UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARLON ANTHONY FLORES-SANCHEZ,
Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
DAREN K., MARGOLIN, Director, Executive Office for Immigration Review, in his official capacity;
ACTING DIRECTOR, in his or her official capacity as Acting Director of the South Texas Field Office of ICE, Enforcement and Removal Operations; and
BOBBY THOMPSON, Warden of the South Texas Detention Facility,
Respondents.

Civil Action No. 5:26-cv-00026

Immigration No. [redacted]

PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner MARLON ANTHONY FLORES-SANCHEZ ([redacted]) is a native and citizen of Honduras who has resided in the United States for many years, most recently in the Southeast Texas area. He was recently transferred to ICE custody in Texas and is currently detained at the South Texas Detention Facility in Pearsall, Texas. *See* Ex. A, Proof of Detention in ICE Custody.

2. Mr. Flores-Sanchez has been placed into removal proceedings under INA § 240, 8 U.S.C. § 1229a, following his recent arrest by ICE officers near his home in Houston, Texas. *See* Ex. B, Notice to Appear.

3. In recent months, immigration judges have routinely denied requests for a bond hearing to individuals in situations substantially similar to that of Mr. Flores-Sanchez, due to a perceived lack of jurisdiction. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. C, Recent BIA Decisions on Bond. However, numerous federal district court, including some from within the jurisdiction of the United States Court of Appeals for the Fifth Circuit, have made clear that noncitizens detained under INA § 236(a) are entitled to individualized bond hearings.

4. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Mr. Flores-Sanchez with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous Board of Immigration Appeals precedent. The refusal to provide such a hearing violates the INA, the Due Process Clause of the Fifth Amendment, and the APA, because detention in § 240 proceedings is governed by INA § 236(a), which clearly provides that noncitizens are entitled to bond hearings.

5. Mr. Flores-Sanchez therefore petitions this Court for habeas relief under 28 U.S.C. § 2241 and seeks injunctive relief[1] directing Respondents to provide him an individualized custody hearing or release him under reasonable conditions without delay.

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[1] Petitioner intends to seek a Temporary Restraining Order through a separate filing subsequent to the filing of the instant habeas petition in accordance with the local rules.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

7. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seek classwide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

8. Venue is proper in this District because Petitioner is detained at the South Texas Detention Facility in Pearsall, Texas, within this Court's jurisdiction, whereas Petitioner's detention is controlled by the South Texas Field Office of ICE, Enforcement and Removal Operations. *See* Ex. A.

III. PARTIES

9. Petitioner, MARLON ANTHONY FLORES-SANCHEZ ("Mr. Flores-Sanchez"), is a citizen and national of Honduras who has lived in the United States for more than six

years. He was transferred to the South Texas Detention Facility, where he remains detained, following his arrest by ICE near his home in Houston, Texas. Petitioner is currently in active removal proceedings under 8 U.S.C. § 1229a (INA § 240), he had hearing at the Houston Immigration Court terminated on March 8, 2023, and has an active appeal pending as of that same date. *See* Ex. D, EOIR Automated Case Information System.

10. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

11. Respondent TODD LYONS is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

12. Respondent DAREN K. MARGOLIN is the Director of the Executive Office for Immigration Review ("EOIR"), the component of the Department of Justice responsible for immigration court adjudications, including bond hearings for noncitizens in removal proceedings. He is sued in his official capacity because EOIR, through its Immigration Judges, exercises exclusive authority over the conduct and scheduling of bond hearings, and EOIR's refusal to provide Petitioner with a constitutionally adequate bond hearing is an underlying basis of the unlawful detention challenged in this habeas petition.

13. Respondent ACTING DIRECTOR, is the Director of the South Texas Field Office of ICE, Enforcement and Removal Operations ("ERO"), and therefore has jurisdiction over Petitioner. She or he is sued in his or her official capacity as Petitioner's local custodian and DHS's local decisionmaker.

14. Respondent, BOBBY THOMPSON, Warden of the South Texas Detention Facility, is responsible for housing noncitizens from various regions of Texas in ICE custody pending the completion of their removal proceedings. The South Texas Detention Facility is located at 566 Veterans Drive, Pearsall, Texas 78061. Respondent is sued in his official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

15. Respondents Noem, Lyons, and Margolin who represent DHS, ICE, and EOIR are properly included as the executives of federal agencies within the meaning of the Administrative Procedure Act ("APA").

IV. FACTUAL BACKGROUND

1. Petitioner MARLON ANTHONY FLORES-SANCHEZ is a thirty-seven-year-old citizen of Honduras who has made the United States his home for many years. He entered the United States on or about more than six years ago, and he has lived here continuously since that date.

