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11 Counsels for Petitioner

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 EMERSON RIVERA FLORES,

15 Petitioner,

16 v.

17 JAIME RIOS, acting Field Office
18 Director of Enforcement and Removal
19 Operations, LOS ANGELES Field
20 Office (San Bernardino Sub Office),
21 Immigration and Customs Enforcement;
22 Kristi NOEM, Secretary, U.S.
23 Department of Homeland Security; U.S.
24 DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S.
Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION
REVIEW; DAVID MARIN, Warden of
ADELANTO DETENTION FACILITY

in their official capacities

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner, Emerson Adonay Rivera Flores, is a 19-year-old citizen of
3 Honduras who was detained by the Department of Homeland Security (“DHS”) on
4 August 01, 2022, at the age of seventeen, while attempting to cross the U.S.-
5 Mexico border.
6

7 2. Petitioner was transferred to the custody of the Office of Refugee
8 Resettlement (“ORR”) and subsequently released to his aunt and uncle.

9 3. The Superior Court of California appointed his uncle as his legal
10 guardian and found that it was not in the best interest of the minor to be returned to
11 Honduras based on abuse, neglect, or abandonment by one or both parents.
12 Subsequent to these findings, the United States Citizenship and Immigration
13 Services (“USCIS”) approved the Petitioner’s I-360, Petition for Special
14 Immigrant Juvenile Status.
15

16 4. On the weekend of June 27, 2025, Petitioner was detained by ICE in
17 San Bernardino, California.
18

19 5. Petitioner is currently detained at the Adelanto Detention Center.

20 6. Petitioner does not have any criminal history of any kind. Nor does
21 Petitioner present a risk of flight that justifies re-detention.

22 7. Petitioner’s prolonged detention is the result of unlawful policies and
23 practices. DHS has a statutory responsibility to “promptly” place the petitioner in
24

1 the least restrictive setting that is in the best interests of the child.” 8 U.S.C. §
2 1232(c)(2)(A). For many immigrant children who come into its custody, ORR
3 fulfills its mandate by placing children with their parents or other relatives in the
4 United States. ORR previously designated the petitioner as an unaccompanied
5 minor and released him to his family.
6

7 8. Respondent’s claim that recent changes to decades-old agency
8 policies and practices render him ineligible to seek bond from an Immigration
9 Judge. This is pursuant to a new DHS policy issued on July 8, 2025, instructing all
10 Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States
12 without inspection—to be an “applicant for admission” under 8 U.S.C. §
13 1225(b)(2)(A) and therefore subject to mandatory detention. Section 1225(b)(2)(A)
14 does not apply to individuals like Petitioner who are unaccompanied minors.
15 Instead, such individuals are subject to a different statute, § 1226(a), which permits
16 release on conditional parole or bond. That statute expressly applies to people who,
17 like Petitioner, are charged as inadmissible for having entered the United States
18 without inspection. Respondents’ new legal interpretation is plainly contrary to the
19 statutory framework and contrary to decades of agency practice applying § 1226(a)
20 to people like Petitioner.
21
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24

1 9. Petitioner's current detention under these circumstances violates his
2 constitutional rights to Due Process. Petitioner's detention also contravenes the
3 plain language of the Immigration and Nationality Act (INA), and the Trafficking
4 Victims Protection Reauthorization Act ("TVPRA").

5
6 10. Accordingly, Petitioner seeks his release and challenges his detention
7 as a violation of the Due Process Clause of the Fifth Amendment, the INA, and the
8 Trafficking Victims Protection Reauthorization Act ("TVPRA").

9 11. Petitioner seeks a writ of habeas corpus requiring his immediate
10 release or, in the alternative, requiring Respondents to provide a bond hearing
11 under §1226(a) within fourteen days.
12

13 **JURISDICTION**

14 12. Petitioner is in physical custody of Respondents. Petitioner is detained
15 at the Adelanto Detention Facility in Adelanto, California. Petitioner is under the
16 direct control of Respondents and their agents.

