UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YOK

JOSE LUIS ROJAS FIGUERA,

Petitioner,

v.

Anthony J. LAROCCO, in his official capacity as Sherrif of Nassau County, William JOYCE, in his official capacity as Disrict Director of New York, Immigration and Customs Enforcement; Kristi NOEM in her official capacity as Secretary of Homeland Security; Pam BONDI, in her official capacity as Atttorney General.

Respondents.

Case No. 2:25-cv-03095

FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Jose Luis Rojas Figuera ("Jose") is a 20-year-old citizen of Venezuela who was detained as he left an immigration court hearing in Manhattan with his mother on June 2, 2025. Respondents had moved to dismiss his removal proceedings, but that motion was denied. Jose was detained anyway. His detention is part of a nationwide campaign undertaken by Respondents that began shortly before Jose was detained. Under this new policy, Respondents first seek dismissal of ongoing removal proceedings for the purpose of instead placing respondents into expedited removal proceedings and then, and whatever the decision on that motion and irrespective of any individual factors that should inform a custody determination, plainclothes agents encircle, handcuff and detain those men and women as they leave the courtroom. Jose challenges both his detention and that policy. He asks this Court to order his immediate release and to declare its policy of indiscriminative courthouse detentions unlawful.

PARTIES

1. Petitioner Jose Luis Rojas Figuera is citizen of Venezuela who lives in New York City. He and his mother attended their regularly scheduled court appearance before an immigration court in Manhattan on June 2, 2025. Jose was detained by Respondents immediately afterwards.

2. Respondent Anthony J. LaRocco is named in his official capacity as the Sherrif of Nassau County. In this capacity, he oversees and serves as warden of the Nassau County Jail, where Petitioner is currently detained and thus is a legal custodian of Petitioner. Respondent LaRocco's address is 100 Carman Avenue, East Meadow, NY 11554.

3. Respondent William Joyce is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Joyce'saddress is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

4. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, District of Columbia 20528.

5. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws

as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Eastern District of New York and is legally responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, she is the custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

JURISDICTION

6. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner was detained by Respondents on January 13, 2025.

7. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

8. Venue is proper in this Court because Jose was detained in the Eastern District of New York at the Nassau County Jail at the time of filing.

SPECIFIC FACTS ABOUT PETITIONER

9. Jose is a citizen of Venezuela who has been in the U.S. since October 2023. His mother describes him as "friendly, joyful, charismatic person," who is devoted to his family and does not have a criminal history in any country. Figuera Decl. at ¶ 2. He was detained by Respondents

shortly after entering the U.S. but was released on his own recognizance following a custody determination. *See* Exh. A to Austin Decl. (release on recognizance). Jose was charged with removability under 8 U.S.C. § 1182(a)(6)(A)(i) and placed into removal proceedings before the immigration court. Exh. B to Austin Decl. (Notice to Appear). Prior to his detention, his removal proceedings were consolidated with those of his mother, with whom he entered the U.S.

10. After their release in October 2023, both Jose and his mother filed timely asylum applications. Exh. D to Austin Decl. (immigration court docket); *see also* Exh. C to Figuera Decl. (employment authorization based on pending asylum application). Their fear claim turns largely on her fear of persecution in Venezuela.

11. Jose is also seeking Special Immigrant Juvenile Status (SIJS) based on his father's abandonment of him since a young age. He has a court date scheduled in family court in Bronx County on June 23, 2025. Exh. C to Austin Decl. (notice to appear in family court). SIJS is a unique form of humanitarian relief for minors who have been abandoned, abused, or neglected by a parent. 8 U.S.C. §§ 1101(a)(27)(J), 1255(a), (h). If granted, SIJS confers lawful permanent residence on applicants like Jose. *R.F.M. v. Nielsen*, 365 F. Supp. 3d 350, 361 (S.D.N.Y. 2019). On July 2, when Jose turns 21, he will lose his eligibility to apply.

12. During his first year in the U.S., Jose attended high school in Queens. His teacher writes that he demonstrated respect, responsibility and maturity in his studies. Exh. A to Figuera Decl. (letter from his teacher). In November 2024, he had to drop out to help support his mother, [redacted] whose health interferes with her ability to work. Figuera Decl. at ¶ 4-5. The two live together and Jose is her primary support and caretaker, helping her with [redacted] taking her to medical appointments, and bringing her food when her [redacted] makes it difficult for her to move. *Id.* at ¶ 3. He worked at an auto repair company, Exh. B to Figuera Decl. (letter

from boss), and was eventually able to get his employment authorization. Exh. C to Figuera Decl. (employment authorization).

13. On June 2, Jose and his mother attended a master-calendar hearing in Manhattan. ICE moved orally to dismiss the removal proceedings of Jose and his mother based on changed circumstances, namely Respondents' expansion of expedited removal in January 2025. The Immigration Judge denied the motion and set the case for a new hearing.