2. Until his recent transfer to a remote immigration detention facility in Pearsall, Texas, Mr. Flores-Sanchez had resided continuously in Southeast Texas for many years, where he established deep and sustained ties to his community. He holds valid Employment Authorization documentation, has a pending lawful asylum application, has a valid Temporary Texas Driver's License, and is the owner of a validly formed Texas based LLC under which he owns and operates a trucking company for which he pays taxes. Aside from a traffic ticket, Mr. Flores-Sanchez has no criminal history and no record of violent or dangerous conduct, he was himself a victim of an assault for which he sought assistance from the police, and nothing in his background supports any

characterization of him as a threat to public safety. He has maintained steady, lawful employment and has demonstrated consistent compliance with legal and regulatory requirements. He has strong family connections here in the United States and prior to his detention, lived continuously in Southeast Texas near in North Texas near his brother who is a U.S. Citizen and his mother who is a Lawful Permanent Resident. His integration into the community is further reflected by the fact that he is the lawful owner and operator of a Texas based business, attesting to his character, work ethic, and reliability.

3. On or about October 29, 2025, Mr. Flores-Sanchez's truck was seized, and upon going to the impound lot to retrieve it, he was apprehended by ICE in Houston, Texas. Following this, the Department of Homeland Security ("DHS") served Mr. Flores-Sanchez with a Notice to Appear ("NTA"), formally charging his as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] for entry without inspection, despite his valid Employment Authorization Document, pending lawful asylum application, and pending appeal in the Immigration Courts. *See* Ex. B, Documentation of Immigration History.

4. Critically, when Mr. Flores-Sanchez 's case was filed with the immigration court and served upon his, it placed him into § 240 removal proceedings. As a result of this, Mr. Flores-Sanchez is entitled to the full panoply of due process guaranteed by the INA, including a hearing on relief from removal and a bond hearing under § 236(a), and not merely a summary expulsion—a natural result, in view of his lengthy history in this country.

5. Despite this posture, Mr. Flores-Sanchez has been treated for bond immigration purposes as though he were subject to the harshest form of "arriving alien" detention, even though he has been properly placed in § 240 proceedings. Instead of being allowed to seek release on bond before an immigration judge, ICE has categorically denied his any chance to demonstrate that he is neither a danger to the community nor a flight risk. This blanket denial is not based on any individualized finding, but on the government's insistence on applying the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Those decisions—issued without notice-and-comment rulemaking, and in direct tension with the decisions of most federal courts—purport to strip immigration judges of authority to hold bond hearings for individuals like Mr. Flores-Sanchez.

6. As a result, Mr. Flores-Sanchez now finds himself locked away at the South Texas Detention Facility in Pearsall, Texas, a remote facility hundreds of miles from his community Southeast Texas. *See* Ex. A. He is held under conditions indistinguishable from those reserved for dangerous criminals, despite the absence of any criminal conviction that would bar his release under Section 236(c) of the INA. Each day of confinement exacerbates the harm—separating his from family and community support, impeding his ability to consult with counsel, and inflicting the psychological strain that prolonged and unnecessary detention inevitably produces.

7. In sum, Mr. Flores-Sanchez has deep roots in the United States, strong claims for humanitarian protection, and no disqualifying criminal record. He has been thrust into prolonged civil detention solely because of the government's reliance on recent, non-binding BIA decisions that contravene the plain language of the INA and the decisions of

multiple federal district courts in this circuit. His detention, absent the possibility of an individualized bond hearing, is unlawful, arbitrary, and profoundly unjust.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determinations.

8. Immigration detention is governed primarily by two provisions of the INA: Section 235(b) [8 U.S.C. § 1225(b)] and Section 236(a) [8 U.S.C. § 1226(a)]. Whereas Section 236(a) of the INA authorizes the Attorney General to release noncitizens on bond pending removal proceedings, in contrast, Section 235(b) applies to certain categories of "arriving aliens" and mandates detention pending completion of expedited or threshold screening.

9. Congress designed § 236(a) to govern the detention of individuals who, like Petitioner, are in regular removal proceedings under § 240. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

10. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 235(b) mandatory detention and § 236(a) discretionary custody). The Board of Immigration Appeals itself recognized for decades that individuals in § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

11. Despite this clear statutory scheme, DHS has invoked recent BIA decisions (*i.e.*, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec.

216 (BIA 2025)) to strip immigration judges of bond authority in cases such as those of Petitioner. Those decisions, however, cannot override the plain language of the statute.