17 13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
18 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of
19 the United States Constitution (the Suspension Clause).
20

21 14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
22 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
23 U.S.C. § 1651.
24

1 **VENUE**

2 15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410
3 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the
4 Central District, the judicial district in which Petitioner currently is detained.

5
6 16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
7 because Respondents are employees, officers, and agencies of the United States,
8 and because a substantial part of the events or omissions giving rise to the claims
9 occurred in the Central District.

10 **REQUIREMENTS OF 28 U.S.C. § 2243**

11
12 17. The Court must grant the petition for writ of habeas corpus or order
13 Respondents to show cause “forthwith,” unless the petitioner is not entitled to
14 relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must
15 file a return “within three days unless for good cause additional time, not
16 exceeding twenty days, is allowed.” *Id.*

17
18 18. Habeas corpus is “perhaps the most important writ known to the
19 constitutional law . . . affording as it does a *swift* and imperative remedy in all
20 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
21 (emphasis added). “The application for the writ usurps the attention and displaces
22 the calendar of the judge or justice who entertains it and receives prompt action
23
24

1 from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116,
2 1120 (9th Cir. 2000) (citation omitted).

3
4 **PARTIES**

5 19. Petitioner Emerson Adonay Rivera Flores is a citizen of Honduras
6 who has been in immigration detention since June 27, 2025, at the Adelanto
7 Detention Facility. After arresting Petitioner, ICE did not set bond.

8 20. Respondent Jaime Rios is the acting Director of the Los Angeles
9 Field Office of ICE’s Enforcement and Removal Operations division, which
10 includes the San Bernardino sub-office. As such, Jaime Rios is the Petitioner’s
11 immediate custodian and is responsible for the Petitioner’s detention and removal.
12 He is named in his official capacity.

13
14 21. Respondent Kristi Noem is the Secretary of the Department of
15 Homeland Security. She is responsible for implementing and enforcing the
16 Immigration and Nationality Act (INA) and oversees ICE, which is responsible for
17 the Petitioner’s detention. Ms. Noem has ultimate custodial authority over
18 Petitioner and is sued in her official capacity.

19
20 22. Respondent Department of Homeland Security (DHS) is the federal
21 agency responsible for implementing and enforcing the INA, including the
22 detention and removal of noncitizens.

23. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, which includes the Executive Office for Immigration Review and the immigration court system, both of which operate as component agencies. She is sued in her official capacity.

24. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

25. Respondent David Marin is employed by GEO as Warden of the Adelanto Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

26. The Key laws and agreements that govern the federal government's treatment and custody of unaccompanied immigrant children like Petitioner are: The Homeland Security Act of 2002, the Trafficking Victims Protection Reauthorization Act, the Violence Against Women Act in 2013, and 8 U.S.C. § 1226(a).

The Homeland Security Act

27. In 2002, Congress passed the Homeland Security Act (HSA), which abolished the Immigration and Naturalization Service and created the new Department of Homeland Security, and transferred all functions related to the care

1 and custody of unaccompanied immigrant children to ORR, a sub-department of
2 the Department of Health and Human Services. *See* Pub. L. 107-296, 116 Stat.
3 2153 (Nov. 25, 2002). Section 462 of the HSA mandated that all Unaccompanied
4 immigrant children be placed in the least restrictive setting. *Id.*

5 **Trafficking Victims Protection Reauthorization Act**

6
7 28. Congress further strengthened protections for unaccompanied minors
8 in 2008 when it enacted the Trafficking Victims Protection Reauthorization Act
9 (“TVPRA”) 2008. *See* Pub. L. 110-457, 122 Stat. 5044 (Dec. 23, 2008). The
10 TVPRA requires federal officials to screen these unaccompanied children for
11 certain vulnerabilities, including whether they are victims of trafficking and
12 whether they fear persecution in their home countries. *See* 8 U.S.C. § 1232(a)(4).
13 The TVPRA also established procedures to ensure “safe and secure placements”
14 for these children. *See* 8 U.S.C. § 1232(c)(1). The TVPRA mandates that an
15 unaccompanied child “shall be promptly placed in the least restrictive setting that
16 is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A).
17

