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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

CESAR HERNANDEZ NAVARRO,

Petitioner,

V.

JOHN MATTOS, Warden of Nevada Southern Detention Center, in his official capacity as well as his successors and assigns,

TODD M. LYONS, Acting Director,
U.S. Immigration and Customs
Enforcement, in his official capacity as
well as successors and assigns,

KRISTI NOEM, Secretary for the U.S. Department of Homeland, in her official capacity as well as her successors and assigns,

and

PAMELA BONDI, Attorney General,
U.S. Department of Justice, in her
official capacity as well as her
successors and assigns,

Respondents.

[illegible]

PETITION FOR WRIT OF HABEAS CORPUS TO 28 U.S.C. § 2241

Petitioner Cesar Hernandez Navarro (“Mr. Hernandez Navarro”), by and through his undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality for his detention at the Nevada Southern Detention Center (“NSDC”) pursuant to Respondents’ erroneous application of the Immigration and Nationality Act (“INA”).

INTRODUCTION

1. Mr. Hernandez Navarro is a native and citizen of Mexico who entered—and remained—in the United States over twenty-five years ago. *See* Copy of Pet’r’s Cancellation App, **Exh. A**. Upon his arrival on or around March 27th, 2000, Mr. Hernandez Navarro entered without inspection: he did not present himself at a port of entry, nor was he admitted or paroled by a United States’ immigration official. *See* Notice to Appear, **Exh. B**.

2. Over the years, Mr. Hernandez Navarro diligently built a foundation for himself and his family here in the United States: he raised his children, maintained employment, and filed tax returns with the Internal Revenue Service. *See* **Exh. A**. But on October 13, 2025, everything changed for Mr. Hernandez Navarro when the U.S. Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), apprehended Mr. Hernandez Navarro.

3. Following ICE’s swift and unwarranted arrest of Mr. Hernandez Navarro, the government erroneously concluded that pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), Mr. Hernandez Navarro is subject to mandatory detention. *See* Ord. of the Immigration Judge, **Exh. C**. ICE has kept Mr. Hernandez Navarro detained at the Nevada Southeastern Detention Center for **four months** (120 days), during which the government has refused to afford Mr. Hernandez Navarro with the relief he justly deserves. His ongoing detention runs afoul of the INA,

1 and violates the Due Process Clause of the Fifth Amendment.

2 4. Mr. Hernandez Navarro respectfully requests this Court issue a writ of habeas corpus
 3 ordering Mr. Hernandez Navarro's release from ICE custody. He further requests this Court
 4 mandate that should ICE seek to re-detain Mr. Hernandez Navarro in the future, ICE provide Mr.
 5 Hernandez Navarro notice and opportunity to be heard. In addition, Mr. Hernandez Navarro also
 6 requests this Court issue an order enjoining Defendants from using *Matter of Yajure Hurtado*, 29
 7 I&N Dec. 216 (BIA 2025) as justification to mandatorily detain Petitioner.

8 **JURISDICTION**

9 **I. Statutory Jurisdiction under 28 U.S.C. § 2241**

10 5. This Court has jurisdiction over Petitioner's claims pursuant to 28 U.S.C. § 2241, which
 11 provides that "[w]rits of habeas corpus may be granted by the Supreme Court, any justice thereof,
 12 the district courts and any circuit judge within their respective jurisdictions" to individuals "in
 13 custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. §
 14 2241(c)(3). The Supreme Court has long recognized that habeas corpus "is available to non-
 15 citizens challenging executive detention." *Heikkila v. Barber*, 345 U.S. 229, 234–35, 73 S.Ct. 603,
 16 97 L.Ed. 972 (1953); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268, 74 S.Ct.
 17 499, 98 L.Ed. 681 (1954). The Ninth Circuit has reaffirmed that district courts possess habeas
 18 jurisdiction to review the legality of detention and removal in violation of statutory or
 19 constitutional protections. *Trinidad y Garcia v. Thomas*, 683 F.3d 952, 956 (9th Cir. 2012).

