Mitchell H. Shen, Esq. (CBN 297566)
Law Office of Mitchell H. Shen & Associates
617 S. Olive St., Ste. 810
Los Angeles, CA 90014
Tel (213) 878-0333; Fax (213) 402-2169
Email: MshenLaw@ gmail.com

Attorney for Petitioner

UNITED STATES DISTRICT COURT
EASTERN DIVISION OF THE
CENTRAL DISTRICT OF CALIFORNIA

OSCAR EDUARDO OSORIO VALDEZ, Petitioner, v. **Warden, Adelanto Detention Facility;** **Ernesto Santacruz,** ***Field Office Director, U.S. Immigration and Customs Enforcement;*** **Todd M. Lyons,** ***Acting Director, U.S. Immigration and Customs Enforcement;*** **Kristi Noem,** ***Secretary of United States Department of Homeland Security*** **Pam Bondi,** ***Attorney General of the United States,*** **in their official capacities,** Respondents.	Case No. 5:25-cv-03204 **PETITION FOR WRIT OF HABEAS CORPUS** Expedited Hearing Requested

INTRODUCTION

1. PETITIONER/PLAINTIFF, Oscar Eduardo Osorio Valdez ("Petitioner" or "Mr. Osorio"), by and through his undersigned counsel, hereby petitions this Honorable Court to issue a writ of habeas corpus to order his immediate release, or alternatively, a bond hearing be held for his release from continued detention in the custody of the United States Department of Homeland Security, Immigration and Customs Enforcement ("DHS-ICE")

as his continued detention is a violation of due process, and constitutes an unlawful detention. In support of this petition, the Petitioner states by and through counsel as follows:

JURISDICTION

2. This action arises under the Constitution, the Immigration & Nationality Act of 1990, as amended ("INA"), 8 U.S.C. §1101 et seq., and the Administrative Procedure Act ("APA"), 5 U.S.C. §701 et seq. This Court has habeas jurisdiction pursuant to 28 U.S.C. §2241, Art. 1, §9, Cl. 2 of the United States Constitution (the "Suspension Clause"); and the common law. This Court may also exercise jurisdiction pursuant to 28 U.S.C. §1331 and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §2201 et seq., and the All Writs Act, 28 U.S.C. §1651.

3. On May 11, 2005, Congress passed the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231. The REAL ID Act divested federal district courts of jurisdiction to review final orders of deportation, exclusion, and/or removal. However, federal district courts still retain jurisdiction through habeas corpus over the detention of aliens through habeas corpus.

VENUE

4. The venue lies in the United States District Court for the Central District of California, Eastern Division, the judicial district of confinement, as the petitioner is physically being held in custody at the Adelanto Detention Facility located in Adelanto, CA. This is in accordance with the decision of the United States Supreme Court in *Rumsfeld v. Padilla*, 124 S.Ct. 2711, 2725 (2004) ("Whenever a §2241 habeas petitioner seeks to challenge his

present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement").

REQUIREMENTS OF 28 U.S.C. § 2243

5. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

6. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." Fay v. Noia, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

7. Petitioner, Oscar Eduardo Osorio Valdez, is a native and citizen of Peru who has been held in continuing detention by DHS-ICE since October 23, 2025. He is currently detained at the Adelanto Detention Center in Adelanto, CA.

8. Respondent, Warden of the Adelanto Detention Facility, is sued in their official capacity. The warden has chief executive authority over the administration of the Adelanto Detention Facility. In this capacity, they have direct responsibility for the confinement of Oscar Eduardo Osorio Valdez

9. Respondent, Ernesto Santacruz, is sued in his official capacity as the Director of the Los Angeles Field Office of U.S. Immigration and Customs Enforcement. Respondent Santacruz is a legal custodian of Petitioner and has the authority to release him.

10. Respondent, Todd M. Lyons, is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has the authority to release him.

11. Respondent, Kristi Noem, is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's continued detention. Respondent Noem is a legal custodian of Petitioner.

12. Respondent, Pam Bondi, is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

LEGAL FRAMEWORK

A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.

13. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (*quoting Zadvydas*, 533 U.S. at 693 (2001)). These due process rights are both substantive and procedural.

14. First, "[t]he touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

15. These protections extend to noncitizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

16. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

17. Second the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards. Generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

18. This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683 (*citing Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-

parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

19. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. *Morrissey* at 408 U.S. at 482. As the Supreme Court recognized, "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." *Id.*

20. This reasoning applies with equal if not greater force to people released from civil immigration detention at the border, like Petitioner. After all, noncitizens living in the United States, like Petitioner, have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

B. Due Process and the Immigration and Nationality Act Protect Noncitizens like Petitioner from Summary Removal Without a Hearing.

21. Deportation like detention, constitutes a deprivation of liberty protected by the Due Process Clause. As the Supreme Court has held, a noncitizen's interest in deportation proceedings "is, without question, a weighty one" because "[s]he stands to lose the right 'to stay and live and work in this land of freedom.'" *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (*quoting Bridges v. Wixon*, 326 U.S. 135, 154 (1945)).First, "[t]he touchstone of due

process is protection of the individual against arbitrary action of government," Wolff v. McDonnell, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," Cnty. of Sacramento v. Lewis, 523 U.S. 833, 846 (1998).

22. Indeed, modern-day removal proceedings developed in response to a series of Supreme Court decisions recognizing that the deportation of noncitizens already in the United States without a hearing before a neutral arbiter would violate due process. *See Yamataya v. Fisher*, 189 U.S. 86, 101 (1903) (construing immigration statutes to require hearing before deportation to "bring them into harmony with the constitution"); *Wong Yang Sung v. McGrath*, 339 U.S. 33, 49, modified, 339 U.S. 908 (1950) (same, reasoning that "the difficulty with any argument premised on the proposition that the deportation statute does not require a hearing is that, without such hearing, there would be no constitutional authority for deportation").

23. Removal proceedings under 8 C.F.R. §1240 or Section 240 of the Immigration and Nationality Act ("Section 240" proceedings) accordingly provide important substantive and procedural protections.

24. Noncitizens in Section 240 proceedings, like Petitioner, when arrested, are entitled to a full hearing in immigration court before immigration authorities can remove them. 8 U.S.C. § 1229a.

25. They are statutorily afforded rights and procedural protections, including the right to be represented by counsel of their choice, and the right to present and confront evidence. *See id.* § 1229a (4).

26. They are also entitled to administrative appellate review at the Board of Immigration

Appeals and further judicial review in the federal Courts of Appeals. *See* 8 C.F.R. § 1003.1(b) (Board of Immigration Appeals); 8 U.S.C. § 1252(a)(5) (Courts of Appeals).

27. Alternatively, expedited removal is a form of summary removal historically applicable only to **recently-arrived** noncitizens that sharply limits the rights and process available in Section 240 proceedings. In contrast to Section 240 proceedings, expedited removal takes place almost entirely outside of immigration court: A person subject to expedited removal can be removed by an immigration officer "without further hearing or review." 8 U.S.C. § 1225(b)(1)(A)(i).

28. At this stage, the person is typically detained and unable to access counsel. In effect, immigration enforcement agents from ICE or Border Patrol serve as judge, jury, and jailer; they detain the noncitizen, unilaterally determine whether they are subject to the expedited removal statute, and unilaterally order them removed. When a person in expedited removal expresses a fear of persecution or intent to seek asylum, the immigration officer refers the person to an asylum officer for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii).

29. If the asylum officer finds that the person has a credible fear, they are permitted to seek to apply for asylum through Section 240 proceedings. Id. § 1225(b)(1)(B)(ii). However, when an asylum officer determines that someone has not established a credible fear, the officer must order them removed "without further hearing or review," subject to highly limited review by an immigration judge that the person "does not have a credible fear of persecution." Id. § 1225(b)(1)(B)(iii).

C. Recent Changes Depriving Individuals of an Individualized Bond Hearing

30. The Board of Immigration Appeals, on May 15, 2025 decided the case of *Matter of Q. Li.*, 29 I&N Dec. 66 (BIA 2025). *Matter of Q. Li* held:

a. "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 Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018).

b. An alien detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), who is released from detention pursuant to a grant of parole under section 212(d)(5)(A) of the INA, 8 U.S.C. § 1182(d)(5)(A) (2018), and whose grant of parole is subsequently terminated, is returned to custody under section 235(b) pending the completion of removal proceedings." *Matter of Q. Li.*, 29 I&N Dec. 66 (BIA 2025).

31. Although Petitioner was present and residing in the United States for several years at the time of his immigration arrest, he was subjected to a new DHS policy issued on July 8, 2025 that instructs all ICE employees to consider anyone arrested within the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. **See Exhibit A, "Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025.**

32. Petitioner sought a bond redetermination hearing before an Immigration Judge ("IJ"), but on November 13, 2025, the IJ denied bond. **See Exhibit B, Immigration Judge Bond Decision.** The IJ based this decision on the same legal analysis as DHS. Indeed, the DHS policy states it was issued "in coordination with the Department of Justice (DOJ)." The IJ concluded that, notwithstanding Petitioner's over 2 years of residing in the United States,

he is nevertheless an "applicant for admission" who is "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A).

33. As a result of these changes, individuals who are not flight risks nor dangerous to society are being detained in civil detention without any notice of why they are being detained and an opportunity to present evidence. Similarly, IJs are bound by the BIA's decision, however incorrect, that individuals like Petitioner are being detained pursuant to § 1225(b)(2)(A).

STATEMENT OF FACTS

34. Mr. Osorio, a 36-year-old native and citizen of Peru, entered the United States on December 10, 2022, and was detained by ICE.

35. After being detained by ICE, Mr. Osorio was issued Parole pursuant to 8 CFR § 212.5, allowing his release.

36. Mr. Osorio was instructed to appear for a check-in at the ICE, Non-Detained Unit. He attended his check-in sometime in January of 2023 and was scheduled for a 2nd appointment before an ICE officer on October 23, 2025; that same date he was re-detained.

37. Between the time of his parole and his re-detention, Mr. Osorio applied for Asylum, was granted a work permit, and was lawfully and gainfully employed. He has no criminal arrests or convictions that he is aware of. After being detained, he was issued a Notice to Appear, placing him in Section 240 Proceedings before the Adelanto Immigration Court. His Section 240 Proceedings began on October 29, 2025, more than 2 and a half years after his entry into the United States. **See Exhibit C: Notice to Appear.**

38. On November 13, 2025, Mr. Osorio had a hearing before the Immigration Judge, who held that he did not have jurisdiction to grant a bond in Petitioner's case pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). **See Exhibit B: Immigration Judge Bond Decision.**

39. To this date, Mr. Osorio has been detained for over 34 days pending removal proceedings and will remain detained and separated from his family for months or even years. His next hearing before the Immigration Judge is a Master Calendar hearing (preliminary hearing) scheduled for December 17, 2025.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process (Substantive Due Process—Detention)

40. Petitioner restates and realleges all paragraphs as if fully set forth here.

41. 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,* 533 U.S. at 693. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

42. Here, the Petitioner was released for almost 3 years, resided with his family in Los Angeles, CA, was gainfully employed, and had developed strong ties to the community in Los Angeles. They have a stable home and have not committed any crimes.

43. Additionally, he filed his Asylum applications alleging a fear of returning to his country and has been waiting for an Asylum hearing date since filing. Though he attempted to comply with U.S. law and ICE's requirements to check in, he was detained on October 23, 2025, without any explanation for why.

44. When he was detained, he was not provided any form of notice or an opportunity to rebut. Such a deprivation of liberty without any allegation of wrongdoing, proof provided to him

of changed circumstances in his individual case, or an opportunity to provide evidence of innocence is irrational and arbitrary.

45. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention appears to be "not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons"—namely, to meet newly-imposed DHS quotas and transfer immigration court venue to an expedited docket. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

46. Because Petitioner's detention has no reasonable relation to his being a flight risk nor a danger to society, his continued confinement violates the Fifth Amendment.

COUNT TWO

Violation of Fifth Amendment Right to Due Process (Procedural Due Process – Detention)

47. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

48. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding reincarceration after her release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

49. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected

interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990; *Zinermon*, 494 U.S. at 127 (Generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024). In *Matthews v. Eldridge*, 424 U.S. 319 (1976), the Supreme Court set out a three-part balancing test for when due process was violated.

50. Petitioner's re-detention without a pre-deprivation hearing violated due process. Over two years after deciding to release Petitioner from custody on his own recognizance, Respondents re-detained Petitioner with no notice, no explanation of the justification for his re-detention, and no opportunity to contest his re-detention before a neutral adjudicator before being taken into custody. In fact, he sought a bond hearing before a neutral arbiter, and the Immigration Judge did not provide an individualized analysis of his case; instead, he denied the bond on jurisdictional grounds.

51. Petitioner has a profound personal interest in his liberty. Petitioner has family and community ties that he is now being deprived of. He also poses no danger or risk to his community and is not at flight risk. Petitioner has been detained without any individualized hearing for over 34 days. Because he received no procedural protections, the risk of erroneous deprivation is high.

52. The government has no legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's record suggested that he would abscond or endanger the community before a

bond hearing could be carried out. *See, e.g.*, *Jorge M.F. v. Wilkinson*, 2021 WL 783561, at 3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at 3 (N.D. Cal. Aug. 23, 2020) ("the government's concern that delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's strong family ties and his continued employment during the pandemic as an essential agricultural worker"). There is no indication that Petitioner is a flight risk or danger to his community. As a result, Respondent's failure to provide an opportunity to prove he is not a flight risk or a danger violated his due process rights afforded to him by the Constitution.

