV below.

12. Respondent Warden of the Stewart Detention Center is Petitioner's immediate custodian and is sued in his or her official capacity.

13. Respondent Sean Gallagher is the Field Office Director for ICE Enforcement and Removal Operations, Atlanta Field Office, which exercises custodial authority over the Stewart Detention Center. He is sued in his official capacity.

14 Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement. He is sued in his official capacity.

15. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. She is sued in her official capacity

16. Respondent Pamela Bondi is the Attorney General of the United States and is named in her official capacity insofar as her office retains authority over aspects of immigration adjudication relevant to this proceeding.

## IV. NEXT FRIEND STANDING

17. Under Whitmore v. Arkansas, 495 U.S. 149, 163–64 (1990), a next friend must show (a) an adequate explanation for why the real party in interest cannot appear on his own behalf, and (b) that the next friend is truly dedicated to that person's best interests and has a significant relationship with him. Both requirements are fully satisfied here.

18. First, Petitioner cannot practically appear on his own behalf. He is confined at the Stewart Detention Center, a large ICE facility in rural southwest Georgia, with limited and monitored access to a law library and to legal telephone calls, no meaningful ability to conduct legal research or access the federal electronic filing system, and no retained counsel. He has no realistic ability to draft, verify, and file a federal habeas petition, to marshal and present the legal grounds described herein, or to comply with this Court's procedural requirements, all while continuing to be held without any bond hearing or any hearing to test the basis for his continued detention. The very deprivation of liberty that gives rise to this Petition is itself the disability that prevents Petitioner from bringing it in his own name.

19. Second, Next Friend Bibiana Guadalupe Ortiz Acuna is Petitioner's spouse. She has an intimate, ongoing relationship with Petitioner, has direct personal knowledge of the facts alleged herein, and is genuinely and solely dedicated to protecting his best interests. She and Petitioner together raise their young daughter, A[redacted] and it is Next Friend who has borne, since July 30, 2026, the full weight of the household's daily needs in Petitioner's absence. That responsibility, far from creating any conflict of interest, is precisely what makes her uniquely positioned, and uniquely motivated, to protect Petitioner's fundamental right to be free from unlawful detention now. She has no interest in this matter adverse to Petitioner's, and she brings this Petition solely to secure his lawful release or, at minimum, a constitutionally adequate bond hearing.

## V. STATEMENT OF FACTS

20. Petitioner is a lawful permanent resident of the United States. He resides with his spouse, Next Friend Bibiana Guadalupe Ortiz Acuna, and their young daughter, A[redacted] for whom he provides daily care and financial support. Petitioner also has an elder daughter, A[redacted] who resides with her mother in Colorado and visits Petitioner during school vacations and other trips; Petitioner provides ongoing financial support for A[redacted] and remains actively involved in her life. Before his detention, Petitioner was employed and was an active, present figure in both of his daughters' lives.

21. On or about July 30, 2026, Petitioner received a telephone call from an unfamiliar number while he was at work. He did not recognize the number and did not answer the first call. Shortly afterward, the same number called a second time. This time Petitioner answered. He explained to the caller that he was working. The caller — who Petitioner would come to understand was affiliated with ICE — asked him to send his current location so that a "verification" could be carried out. Petitioner, believing this to be a routine matter and having nothing to hide, complied and sent his location as requested. He was taken into ICE custody shortly thereafter, without further explanation.

22. The circumstances of Petitioner's apprehension are significant: he was not fleeing, was not evading law enforcement, and cooperated fully and voluntarily with the request made of him. This is not the conduct of a person who poses a flight risk or a danger to the community; it is the conduct of a person who, up to that point, had no reason to believe that answering a phone call and identifying his whereabouts would result in his indefinite confinement.

23. Petitioner has one underlying criminal matter of significance, related to an allegation of domestic violence involving his spouse. That matter was resolved by way of a plea of nolo contendere, after which Petitioner was placed on probation. Petitioner had also previously faced an earlier, separate domestic-violence allegation involving his spouse, in which he was found not guilty and released, as his spouse did not testify against him at that time. When Petitioner was taken into ICE custody on July 30, 2026, this same, already-resolved history was again raised in connection with his detention, notwithstanding that it had already been fully addressed through the criminal justice system and through Petitioner's placement on probation.

24. Throughout the period of his probation, Petitioner appeared for every scheduled check-in and complied with every request made of him by supervising authorities. On each such occasion, he was permitted to leave following his appearance. Petitioner's record of compliance was, in other words, unblemished: every prior interaction with supervising authorities concluded with his continued liberty. Neither Petitioner nor Next Friend had any reason to believe that a future check-in, or the telephone contact described above, would instead result in Petitioner being taken into ICE custody and detained without a hearing.

25. Since July 30, 2026, Petitioner has remained in continuous ICE custody at the Stewart Detention Center. As of the date of this filing, Petitioner has been detained for approximately twenty (20) days, without ever having received any bond hearing, custody redetermination hearing, or any other hearing before an Immigration Judge addressing his eligibility for release or the propriety of any mandatory-detention classification applied to him.