20 **II. Jurisdiction Preserved by the Constitution and the Suspension Clause**

21 6. Habeas jurisdiction is also preserved by the Constitution. Although the Constitution does
 22 not itself grant federal habeas jurisdiction, it expressly preserves the writ through the Suspension
 23
 24

1 Clause. *Boumediene v. Bush*, 553 U.S. 723, 743–46, 128 S.Ct. 2229, 171 L.Ed.2d 41 (2008); *Ex*
 2 *Parte Bollman*, 4 *Cranch* 75, 94–95, 2 L.Ed. 554 (1807). As the Supreme Court has held:

3 “The Clause ‘ensures that, except during periods of formal suspension, the Judiciary will
 4 have a time-tested device, the writ, to maintain the “delicate balance of governance” that
 5 is itself the surest safeguard of liberty’ and ‘protects the rights of the detained by affirming
 the duty and authority of the Judiciary to call the jailer to account.’” *Boumediene*, 553 U.S.
 at 745.

6 7. Congress may not “eliminate the writ without running afoul of the Suspension Clause”
 7 unless it “provides ‘a collateral remedy which is neither inadequate nor ineffective to test the
 8 legality of a person’s detention.’” *Singh v. Mukasey*, 533 F.3d 1103, 1106 (9th Cir. 2008) (quoting
 9 *Swain v. Pressley*, 430 U.S. 372, 381, 97 S.Ct. 1224, 51 L.Ed.2d 411 (1977)); *see also Perez v.*
 10 *Barr*, 957 F.3d 958, 963 (9th Cir. 2020).

11 8. Petitioner is in the custody of federal immigration authorities and challenges both the
 12 lawfulness of his detention, and the Immigration Judge’s conclusion that Petitioner is subject to
 13 mandatory detention, on the grounds that such actions violate the Constitution, federal statutes,
 14 treaties, and binding regulations. Because Petitioner’s claims fall squarely within the scope of
 15 habeas corpus review under 28 U.S.C. § 2241, as recognized by controlling Ninth Circuit and
 16 Supreme Court authority, *see Trinidad y Garcia*, 683 F.3d at 956; *Heikkila*, 345 U.S. at 234–35,
 17 this Court has jurisdiction over Petitioner’s claims.

18 VENUE

19 9. Venue is proper in this District pursuant to 28 U.S.C. §1391(e)(1), because Mr. Hernandez
 20 Navarro is a resident of Nevada who was detained by ICE, and then transferred to the NSDC where
 21 he has been held for over **four months**.

22 PARTIES

23 10. Petitioner, Mr. Perez-Benitez, is currently detained at the NSDC. Prior to his detention,
 24

1 Mr. Hernandez Navarro resided in Las Vegas, Nevada.

2 11. Respondent John Mattos is the Warden of the NSDC, a private immigration detention
3 facility under contract with ICE, located in Pahrump, Nevada. As facility leader, he is responsible
4 for the custody, control, and care of detainees held at the Nevada Southern Detention Center where
5 Mr. Hernandez Navarro is detained. He is sued in his official capacity.

6 12. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
7 Enforcement. In this capacity, he is responsible for ICE's policies and operations, including
8 oversight of Mr. Hernandez Navarro detention. He is sued in his official capacity.

9 13. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. In
10 this role, she is responsible for the enforcement and administration of the INA and oversees ICE.
11 She has legal custody over Mr. Hernandez Navarro and is sued in her official capacity.

12 14. Respondent Pamela Bondi is the Attorney General of the U.S. Department of Justice. In
13 this role, she is responsible for the adjudication of noncitizens' removal proceedings pursuant to
14 the INA. Her decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) is used as
15 justification for Mr. Hernandez Navarro's mandatory detention. She is sued in her official capacity.

16 **FACTUAL AND PROCEDURAL HISTORY**

17 15. Mr. Hernandez Navarro is a native and citizen of Mexico who initially entered the United
18 States without inspection on or around March 27th, 2000, and has continuously resided in the
19 United States for more than twenty-five years.