COUNT THREE
Violation of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706 (Dismissal/Expedited Removal)

53. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

54. Under the arbitrary and capricious standard, a reviewing court must consider whether an agency's decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment. *See* Envtl. Def. Ctr., Inc. v. U.S. E.P.A., 344 F.3d 832, 858 n.36 (9th Cir. 2003). The APA provides a cause of action to anyone "suffering legal wrong because of agency action." 5 U.S.C. §702 ("A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of relevant statute, is entitled to judicial review thereof.").

55. Agency action must be set aside if the action was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or if the action failed to meet statutory, procedural, or constitutional requirements. *Citizens to Preserve Overton Park v. Volpe.* 401 U.S. 402(1971). "Unsubstantiated" or "bare assumptions" will not be credited. *NRDC*

2017, 857 F.3d at 1038, 1042; *see also Nat'l Parks Conservation Ass'n v. U.S. EPA*, 788 F.3d 1134, 1143 (9th Cir. 2015) ("[U]nexplained assertions . . . unsupported by any explained reasoning" were "arbitrary and capricious"); *Greater Yellowstone Coal., Inc. v. Servheen*, 665 F.3d 1015, 1020 (9th Cir. 2011) (requiring agency to "articulate a rational connection between the data in the record and its determination").

56. Here, Petitioner was initially determined to not be a danger nor a flight risk, granted parole, and allowed to create family and community ties to the U.S. in the Los Angeles area. He complied with his ICE check-in requirements and even applied for relief in the form of Asylum affirmatively with USCIS. His civil detention should have only occurred if he was a flight risk, or a danger to society. There are no claims he is a flight risk, nor a danger by ICE, but instead he was taken into detention without any reason and presumptively to meet ICE detention quotas. **See Exhibit D: Form I-213.**

57. As his detention has no relationship to his risk of flight nor his dangerousness, continued detention by ICE without an individualized bond hearing is arbitrary, capricious, and an abuse of discretion.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

(4) Order a bond hearing to be held within 7 days of this order, where the Government

bears the burden of proof to show, by "clear and convincing evidence," that Mr. Osorio is either a flight risk or a danger to the community;

(5) Alternatively, Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(7) Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

(8) Order that Respondents may not place Petitioner in expedited removal proceedings or remove Petitioner except based on a final, executable removal order issued through Section 240 removal proceedings; and

(9) Grant any further relief this Court deems just and proper.

Respectfully submitted,
Oscar Eduardo Osorio Valdez
By his attorney:

Dated: 11/26/2025 Signed: /s/ Mitchell H. Shen

MITCHELL H. SHEN, ESQ.
Attorney for Petitioner
Law Office of Mitchell H. Shen & Associates
617 S. Olive St., Ste. 810
Los Angeles, CA 90014
Tel. (213) 878-0333; Fax (213) 402-2169
E-mail: MshenLaw @ gmail.com

VERIFICATION OF COMPLAINT

I, Mitchell H. Shen, Esq., state under penalty of perjury that I am the attorney for the Petitioner, Oscar Eduardo Osorio Valdez, in the foregoing petition, and declare the facts alleged here to be true, except those made on information and belief, which I believe to be true, and further state that the sources of my information and belief are documents and information provided to me by the Petitioner and his associates and family members.

Los Angeles, CA

Dated: 11/26/2025

Signed: /s/ Mitchell H. Shen

MITCHELL H. SHEN, ESQ.
Attorney for Petitioner
Law Office of Mitchell H. Shen & Associates
617 S. Olive St., Ste. 810
Los Angeles, CA 90014
Tel. (213) 878-0333; Fax (213) 402-2169
E-mail: MshenLaw @ gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via Certified Mail / Return Receipt to:

United States Attorney's Office
312 N. Spring St.,
Los Angeles, CA 90012;

Warden, Adelanto Detention Facility
10400 Rancho Road,
Adelanto, CA 92301

Ernesto Santacruz, Field Office Director
U.S. Immigration and Customs Enforcement (ICE)
10250 Rancho Road
Suite 201A
Adelanto, CA 92301

Todd M. Lyons, Acting Director
U.S. Immigration and Customs Enforcement (ICE)
500 12th St SW
Washington, DC 20536

Kristi Noem, Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Pam Bondi, Attorney General of the United States
950 Pennsylvania Ave., N.W. Room 45-45
Washington, DC 20530-0001; upon the date given below.

Date: 11/26/2025

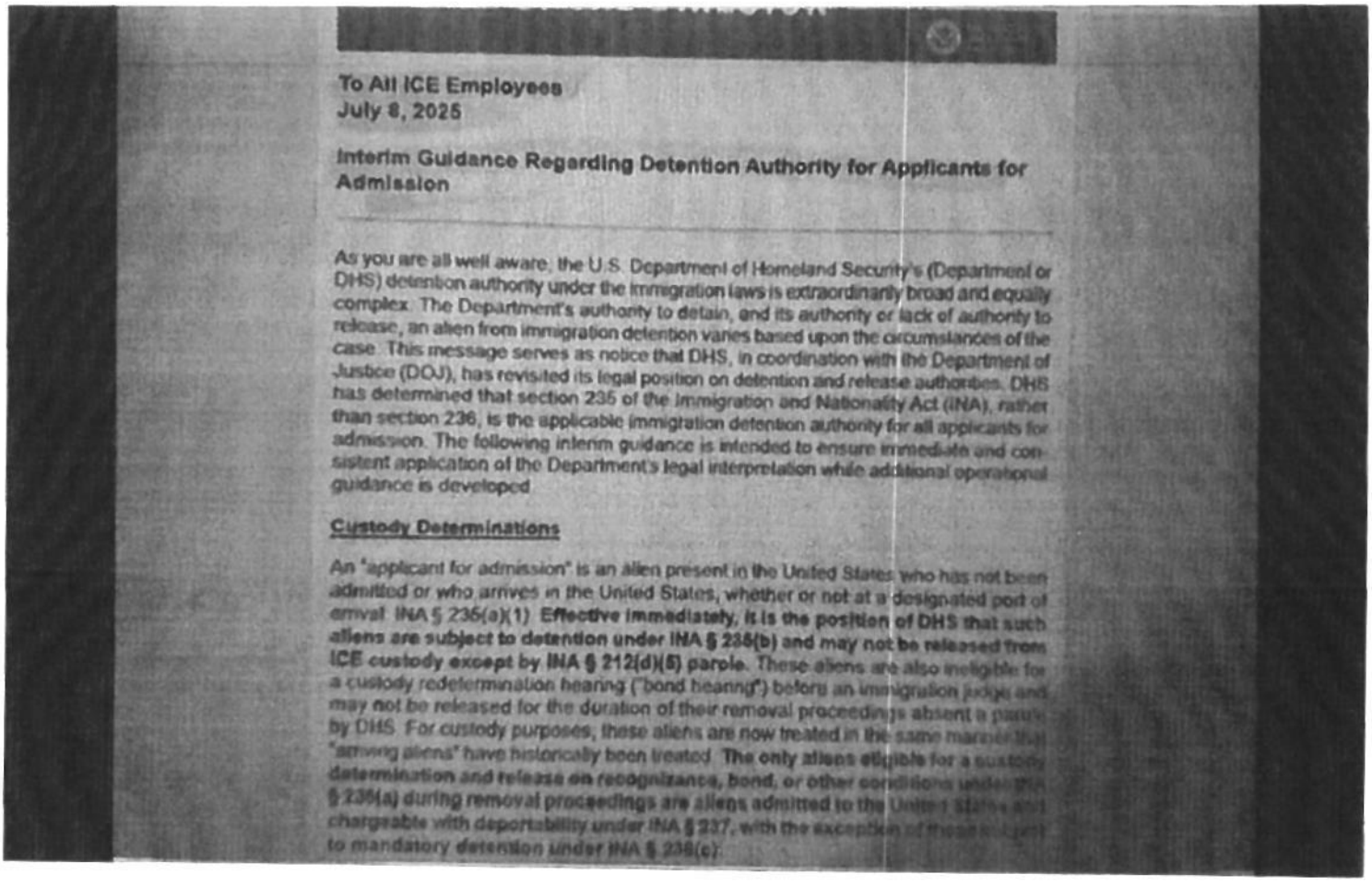
Signature: /s/ Mitchell H. Shen
MITCHELL H. SHEN, ESQ.
Attorney for Petitioner
Law Office of Mitchell H. Shen & Associates
617 S. Olive St., Ste. 810
Los Angeles, CA 90014
Tel (213) 878-0333; Fax (213) 402-2169
E-mail: MshenLaw @ gmail.com

Writ of Habeas Corpus
Oscar Eduardo Osorio Valdez

Exhibit	Document	Page(s)
A	Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025	1-2
B	Immigration Judge Bond Decision	3-30
C	Notice to Appear	31-34
D	Form I-213	35-37

Writ of Habeas Corpus
Oscar Eduardo Osorio Valdez

EXHIBIT A



To All ICE Employees
July 8, 2025

Interim Guidance Regarding Detention Authority for Applicants for Admission

As you are all well aware, the U.S. Department of Homeland Security's (Department or DHS) detention authority under the immigration laws is extraordinarily broad and equally complex. The Department's authority to detain, and its authority or lack of authority to release, an alien from immigration detention varies based upon the circumstances of the case. This message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed.

Custody Determinations

An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**

Moving forward, ICE will not issue Form I-286, *Notice of Custody Determination*, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.

Because the position that detention is pursuant to INA § 235(b) is likely to be litigated, however, OPLA will need to make alternative arguments in support of continued detention before the Executive Office for Immigration Review. Accordingly, ERO and Homeland Security Investigations (HSI) should continue to develop and obtain evidence, including conviction records, to support OPLA's arguments of dangerousness and flight risk in those bond proceedings.

Re-detention

This interpretation does not impose an affirmative requirement on ICE to immediately identify and arrest all aliens who may be subject to INA § 235 detention. Rather, the custody provisions at INA § 235(b)(1)(B)(ii), (iii)(IV), and (b)(2)(A) are best understood as prohibitions on release once an alien enters ICE custody upon initial arrest or re-detention.

This change in legal interpretation may, however, warrant re-detention of a previously released alien in a given case. Until additional guidance is issued, ERO and HSI should consult with OPLA prior to rearresting an alien on this basis.

Parole Requests by Previously Released Aliens

It is expected that ICE will see an increase in applicants for admission previously released under INA § 236(a) requesting documentation of parole pursuant to INA § 212(d)(5) in order to establish eligibility for certain immigration benefits, including employment authorization and adjustment of status. DHS does not take the position that prior releases of applicants for admission pursuant to INA § 236(a) were release on parole under INA § 212(d)(5) based on this change in legal position. Accordingly, ERO and HSI are not required to "correct" the release paperwork by issuing INA § 212(d)(5) parole paperwork.

2

Writ of Habeas Corpus
Oscar Eduardo Osorio Valdez

EXHIBIT B

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
ADELANTO, CALIFORNIA

In the Matter of:	File Number: [redacted]
OSORIO - VALDEZ, OSCAR EDUARDO	**IN BOND PROCEEDINGS**
Bond applicant.	

BOND DECISION AND MEMORANDUM OF THE IMMIGRATION JUDGE

This matter came to the Court for custody redetermination. The Court conducted an individualized hearing, in which it reviewed and considered the evidence and positions presented therefor. The Court made its decision through its own independent judgment, based on the pertinent law and facts of the case, and not on any political policy. The reasons and factual findings for the Court's decision are addressed herein.[1] Applicable reasoning and factual findings are checked with an "X" in the corresponding box.[2] No additional memorandum will be provided.

LEGAL ADDENDUM

☒ An addendum stating points of law and burdens of proof relevant to issues before the Court will be served on the parties and placed in the record of proceedings. That addendum of law is hereby incorporated into this decision by reference.

EVIDENCE / PROFFERS / CREDIBILITY / PERSUASION / WEIGHT

☒ The evidentiary record consists of:

☒ Admitted exhibit(s). *See* Ex(s). 1–2.

☐ Testimony by [☐ the applicant / ☐ other witness(es): ___].

[1] The Court does not necessarily recount all the evidence and considerations. *See Ramirez-Villalpando v. Holder*, 645 F.3d 1035, 1040 (9th Cir. 2011) (a court is not required to "expressly parse or refute on the record each individual argument or piece of evidence"). Rather, the Court discusses relevant evidence and considerations herein to the extent necessary to explain its decision and order(s). *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"). Indeed, the Court considered all evidence and pertinent factors individually and in the collective, even if not explicitly mentioned in this decision, and now makes findings of fact and analysis on the most salient issues for the matter's disposition.

[2] By way of clarity regarding any reference in this decision to an exhibit and page number within the Court's electronic record of proceedings, such a citation refers to the exhibit number assigned by the Court and the page number assigned by EOIR as electronically stamped in the lower left margin of the page, rather than to any contrary marking by any party or other entity.

☐ Proffers by [☐ the applicant's counsel / ☐ DHS].

☐ There were *no objections* to any admitted exhibit(s).

☒ *Notwithstanding objections to admitted exhibit(s)*, the Court finds all admitted evidence to be probative and its admission to be fundamentally fair, and thus admitted the same.