26. Petitioner's continued detention has caused, and continues to cause, serious and compounding harm to his family. Next Friend is now solely responsible for the daily care of the couple's young daughter, A[redacted] including her daily needs, schooling, and emotional well-being, without the partnership and support Petitioner previously provided. Petitioner's elder daughter, A[redacted] has likewise been affected, as her visits with Petitioner and the financial support he provides have been disrupted. Petitioner's prolonged, unexplained absence has deprived this family of stability, income, and parental support at a time when it is needed most. Every additional day of detention without a hearing deepens that harm.

## VI. CLAIMS FOR RELIEF

**GROUND ONE: Violation of the Due Process Clause of the Fifth Amendment — Prolonged Detention Without Any Bond Hearing**

27. Petitioner re-alleges and incorporates by reference each of the foregoing paragraphs.

28. The Due Process Clause of the Fifth Amendment applies fully to noncitizens within the United States, and with particular force to lawful permanent residents such as Petitioner, who have made this country their home. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001) ("[O]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). Civil immigration detention is constitutionally permissible only where it serves a legitimate, non-punitive purpose and is accompanied by adequate procedural safeguards. See Demore v. Kim, 538 U.S. 510, 527–31 (2003) (assuming detention pending removal proceedings would last, on average, only a matter of weeks).

29. Petitioner has now been detained for approximately twenty (20) days — already a substantial period for a lawful permanent resident with an already-resolved criminal history and no risk factors of the kind ordinarily invoked to justify prolonged, no-bond detention — without ever receiving any individualized bond hearing. This squarely implicates the due process concerns identified in Diouf v. Napolitano, 634 F.3d 1081, 1091–92 (9th Cir. 2011) (requiring a bond hearing, with the burden on the government, once civil immigration detention becomes prolonged), and in Rodriguez v. Robbins, 804 F.3d 1060 (9th Cir. 2015), recognizing that continued detention without periodic review raises serious constitutional concerns as its duration grows.

30. Respondents' failure to provide Petitioner with any bond hearing, for a detention period that is indefinite, prolonged, and continuing, and that shows no sign of ending absent judicial intervention, violates Petitioner's right to due process of law under the Fifth Amendment.

**GROUND TWO: Entitlement to a Hearing to Contest Any Mandatory-Detention Classification**

31. Petitioner re-alleges and incorporates by reference each of the foregoing paragraphs.

32. To the extent Respondents are treating Petitioner as subject to mandatory, no-bond detention under 8 U.S.C. § 1226(c) on the basis of his single, already-resolved domestic-violence disposition, Petitioner is, at minimum, entitled to a hearing before an Immigration Judge to contest that

classification. See Matter of Joseph, 22 I&N; Dec. 799, 806 (BIA 1999) (a detainee may seek release from mandatory detention by demonstrating that DHS is "substantially unlikely" to prevail on the charge of removability said to trigger § 1226(c)) Petitioner has never received any such hearing.

33. Petitioner has a substantial, colorable basis for such a challenge. As a lawful permanent resident, Petitioner's underlying matter was resolved through a plea of nolo contendere and placement on probation — not through any admission of guilt, and not through any sentence of active incarceration. He fully and consistently complied with every term of that probation over an extended period, appearing as required on each occasion. These circumstances warrant a hearing at which Petitioner may be heard on whether this history properly subjects him to mandatory, no-bond detention, rather than the discretionary detention framework of 8 U.S.C. § 1226(a), under which due process requires a prompt, individualized bond hearing at which the government bears the burden of justifying continued detention.

34. Respondents' continued detention of Petitioner without any hearing whatsoever to test the basis for his classification, now extending some twenty days and continuing, constitutes detention without adequate process, in violation of the INA and fundamental due process.

**GROUND THREE: Petitioner's Status as a Lawful Permanent Resident With a Fully Resolved Criminal History Weighs Strongly in Favor of Release**

35. Petitioner re-alleges and incorporates by reference each of the foregoing paragraphs.

36. Lawful permanent resident status reflects Congress's judgment that an individual has put down roots in the United States meriting a heightened degree of procedural protection before that status may be disturbed through detention or removal. Petitioner has resided in this country as a lawful permanent resident, has built a family here with Next Friend, and has two daughters who depend on him. His only matter of any consequence in the criminal justice system was resolved without an admission of guilt and without any term of active incarceration, and Petitioner thereafter complied fully with every condition imposed on him. Continued, unreviewed civil detention of a lawful permanent resident under these circumstances disserves the purposes of the immigration detention statutes and weighs heavily in favor of Petitioner's release, or, at minimum, of a prompt hearing at which these factors may be meaningfully considered.