20 16. On October 11, 2025, the U.S. Department of Homeland Security ("DHS") initiated
21 removal proceedings against Mr. Hernandez Navarro by filing a Notice to Appear ("NTA"). **Exh.**
22 **B.** Within the NTA, DHS did not allege that Mr. Hernandez Navarro is "an arriving alien" but
23 rather, alleged that Mr. Hernandez Navarro is a noncitizen "present in the United States who has
24

1 not been admitted or paroled.” *Id.* DHS further charged Mr. Hernandez Navarro as removable
2 pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) in that Mr. Perez-Benitez is *present* in the United States
3 without having been admitted or paroled, and 8 U.S.C. § 1182(a)(7)(A)(i)(I), in that at the time of
4 seeking admission, Mr. Hernandez Navarro did not possess “a valid unexpired immigrant visa,
5 reentry permit, border crossing card, or other valid entry document required by the [INA].” **Exh.**
6 **B.**

7 17. On October 13th, 2025, ICE apprehended Mr. Hernandez Navarro and subjected him to
8 mandatory detention at the NSDC despite being eligible and deserving of bond.

9 18. On January 13th, 2026, Mr. Hernandez Navarro, through counsel, filed a Motion for
10 Custody Redetermination Hearing with the Las Vegas, Nevada, Immigration Court. *See* Custody
11 Mot., **Exh. D.** In support of his motion, Mr. Hernandez Navarro asserted that pursuant to 8 U.S.C.
12 § 1226(a), Mr. Hernandez Navarro is eligible for custody redetermination. **Exh. D.** Further, he
13 asserted that he satisfies the requirements to be released from custody because (1) he does not pose
14 a danger to society or national security, (2) he is not a flight risk, and (3) he warrants favorable
15 discretion. *Id.* DHS did not file a response to Mr. Hernandez Navarro’s motion.

16 19. On January 21, 2026, the Las Vegas, Nevada, Immigration Court held a custody
17 redetermination hearing for Mr. Hernandez Navarro. At the conclusion of the hearing, the
18 Immigration Judge issued an oral decision determining that pursuant to *Matter of Yajure Hurtado*,
19 29 I&N Dec. 216 (BIA 2025), the Immigration Judge lacked jurisdiction over Mr. Hernandez
20 Navarro’s custody redetermination. **Exh. C.**

21 20. Following the Immigration Judge’s legally flawed decision, ICE has continued to subject
22 Mr. Hernandez Navarro to mandatory at the NSDC for over **four months**, in violation of his Due
23 Process and this nation’s immigration laws.

21. Absent immediate intervention by this Court, Mr. Hernandez Navarro will be subject to continued, unlawful detention in violation of the nation's immigration laws and constitutional due process.¹

RELEVANT LEGAL AUTHORITY

22. "Writs of habeas corpus may be granted by ... the district courts... within their respective jurisdictions." 28 U.S.C. § 2241(a). A habeas petitioner must prove by the preponderance of the evidence that he is "in custody in violation of the Constitution or laws or treaties of the United States." *Davis v. Woodford*, 384 F.3d 628, 638 (9th Cir. 2004); 28 U.S.C. § 2241(c).

23. When it comes to custody determinations under the INA, there are two statutory provisions that authorize the detention of noncitizens prior to receiving a final removal order. The first is 8 U.S.C. § 1225, which explicitly applies to "arriving aliens." 8 U.S.C. § 1225(a)-(b). The second statutory provision is 8 U.S.C. § 1226.

I. The INA Distinguishes Between Mandatory Versus Permissible Detention Under the 8 U.S.C. Sections 1225 and 1226

24. Section 1225 proscribes mandatory detention of noncitizens *seeking admission* into the United States. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Specifically, when an "examining immigration officer determines that [a noncitizen] seeking admission is not clearly

¹ While Respondents may attempt to claim that prudential exhaustion is required, "exhaustion is excused" in this instance, *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011), as both Respondents and the Executive Office for Immigration Review have demonstrated time and again, that their position on this issue remains unchanged. *See, American Immigration Lawyers Association, Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista*, issued January 16, 2026, available at <https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista> (last visited Feb. 10, 2026).

1 and beyond a doubt entitled to be admitted, the [noncitizen] *shall* be detained for a proceeding
 2 under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

3 25. Relevant here, “[a] noncitizen detained under [s]ection 1225(b)(2) may be released only if
 4 he is paroled ‘for urgent humanitarian reasons or significant public benefit’ pursuant to 8 U.S.C. §
 5 1182(d)(5)(A).” *Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1111 (E.D. Cal. 2025) (citing *Gomes v.*
 6 *Hyde*, 25 Civ. 11571, 2025 WL 1869299, at *2 (D. Mass. July 7, 2025) (citation modified)).