☒ At issue here, [☐ DHS / ☒ the applicant] objected to the admission of Exhibit(s) 2 on the basis of [☐ untimeliness / ☐ irrelevance / ☐ lack of foundation or authentication / ☐ hearsay / ☐ inability to cross-examine / ☐ unreliability / ☐ claimed coercion or duress in obtaining the information / ☐ improper translations / ☐ Constitutional or other due process violation(s) / ☒ other: it references an immigration warrant of arrest but DHS did not present the same for this hearing].

☐ Further explanation:

☐ The objection to timeliness of filing of documents is not well-founded because [☐ there is no filing deadline for bond hearings / ☐ the objecting party ultimately declined additional time to review the documents].

☒ There [☐ was / ☒ was not] sufficient [☐ specificity / ☐ evidentiary support / ☒ reason to not admit the entirety of the document] provided to persuade the Court on the objection(s) [☐ regarding ___].

☐ The claim that the information contained in the I-213 at Ex(s). __ was obtained by duress or coercion [☐ is / ☐ is not] sufficiently supported by evidence.

☐ The key part(s) of Exhibit __ were not shown to be incorrect, to wit, [☐ the time, place, and manner of entry and immigration encounter / ☐ the criminal history].

☒ Of significance, there are statutory parameters to discovery in immigration proceedings, which were not shown to be applicable here. *See* INA §§ 240(c)(2), 291; *Dent v. Holder*, 627 F.3d 365, 374 n.24 (9th Cir. 2010) (citing to INA § 240(c)(2)(B)); *see also Matter of Benitez*, 19 I&N Dec. 173, 174 (BIA 1984) (there is no blanket right to discovery in immigration proceedings); *Matter of Khalifah*, 21 I&N Dec. 107, 112 (BIA 1995) (same).

☐ The admission of the document(s) is harmless because [☐ the Court did not rely on the document(s) objected to / ☐ the Court did not base its decision on the particular portion(s) of the document(s) objected to, as noted above].

☐ Ex(s). __ was [☐ *not* / ☐ *partially* (specifically all but ___)] *admitted* because:

☐ the excluded documents were not [☐ received by the applicant prior to the hearing / ☐ probative / ☐ fundamentally fair / ☐ translated with a proper certification].

☐ (other explanation:)

☐ *A proffer* was made regarding ___:

☐ In its discretion, the Court found it appropriate to allow a proffer of the contents of Ex(s). __ by [☐ DHS / ☐ the applicant].

EOIR - 2 of 28

4

☐ In its discretion, the Court found it appropriate to deny the request to present live testimony and to allow a proffer of the testimony instead.

☐ That proffer [☐ is / ☐ is not] consistent with the written statement(s) in Ex(s). __.

☐ There was a response to that proffer, which was considered by the Court.

☐ The Court disallowed proposed [☐ witness] testimony [☐ for / ☐ by] the respondent as superfluous because it relates to [☐ danger / ☐ flight], as acknowledged by [☐ counsel for] the respondent, but the Court denies bond on jurisdiction, not on said issue(s).

☐ The claims presented by [☐ the applicant / ☐ DHS] [☐ regarding ___] [☐ are / ☐ are not] [☐ *credible* / ☐ *persuasive*].

☐ The evidence presented by [☐ the applicant / ☐ DHS] [☐ regarding ___] merits [☐ full / ☐ less than full / ☐ limited / ☐ no] *weight*.

☐ The Court [☐ also] refers specifically to:

☐ the applicable discussion(s) on [☐ conduct of the hearing / ☐ the Court's discretion / ☐ authentication / ☐ hearsay / ☐ inability to cross-examine / ☐ general reliability of government documents / ☐ translations] in the legal addendum.

☐ Other explanation:

AUTHORITY / JURISDICTION / VENUE

☒ The Court [☐ has / ☒ does not have] authority, jurisdiction, and venue for custody redetermination pursuant to:

☒ Section 236(a) of the Immigration and Nationality Act (INA or Act).

☐ *A Notice to Appear has not been issued* to initiate a current removal proceeding under INA § 240.

☐ The applicant is presently in [☐ expedited removal / ☐ credible fear / ☐ reasonable fear / ☐ withholding-only / ☐ asylum-only / ☐ ___] proceedings[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The Court takes administrative notice of that.

☐ The applicant[,☐ through counsel,] acknowledged [☐ the same / ☐ that ___].

☐ The applicant [☐ is / ☐ is not] an *arriving alien*, consistent with 8 C.F.R. § 1001.1(q) and INA § 235(a)(1).

☐ The Court takes notice of [☐ the checked arriving alien box / ☐ information showing arrival at a port of entry] in the Notice to Appear [☐ at Ex. __].

☐ The arrival at a port of entry itself was [☐ not disputed / ☐ acknowledged by the applicant / ☐ shown by Ex(s). __].

☐ The record [☐ does / ☐ does not] show that the applicant has been admitted, as defined by INA § 101(a)(13).

☐ Instead, the record shows a parole[, per / ☐ Ex(s). __ / ☐ acknowledgement by the applicant].

☐ Although the applicant is a returning lawful permanent resident (LPR), it [☐ was / ☐ was not] shown that he [☐ is / is ☐ not] inadmissible[, per / ☐ Ex(s). __ / ☐ discussion below regarding INA § 236(c) / ☐ ___]. *See* INA § 101(a)(13) (regarding inadmissibility for returning LPRs).

☒ The applicant [☒ was / ☐ was not] detained under *section 235(b)(1)* of the Act.

☒ The record shows that the applicant [☒ was / ☐ was not] apprehended at or near the border contemporaneous to unlawful entry into the United States[, per / ☒ Ex(s). 2 at 1–2 (showing the 12/10/2022 date and manner of the entry "Without Inspection" and apprehension by the US Border Patrol) / ☐ the testimony].

☐ The record shows that the applicant [☐ was / ☐ was not] placed in [☐ expedited removal / ☐ credible fear] proceedings[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The record establishes that the applicant [☐ did / ☐ did not] affirmatively ~~show to the satisfaction of an immigration officer continuous physical presence~~ in the United States for the 2-year period immediately prior to the date of the determination of inadmissibility[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The applicant [☐ was / ☐ was not] detained under *section 235(b)(2)* of the Act, as an applicant for admission per section 235(a)(1) of the Act and as the examining immigration officer determined that the applicant is not clearly and beyond a doubt entitled to be admitted.

☐ The record shows that the applicant [☐ has / ☐ has not] been admitted into the United States[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ Instead, the applicant has been issued a Notice to Appear for removal proceedings under a charge of being inadmissible. [☐ Ex(s). __.]

☐ The Court [☐ also] takes administrative notice of that, including the charge under section 212(a)(6)(A)(i) of the Act.

☒ That the applicant may have been released from prior DHS custody only to be detained later does not change the applicable detention authority.

☒ Any warrant of arrest or custody document or parole issued post hoc does not convert the statutory authority governing detention to section 236(a) of the Act. *See, e.g., Matter of Q. Li*, 26 I&N Dec. 66, 69 n.4 (BIA 2025); *see also Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018).

☐ The applicant has a *removal order that is administratively final*[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The Court takes administrative notice of that.

☐ The applicant[,☐ through counsel,] acknowledged [☐ the same / ☐ that ___].

EOIR - 4 of 28

☐ Other explanation:

[☐ INA § 236(c) / ☐ *Matter of Joseph*] which [☐ applies / ☐ does not apply] because:

☐ the applicant [☐ has / ☐ does not have] a disqualifying ground of [☐ deportability / ☐ inadmissibility], which:

☐ is *specified in the Notice to Appear*, as is the predicate offense, per [☐ Ex(s). __ / ☐ administrative notice].

☐ The record [☐ does / ☐ does not] establish that DHS is substantially unlikely to prevail on the ground.

☐ Indeed, the corresponding charge was already [☐ conceded by the applicant / ☐ sustained by the Court][, per / ☐ Ex(s). __ / ☐ acknowledgement of the applicant / ☐ administrative notice].

☐ was *brought to the applicant's attention*, who was given an opportunity to be heard on the matter.

☐ Specifically, the Court refers to the *conviction for* ___,[☐ with a sentence of ___,][☐ *see* Ex(s). __ / ☐ as acknowledged by the testimony].

☐ This [☐ is / ☐ is not] an offense covered by INA § 212(a)(2), to wit, a crime involving moral turpitude (CIMT) because it requires a reprehensible act with scienter. [☐ *See* ___.]

☐ The CIMT petty offense exception at INA § 212(a)(2)(A)(ii) [☐ does / ☐ does not] apply because:

☐ there were convictions on multiple counts of said offense,

☐ the maximum penalty possible [☐ did / ☐ did not] exceed imprisonment for one year,

☐ the sentence [☐ was / ☐ was not] in excess of 6 months,

[☐ *see* Ex(s). __ / ☐ as acknowledged by the testimony].

☐ Said offense consequently falls under INA § 236(c)(1).

☐ The Court considered the *post-conviction relief* and finds that the conviction [☐ does / ☐ does not] presently carry per se immigration consequences.

☐ The Court references the vacatur under PC § 1473.7(a)(1). Ex(s). __. Such a vacatur is effective for immigration purposes. *Bent v. Garland*, 115 F.4th 934, 940 (9th Cir. 2024) (the "plain text" of PC § 1473.7(a)(1) "does not permit a state court to vacate a conviction to alleviate any immigration consequences arising from the conviction or sentence"); *cf. Matter of De Jesus-Platon*, 29 I&N Dec. 7, 10–11 (BIA 2025) (where the record showed a vacatur under PC § 1473.7 generally and not subsection 1473.7(a)(1) specifically, that respondent failed to show eligibility for relief).

☐ *See also* Ex(s). __ (showing that the vacatur was granted on the basis of a substantive or procedural defect).

☐ release from criminal custody for the offense at issue occurred [☐ prior / ☐ subsequent] to October 8, 1998[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ DHS did not argue, and the Court does not find, that there is any other conviction that could constitute a basis for mandatory detention. *See generally* Ex(s). __.

☐ (other explanation:)

☐ *See* Ex(s).

☐ Prolonged detention:

☐ consistent with *Rodriguez v. Holder*, No. CV 07-3239 TJH (RNBx), 2013 WL 5229795 (C.D. Cal. Aug. 6, 2013).

☐ consistent with *Gonzalez v. Sessions*, 325 F.R.D. 616 (N.D. Cal. 2018).

☐ consistent with *Franco-Gonzalez v. Holder*, No. CV 10-02211 DMG (DTBx), 2013 WL 3674492 (C.D. Cal. Apr. 23, 2013).

☐ Class membership for a prolonged detention hearing [☐ was / ☐ was not] established due to:

[☐ sufficient / ☐ insufficient] length of detention. [☐ DHS conceded / ☐ The record shows / ☐ The record does not show] uninterrupted detention in DHS custody for at least 180 days[, per / ☐ Ex(s). __ (showing an apprehension on ___) / ☐ the testimony / ☐ acknowledgement by the applicant's counsel].

☐ a live claim in underlying immigration proceedings [☐ being / ☐ not being] pending[, per / ☐ Ex(s). __ / ☐ the testimony / ☐ administrative notice / ☐ acknowledgement by the applicant's counsel].

☐ the applicant previously having a prolonged detention hearing on ___[, per / ☐ Ex(s). __ / ☐ the testimony / ☐ administrative notice / ☐ acknowledgement by the applicant's counsel]. The Court denied bond at that hearing, finding that DHS met its burden of showing [☐ danger / ☐ flight risk] by clear and convincing evidence. The applicant is not entitled to another prolonged detention hearing.

☐ (other explanation:) ___[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ 8 C.F.R. § 1003.19(e), because the Court previously denied bond and because a material change of circumstances since the prior bond redetermination [☐ was / ☐ was not] shown to be sufficient to justify a departure from the Court's prior findings and bond denial.

☐ The Court refers specifically to the bond decision dated _____.

☐ A change of circumstances since the prior bond redetermination [☐ was / ☐ was not] shown to be *material* to the basis of the Court's prior denial of bond, to wit, [☐ danger / ☐ flight risk].

☐ A change of circumstances since the prior bond redetermination [☐ was / ☐ was not] shown to *have merit and constitute a true change*.

(8)

☐ The motion does not explain what actual change of circumstances has taken place since the prior hearing.

☐ The Court's prior [☐ danger / ☐ flight] findings were based on a variety of reasons[, ☐ as memorialized in the decision dated ___], not just on ___. The new bond motion does not establish a material change to the other concerns.

☐ Moreover, the new discovery of a [☐ sponsor / ☐ ___] following the previous bond denial does not alleviate the Court's [☐ danger / ☐ flight] concerns.

☐ The motion does not establish factual innocence of the criminal activity at issue.

☐ The Court [☐ did / ☐ did not] *previously consider* the claimed change of circumstances, or at least the prospects of its occurrence.

☐ There is a *countervailing* material change of circumstances of at least equal gravity since the prior bond redetermination, specifically:

☐ The applicant has since been denied relief from removal.

☐ The applicant's departure from the United States.

~~☐ The Court [☐ does / ☐ does not] have [☐ jurisdiction over the place of detention / ☐~~ administrative control over the case]. *See* 8 C.F.R. § 1003.19(c).

☐ The record does not otherwise show authority by the Court to redetermine custody.