18 **Violence Against Women Act in 2013**

19
20 29. In 2013, Congress enacted a statutory provision to address the
21 placement of unaccompanied immigrant children, like Petitioner, who have turned
22 eighteen and are placed in ICE custody. *See* Violence Against Women Act in 2013,
23 Pub. L. 113-4, 127 Stat. 156, (codified at 8 U.S.C. 1232(c)(2)(B) (March 7, 2013).
24

1 That provision, which was codified as Section 1232 (c)(2)(B), requires that ICE
2 “shall consider placement” of such eighteen-year-olds in the least restrictive setting
3 available after taking into account the noncitizen’s danger to self, danger to the
4 community, and risk of flight.” *Id* (emphasis added).

5
6 30. Section 1232 (c)(2)(B) further requires that such children, “shall be
7 eligible to participate in alternative to detention programs, utilizing a continuum of
8 other options based on the noncitizen’s need for supervision.” *Id*.

9 31. When Congress amended section 1232, it chose to extend the
10 foregoing protections afforded by the TVPRA to unaccompanied minors to those
11 immigrant children who turn eighteen and are transferred to ICE custody. *See* Pub.
12 L. 113-4, § 1261. The 2013 Amendment to the TVPRA reflects Congressional
13 intent to continue protecting vulnerable young people beyond the age of eighteen.
14

15 **The Statutory Framework Governing Petitioner’s Detention**

16 32. Petitioner is detained pursuant to 8 U.S.C. 1226(a), which provides, in
17 pertinent part, that on a warrant issued by the Attorney General, a [noncitizen] may
18 be arrested and detained pending a decision on whether the [noncitizen] is to be
19 removed from the United States. Except as provided in subsection (c) and pending
20 such decision, the Attorney General—(1) may continue to detain the arrested
21 [noncitizen]; and (2) may release the [noncitizen] on—a bond of at least \$1,500
22
23
24

1 with security approved by, and containing conditions prescribed by, the Attorney
2 General; or conditional parole.

3 33. Section 1226(a) governs the detention of noncitizens “inside the
4 United States” and “present in the country.” *Jennings v. Rodriguez*, 583 U.S. 281,
5 288-89 (2018).
6

7 34. Section 1225(b)(2), in contrast, authorizes the detention of applicants
8 for admission who are “seeking admission” but “not clearly and beyond a doubt
9 entitled to be admitted.” Unlike section 1226(a), section 1225(b)(2) provides that
10 individuals who fall under its authority “shall be detained” during the pendency of
11 the proceedings. However, they too remain eligible for release through the parole
12 process. *Jennings*, 583 U.S. at 300 (holding that release on “parole” under 8 U.S.C.
13 1182(d)(5)(A) remains available even for people held under otherwise-mandatory
14 detention pursuant to section 1225(b)).
15

16 35. Petitioner was first apprehended at the age of seventeen and classified
17 as an unaccompanied child under the custody of ORR. Petitioner was released by
18 ORR pursuant to the TVPRA. Petitioner was not an applicant for admission;
19 therefore, his detention is governed by the TVPRA and section 1226(a).
20

21 36. DHS previously released the petitioner to his family pursuant to the
22 TVPRA and was necessarily deemed neither a flight risk nor a danger. 8 U.S.C. §
23
24

1 1232(c)(2)(A) (stating the unaccompanied children shall be promptly placed in the
2 least restrictive setting that is in the best interest of the child). 8 C.F.R. 212.5(b).

3 37. Petitioner clearly fits in the statutorily defined group of immigrant
4 children turned adults whom Congress granted additional procedural safeguards in
5 8 U.S.C. 1232(c)(2)(B), and his detention violates the INA because it does not
6 serve the purpose of the statute.
7

8 **FACTS**

9 38. Petitioner, Emerson Adonay Rivera Flores, is a 19-year-old who came
10 to the United States seeking safety from Honduras. Petitioner lives with his aunt
11 and uncle, who are his legal guardians.
12

13 39. At the age of seventeen, Petitioner entered the United States on
14 August 01, 2022, and was apprehended upon entry.