12. In recent weeks, multiple district courts in 2025 have directly addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and unambiguous language of Section 236 of the INA permits noncitizens who arrived without inspection—persons in precisely the same legal circumstances as Mr. Flores-Sanchez —are eligible to request bond hearings before the immigration court.

13. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is proper to correct statutory misclassification and to preserve the petitioner's due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under § 1226(a), rejecting the Government's assertion that § 1225(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause.

14. Similarly, the decision in *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (W.D. Tex. Sept. 21, 2025), confirms that other courts in this district are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a).

15. These holdings reflect a growing consensus that district courts retain jurisdiction to intervene where his detention rests on a statutory misapplication and results in ongoing

constitutional harm. The cumulative weight of these decisions underscores that Mr. Flores-Sanchez is entitled to bond consideration under § 1226(a).

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

16. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

17. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and controlling precedent of the United States Court of Appeals for the Fifth Circuit.

18. INA § 236(a), 8 U.S.C. § 1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

19. By its plain text, Section 236(a) applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) applies.

20. In interpreting the plain language of Section 236(a), various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond application by detained aliens pending the outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

21. Petitioner is now in removal proceedings under Section 240 of the INA [8 U.S.C. § 1229a], and his case has been placed on the detained docket of the Pearsall Immigration Court. Because Petitioner is detained in the context of ongoing removal proceedings, his custody is governed by § 236(a), not § 235(b).

22. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), Respondents have acted contrary to statutory authority requiring consideration of such bond application. This policy supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

23. Accordingly, this Court should grant the writ and order that Petitioner receive an individualized bond hearing under INA § 236(a), as mandated by controlling law in this Circuit.

Count II – Fifth Amendment Due Process Violation

24. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

25. Petitioner's continued detention without access to an individualized custody redetermination hearing also violates the Due Process Clause of the Fifth Amendment. Prolonged detention without bond review is arbitrary, punitive, and unconstitutional.

26. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S.

678, 690 (2001). Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

27. Because Petitioner is detained by ICE at the South Texas Detention Facility, he is categorically barred from presenting evidence that he is not a danger to the community and that he poses no flight risk. The blanket denial of access to a bond hearing strips Petitioner of the individualized determination required by due process and by the plain language of Section 236(a).

28. Unlike noncitizens subject to mandatory detention for serious criminal offenses under Section 236(c) [8 U.S.C. § 1226(c)], Petitioner has no qualifying convictions that justify a categorical denial of release. The government has no legitimate basis to insist that Petitioner's detention be mandatory, yet he remains confined with no opportunity for release.

29. Denying Petitioner any access to a bond hearing deprives his of procedural protections guaranteed by the Due Process Clause. Moreover, prolonged detention without meaningful review violates the substantive limits of due process, as articulated in *Zadvydas* and *Demore v. Kim*, 538 U.S. 510 (2003).

30. Petitioner is a long-time resident of the United States, with over six years of continuous presence. He has strong family and community ties in Southeast Texas. There has been no finding that he is a danger to the community or a flight risk. Yet, solely because of recent, erroneous BIA decisions not binding in this Circuit, he has been categorically denied the process to which he is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

31. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be afforded an immediate bond hearing, or that he be released from custody pending the final outcome of his Section 240 removal proceedings.

Count III – Unlawful Agency Action (APA)

32. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

33. Respondents' continued detention of Petitioner without affording him a bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. The abrupt departure from longstanding precedent without reasoned explanation violates the Administrative Procedure Act.

34. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a), including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *see also* Ex. E, Pre-2025 Unpublished BIA Bond Decisions. That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");

- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

35. In 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that certain noncitizens who entered without inspection are subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). These decisions abruptly stripped immigration judges of bond authority for a large class of detainees, including Petitioner, without notice-and-comment rulemaking and without reasoned explanation for abandoning prior precedent.

36. The APA requires agencies to engage in reasoned decision-making and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

37. Although Petitioner has not filed a bond application since entering ICE custody on or about October 29, 2025, doing so would be futile, as immigration judges refuse to exercise jurisdiction, expressly relying on this recent BIA policy shift. *See* Ex. F, Sample IJ Bond Decision. By treating individuals such as Petitioner as subject to mandatory

detention under Section 235(b), Respondents have applied an unlawful, arbitrary interpretation of the statute that is inconsistent with the plain language of Section 236(a) and unsupported by reasoned analysis.

38. Accordingly, Respondents' refusal to provide Petitioner an individualized custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant habeas relief to remedy the violation.