☐ (Other explanation:)

☐ *See* Ex.

☐ That custody redetermination authority was acknowledged by DHS.

☐ This hearing was conducted [☐ and jurisdiction was found] pursuant to order by a U.S. District Court. [☐ Ex. __.]

☐ Regardless of authority and jurisdiction for custody redetermination, bond may be denied in this matter for reasons specified below.

BURDEN OF PROOF

☐ Assuming authority and jurisdiction *arguendo*,

☐ The applicant has the burden of proof, which [☐ was / ☐ was not] met.

☐ DHS has the burden of proof, which [☐ was / ☐ was not] met by clear and convincing evidence.

☐ The allocation of proof is particularly significant in this matter.

DANGER TO COMMUNITY / NATIONAL SECURITY

☐ The record *does not support a finding of danger* to persons or property or national security.

☐ DHS did not argue that the applicant is a danger to the community or national security risk.

☐ The record *supports a finding of danger* to [☐ persons / ☐ property / ☐ national security].

☐ The Court considered the [☐ known / ☐ lack of known] *criminal history*.

☐ Of particular significance is:

☐ the [☐ arrest(s) / ☐ conviction(s) / ☐ evidence / ☐ warrant(s) / ☐ lengthy criminal history, running from ___ to ___, including separate charges]

☐ in ____ for ____ under PC § ___[, ☐ for which the applicant was sentenced to ____]. [☐ The applicant acknowledged the same. / ☐ Ex. __.]

☐ the lack of [☐ charge(s) filed and not dismissed / ☐ conviction(s) / ☐ jail time]. [☐ The applicant acknowledged the same. / ☐ Ex. __.]

☐ The Court finds this is suggestive of a lack of [☐ culpability / ☐ severity], or at least a lack of sufficient evidence of [☐ culpability / ☐ severity].

☐ The criminal history [☐ is / ☐ is not] overly [☐ severe / ☐ extensive / ☐ recent / ☐ escalatory in nature / ☐ reflective of disregard for the safety of others].

☐ *See generally* Ex. __ (☐ showing [☐ multiple felony and misdemeanor offenses that endanger others / ☐ criminal history from ___ to ___ / ☐ a particularly vulnerable victim, to wit, ___]).

☐ The Court considered the [☐ past / ☐ present / ☐ suspected / ☐ conviction(s) relating to / ☐ sentencing enhancement(s) relating to] *criminal gang activity*.

[☐ The applicant acknowledged the same. / ☐ Ex(s). __.]

☐ This [☐ does / ☐ does not] contribute to a danger finding.

☐ The record [☐ does / ☐ does not] sufficiently show a reliable and lasting cut of gang ties.

☐ Other explanation:

☐ Even though that history *did not [☐ all / ☐ yet] result in a criminal conviction*[, ☐ at least that is known], the Court does find the foregoing history [☐ regarding ___] to be reflective of danger. *See Matter of Guerra*, 24 I&N Dec. 37, 40–41 (BIA 2006).

☐ It is not insignificant that the [☐ criminal case remains pending / ☐ applicant did not dispute culpability] [, per / ☐ Ex. __ / ☐ the testimony.]

☐ The Court was not persuaded by the applicant's [☐ uncorroborated / ☐ self-serving] claim of innocence.

☐ The Court considered *mitigating factors*, including any rehabilitative efforts and remorse and other supporting evidence, and finds this to be [☐ sufficient / ☐ insufficient] to offset danger. [☐ *See generally* Ex(s). __.]

☐ The applicant [☐ was / ☐ was not] able to prove rehabilitation in a non-controlled setting.

☐ There was [☐ no / ☐ an insignificant / ☐ a lengthy] interruption between criminal and immigration custody. [☐ The applicant acknowledged the same. / ☐ Ex(s). __.]

[☐ Sufficient / ☐ Insufficient] time has passed since the salient criminal history to reflect rehabilitation.

☐ The criminal offenses have occurred periodically, thus reflecting a pattern of recidivism.

☐ *See* Ex. __ (☐ showing salient criminal history from ___ to ___).

☐ *See also Matter of Siniauskas*, 27 I&N Dec. 207, 209 (BIA 2018) (acknowledging respondent's "significant" family and community ties, including his wife and child, and his fixed address, lengthy residence, employment history, business ownership, church support, and charitable activities in this country, but finding he had "not shown how they mitigate his dangerousness").

☐ Other explanation:

☐ The Court did not reach a determination on danger or national security risk because the flight risk is clear.

FLIGHT RISK

☐ The record *does not support* a finding of such flight risk that no amount of bond and combination of other conditions of release would be appropriate.

☐ DHS did not argue that the applicant is a flight risk.

☐ The record *supports* a finding of such flight risk that no amount of bond and combination of other conditions of release would be appropriate.

☐ The Court considered all relevant factors regarding flight risk, both aggravating and mitigating.

☐ Of particular salience for the Court's decision is the:

[☐ *authorized entry through a port of entry* / ☐ *immigration violation* of ___ / ☐ *history of unlawful entry* / ☐ *lawful status*] in the United States[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ This unlawful entry is of [☐ greater / ☐ lesser] concern because it was made while the applicant was [☐ an adult / ☐ a minor / ☐ young child][, per / ☐ Ex(s). __ / ☐ the testimony], reflecting [☐ less / ☐ no] willfulness by the applicant therefor.

[☐ presence / ☐ lack] of *sufficiently strong ties* to the United States.

☐ The record [☐ does / ☐ does not] show [☐ lengthy residence / ☐ close, adult family members with legal status, to wit, ___ / ☐ property / ☐ stable employment] in the United States[, per ☐ the testimony]. [☐ *See generally* Ex(s). __.]

(11)

[☐ sufficiently reliable / ☐ presence of an / ☐ dubious] *address and support system* in the United States.

☐ The record [☐ does / ☐ does not] show [☐ a fixed address / ☐ significant support from people close to the applicant / ☐ community support / ☐ a release plan][, per ☐ the testimony]. [☐ *See generally* Ex(s). __.]

☐ The address of the applicant has [☐ been / ☐ not been] consistent[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ Indeed, the Court [☐ does / ☐ does not] consider the [☐ proposed / ☐ lack of] *sponsorship* [☐ to be sufficiently reliable]. This [☐ increases / ☐ mitigates] the flight risk.

☐ While character letters were offered in support of the applicant, these do not actually commit to providing support to the applicant with [☐ finances / ☐ housing / ☐ transportation / ☐ compliance with conditions of release, attendance at hearings, and Court orders], should it be needed. [☐ Ex(s). __].

☐ The sponsor [☐ is a U.S. citizen / ☐ is a lawful permanent resident / ☐ ~~does not have lawful status in the United States / ☐ is of unknown lawful~~ status in the United States][, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The destination of the applicant has [☐ been / ☐ not been] consistent[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The address of the sponsor has [☐ been / ☐ not been] fixed[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The Court [☐ is / ☐ is not] persuaded that the applicant and the sponsor will maintain a sufficiently close relationship to help ensure future appearances and compliance with the Court's orders.

☐ The relationship is that of [☐ close family / ☐ extended family / ☐ friend / ☐ family friend / ☐ a person has expressed support of the applicant / ☐ unspecified nature]

☐ and the [☐ documents / ☐ testimony] [☐ show / ☐ do not show] that this sponsor has [☐ known the applicant for a long time / ☐ met the applicant in person / ☐ or even / ☐ communicated with the applicant / ☐ ever / ☐ recently]

☐[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ The sponsor has [☐ sufficient / ☐ overly limited / ☐ unknown] income relative to the known household size[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ Given the [☐ sufficiently close / ☐ long-standing / ☐ limited] nature of this relationship [☐ and other flight-related considerations noted herein], this consideration carries [☐ significant / ☐ less / ☐ little] weight.

☐ history of [☐ *compliance* / ☐ *incompliance* / ☐ *alleged incompliance*] with:

☐ orders from *law enforcement*[, per / ☐ Ex(s). __ / ☐ the testimony].

[☐ orders from / ☐ appearances with / ☐ conditions of release from] *a criminal court*[, per / ☐ Ex(s). __ / ☐ the testimony].

[☐ orders from / ☐ appearances with / ☐ timely notification of change of address / ☐ conditions of release from] *the immigration court*[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ conditions of release imposed by *DHS*[, per / ☐ Ex(s). __ / ☐ the testimony].

[☐ immigration / ☐ criminal] *law*[, per / ☐ Ex(s). __ / ☐ the testimony / ☐ even though it did not result in any criminal conviction / ☐ the discussion above regarding the applicant's criminal history].

[☐ immigration / ☐ criminal] [☐ act[s] / ☐ accusation[s]] involving *fraud or dishonesty*[, per / ☐ Ex(s). __ / ☐ the testimony].

[☐ history / ☐ lack] of known *flight or concealment*[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ presence of [☐ *incentives* / ☐ *disincentives*] to appear for any future hearing and comply with the Court's orders.

☐ This includes a *foreign want or warrant*[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ This includes prospects of *relief from removal* [☐ being / ☐ not being] overly speculative[☐, to wit, asylum, withholding under the INA, and CAT protection / ☐ – the applicant could not explain the basis therefor].

[☐ Sufficient / ☐ Insufficient] information was presented to the Court in that regard. [☐ *See* Ex(s). __ (☐ application / ☐ credible fear interview).]

☐ An application for relief [☐ has been / ☐ is expected to be] filed with [☐ the Court / ☐ USCIS].

☐ This is a collateral matter with [☐ reasonable / ☐ unknown] [☐ prospects of success / ☐ timeline].

☐ To be clear, the Court [☐ finds / ☐ has not yet found / ☐ a lack of] prima facie eligibility for such relief; more precisely, the Court is finding [☐ sufficient / ☐ insufficient] incentive, relative to relief, to appear in Court and comply with Court orders.

☐ Relief was previously [☐ granted / ☐ denied] by the Court

☐ with an adverse credibility finding which further erodes the Court's confidence in future compliance,

☐ although [☐ an appeal is pending / ☐ the period to appeal has not yet expired],

(13)

☐ per [☐ Ex(s). __ / ☐ acknowledgement of the applicant / ☐ administrative notice].

☐ (other:)

☐ This concern of speculative relief is compounded by the other flight concerns.

☐ (*Other*:) ___[, per / ☐ Ex(s). __ / ☐ the testimony].

☐ Based on the foregoing, the Court finds the totality of the circumstances to be sufficient to [☐ show / ☐ offset, with the conditions of release set forth herein,] the flight risk.

☐ Notwithstanding the [☐ aggravating / ☐ mitigating] factors and bearing in mind the allocation of proof, the Court gives greater weight to the [☐ aggravating / ☐ mitigating] factors referenced above. *See Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) (allowing the Court to give varying weight to the factors present in each case so long as the decision is reasonable).

☐ The Court did not reach a determination on flight risk because the danger to the community is clear.

OTHER EXPLANATION

☐ Counsel(s) for the applicant failed to appear.

☐ The applicant affirmed that he [☐ did / ☐ did not] want to go forward with the bond request at this time.

☐ The motion to continue from [☐ DHS / ☐ the applicant] was [☐ granted / ☐ denied] because good cause [☐ was / ☐ was not] shown.

☐ At the conclusion of today's hearing, the Court indicated that the decision was ___. However, subsequent to the hearing but prior to the issuance of this decision, the Court gave further consideration to the record and applicable case precedent[, ☐ specifically ___].[3] Upon this further consideration, the Court now concludes that ___, as explained above. The Court regrets having initially indicated a decision that was incorrect.

☐ (Other:)

ORDER(S)

All premises considered,

☒ Release from custody is DENIED.

☐ Release from custody is GRANTED under the following conditions:

☐ On recognizance.

[3] A court may reconsider its prior decision "in light of additional legal arguments, a change of law, or perhaps an argument or aspect of the case which was overlooked." *Matter of Ramos*, 23 I&N Dec. 336, 338 (BIA 2002) (quoting *Matter of Cerna*, 20 I&N Dec. 399, 402 n.2 (BIA 1991)). The Court acknowledges it needed to give more fulsome consideration to the matter at hand.

☐ Bond in the amount of $

☐ The Court considered ability to pay, but the bond amount is appropriate upon consideration of all factors relating to flight risk.

☐ Alternatives to Detention at DHS's discretion.

☐ The bond grant and conditions are pursuant to agreement by the parties.

☐ (Other:)

☐ The bond request is WITHDRAWN WITHOUT PREJUDICE:

☐ per request from the applicant.

☐ because the applicant was not ready to proceed. The applicant may re-request when ready.

☐ because the applicant was already released from DHS custody and has not pursued any amelioration of the conditions of release.

☐ because the applicant's attorney failed to appear at the hearing as scheduled.

☐ The Court indicated that the applicant does not appear to be eligible for bond through the Court at this time.

☐ The Court has not yet made any determination as to eligibility for bond.

☐ The motion to continue is now moot.

☐ The Court advised the applicant of the obligation to inform the Court of any change of address and the consequence for failure to appear to future hearings.

☐ The applicant acknowledged understanding the advisal.

APPEAL

Department of Homeland Security: ☒ waived ☐ reserved

The applicant: ☐ waived ☒ reserved

☐ The applicant neither waived nor reserved despite explanation and opportunity to do so.

☐ Either party may appeal if so desired.