7 26. “Other than this limited exception[,] ... detention under § 1225(b)(2) is considered
 8 mandatory ... [and] [i]ndividuals detained under § 1225 are not entitled to a bond hearing.” *Lepe*,
 9 801 F. Supp. 3d at 1111 (citing *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), — F.Supp.3d
 10 —, 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025)).

11 27. By contrast, 8 U.S.C. section 1226, “authorizes the Government to detain certain
 12 [noncitizens] already in the country pending the outcome of removal proceedings.” *Jennings*, 583
 13 U.S. at 289 (emphasis added). The statute provides that: “[o]n a warrant issued by the Attorney
 14 General, [a noncitizen] may be arrested and detained pending a decision on whether the
 15 [noncitizen] is to be removed from the United States.” During this time, “the Attorney General:

- 16 (1) may continue to detain the arrested alien; and
- 17 (2) may release the alien on—
- 18 (A) bond []; or
- (B) conditional parole.

19 8 U.S.C. § 1226(a). Accordingly, “[s]ection 1226(a), therefore, establishes a discretionary
 20 detention framework.” *Lepe*, 801 F. Supp. at 1111.

21 28. Put differently, the INA permits detention of noncitizens “awaiting removal from the
 22 United States,” but does not mandate it. *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1000
 23 (N.D. Cal. 2018).

24 29. While the initial determination to detain or release the noncitizen is up to an immigration

officer, 8 U.S.C. § 1226(a), “a noncitizen may request a bond hearing before an immigration judge” any time thereafter. *Lepe*, 801 F. Supp. at 1111 (citing 8 C.F.R. § 1236.1(c)(8), (d)(1)).

30. During a bond hearing, “the burden is on the non-citizen to ‘establish to the satisfaction of the Immigration Judge ... 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.’” *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017) (citing *In re Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006)).

II. The Attorney General’s Decision In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) Refuses To Recognize The INA’s Carefully Crafted Distinction Between Mandatory And Permissible Detention

31. In September 2025, the Attorney General attempted to single-handedly rewrite the INA by alleging that noncitizens “who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025).

32. Under the Attorney General’s newly-minted interpretation of the INA, regardless of whether a noncitizen is classified as inadmissible under sections 1225 or 1226, they are subject to mandatory detention. *Matter of Yajure Hurtado*, 29 I&N Dec. at 219, 228.

33. Thus, according to the Attorney General, a noncitizen “who establishes that he or she has been present in the United States for over 2 years,” or 25 years in Petitioner’s case, “shall be detained.” *Id.* at 219.

34. Following *Matter of Yajure Hurtado*, Immigration Courts across the country began determining that they lacked jurisdiction to consider custody redetermination requests for noncitizens who are classified as inadmissible under section 1226 because they entered the United States without inspection, and were arrested within the boundaries of the United States.

III. This Court’s Rejection of *Matter of Yajure Hurtado*, And Recognition Of The Distinction Between Sections 1225 and 1226

35. Following *Matter of Yajure Hurtado*, a multitude of litigation ensued in federal district courts across the country, including in this Court. *See Escobar Salgado v. Mattos*, — F.Supp.3d —, No. 2:25-CV-01872-RFB-EJY, 2025 WL 3205356 (D. Nev. Nov. 17, 2025).

36. In *Escobar Salgado v. Mattos*, this Court concluded “that the text and canons of statutory interpretation, legislative history, and long history of consistent agency practice, demonstrate that Petitioners—who are each longtime U.S. residents, who were arrested and detained by ICE far from any port of entry—are subject to detention under § 1226(a) and its implementing regulations, not § 1225(b)(2)(A), and that the government’s new interpretation and policy under that provision, is unlawful.” 2025 WL 3205356 at *10-*22.

37. “The Court declare[d] that Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2),” and “that the Tacoma Immigration Court’s practice of denying bond to Bond Denial Class members on the basis of § 1225(b)(2) violates the Immigration and Nationality Act. 2025 WL 3205356 at *10-*22.