14. As Jose and his mother left the courtroom, they were approached by plainclothes agents who detained Jose without explanation as both mother and son began crying. Figuera Decl. at ¶ 12. Jose was detained initially at 26 Federal Plaza in Manhattan and then transferred to Nassau County Correctional Center before finally arriving at a facility near Houston, Texas on Friday June 6. Apart from initial contact the day of detention, he was incommunicado for four days after he was detained. *Id.* at ¶ 13.

15. On information and belief, Respondents have no individualized basis for their re-detention of Jose, as there is no change in the individual factors in his case apart from changes in his favor—namely, his timely submission of an asylum application, pursuant of other relief, and attendance in court.

16. Jose's detention threatens his ability to apply for SIJS relief, as he will not be present in family court. On or about June 10, the Bronx Family Court provided an Order to Produce to the facility where Jose is detained and to ICE and requested he be produced virtually.

CAMPAIGN OF DETENTIONS

17. On or about May 20, 2025, Respondents began a nationwide campaign to detain people inside of immigration courthouses. *See* Exh. G to Austin Decl. (news reports about immigration courthouse detention policy). The campaign has two parts. First, Respondents seek dismissal of

removal proceedings for people present in the U.S. for under two years. Then, irrespective of the outcome of that motion, immigration agents surround, handcuff and detain individuals as they leave the immigration court.

18. This campaign represents a shift from prior practice, under which Respondents did not engage in enforcement activity inside of immigration courts. Previously, civil immigration enforcement inside or near courthouse was permitted only "if (1) it involve[d] a national security threat, or (2) there [was] an imminent risk of death, violence, or physical harm to any person, or (3) it involve[d] hot pursuit of an individual who poses a threat to public safety, or (4) there [was] an imminent risk of destruction of evidence material to a criminal case." Exh. E to Austin Decl., U.S. Dep't of Homeland Sec., Civil Immigration Enforcement Actions in or near Courthouses (Apr. 27, 2021). The memo implementing that policy was rescinded on January 20, 2025 in a memo which was subsequently revised and finalized on May 27, 2025. *See* Exh. F to Austin Decl., U.S. Dep't of Homeland Sec., Civil Immigration Enforcement Actions In or Near Courthouses (May 27, 2025).

19. In New York City, Respondents' courthouse arrest campaign has led to a large number of detentions in all three Manhattan immigration courthouses. The detentions are not individualized: on information and belief, Respondents create lists of individuals to be detained and then proceed to detain every single one, regardless of whether the motion to dismiss was denied and regardless of whether the individual offers compelling reasons *not* to detain such as having minor children at home or medical conditions. Exh. G to Austin Decl. (articles about the courthouse arrest policy). Even protests that an individual cannot lawfully be subject to expedited removal have fallen on deaf ears. *See, e.g.*, Application for Order to Show Cause at 2-

3, *Castillo v. Joyce*, 1:25-cv-04693 (SDNY June 8, 2025) (ECF 5-2) (detailing dismissal of proceedings and detention of individual who is not subject to expedited removal).

20. Once detained, New Yorkers targeted by this campaign vanish for several days. Family members may not hear from them and the ICE locator, an online portal, often does not reflect their location for several days or reflects their confinement at a detention center at which (according to facility staff there) detainees are not actually present. *See* Figuera Decl. at ¶ 13; *e.g.*, *Valdez v. Decker*, 1:25-cv-04627-GBD at *3 (S.D.N.Y. June 18, 2025) (detainee was unable to speak with counsel for nine days after detention).

21. In some cases of those with ongoing proceedings, like Jose's, ICE then moves to transfer the case to the place of detention such as Texas.

LEGAL FRAMEWORK – REMOVAL PROCEEDINGS

22. The INA provides for removal proceedings to be the "sole and exclusive" procedures for removing people from the United States, subject to a few narrow exceptions. 8 U.S.C. 1229a. Section 1229a(a)(3) states that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States."[1]

23. "Jurisdiction vests, and proceedings before an Immigration Judge, when a charging document is filed with the Immigration Court by the Service." 8 C.F.R. § 1003.14(a). The only means to terminate the jurisdiction of the immigration court is through dismissal or termination. DHS may move to dismiss proceedings based only on certain enumerated grounds. 8 C.F.R. §

[1] "Attorney General" in Section 1254a now refers to the Secretary of the Department of Homeland Security. *See* 8 U.S.C. § 1103; 6 U.S.C. § 557.

239.2(c). These include where "[c]ircumstances of the case have changed after the notice to appear was issued to such an extent that continuation is no longer in the best interest of the government." 8 C.F.R. § 239.2(a)(7).

24. Petitioner is currently in removal proceedings under section 1229a. His proceedings remain pending, with a next court date in July 2025.