Appeal due: 12/15/2025

CURTIS WHITE Digitally signed by CURTIS WHITE Date: 2025.11.13 18:42:58 -08'00'

Curtis G. White
Immigration Judge
Date: 11/13/2025

EOIR - 13 of 28

ADDENDUM OF LAW – CUSTODY

The following statements of law are hereby incorporated into the Immigration Judge's decision. These statements are not the sole legal basis for the decision and are meant to be read in conjunction with the decision itself.

Authority and Jurisdiction

"Four statutes grant the Government authority to detain noncitizens who have been placed in removal proceedings . . . ." *Avilez v. Garland*, 69 F.4th 525, 529 (9th Cir. 2023) (citing sections 236(a), 236(c), 235(b), and 241(a) of the Immigration and Nationality Act (INA or Act)). "Where an alien falls within this statutory scheme can affect whether his detention is mandatory or discretionary . . . ." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). Noncitizens remain subject to the same detention authority "throughout the administrative and judicial phases of removal proceedings." *Avilez*, 69 F.4th at 535–36 (extending case law pertaining to section 236(a), and similarly holding that "noncitizens subject to mandatory detention under [section 236(c)] are not statutorily eligible for release on bond during the judicial phase of the proceedings").

Of note, "courts are obliged to notice jurisdictional issues and raise them on their own initiative," *Hamer v. Neighborhood Hous. Servs. of Chicago*, 583 U.S. 17, 20 (2017), and "should generally decide, as a threshold matter, whether they have subject matter jurisdiction before moving on to other, non-merits threshold issues," *Bibiano v. Lynch*, 834 F.3d 966, 971 n.4 (9th Cir. 2016). Litigating parties cannot waive subject-matter jurisdiction. *See, e.g.*, Fed. R. Civ. Proc. 12(b)(1). Rather, "courts must enforce jurisdictional rules *sua sponte*, even in the face of a litigant's forfeiture or waiver." *Santos-Zacaria v. Garland*, 598 U.S. 411, 416 (2023).

INA § 236(a)

Where detention authority rests with section 236(a), "the Attorney General has the authority to grant bond in the exercise of discretion, which has been delegated to the Immigration Judges and the Board." *Matter of Fatahi*, 26 I&N Dec. 791, 793 (BIA 2016). There are, however, many individuals who do not fit within the discretionary framework that Congress devised in section 236(a), such as those who are held under the other detention statutes discussed herein.

Additionally, the Court has not been provided with authority to redetermine the conditions of custody imposed by the Department of Homeland Security (Department) on individuals who have not been served with a Notice to Appear for removal proceedings under section 240 of the Act. *Matter of A-W-*, 25 I&N Dec. 45, 46–47 (BIA 2009). Thus, individuals in asylum-only or withholding-only proceedings do not qualify for bond under section 236(a). *Id.*

Further, "[a]rriving aliens"—defined as "an applicant for admission coming or attempting to come into the United States at a port-of-entry . . . even if paroled"—are ineligible for custody redetermination by the Court, even if they are in removal proceedings. 8 C.F.R. §§ 1003.19(h)(2)(i)(B), 1001.1(q).

Moreover, the Court "is divested of jurisdiction over a bond proceeding . . . upon the entry of an administratively final order of deportation." *Matter of Valles*, 21 I&N Dec. 769, 772 (BIA 1997); *see* 8 C.F.R. § 1236.1(d)(1) ("[A] respondent may, at any time *before* [a removal] order under 8 CFR part 1240 becomes final, request amelioration of the conditions under which he or she may be released." (emphasis added)).

INA § 236(c)

Under section 236(c), if a respondent has "a qualifying offense, then detention is automatic and nondiscretionary." *Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024); *see also Matter of Garcia Arreola*, 25 I&N Dec. 267, 269 (BIA 2010) (where section 236(c) applies, "an Immigration Judge has no authority to redetermine the conditions of custody"); 8 C.F.R. § 1003.19(h)(2)(i)(D) (same). Qualifying offenses are set forth in the statute. *See* INA § 236(c)(1). Section 236(c) thus mandates detention for detainees with such offenses unless there was a corresponding release from criminal custody that occurred no later than October 8, 1998. *Matter of Adeniji*, 22 I&N Dec. 1102, 1111, 1115 (BIA 1999) (en banc).

However, pursuant to *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999) (en banc), "[d]etainees who deny that they satisfy any [INA section 236(c)] predicate may challenge their mandatory detention." *Nielsen v. Preap*, 586 U.S. 392, 418 n.8 (2019). "At a *Joseph* hearing, that person 'may avoid mandatory detention by demonstrating that he is not [a noncitizen], was not convicted of the predicate crime, or that [the Department] is otherwise substantially unlikely to establish that he is in fact subject to mandatory detention.'" *Jennings v. Rodriguez*, 583 U.S. 281, 289 n.1 (2018) (quoting *Demore v. Kim*, 538 U.S. 510, 514 n.3 (2003)); *see also Matter of Kotliar*, 24 I&N Dec. 124, 124 (BIA 2007) (holding a detainee "need not be charged with the ground that provides the basis for mandatory detention under section 236(c)(1) of the Act in order to be considered an alien who 'is deportable' on that ground"). Nonetheless, a determination in the detainee's favor "does not lead to automatic release. It simply allows an Immigration Judge to consider the question of bond under the custody standards of section 236(a)." *Matter of Joseph*, 22 I&N Dec. at 806.

INA § 235(b)

The detention authority under section 235(b) "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Jennings*, 583 U.S. at 297. "Congress has defined the concept of an 'applicant for admission' in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission, or who have been brought in against their will under certain circumstances." *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) (citing INA § 235(a)(1)). Such "applicants for admission fall into one of two categories" that are described in sections 235(b)(1) and (b)(2). *Jennings*, 583 U.S. at 287.

Evolution of Case Law Regarding INA § 235 Detention

For years, immigration courts interpreted this statutory framework by assuming mandatory detention under section 235 only applied to those in expedited removal proceedings, and that once formal removal proceedings commenced under section 240, detention jurisdiction shifted to section 236. This assumption was based on *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005), where

the Board of Immigration Appeals (Board) ruled that noncitizens placed in expedited removal proceedings who were subsequently transferred to formal proceedings following a positive credible fear determination would be eligible for a custody redetermination hearing, unless excluded by the regulations. However, later courts disagreed with this interpretation. The United States Supreme Court (Supreme Court) concluded that section 235(b)(1) "unequivocally" required the detention of all noncitizens first placed in expedited removal proceedings and then later transferred to formal removal proceedings under section 240. *Jennings*, 583 U.S. at 300. The Supreme Court described the statutory language as "quite clear" and "mandate[s] detention of [noncitizens] throughout the completion of applicable proceedings and not just until the moment those proceedings begin." *Id.* at 302–03.

Relying on *Jennings*, the Attorney General subsequently determined that sections 235 and 236 apply to separate classes of noncitizens, and ruled that aliens subject to expedited removal who have a positive credible fear determination and are subsequently placed in formal removal proceedings "remain ineligible for bond, whether they are arriving at the border or apprehended in the United States." *Matter of M-S-*, 27 I&N Dec. 509, 515 (A.G. 2019). The Attorney General's decision in *Matter of M-S-* also expressly overruled *Matter of X-K-*. Thus, the presumption that anyone in section 240 proceedings was eligible for a bond redetermination hearing under section 236 no longer applies. Rather, immigration judges are now bound by section 235 in its entirety and do not have jurisdiction to redetermine bond for individuals who are placed in removal proceedings after the expedited removal process.

More recently, the Board ruled that "for aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) . . . mandates detention 'until removal proceedings have concluded.'" *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) (quoting *Jennings*, 583 U.S. at 299). The Board stated 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 . . . and is ineligible for any subsequent release on bond under section 236(a) of the INA." *Id.* at 69. The Board also held that "an alien detained under section 235(b) who is released from detention pursuant to a grant of parole under section 212(d)(5)(A), and whose grant of parole is subsequently terminated, is returned to custody under section 235(b) pending the completion of removal proceedings." *Id.* at 70.[1]

In sum, these developments in case law establish that all applicants for admission are detained under section 235 and that the Court is without authority to redetermine their custody. With these developments in mind, the Court turns next to the text and statutory structure of section 235.

[1] The Board subsequently issued an unpublished opinion that expounded on the ruling in *Matter of Q. Li*, and reasoned that "respondent is an applicant for admission despite having been in the United States for over 10 years since his alleged last illegal entry." Cristobal Francisco Martin, [redacted] (BIA May 22, 2025) (unpublished). The Board explained that "aliens arriving in the United States who are placed in expedited removal proceedings pursuant to section 235(b)(1)(A)" are ineligible for release on bond, and that "[a]ll other aliens arriving in and seeking admission to the United States who are placed directly in full removal proceedings after failing to establish their admissibility pursuant to section 235(b)(2)(A) . . . are likewise subject to detention until removal proceedings have concluded." *Id.* Thus, the Board affirmed the IJ's "determination that the respondent is subject to mandatory detention under section 235(b)(2)(A)" and "ineligible for bond." *Id.*

INA § 235 generally

Section 235 states that "[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission." INA § 235(a)(1); *see also Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 462 n.5 (BIA 2014) ("We note that regardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission."). As previously noted, "applicants for admission fall into one of two categories, those covered by § [235](b)(1) and those covered by § [235](b)(2)." *Jennings*, 583 U.S. at 287.

INA § 235(b)(1)

Section 235(b)(1) "sets forth two independent conditions that must be satisfied for an alien to be subject to expedited removal, each of which has two possible avenues for satisfaction. First, the alien must belong to one of two categories: aliens 'who [are] arriving in the United States' or aliens 'described in clause (iii).' Second, the examining immigration officer must determine that the alien is inadmissible under either of the two specifically enumerated subsections of [section 212]." *United States v. Gambino-Ruiz*, 91 F.4th 981, 985–86 (9th Cir. 2024) (first alteration in original) (quoting INA § 235(b)(1)(A)(i)); *but see* INA § 235(b)(1)(F) (providing a narrow exception for "an alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations and who arrives by aircraft at a port of entry").

An "arriving alien" is generally defined as "an applicant for admission coming or attempting to come into the United States at a port-of-entry," and states that such individual "remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked." 8 C.F.R. § 1001.1(q). Governing regulations also provide that "an immigration judge may not redetermine conditions of custody imposed by the Service with respect to . . . [enumerated] classes of aliens" under 8 C.F.R. § 1003.19(h)(2)(i), including "[a]rriving aliens in removal proceedings." 8 C.F.R. § 1003.19(h)(2)(i)(B). Importantly, however, section 1003.19(h)(2)(i) "does not provide an exhaustive catalogue of the classes of aliens who are ineligible for bond." *Matter of M-S-*, 27 I&N Dec. at 518. The Board has also noted section 235(a)(1) "has broader applicability than does the term 'arriving alien' as defined in the regulation," and thus the definition in 8 C.F.R. § 1001.1(q) does not determine whether an individual is "ineligible for bond under 8 C.F.R. § 1003.19(h)(2)(i)(B)." *Matter of Q. Li*, 29 I&N Dec. at 68 n.2. Furthermore, the United States Supreme Court has made clear that an alien "who tries to enter the country illegally is treated as an 'applicant for admission,' and an alien who is detained shortly after unlawful entry cannot be said to have 'effected an entry.'" *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (first quoting INA § 235(a)(1), then quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)).

The first condition of section 235(b)(1) may also be satisfied if an alien is described in clause (iii). This provision permits the Attorney General to designate classes of "any or all aliens" who have not been admitted or paroled, and has been present for less than two years immediately prior to the

(19)

immigration officer's determination of inadmissibility. INA § 235(b)(1)(A)(iii)(I)–(II).[2] This clause also "allows the government to treat designated aliens as if they were 'arriving in the United States' for purposes of determining their admissibility." *Gambino-Ruiz*, 91 F.4th at 987–88 (quoting INA § 235(b)(1)(A)(iii)).

The second condition of section 235(b)(1) requires a determination of inadmissibility under section 212(a)(6)(C) or (a)(7). This requirement thus "applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Jennings*, 583 U.S. at 287; *see* INA § 212(a)(6)(C)(i) ("Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this chapter is inadmissible."); *id.* § 212(a)(7)(A)(i) ("[A]ny immigrant at the time of application for admission" is inadmissible if (I) he "is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality," or (II) his "visa has been issued without compliance with the provisions of section 1153 of this title[.]").