38. In reaching this conclusion, this Court noted that an overwhelming majority of district courts across the country that have considered the government’s new statutory interpretation in *Matter of Hurtado* and have found it incorrect and unlawful. *See* 2025 WL 3205356, at *2. *See, e.g., Maldonado Vazquez v. Feeley*, 25-CV-01542-RFB-EJY, -- F.Supp.3d --, 2025 WL 2676082 (D. Nev. Sept. 17, 2025) (explaining how the statute “canons of statutory interpretation, including the legislative history, regulations, and long history of consistent agency practice, as well as the doctrine of constitutional avoidance” demonstrate the government’s conflation of sections 1225 and 1226 is likely unlawful); *see also, e.g., Rodriguez v. Bostock*, 802 F.Supp. 3d 1297, 1318 (W.D. Wash. 2025) (“Every district court to address this question has concluded that the

1 government's position belies the statutory text of the INA, canons of statutory interpretation,
 2 legislative history, and longstanding agency practice.”).

3 CAUSES OF ACTION

4 COUNT I:

5 **Constitutionally Prolonged Detention in Violation of the Fifth Amendment** 6 **(Substantive Due Process)**

39. Petitioner re-alleges and incorporates by reference the paragraphs above.

40. The Due Process Clause of the Fifth Amendment forbids the government from depriving
 8 any “person” of liberty “without due process of law,” unless such detention is reasonably related
 9 to its purpose. *Demore v. Kim*, 538 U.S. 510, 513 (2003).

41. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including
 11 aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v.*
 12 *Davis*, 533 U.S. 678, 693 (2001). For this reason, even “removable and inadmissible aliens are
 13 entitled to be free from detention that is arbitrary and capricious,” *Id.* at 721 (Kennedy, J.,
 14 dissenting). And the government’s authority to make rules for “admission” that regulate the
 15 immigration status of noncitizens does not affect this constitutional protection. *See* 8 U.S.C. §
 16 1101(a)(13)(A) (defining admission as “the lawful entry of the alien”).

42. Despite the Fifth Amendment’s command for process, the BIA’s holding in *Matter of*
 18 *Hurtado* has now deprived all immigration judges from possessing the jurisdiction to hear bond
 19 requests or grant bond to aliens who are present in the United States without admission. *Matter of*
 20 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

43. Accordingly, despite submitting a brief along with over 30 pages of evidence
 22 demonstrating his lack of violent or felonious criminal history and strong ties to the U.S., Petitioner
 23 was denied release on bond without any mention to Petitioner’s *actual* eligibility. *See Exhs. C, D.*

1 44. As such, Petitioner's ongoing detention and the Immigration Judge's newfound inability
2 to consider bond determination constitutes a clear and ongoing violation of Petitioner's
3 constitutional due process rights. "Where these procedural mechanisms are not adopted, any
4 continued detention is unlawful." *See* 28 U.S.C. § 2241.

5 45. Finally, regardless of the BIA's recent decision in *Hurtado*, the task of resolving statutory
6 questions belongs to the independent judgment of the courts without deference to agency
7 interpretation. *See Escobar Salgado v. Mattos*, -- F.Supp.3d --, No. 25-cv-01872, 2025 WL
8 3205356, at *12 (D. Nev. Nov. 17, 2025) (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 359,
9 403 (2024)) ("the Framers crafted the Constitution to ensure that federal judges could exercise
10 judgment free from the influence of the political branches."); *Loper Bright Enters.*, 603 U.S. at
11 403-04 ("Courts interpret statutes, no matter the context, based on the traditional tools of statutory
12 construction, not individual policy preferences"); *id.* at 412-13 ("Courts must exercise their
13 independent judgment in deciding whether an agency has acted within its statutory authority").

14 46. For these reasons, Petitioner's ongoing prolonged detention without an individualized
15 hearing to review his continued custody violates due process.

16 47. Petitioner respectfully requests that the Court declare Petitioner a member of the Bond
17 Denial Class pursuant to the parameters established in *Maldonado Vazquez v. Feeley*, 25-CV-
18 01542, -- F.Supp.3d--, 2025 WL 2676082 (D. Nev. Sept. 17, 2025), as well as numerous other
19 cases before this court following *Matter of Hurtado*. *See e.g., Escobar Salgado v. Mattos*, --
20 F.Supp.3d --, No. 25-CV-01872, 2025 WL 3205356, at *2 (D. Nev. Nov. 17, 2025); *Roman v.*
21 *Noem*, 25-CV-01684, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); *Vazquez v. Feeley*, No. 25-cv-
22 01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025).