15 40. He was transferred to ORR custody and subsequently released to his
16 aunt and uncle.

17 41. On April 10, 2025, a Superior Court Judge appointed Petitioner's
18 uncle as his legal guardian and found that it was not in the best interest of the
19 minor to return to Honduras based on Abandonment, abuse, or neglect by one or
20 both of his parents.
21

22 42. On May 30, 2025, Petitioner filed Form I-360, Petition for Special
23 Immigrant Juvenile Status, with USCIS.
24

1 43. On the weekend of June 27, 2025, Petitioner was arrested by ICE
2 based on an in absentia removal order.

3 44. On July 07, 2025, the Immigration Judge reopened removal
4 proceedings because Petitioner had not received proper notice, which made the
5 removal order legally invalid.

6
7 45. On November 24, 2025, USCIS approved Petitioner's I-360, Petition
8 for Special Immigrant Juvenile Status.

9 46. Petitioner is in removal proceedings before the Adelanto Immigration
10 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*,
11 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the
12 United States without inspection.

13
14 47. Petitioner does not have any criminal history.

15 48. Petitioner has been informed that under current practices, he is not
16 eligible to seek release on bond from an immigration judge.

17 49. As a result, despite a grant of Special Immigrant Juvenile Status,
18 Petitioner remains in detention. Without relief from this court, he faces the
19 prospect of months or even years in immigration custody, separated from his
20 family and community.
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50. Any Request for a bond redetermination hearing before the Immigration Court or a subsequent appeal to the BIA is futile. DHS's new policy was issued "in coordination with DOJ," which oversees the immigration courts.

CLAIMS FOR RELIEF

COUNT I

Habeas Corpus

51. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

52. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

53. As set forth above, Respondents are holding the Petitioner in federal custody in violation of the TVPRA, the INA, and the U.S. Constitution.

54. Accordingly, Petitioner seeks a writ of Habeas corpus compelling Respondents to release him immediately to the custody of his legal guardian or, in the alternative, to set a bond hearing under Section 1226(a) within fourteen (14) days.

COUNT II

Violation of Section 235 of the Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232

55. Petitioner incorporates by reference the allegations of fact set forth

1 in the preceding paragraphs.

2 56. Respondent has a non-discretionary duty to promptly place
3 Petitioner in the least restrictive setting that is in his best interest under the
4 TVPRA. 8 U.S.C. § 1232(c)(2)(A).

5
6 57. Respondent have failed to act promptly.

7 58. Respondent have arbitrarily and unlawfully failed to place
8 Petitioner in the least restrictive setting that is in his best interests.

9 **COUNT III**

10 **Violation of the INA**

11 59. Petitioner incorporates by reference the allegations of fact set forth in
12 the preceding paragraphs.

13
14 60. The mandatory detention provisions at 8 U.S.C. 1225(b)(2) does not
15 apply to all noncitizens in the United States who are subject to the grounds of
16 inadmissibility. As relevant here, it does not apply to those who were designated as
17 unaccompanied children and placed in ORR custody and subsequently released
18 pursuant to the TVPRA. Such noncitizens are placed in removal proceedings under
19 §1226(a).

20
21 61. The application of §1225(b)(2) to Petitioner unlawfully mandates his
22 continued detention and violates the INA.

23 **COUNT IV**

Violation of Due Process

62. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

63. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

64. Petitioner has a fundamental interest in liberty and being free from official restraint.

65. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14 days;

- 1 c. Award Petitioner attorney's fees and costs under the Equal Access to
2 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any
3 other basis justified under law; and
4
5 d. Grant any other and further relief that this Court deems just and
6 proper.

7 DATED this 16 of December, 2025.

8 Respectfully submitted,

9
10 */s/ Dulce N. Velasquez*
11 _____

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