An applicant for admission who is covered by section 235(b)(1) is subject to expedited removal procedures set forth in that provision. *See Matter of Lujan-Quintana*, 25 I&N Dec. 53, 54 (BIA 2009) (describing expedited removal proceedings). Pursuant to those procedures, an applicant is "normally ordered removed without further hearing or review pursuant to an expedited removal process" unless he "applies for asylum and has a credible fear of persecution," in which case he "shall be detained for further consideration of the application." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022) (internal quotation marks and citation omitted); INA § 235(b)(1)(B)(ii), (iii)(IV) (stating an applicant subject to expedited removal "*shall* be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed," or, if found to have "a credible fear of persecution . . . , the alien *shall* be detained for further consideration of the application for asylum" (emphasis added)); *see* 8 C.F.R. § 235.3(b)(2)(iii) (stating an "alien in expedited removal . . . *shall* be detained pending determination and removal" (emphasis added)). Thus, regardless of "[w]hether an applicant [for admission] who raises an asylum claim receives full or only expedited review, the applicant is not entitled to immediate release." *Thuraissigiam*, 591 U.S. at 111; *see also Matter of*

[2] Designated subsets of the class described in subclause (II) are published in the Federal Register. *See, e.g.*, Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139, 8140 (Jan. 24, 2025) (designating aliens "who did not arrive by sea, who are apprehended anywhere in the United States more than 100 air miles from a U.S. international land border, and who have been continuously present in the United States for [either] less than two years," or "for at least 14 days but for less than two years"); Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877, 48880 (Aug. 11, 2004) ("Aliens who are inadmissible under sections 212(a)(6)(C) or (7) of the Act, who are physically present in the U.S. without having been admitted or paroled following inspection by an immigration officer at a designated port-of-entry, who are encountered by an immigration officer within 100 air miles of any U.S. international land border, and who have not established . . . that they have been physically present in the U.S. continuously for the 14-day period immediately prior to the date of encounter."); Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act, 67 Fed. Reg. 68924, 68925–68926 (Nov. 13, 2002) (designating—with the exception of "Cuban citizens or nationals"—all "aliens who arrive in the United States by sea, either by boat or other means, who are not admitted or paroled, and who have not been physically present in the United States continuously for the two-year period prior to the determination of inadmissibility"); *see also* Eliminating Exception To Expedited Removal Authority for Cuban Nationals Encountered in the United States or Arriving by Sea, 82 Fed. Reg. 4902 (Jan. 17, 2017).

Cabrera-Fernandez, 28 I&N Dec. 747, 749 n.2 (BIA 2023) ("[D]etained individuals in expedited removal proceedings are not entitled to bond hearings under the terms of the statute irrespective of detention length." (citing *Jennings*, 583 U.S. at 299–300)).

INA § 235(b)(2)

Section 235(b)(2) sets forth procedures for the "[i]nspection of other aliens." Apart from narrow exceptions, this paragraph applies when "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." INA § 235(b)(2)(A); *see id.* § 235(b)(2)(B) (excepting an applicant "to whom paragraph (1) applies," or who is a crewman or a stowaway). Moreover, implementing regulations further clarify the class of noncitizens covered in paragraph (b)(2):

> An alien who was not inspected and admitted or paroled into the United States but who establishes that he or she has been continuously physically present in the United States for the 2–year period immediately prior to the date of determination of inadmissibility, shall be detained in accordance with [INA] section 235(b)(2).

8 C.F.R. § 235.3(b)(1)(ii). "A regulation promulgated by the Attorney General has the force and effect of law" in immigration court. *Matter of Alania-Martin*, 25 I&N Dec. 231, 234 (BIA 2010) (quoting *Matter of Fede*, 20 I&N Dec. 35, 36 (BIA 1989)). "Moreover, it is settled that the immigration judge and [the] Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations." *Matter of C-*, 20 I&N Dec. 529, 532 (BIA 1992) (citations omitted). Thus, the Court interprets these statutory and regulatory provisions as acting in tandem to define "applicant for admission" as including aliens present without inspection and admission or parole for a continuous period of at least two years, and are therefore subject to the provisions set forth in section 235(b)(2).

In general, where "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall* be detained for a proceeding under section [240]." INA § 235(b)(2)(A) (emphasis added); *see* 8 C.F.R. § 235.3(b)(1)(ii) (describing aliens who "*shall* be detained in accordance with section 235(b)(2)" (emphasis added)). Indeed, this statute "mandates detention 'if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.'" *Rodriguez Diaz*, 53 F.4th at 1197 (first quoting *Jennings*, 583 U.S. at 287, then quoting INA § 235(b)(2)(A)). "Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission," including "an alien who crossed the border unlawfully without inspection, even if that alien has avoided apprehension for more than 2 years." *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025).

INA § 235 Detention and Issuance of an Administrative Warrant or Notice of Custody Determination

Section 236 does contemplate the detention of an individual in lawful status who is arrested with a warrant. *See Jennings*, 583 U.S. at 302 (explaining INA § 236(a) "authorizes detention only '[o]n a warrant issued' by the Attorney General leading to the alien's arrest" (alteration in

21

original)). Nonetheless, the statutory detention authority in section 235 is not altered by the issuance of an administrative arrest warrant. Such an authorization to effectuate an arrest is set forth in a Form I-200, Warrant for Arrest of Alien, which commands the arrest of an individual who has been lawfully admitted in the United States. In contrast, the Department has the authority to arrest individuals who are classified as "applicants for admission" with or without a warrant. *See* INA § 287(a)(2); 8 C.F.R. § 287.8(c)(2)(ii). Applicants for admission who are arrested without a warrant are subject to mandatory detention under section 235. *See, e.g.*, *Matter of Q. Li*, 29 I&N Dec. at 70 ("As an alien arrested without a warrant . . . the respondent's continued detention is mandated by section 235(b) of the INA."). Furthermore, courts have never determined that "arriving aliens" are eligible for bond because the Department also issued an I-200.[3] Moreover, the issuance of the warrant does not convert the statutory authority governing detention from section 235 to section 236, and rather, "[o]nce an alien is detained under section 235(b), [the Department] cannot convert the statutory authority governing his detention from section 235(b) to section 236(a) through the post-hoc issuance of a warrant." *Matter of Q. Li*, 29 I&N Dec. at 69 n.4.

Similarly, language in a Form I-286, Notice of Custody Determination, does not serve to provide a conclusive and binding determination of the detention authority permitting an alien's custody. Importantly, governing regulations do not indicate that the issuance of a Form I-286 is mandatory. *See also* 8 C.F.R. § 236.1(g) (providing "an immigration officer *may* issue a Form I-286" (emphasis added)). Furthermore, while such forms may include language that indicates immigration officers arrested a respondent pursuant to INA section 236, such language does not independently alter the detention authority authorizing his custody. The Court is not persuaded that the mere issuance of a preprinted form by a field officer after a respondent's arrest can abrogate the clear statutory mandate requiring detention under section 235(b)(1) or (b)(2). More importantly, the Department does not have "prosecutorial discretion" to detain a noncitizen under the permissive ("may detain") detention provisions of section 236(a) where Congress has authorized mandatory detention ("shall be detained") under section 235. *See Maldonado v. Bostock*, No. 2:23-cv-00760-LK-BAT, 2023 WL 5804021, at *2 (W.D. Wash. Aug. 8, 2023) ("The parties provide no authority for the proposition that DHS retains discretion to sidestep or override Section [235] by issuing an NTA and arrest warrant.").

In short, it is not the issuance of a warrant or an initial custody determination that determines detention authority, but rather an individual's status as an applicant for admission that subjects him to mandatory detention. The language of the statute and guidance from the Supreme Court and Attorney General support the conclusion that section 235 applies to applicants for admission that are removable under section 212 and section 236 applies only to those who have been admitted

[3] There are other detention statutes for which the issuance of a warrant does not convert the detention authority. *See* INA § 236A (requiring the detention of "terrorist aliens" and allowing for release "only if" the Attorney General decides that certain conditions are met); *id.* § 241(a)(1)-(2), (6) (providing the detention scheme for those who have been ordered removed); *id.* § 241(c)(2) (describing stay of removal procedures and release authority for removal of noncitizens arriving at a port of entry); *id.* § 241(c)(3) (delineating detention pending removal for noncitizens arriving at a port of entry and giving exceptions for those eligible to apply for admission). *See also Matter of A-W-*, 25 I&N Dec. 45 (BIA 2009) (holding that noncitizens who have been admitted into the United States under the visa waiver program, *see* INA § 217(a), and who are placed in asylum-only proceedings after being found subject to removal, are ineligible for bond hearings). In each instance, DHS may issue an I-200 in connection with the arrest of the noncitizen, but these laws do not allow the existence of a warrant to convert the detention authority.

and are removable under section 237. Thus, the issuance of a warrant may be a prerequisite for detention under section 236, but it does not convert detention under section 235 to detention under section 236. Similarly, an initial custody determination by immigration officers does not independently establish that the Court has discretion to redetermine the custody of aliens subject to mandatory detention under section 235.

INA § 235 Detention and References in INA § 236(c) to INA § 212

The Court's conclusions above regarding section 235(b) detention is not altered by references in section 236(c) to section 212, including the recently enacted Laken Riley Act (LRA), Pub. L. 119-1, 139 Stat. 3 (Jan. 29, 2025). The LRA also added a provision to section 236(c) that mandates the detention of aliens charged under sections 212(a)(6), (6)(C), and (7). *See* Pub. L. 119-1, § 2 (codified at INA § 236(c)(1)(E)(i)–(ii)).[4] Nevertheless, the LRA did not amend the permissive detention and custody redetermination provisions of section 236(a). In fact, section 236(a) does not mention applicants for admission or other aliens who are inadmissible to the United States. That the Attorney General "shall take into custody" certain criminal aliens who are inadmissible to the United States can hardly be said to grant applicants for admission the right to a discretionary bond hearing under section 236(a). *See* INA § 236(c). If Congress's inclusion of inadmissible criminal aliens in section 236(c) renders otherwise inadmissible aliens eligible for a bond hearing under section 236(a), this would mean that arriving aliens, who are typically charged as inadmissible under section 212(a)(7) of the Act, would also be eligible for a bond hearing under section 236(a). This would turn decades of immigration law on its head. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B) (making arriving aliens ineligible for custody redeterminations before an immigration judge). In addition, such logic would also render the Attorney General's decision in *Matter of M-S-* meaningless because the class of aliens addressed in that decision were all inadmissible under sections 212(a)(6), (6)(C), or (7) of the INA.

INA § 235 Detention and Release from Custody on Parole

While detention is generally mandatory under section 235(b), in some instances, detained aliens may be granted parole and released from custody. The Act contemplates two distinct forms of parole: "Release on conditional parole under section 236(a)(2)(B) . . . is legally distinct from release on humanitarian parole under section 212(d)(5)(A)[.]" *Matter of Cabrera-Fernandez*, 28 I&N Dec. at 747. Given that the permissive detention provisions under section 236(a) are not applicable to persons covered by section 235, such individuals are ineligible for conditional parole. A separate INA provision permits the parole "any alien applying for admission" into the United States "for urgent humanitarian reasons or significant public benefit,'" which establishes an "express exception to mandatory detention" under section 235. *Matter of M-S-*, 27 I&N Dec. at 516–17; *see* INA § 212(d)(5); *see also Matter of Q. Li*, 29 I&N Dec. at 69 ("The only exception permitting the release of aliens detained under section 235(b) of the INA . . . is the parole authority provided by section 212(d)(5)(A) of the INA."). However, the Court has no authority to grant humanitarian parole because "the parole authority under section 212(d)(5)(A) . . . is now delegated

[4] While the LRA also amended INA section 235, those amendments do not alter the mandatory nature of that statute's detention provisions. *See* Pub. L. 119-1, § 3(a) (renumbering paragraphs and adding a provision pertaining to state enforcement).

23

solely to the Secretary of Homeland Security." *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 260–61 (BIA 2010).

Moreover, parole does not change an alien's status such that the detention authority governing his custody shifts to section 236. *See, e.g.*, *Alanniz v. Barr*, 924 F.3d 1061, 1065–67 (9th Cir. 2019) ("'The parole of aliens seeking admission is simply a device through which needless confinement is avoided . . . was never intended to affect an alien's status,' and to hold that a noncitizen's parole placed him legally within the United States 'is inconsistent with the congressional mandate, the administrative concept of parole, and the decisions of this Court.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958))). Rather, an individual "detained under section 235(b) . . . who is released from detention pursuant to a grant of parole under section 212(d)(5)(A) . . . , and whose grant of parole is subsequently terminated, is returned to custody under section 235(b) pending the completion of removal proceedings." *Matter of Q. Li*, 29 I&N Dec. at 66; *see also* 8 C.F.R. § 235.3(b)(2)(iii), (4)(ii), (5)(i) (requiring that applicants for admission shall be returned to the custody from which they were paroled when parole is terminated).

INA § 241(a)

When a respondent "has a final removal order that is not subject to a judicial stay, detention authority shifts" to section 241(a). *Rodriguez Diaz*, 53 F.4th at 1197. "After the entry of a final order of removal against a noncitizen," he is subject to mandatory detention during an initial "90-day 'removal period.'" *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022) (quoting INA §§ 241(a)(1)(A), (a)(2)). "The removal period begins on the latest of three dates: (1) the date the order of removal becomes 'administratively final,' (2) the date of the final order of any court that entered a stay of removal, or (3) the date on which the [respondent] is released from non-immigration detention or confinement." *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) (quoting INA § 241(a)(1)(B)). "After the removal period expires, the Government 'may' detain only four categories of people: (1) those who are 'inadmissible' on certain specified grounds; (2) those who are 'removable' on certain specified grounds; (3) those it determines 'to be a risk to the community'; and (4) those it determines to be 'unlikely to comply with the order of removal.'" *Arteaga-Martinez*, 596 U.S. at 578–79 (quoting INA § 241(a)(6)). Section 241 "further provides that when an alien reenters the country after having already been removed, 'the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed.'" *Guzman Chavez*, 594 U.S. at 533 (quoting INA § 241(a)(5)).