48. Petitioner further requests this Court declare the BIA's holding stripping the Immigration Judge of jurisdiction over any future bond hearings for Petitioner as unlawful.

49. Petitioner finally requests this Court declare Petitioner's immediate release under supervision in accordance with the \$1,500 bond established in 8 C.F.R. §1226, or, at minimum, order a new custody hearing before the Immigration Judge where the Immigration Judge adjudicates Petitioner's bond application pursuant to 8 U.S.C. section 1226(a). *See Burnett v. Lampert*, 432 F.3d 996, 999 (9th Cir. 2005) ("Federal courts have a fair amount of flexibility in fashioning specific habeas relief.").

COUNT II:
Deficient Custody Determination in Violation of the Fifth Amendment
(Procedural Due Process)

50. Petitioner re-alleges and incorporates by reference the paragraphs above.

51. The Fifth Amendment provides that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. The Due Process Clause applies to all persons in the United States regardless of citizenship status. *Zadvydas*, 533 U.S. at 693.

52. In *Mathews v. Eldridge*, the Supreme Court instructed courts to balance three factors to determine whether procedural due process is satisfied:

- (1) the private interest that will be affected by the official action;
- (2) the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional procedural safeguards; and
- (3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail.

See 424 U.S. 319, 333 (1976).

53. The first factor, the private interest at issue, favors Petitioner. 424 U.S. at 333. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects."

1 *Zadvydas*, 533 U.S. 678, 690; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (holding that
2 a noncitizen has a strong private interest in “the most elemental of liberty interests—the interest in
3 being free from physical detention by [the] government.”). “‘In our society liberty is the norm,’
4 and detention ... ‘is the carefully limited exception.’” *Rumsfeld*, 542 U.S. at 529 (quoting *United*
5 *States v. Salerno*, 481 U.S. 739, 755 (1987)).

6 54. Courts have been careful not to “‘minimize the importance and fundamental nature’ of the
7 individual’s right to liberty.” *Id.* at 529-30 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).
8 In the same vein, “[i]t is clear that commitment for any purpose constitutes a significant deprivation
9 of liberty that requires due process protection.” *Id.* at 530 (quoting *Jones v. United States*, 463 U.S.
10 354, 361 (1983)).

11 55. Petitioner, who lived within the bounds of the United States for twenty-five years, has now
12 been detained for well-over **four months**. During this time, Mr. Hernandez Navarro has been
13 separated from his wife and children and has been unable to see and support them. He finds himself
14 mandatorily confined day after day without justification—a finding that weighs the first *Mathews*
15 factor heavily in Petitioner’s favor. *Mathews*, 424 U.S. at 333.

16 56. The second factor, the risk of erroneous deprivation of liberty and the probable value of
17 procedural safeguards, favors Petitioner. 424 U.S. at 333. Here, numerous district courts around
18 the country, including this Court, that have considered the government’s newly-minted approach
19 to strip the Immigration Judge’s jurisdiction over custody redeterminations, have found it incorrect
20 and unlawful. *See Escobar Salgado v. Mattos*, -- F.Supp.3d --, No. 25-CV-01872, No. 25-CV-
21 01872, 2025 WL 3205356 (D. Nev. Nov. 17, 2025) (finding “that the plain meaning of the relevant
22 statutory provisions, when interpreted according to fundamental canons of statutory construction,”
23 as well as the legislative history and decades of consistent agency practice establish “that the
24

1 government's new interpretation and policy under [§ 1225(b)(2)(A)] is unlawful."); *see also Barco*
2 *Mercado v. Francis*, No. 25-CV-06852, at *9-10 (S.D.N.Y. Nov. 26, 2025) (collecting over 350
3 decisions by over 160 different district judges finding the application of Section 1225(b)(2)(A) to
4 noncitizens residing in the United States unlawful).

5 57. Further, a nationwide class has also been certified, and declaratory relief granted to all class
6 members holding that they are being detained without a bond hearing unlawfully. *See Bautista v.*
7 *Santacruz*, No. 25-CV-01873, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Bautista v. Santacruz*,
8 No. 25-CV-01873, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).