25. Certain noncitizens may be ordered removed by an immigration officer under the expedited removal procedures described in 8 U.S.C. 1225(b). Expedited removal is a one- or two-stage process: the first is inspection by an immigration officer; the second, where applicable, is a credible fear interview by an asylum officer. For an individual who applies for admission at a port of entry, the immigration officer must first determine if the individual is a noncitizen who is inadmissible either because they have engaged in fraud or lack valid entry documents. *See* 8 U.S.C. § 1225(b)(1)(A)(i), (ii) (citing 8 U.S.C. § 1182(a)(6)(C), (a)(7)). If an individual claims to be a U.S. citizen, lawful permanent resident, or refugee, or to have been granted asylum, then the individual is entitled to limited additional review. *See* 8 U.S.C. § 1225(b)(1)(C); 8 C.F.R. § 235.3(b)(5). Otherwise, if the officer concludes that the individual is inadmissible under either ground, the officer "shall" order the individual removed "without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(i). At any time during the process, the officer may allow the person to withdraw his or her application for admission and leave the country. 8 U.S.C. § 1225(a)(4).

LEGAL FRAMEWORK – DETENTION

26. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 528 (2003). For individuals

who are arriving in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b)(2). For individuals who are in removal proceedings following entry without inspection and who, like Luis, have no criminal history, detention has historically been authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).

27. DHS makes custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody *only* "if they demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding."

28. Like DHS custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), bond hearings before an immigration judge pursuant to 8 U.S.C. § 1226(a) place the burden of proof on the noncitizen to demonstrate that he or she qualifies for release on bond. In the context of prolonged detention, the Second Circuit has held that this allocation of burden violates the right to due process. *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020).

29. In May 2025, the Board of Immigration Appeals held that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)." *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025). This was a change from decades of previous case law, which held that individuals who entered the country without inspection and were placed into removal proceedings were eligible for bond pursuant to 8 U.S.C. § 1226(a).

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

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

31. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas*, 533 U.S. at 690.

32. Petitioner's detention violates the Due Process Clause because no change in Petitioner's case compels a change in his custody status. He was already determined not to pose danger or flight risk in October 2023 and no change has occurred except in his favor: he filed a timely asylum application, began the process to seek other immigration relief, obtained employment authorization, and attended court. In re-detaining him, Respondents have offered no indication that any permissible statutory purpose is served. His detention is not rationally related to any immigration purpose.

33. Moreover, Jose was not accorded sufficient process prior to his sudden re-detention by ICE. He did not receive notice nor any opportunity to be heard. *Valdez v. Decker*, 1:25-cv-04627-GBD (S.D.N.Y. June 18, 2025) (finding petitioner's detention at an immigration courthouse in New York violated his right to due process and ordering his release).

34. Because Petitioner was detained shortly after entering the U.S., Respondents are likely to now contend that he is ineligible even for bond under *Matter of Q. Li*, 29 I. & N. Dec. 66, 69

(BIA 2025). Mandatory detention without access to a bond hearing would violate his right to due process.

35. Detention also interferes with Petitioner's ability to participate in his proceedings and pursue relief. Since he is detained by Respondents, he will be unable to attend his family court proceeding on June 23, 2025 in person and may lose his opportunity to seek Special Immigrant Juvenile Status. He will also lose his ability to seek relief as a derivative on his mother's asylum application.

COUNT TWO
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

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

37. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious. 5 U.S.C. § 706(2)(A). 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*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

38. Respondents' courthouse arrest policy, whereby it indiscriminately detains individuals present in the U.S. for under two years irrespective of the individual circumstances in their case, is arbitrary and capricious. This courthouse arrest policy constitutes final agency action because, among other things, it is impacting the rights of individuals seeking to attend their immigration

court hearings. *See State v. ICE,* 431 F. Supp. 3d 377, 386 (S.D.N.Y. 2019) (finding a prior courthouse detention policy was final agency action).

39. This campaign is the product of an abrupt shift in agency policy around courthouse arrests. In 2021, Respondents promulgated a policy against such arrests which recognized that conducting courthouse arrests may cause noncitizens to fear attending their court hearings, which in turn would negatively impact the administration of justice and the integrity of those proceedings. But in May 2025, Respondents suddenly shifted their policy—without discussing or addressing the chilling effect that animated their 2021 policy. The shift also failed to address another relevant factor: by failing to consider individualized circumstances, the policy causes individuals who pose neither danger nor flight risk to be detained.

40. Petitioner has no other adequate remedy at law. Even if Petitioner is released, so long as Respondents maintain this ongoing courthouse detention campaign, Petitioner may be subjected to it at any of his future hearings.

41. By detaining individuals like Petitioner without any consideration of their individualized facts and circumstances, and without explaining the reasons for their abrupt shift in policy, Respondents have violated the APA.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
3. Declare that Petitioner's detention violates the Immigration and Nationality Act and

implementing regulations;

4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
5. Declare that Respondents' actions violate the Administrative Procedure Act;
6. Enjoin Respondents from detaining Petitioner outside of the New York City area;
7. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
8. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
9. Grant such further relief as this Court deems just and proper.

Dated: June 18, 2025

/s/ Paige Austin
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CERTIFICATE OF SERVICE

I certify that on June 18, 2025, I electronically filed the attached the foregoing First Amended Petition for Writ of Habeas Corpus and accompanying Exhibits and Declarations with the Clerk of the Court for the United States District Court for the Eastern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

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