As noted above, the Court "is divested of jurisdiction over a bond proceeding . . . upon the entry of an administratively final order of deportation." *Matter of Valles*, 21 I&N Dec. at 772. "[R]einstated removal orders are 'administratively final'" for purposes of detention even when the alien is placed in withholding-only proceedings. *Guzman Chavez*, 594 U.S. at 534–36 ("When an alien applies for withholding-only relief, he does so as to a particular country . . . . If an immigration judge grants an application for withholding of removal, he prohibits DHS from removing the alien *to* that particular country, not *from* the United States. The removal order is not vacated or otherwise set aside." (emphasis in original)). "Like [INA § 236](c), neither § [235](b) nor § [241](a) on their face provides for bond hearings." *Rodriguez Diaz*, 53 F.4th at 1198; *see Jennings*, 583 U.S. at 297 (holding that INA §§ 235(b)(1) and (b)(2) "mandate detention of applicants for admission until certain proceedings have concluded"); *Guzman Chavez*, 594 U.S. at 526 ("[Section 241] governs the detention of aliens subject to reinstated orders of removal,

(24)

meaning those aliens are not entitled to a bond hearing while they pursue withholding of removal.").

Prolonged Detention

In 2013, the District Court certified a class of nearly "[a]ll non-citizens within the Central District of California" who have been detained for at least 180 days under sections 235(b), 236(a), 236(c); and 241(a), and issued a permanent injunction requiring class members "be afforded bond hearings after six months of detention." *Rodriguez v. Holder*, No. CV 07-3239 TJH (RNBx), 2013 WL 5229795 at *1, *3 (C.D. Cal. Aug. 6, 2013) (excluding persons subject to "a national security detention statute"), *aff'd in part, rev'd in part sub nom. Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), *rev'd sub nom. Jennings v. Rodriguez*, 583 U.S. 281 (2018). The United States Court of Appeals for the Ninth Circuit (Ninth Circuit) subsequently narrowed the class to exclude persons detained under section 241(a), and affirmed the injunction. *Rodriguez*, 804 F.3d at 1086. The United States Supreme Court reversed. *Jennings*, 583 U.S. at 311–12. However, neither the Supreme Court nor the Ninth Circuit explicitly vacated, stayed, or otherwise modified the underlying permanent injunction. *See Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018) ("Like the Supreme Court, we do not vacate the permanent injunction pending the consideration of these vital constitutional issues."). Thus, "the permanent injunction . . . remain[s] in effect" in the Central District, and the Court retains jurisdiction to conduct a custody redetermination hearing pursuant to this authority. *Rodriguez v. Marin*, No. CV 07-03239-TJH (SPx), 2020 WL 13724475, at *3 (C.D. Cal. May 28, 2020).

In 2018, the District Court for the Northern District of California certified "a class of essentially all . . . [INA] section [241](a)(6) detainees in the Ninth Circuit," and ordered the government "to provide a bond hearing to [such] detainees after 180 days in detention." *Gonzalez v. Sessions*, 325 F.R.D. 616, 619 (N.D. Cal. 2018), *aff'd sub nom. Aleman Gonzalez v. Barr*, 955 F.3d 762 (9th Cir. 2020), *rev'd sub nom. Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022). The certified class is limited to "only those individuals detained pursuant to section [241](a)(6) for six months or longer who have not received a bond hearing," *Gonzalez v. Whitaker*, No. 18-CV-01869-JSC, 2019 WL 330466, at *3 (N.D. Cal. Jan. 25, 2019) (unreported), and includes any "immigrant [who] was ordered removed under [INA § 238](b) after committing an aggravated felony, is seeking review of their motion to reopen removal proceedings under [INA § 240](c)(7), or has been issued a judicial stay of removal," *Gonzalez*, 325 F.R.D. at 624 (finding sufficient commonalty between "immigrants with reinstated removal orders" and other class members); INA § 241(a)(6) (permitting detention of noncitizens with final orders of removal beyond the ninety-day removal period). The United States Court of Appeals for the Ninth Circuit (Ninth Circuit) subsequently affirmed the preliminary injunction. *Aleman Gonzalez*, 955 F.3d at 766. The United States Supreme Court reversed, and held that the District Court lacked jurisdiction to issue a class-wide injunction. *Aleman Gonzalez*, 596 U.S. at 546. However, neither the Supreme Court nor the Ninth Circuit explicitly vacated, stayed, or otherwise modified the underlying injunction. *See also Aleman Gonzalez v. Barr*, No. 18-16465, 2023 WL 3158294, at *1 (9th Cir. Apr. 25, 2023) (unpublished) (remanding the matter "to the district court for further proceedings consistent with the Supreme Court's decision"). Accordingly, the injunction remains in place in the Ninth Circuit, and the Court retains jurisdiction to conduct a custody redetermination hearing pursuant to this authority.

(25)

In 2011, the District Court for the Central District of California certified a class of all unrepresented detainees in California, Arizona, and Washington who have "a serious mental disorder or defect that may render them incompetent to represent themselves in detention or removal proceedings." *Franco-Gonzales v. Napolitano*, No. CV 10-02211 DMG (DTBx), 2011 WL 11705815, at *16 (C.D. Cal. Nov. 21, 2011). The District Court subsequently issued an injunction that required "the provision of a custody redetermination hearing for individuals . . . who have been detained for a prolonged period of time greater than 180 days." *Franco-Gonzalez v. Holder*, No. CV 10-02211 DMG (DTBx), 2013 WL 3674492, at *20 (C.D. Cal. Apr. 23, 2013); *see also Franco-Gonzalez v. Holder*, No. CV 10-02211 DMG (DTBx), 2013 WL 8115423 (C.D. Cal. Apr. 23, 2013) (accompanying judgment).

Detainees are not statutorily entitled to periodic bond hearings throughout the course of their detention, even if prolonged. *Jennings*, 583 U.S. at 311–12; *Arteaga-Martinez*, 596 U.S. at 578–79.

Subsequent Bond Requests

"After an initial bond redetermination, an alien's request for a subsequent bond redetermination shall be made in writing and shall be considered only upon a showing that the alien's circumstances have changed materially since the prior bond redetermination." 8 C.F.R. § 1003.19(e).

Conduct of Hearing and Evidentiary Issues

"[B]ond and removal are distinctly separate proceedings," *Matter of R-S-H-*, 23 I&N Dec. 629, 630 n.7 (BIA 2003), and bond hearings "are far less formal than removal hearings," *Joseph v. Holder*, 600 F.3d 1235, 1243–44 (9th Cir. 2010). *See also Matter of Khalifa*, 21 I&N Dec. 107, 112 (BIA 1995) (noting "informal procedures may be used" in bond proceedings). Indeed, "bond hearings are generally briefer[.]" *Immigration Court Practice Manual*, Chapter 9.3(e)(6). Proffers are specifically contemplated and the taking of in-court testimony is at the Court's discretion. *Id.*

The rules of evidence that apply in regular criminal and civil proceedings do not strictly bind immigration proceedings. *See Baliza v. INS*, 702 F.2d 1231 (9th Cir. 1983); *Hernandez v. Garland*, 52 F.4th 757, 766 (9th Cir. 2022). Immigration judges exercise "independent judgment and discretion and may take any action consistent with their authorities under the Act[,]" including receiving evidence and taking testimony. 8 C.F.R. § 1003.10(b). The Court has "broad discretion to conduct and control immigration proceedings and to admit and consider relevant and probative evidence." *Matter of Interiano-Rosa*, 25 I&N Dec. 264, 265 (BIA 2010). The "sole test for admission of evidence is whether the evidence is probative and its admission is fundamentally fair." *Espinoza v. INS*, 45 F.3d 308, 310 (9th Cir. 1995). "The burden of establishing a basis for exclusion of evidence from a government record falls on the opponent of the evidence[.]" *Id.*

The Court has "broad discretion to accept a document as authentic or not based on the particular factual showing presented." *Vatyan v. Mukasey*, 508 F.3d 1179, 1185 (9th Cir. 2007). Arguments "regarding authentication and chain of custody generally go to the weight of the evidence, not its admissibility." *Matter of D-R-*, 25 I&N Dec. 445, 459 (BIA 2011), *remanded on other grounds*, *Radojkovic v. Holder*, 599 F. App'x 646 (9th Cir. 2015). To authenticate a document, "there must be proof that the form is what is purports to be." *Iran v. INS*, 656 F.2d 469, 473 (9th Cir. 1981);

(22)

accord Sinotes-Cruz v. Gonzales, 468 F.3d 1190, 1196 (9th Cir. 2006) (documents with government stamps, fax notations, and court records on their face gave "every indication of being official … records").

Additionally, "it is well settled that hearsay rules are not binding in immigration proceedings." *Matter of O-R-E-*, 28 I&N Dec. 330, 337 (BIA 2021). Indeed, there is no automatic right to cross-examine the preparer of documents in immigration proceedings. *See, e.g., Baliza*, 702 F.2d at 1234; *Espinoza*, 45 F.3d at 311–12. It is assumed that "public officials perform their duties properly without motive or interest other than to submit accurate and fair reports." *Espinoza*, 45 F.3d at 310. Absent any evidence that a Form I-213 contains information that is incorrect or was obtained by coercion or duress, it is inherently trustworthy. *See Trias-Hernandez v. INS*, 528 F.2d 366, 369 (9th Cir. 1975); *Matter of Barcenas*, 19 I&N Dec. 609, 611 (BIA 1988).

Regulation requires that a "foreign language document offered by a party in a proceeding shall be accompanied by an English language translation and a certification signed by the translator that must be printed legibly or typed. Such certification must include a statement that the translator is competent to translate the document, and that the translation is true and accurate to the best of the translator's abilities." 8 C.F.R. § 1003.33.

~~Even if a claim is credible, the Court "need not find [the] evidence persuasive or sufficient to meet~~ the burden of proof." *Garland v. Ming Dai*, 141 S. Ct. 1669, 1680 (2021). The Court is not required to accept the assertions of a party, "even if plausible, where there are other permissible views of the evidence based on the record." *Matter of D-R-*, 25 I&N Dec. at 455.

Burden of Proof and Discretion

"As recognized by the Supreme Court, section 236(a) does not give detained aliens any *right* to release on bond. Rather, the statute merely gives the Attorney General the authority to grant bond *if* he concludes, in the exercise of broad discretion, that the alien's release on bond is warranted." *Matter of D-J-*, 23 I&N Dec. 572, 575 (A.G. 2003) (emphasis in original) (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)). A respondent seeking release on bond pursuant to section 236(a) "bears the burden of establishing 'that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight.'" *Flores v. Lynch*, 828 F.3d 898, 909 (9th Cir. 2016) (quoting *Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006)).

In *Rodriguez* bond proceedings, the Department bears the burden to "justify a non-citizen's detention by clear and convincing evidence," *Rodriguez*, 804 F.3d at 1087, and to demonstrate that he presents "a danger to the community, a threat to national security, or a flight risk," *Matter of Panin*, 28 I&N Dec. 771, 772 (BIA 2024).

In *Aleman Gonzalez* bond proceedings, the Department "bear[s] a clear and convincing burden of proof at such a bond hearing to justify [a respondent's] continued detention," *Aleman Gonzalez*, 955 F.3d at 766, and must demonstrate that he presents "a danger to the community, a threat to national security, or a flight risk," *Matter of Panin*, 28 I&N Dec. at 772.

(27)

In *Franco-Gonzalez* bond proceedings, the Department "bears the burden of justifying [a class member's] continued detention by clear and convincing evidence," *Franco-Gonzalez*, 2013 WL 3674492 at *13, and to demonstrate that he presents "a danger to the community, a threat to national security, or a flight risk," *Matter of Panin*, 28 I&N Dec. at 772.

The Court determines whether a party's burden is met by considering factors such as "the individual's ties to the United States[,] . . . employment history, criminal record, history of immigration violations, and manner of entry into this country," *Rodriguez Diaz*, 53 F.4th at 1197, as well as "the likelihood that relief from removal will be granted," *Matter of R-A-V-P-*, 27 I&N Dec. 803, 805 (BIA 2020). "[T]he INA does not limit the discretionary factors that may be considered" in a custody proceeding, *Matter of D-J-*, 23 I&N Dec. at 576, and "Immigration Judges may take into consideration all relevant and probative evidence, regardless of which party filed it, to determine if the evidence establishes custody factors[,]" *Matter of Dobrotvorskii*, 29 I&N Dec. 211, 213 (BIA 2025). Moreover, the Court may "give greater weight to one factor over others, as long as the decision is reasonable." *Matter of Guerra*, 24 I&N Dec. at 40.

Danger and National Security Considerations

In a bond proceeding, the Court must "first consider whether the respondent is a danger to the community or a threat to national security before considering whether he presents a risk of flight." *Matter of R-A-V-P-*, 27 I&N Dec. at 804. To determine whether a respondent's release would present a danger to the community, the Court may consider "direct and circumstantial evidence of dangerousness, including whether the facts and circumstances present national security considerations." *Matter of Fatahi*, 26 I&N Dec. at 791.