**GROUND FOUR: Irreparable Harm to Petitioner and to His Family**

37. Petitioner re alleges and incorporates by reference each of the foregoing paragraphs.

38. Petitioner's two daughters and his spouse, Next Friend, depend on Petitioner for care, companionship, and financial support. Every additional day of Petitioner's unreviewed, unexplained detention deprives this family of stability at a time when it is most needed, and inflicts harm on individuals — Petitioner's young daughters chief among them — who bear no responsibility for, and have no ability to remedy, Petitioner's continued confinement. This harm is not speculative; it is ongoing and compounding with each day that passes without a hearing.

## VII. VERIFIED EMERGENCY MOTION FOR IMMEDIATE BOND HEARING OR RELEASE AND FOR EXPEDITED CONSIDERATION

39. Petitioner respectfully moves, under Federal Rule of Civil Procedure 65 and the All Writs Act, 28 U.S.C. § 1651(a), for an order requiring Respondents to immediately provide Petitioner with a bond hearing before an Immigration Judge or, in the alternative, to release him immediately, and respectfully requests that this Court consider this matter on an expedited basis.

40. Petitioner satisfies each of the four factors required for emergency relief:

(a) **Likelihood of success on the merits.** As set forth in Grounds One and Two above, Petitioner has demonstrated a substantial likelihood of success on his claims that his detention — now approximately twenty days, without any bond hearing and without any hearing to test the basis for his classification — violates due process and exceeds Respondents' statutory authority. Petitioner's status as a lawful permanent resident, the non-violent and fully resolved nature of his underlying matter, and his unbroken record of compliance with probation all support the conclusion that his continued, unreviewed detention cannot withstand constitutional scrutiny.

(b) **Irreparable harm absent relief.** Absent emergency relief, Petitioner will continue to be deprived of his liberty without any hearing whatsoever, and his family — including his spouse and two young daughters, now solely reliant on Next Friend for day-to-day care — will continue to be deprived of the stability and support Petitioner provided. This is harm that cannot be undone through later monetary relief; each day of unlawful detention, and each day of family separation, is a loss that cannot be recovered.

(c) **Balance of the equities.** The harm to Petitioner and his family from continued, unreviewed detention — of a lawful permanent resident whose only matter of consequence was resolved without any admission of guilt and without active incarceration, and who fully complied with every condition of his probation — vastly outweighs any burden to Respondents in simply providing the hearing to which Petitioner is already constitutionally entitled. Requiring Respondents to provide a bond hearing imposes no meaningful administrative burden and merely ensures that the process already guaranteed by the Constitution is actually afforded.

(d) **Public interest.** The public has a strong interest in ensuring that civil immigration detention is not prolonged indefinitely without process, particularly where, as here, the detained individual is a lawful permanent resident whose only matter of consequence resulted in no admission of guilt and no active term of incarceration, and who has consistently complied with every requirement placed upon him. The public interest is served, not disserved, by ensuring that detention decisions of this magnitude are subject to timely, individualized judicial and administrative review.

41. Given that Petitioner has now been detained for approximately twenty days without any hearing of any kind, and given the mounting harm to his family described above, Petitioner respectfully requests that this Court act on this matter, and in particular this Emergency Motion, at the earliest possible opportunity.

## VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner, by and through his Next Friend, respectfully requests that this Honorable Court:

A. Assume jurisdiction over this matter and consider it on an expedited basis;

B. Issue an Order to Show Cause directing Respondents to demonstrate the lawful basis for Petitioner's continued detention;

C. Grant the Writ of Habeas Corpus and order Respondents to provide Petitioner with an immediate, individualized bond hearing before an Immigration Judge, at which the government bears the burden of proving, by clear and convincing evidence, that Petitioner's continued detention is justified;

D. In the alternative, order Petitioner's immediate release from custody, subject to any reasonable conditions of supervision this Court deems appropriate;

E. Award Petitioner his costs and reasonable fees to the extent authorized by law, including under the Equal Access to Justice Act, 28 U.S.C. § 2412;

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

## IX. VERIFICATION OF NEXT FRIEND

I, Bibiana Guadalupe Ortiz Acuna, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I am the Next Friend of Petitioner Luis Orlando Lavandero Pérez, that I am his spouse, that I have read the foregoing Petition and Emergency Motion, and that the factual statements contained therein are true and correct to the best of my personal knowledge, information, and belief.

Executed on this 19 day of August, 2026

Bibiana Ortiz

Bibiana Guadalupe Ortiz Acuna
Next Friend of Petitioner Luis Orlando Lavandero Pérez
[redacted]
Email: [redacted]@gmail.com
Appearing Pro Se as Next Friend

## X. CERTIFICATE OF SERVICE

I hereby certify that on this 19 day of August, 2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and Verified Emergency Motion was served upon each Respondent identified above at their respective official addresses, including the Office of the United States Attorney, in accordance with the method of service required under the Federal Rules of Civil Procedure and the Local Rules of this Court.

Respectfully submitted,

Bibiana Ortiz

Bibiana Guadalupe Ortiz Acuna
Next Friend of Petitioner, Pro Se