VII. REQUEST FOR INJUNCTIVE RELIEF

39. Petitioner respectfully requests that this Court issue an injunction directing Respondents to provide him an immediate individualized custody redetermination hearing under INA § 236(a) within seven (7) days, or, in the alternative, to release his under reasonable conditions of supervision. Petitioner requests further ancillary injunctive relief as appropriate.

40. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Mr. Flores-Sanchez Is Likely to Succeed on the Merits of His Petition.

41. Mr. Flores-Sanchez has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts including some from within the Fifth Circuit, have already determined that noncitizens in circumstances substantially similar to that of Mr. Flores-Sanchez, who are detained under Section 236(a), are entitled to individualized bond hearings before an immigration judge.

42. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Mr. Flores-Sanchez might file—due to the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of Section 236(a).

43. Additionally, Mr. Flores-Sanchez raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

44. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner's claim is exceptionally strong.

B. Mr. Flores-Sanchez Will Suffer Irreparable Harm If a TRO Does Not Issue.

45. If this Court does not grant immediate relief, Mr. Flores-Sanchez will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Everyday Mr. Flores-Sanchez remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

46. Even if Mr. Flores-Sanchez were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be

actual and concrete. 556 U.S. at 435. Mr. Flores-Sanchez 's ongoing imprisonment without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Mr. Flores-Sanchez 's Favor.

47. The balance of equities tips decisively in Petitioner's favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent precedents that federal courts across the country have flatly rejected.

48. There is no evidence that Petitioner poses a danger to the community or presents a risk of flight. To the contrary, Petitioner has affirmatively complied with DHS requirements by obtaining maintaining valid Employment Authorization Document, obtaining a Pending valid Asylum Application, complying with Texas business formation laws to create a lawful and taxpaying Texas based LLC, and consistently appearing for required ICE check-ins. He has lived and worked lawfully in his community, is the adult child of a Lawful Permanent Resident, and taken concrete steps to remain in full compliance with immigration authorities. By contrast, each additional day of detention imposes substantial and irreparable harm on Petitioner, and when these equities are weighed, they overwhelmingly favor immediate relief.

49. Additionally, the undersigned Counsel for Petitioner has undertaken to contact Counsel for the Department of Homeland Security by emailing the Office of Principal Legal Advisor for Pearsall, Texas, as well as Assistant U.S. Attorney Lacy McAndrews, in a good faith effort to notify Respondents of Petitioner's intent to obtain a hearing on this TRO request as soon as practicable.

D. Thise Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

50. Finally, the public interest strongly supports the issuance of a TRO. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

51. Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.

52. Each factor of the equitable test weighs heavily in Mr. Flores-Sanchez's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

53. For these reasons, this Court should grant injunctive relief at the earliest possible opportunity, requiring Respondents to provide Mr. Flores-Sanchez an immediate bond hearing or release.

VIII. PRAYER FOR RELIEF

54. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Issue a writ of habeas corpus ordering Respondents to provide Petitioner with an individualized bond hearing under INA § 236(a), 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

b. Petitioner intends to file a separate Motion for Temporary Restraining Order. Upon filing of that motion, Petitioner respectfully requests that the Court grant a TRO and preliminary injunction requiring an individualized bond hearing or, alternatively, Petitioner's immediate release;

c. Issue a declaration that DHS may not initiate or pursue expedited removal against Mr. Flores-Sanchez while his § 240 removal proceedings remain non-final and while he seeks relief from removal before an Immigration Judge;

d. Issue a declaration that the plain language of INA § 236(a) permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

e. Grant permanent injunctive relief as appropriate;

f. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

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

DATE: January 6, 2026.

Respectfully submitted,

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Jennifer M. Clark
Massachussetts Bar No. 714558
ATTORNEY FOR PETITIONER

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Karen Giron ("AFFIANT"), known to me to be the person whose name is included in the foregoing document as Petitioner's wife, and who after being by me duly sworn, stated that she is above the age of twenty-one (21) years of age, is of sound mind, and is in all ways competent to execute this verification. Affiant acknowledged that she had read the substance of the foregoing document, that she has personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of Affiant's knowledge and belief.

KAREN GIRON
Affiant

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public, on this the 29 day of December, 2025.

NOTARY PUBLIC
In and for the State of Texas

State of Texas
County of Harris
The foregoing instrument was acknowledged before me 29 day of Dec. 2025
Ana Tolison
Your Name Here. Notary Public
My Commission Expires 09-25-2028

ANA MARIA TOLISON
Notary Public, State of Texas
Comm. Expires 09-25-2028
Notary ID 135105767