To conduct this analysis, the Court considers a respondent's "criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses," *Matter of Guerra*, 24 I&N Dec. at 40, as well as any other "unfavorable evidence of his conduct" then that reflects a lack of danger to the community of national security, *Matter of R-A-V-P-*, 27 I&N Dec. at 804 (quoting *Matter of Guerra*, 24 I&N Dec. at 40–41). "In the context of custody redeterminations, Immigration Judges are not limited to considering *only* criminal convictions." *Matter of Guerra*, 24 I&N Dec. at 40. Rather, the Court "may properly consider any unfavorable evidence of an alien's conduct, including arrests that did not ultimately result in conviction." *Matter of Urena*, 25 I&N Dec. 140, 140 (BIA 2009). Conversely, the Court may not "look behind the fact of conviction and relitigate the ultimate question of an alien's guilt or innocence." *Matter of C-M-M-*, 29 I&N Dec. 141, 142 (BIA 2025) (citing *Matter of Roberts*, 20 I&N Dec. 294, 301 (BIA 1991)).

While the Court "may consider a State court's decision as to dangerousness and the amount of bail that was set in criminal proceedings," the Court "does not owe a State court custody order deference in immigration bond proceedings." *Matter of Choc-Tut*, 29 I&N Dec. 48, 50 (BIA 2025) ("The legal standards for bail in State court may be different than in Immigration Court and there may be a variety of reasons why an Immigration Judge may or should reach a different determination than a State court judge. It is for the Immigration Judge to make his or her own determination as to dangerousness under the custody redetermination provisions of the INA and applicable precedent.").

Flight

"Only if an alien does not pose a danger to the community should an Immigration Judge continue to a determination regarding the extent of [his] flight risk." *Matter of Urena*, 25 I&N Dec. at 141. If so, the Court then looks to see if there exists a monetary amount for "bond, even if coupled with alternatives to detention," that "would be sufficient to ensure the applicant's appearance at future immigration hearings and, if necessary, her surrender for removal from this country." *Matter of C-M-M-*, 29 I&N Dec. at 144.

The Court assesses a respondent's flight risk by considering factors such as his "family ties and his possible eligibility for discretionary relief," as well as whether he has "a fixed address, a residence of long duration, a history of employment, and other community ties." *Matter of Siniauskas*, 27 I&N Dec. 207, 209 (BIA 2018); *see also Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025) ("Significant discrepancies regarding whether the respondent lives in New York or Michigan and his past failure to file timely change of address notices with the Immigration Court, when considered in the totality of the circumstances, demonstrate that the respondent is a flight risk and does not warrant release on bond."); *Matter of Dobrotvorskii*, 29 I&N Dec. at 213 ("In bond proceedings, the existence of a valid, reliable, and credible sponsor is relevant to the determination of flight risk."); *Matter of R-A-V-P-*, 27 I&N Dec. at 806 (the Court may properly consider evidence, or lack thereof, of the sponsor's relationship to the detainee, present immigration status, and ability to support the detainee and ensure future appearances). A respondent's unlawful entry is also relevant to an analysis of his risk of flight. *Matter of Shaw*, 17 I&N Dec. 177, 179 (BIA 1979); *see also, e.g.*, *Matter of C-M-M-*, 29 I&N Dec. at 144 ("the applicant's extensive and lengthy history of immigration law violations attests to the applicant being a significant flight risk"). While the Court may also consider "the likelihood that relief from removal will be granted," *Matter of R-A-V-P-*, 27 I&N Dec. at 805, "[a] grant of withholding of removal that is pending on appeal does not justify release on bond where the factors regarding flight risk weigh strongly against release on bond." *Matter of E-Y-F-G-*, 29 I&N Dec. 103 (BIA 2025).

Terms of Release

If a detainee is "neither dangerous nor enough of a flight risk to require detention without bond," the Court may order his release "on bond or subject to other conditions of release." *Hernandez v. Sessions*, 872 F.3d 976, 981–82 (9th Cir. 2017); *see also Hernandez v. Lynch*, No. EDCV 16-00620 JGB (KKx), 2016 WL 7116611, *20 n.20 (C.D. Cal. Nov. 10, 2016) (noting "possible alternative conditions of supervision could include Global Positioning System tracking, periodic in-person and telephonic reporting, and home visits"). To determine the appropriate terms of release, the Court must "(a) consider the person's financial ability to pay a bond; (b) not set bond at a greater amount than that needed to ensure the person's appearance; and (c) consider whether the person may be released on alternative conditions of supervision, alone or in combination with a lower bond amount, that are sufficient to mitigate flight risk." *Hernandez*, 2016 WL 7116611 at *20.

RE: OSORIO - VALDEZ, OSCAR EDUARDO

File: [redacted]

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL [M] PERSONAL SERVICE [P] ELECTRONIC SERVICE [E]
TO: [ ] ALIEN [ ] ALIEN c/o Custodial Officer [E] ALIEN's ATT/REP [E] DHS
DATE: 11/17/2025 BY: COURT STAFF: M.NARANJO
Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [X] Other - ADDENDUM OF LAW - CUSTODY ENCLOSE

C1

EOIR - 28 of 28

30

Writ of Habeas Corpus
Oscar Eduardo Osorio Valdez

EXHIBIT C

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [redacted]
Event No: [redacted]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted]

File No: [redacted]

In the Matter of:

Respondent: OSCAR EDUARDO OSORIO - VALDEZ currently residing at:

[redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☒ You are an arriving alien.

☐ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;

2. You are a native of PERU and a citizen of PERU;

3. You applied for admission at the SAN LUIS, AZ POE on December 10, 2022;

4. You did not then possess or present a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

10250 RANCHO RD, STE 201A ADELANTO, CALIFORNIA 92301-2237.
(Complete Address of Immigration Court, including Room Number, if any)

on November 20, 2025 (Date) at 8:30 am (Time) to show why you should not be removed from the United States based on the charge(s) set forth above.

J 9483 SANCHEZ - Acting SDDO
(Signature and Title of Issuing Officer)

Date: October 28, 2025

Adelanto, CA
(City and State)

This Notice to Appear Supersedes the Notice to Appear issued on October 23, 2025

EOIR – 1 of 4

[redacted] XX [redacted].

(31)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at **www.uscis.gov/i-589**. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at **http://www.ice.gov/contact/ero**, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Upon information and belief, the language that the alien understands is SPANISH.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

_____
(Signature of Respondent)

_____
(Signature and Title of Immigration Officer)

Date: _____

Certificate of Service

This Notice To Appear was served on the respondent by me on 10/29/25, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

_____
(Signature of Respondent if Personally Served)

R 8314 TORRES - Deportation Officer
(Signature and Title of officer)

32

EOIR – 2 of 4

Exh 1 – Adm

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security **Continuation Page for Form I-862**

Alien's Name	File Number	Date
OSORIO - VALDEZ, OSCAR EDUARDO	[redacted] Event No: [redacted]	10/08/2025

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature	Title
J 9483 SANCHEZ	Deportation Officer

EOIR 4 of 4

Exh. 1 - Adm.

(34)

Form I-831 Continuation Page (Rev. 08/01/07)

4 of 4 Pages

Writ of Habeas Corpus
Oscar Eduardo Osorio Valdez

EXHIBIT D

U.S. Department of Homeland Security Subject ID : [redacted]

Record of Deportable/Inadmissible Alien

Family Name (CAPS)	First	Middle
OSORIO - VALDEZ,	OSCAR	EDUARDO

Sex	Hair	Eyes	Complxn
M	BLK	BRO	MED

Country of Citizenship	Passport Number and Country of Issue	File Number
PERU	See Narrative	[redacted]

Height	Weight	Occupation
68	160	LABORER

U.S. Address: [redacted]

Scars and Marks:

Date, Place, Time, and Manner of Last Entry: 12/10/2022 Unknown Time, SLU, WI-Without Inspection

Passenger Boarded at:

F.B.I. Number:

☐ Single ☐ Divorced ☐ Married ☐ Widower ☐ Separated

Number, Street, City, Province (State) and Country of Permanent Residence:

Method of Location/Apprehension: NCA

Date of Birth	Age: 36	Date of Action	Location Code	At/Near	Date/Hour
[redacted]		10/23/2025	LOS/LOS	See I-831	10/23/2025 08:51

City, Province (State) and Country of Birth: LIMA, PERU

AR ☒ Form: (Type and No.) Lifted ☐ Not Lifted ☐

By: J. 10980 GASTELUM

NIV Issuing Post and NIV Number:

Social Security Account Name:

Status at Entry:

Status When Found:

Date Visa Issued:

Social Security Number:

Length of Time Illegally in U.S.:

Immigration Record: NEGATIVE

Criminal Record:

Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate):

Number and Nationality of Minor Children: None

Father's Name, Nationality, and Address, if Known: OSORIO, OSCAR NATIONALITY: PERU ADDRESS: [redacted]

Mother's Present and Maiden Names, Nationality, and Address, if Known: VALDEZ, ANTONIA NATIONALITY: PERU ADDRESS: [redacted]

Monies Due/Property in U.S. Not in Immediate Possession: None Claimed

Fingerprinted? ☐ Yes ☒ No

Systems Checks: See Narrative

Charge Code Words(s): See Narrative

Name and Address of (Last)(Current) U.S. Employer: See Narrative

Type of Employment: Unemployed or Retired

Salary: Hr

Employed from/to: 10/23/2025

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

Left Index fingerprint

Right Index fingerprint



[redacted]

Subject Health Status

The subject claims good health.

Current Administrative Charges

10/23/2025 - 212a7AiI - IMMIGRANT WITHOUT AN IMMIGRANT VISA

RECORDS CHECKED ...(CONTINUED ON I-831)

Alien has been advised of communication privileges 10/23/25 J.G. (Date/Initials)

J. 10980 GASTELUM
Deportation Officer
(Signature and Title of Immigration Officer)

Distribution:

Received: (Subject and Documents) (Report of Interview)

Officer: J. 10980 GASTELUM

on: October 23, 2025 (time)

Disposition: Warrant of Arrest/Notice to Appear

Examining Officer: MCKENNA, N

Form I-213 (Rev. 08/01/07)

EOIR – 1 of 3

Exh. 2 - Adm.

(35)

U.S. Department of Homeland Security **Continuation Page for Form I-213**

Alien's Name	File Number	Date
OSORIO - VALDEZ, OSCAR EDUARDO	[redacted] Event No: [redacted]	10/23/2025

CIS Pos
CLAIM Pos
NCIC Pos
NLETS Pos

NAME AND ADDRESS OF US EMPLOYER

N/A, 300 N Los Angeles St Los Angeles, CALIFORNIA, 90012, UNITED STATES

AT/NEAR

Los Angeles, CA

Record of Deportable/Excludable Alien:

Name: OSORIO-Valdez, Oscar Eduardo
[redacted]
DOB: [redacted]
COC: PERU
FBI: [redacted]

ENCOUNTER DATA:

On October 23, 2025, Immigration and Customs Enforcement (ICE) officers from the Los Angeles Field Office (LAFO) Enforcement and Removal Operations (ERO) assigned to the Los Angeles Non-Detained Unit (NDU), encountered OSORIO during a scheduled interview. Deportation Officer (DO) Gastelum conducted records check of CIS, TECS, PCQS, PLANET, BIA, 9th Circuit, and EARM databases.

On October 23, 2025, OSORIO, Oscar, reported into the NDU in Los Angeles, CA as instructed on his reporting requirements. Records checks indicate OSORIO is a citizen and national of PERU by virtue of birth. OSORIO is not in possession of valid immigration documents allowing him to be or remain in the United States legally. OSORIO will be arrested and processed pursuant to Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA).

On October 23, 2025, ICE ERO officers from the Los Angeles Non-Detain Unit took OSORIO into custody and escorted him to the Los Angeles Staging Facility (LASF).

IMMIGRATION HISTORY:

OSORIO is not a citizen or national of the United States (US). OSORIO is a citizen and national of PERU by virtue of birth.

On December 10, 2022, the US Border Patrol (USBP) encountered and arrested OSORIO in San Luis, AZ. On the same date, the USBP paroled OSORIO and released him.

On August 16, 2024, OSORIO filed an Application for Asylum and for Withholding of Removal, Form I-589, with the US Citizenship and Immigration Services (USCIS).

CRIMINAL HISTORY:

OSORIO does not have any criminal history.

Signature	Title
J. 10980 GASTELUM	Deportation Officer

EOIR – 2 of 3

Form I-831 Continuation Page (Rev. 08/01/07)
Exh. 2 - Adm.

(36)

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name	File Number	Date
OSORIO - VALDEZ, OSCAR EDUARDO	[redacted] Event No: [redacted]	10/23/2025

ADDITIONAL INFORMATION:

OSORIO claims father is a citizen and national of PERU.

OSORIO claims mother is a citizen and national of PERU.

OSORIO has no known personal or family circumstances precluding law enforcement action.

OSORIO claims to have no medical issues.

OSORIO has no known ties to the community precluding law enforcement action.

OSORIO does claim fear of returning to his country of citizenship, PERU.

OSORIO does not have any current BIA/9CC appeals pending.

GANG TIES:

OSORIO does not claim gang affiliation.

CASE DISPOSITION:

ERO Los Angeles served OSORIO with a Notice to Appear, Form I-862, charging him under Sections 212(a)(7)(A)(i)(I), of the INA. OSORIO will remain in ERO custody pending his immigration proceedings.

Other Identifying Numbers

ALIEN-[redacted]

PASSPORT NUMBER AND COUNTRY OF ISSUE

[redacted] PERU Comment: PERU PASSPORT

Signature	Title
J. 10980 GASTELUM	Deportation Officer

EOIR - 3 of 3

Form I-831 Continuation Page (Rev. 08/01/07)
Exh. 2 - Adm.

37