9 58. Accordingly, allowing Petitioner to remain in detention with no reasonably foreseeable
10 release on bond is a clear deprivation of his liberty and rights under the Fifth Amendment of the
11 U.S. Constitution. Requiring Respondents to either release Petitioner from detention under
12 supervision (as allowed under 8 U.S.C. § 1231(a)(6) and 8 U.S.C. § 1226) would reduce the
13 probability of continued needless detention of a person, like Petitioner, who has lived in the United
14 States for over twenty-five years, has family he supports, and is neither dangerous nor a flight risk.

15 59. The third factor, the government's interest, also favors Petitioner. 424 U.S. at 333. When
16 the government ignores law that ensures a noncitizen with the administrative pathways to
17 challenge a constitutionally deficient custody judgement and where the record evidence clearly
18 supports a finding that Petitioner is neither a flight risk, nor a danger to the community, it is more
19 likely to waste limited financial and administrative resources on unnecessary detention and the
20 litigation of subsequent habeas petitions for individuals who are neither flight risks nor dangerous.
21 This waste drags down the efficiency of the entire immigration system.

22 60. And because the government must also spend resources defending against a habeas corpus
23 petition in federal court to compel Respondents to comply with law, requiring Respondents to
24

1 instead provide Petitioner with either a new custody redetermination hearing or simply ordering
 2 that Respondents release Petitioner on bond, reduces fiscal and administrative burdens on the
 3 government.

4 61. For these reasons, the Immigration Judge's denial of Petitioner's release from custody
 5 based on a flawed determination of lack of jurisdiction, effectively ensures Petitioner's indefinite
 6 detention in violation of Petitioner's due process under the Fifth Amendment to the U.S.
 7 Constitution.

8 COUNT III

9 **Declaratory Relief under 28 U.S.C. § 2201**

10 62. Petitioner re-alleges and incorporates by reference the paragraphs above.

11 63. An actual controversy exists regarding the BIA's holding in *Matter of Hurtado* and the
 12 Chief Immigration Judge's subsequent declaration, stripping all Immigration Judges of jurisdiction
 13 over Petitioner's custody redetermination hearing in violation of the INA. *Maldonado Vazquez v.*
 14 *Feeley*, 25-CV-01542, – F.Supp.3d –, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Vazquez v.*
 15 *Feeley*, No. 25–cv–01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Roman v. Noem*, 2025
 16 WL 2710211 (D. Nev. Sept. 23, 2025); *Escobar Salgado v. Mattos*, -- F.Supp.3d --, No. 25-CV-
 17 01872, 2025 WL 3205356, at *2 (D. Nev. Nov. 17, 2025); and *Reyes v. Henkey*, 2025 WL
 18 3563297, at *1 (D. Nev. Dec. 12, 2025).

19 64. As a Bond Denial Class member, ICE is categorically “detain[ing]” Petitioner “under 8
 20 U.S.C. § 1225(b)(1), (2)” *see Matter of Hurtado*, 29 I&N Dec. at 224, and the Immigration Court's
 21 new practice of denying bond redetermination hearings to Bond Denial Class members on the basis
 22 of § 1225(b)(1), (2) violates the Immigration and Nationality Act. *Maldonado Vazquez v. Feeley*,
 23 25-CV-01542, – F.Supp.3d –, 2025 WL 2676082 (D. Nev. Sept. 17, 2025).

1 65. Petitioner is therefore entitled to a declaration that the Las Vegas, Nevada Immigration
2 Court (or any governing Immigration Court if Petitioner is transferred to another facility) maintains
3 jurisdiction over Petitioner's custody redetermination proceedings and maintains authority to
4 release Petitioner on bond.

5 66. Petitioner respectfully requests that the Court issue a declaration that:

6 (1) Because Petitioner is a noncitizen who entered without inspection and remained,
7 Petitioner's removal proceedings are governed by 8 U.S.C. § 1226(a) and any custody
8 determination hearing is held pursuant to this statute;

9 (2) Pursuant to 8 U.S.C. § 1226(a) the Las Vegas Immigration Court is vested with
10 jurisdiction over Petitioner's custody redetermination and has authority to release
11 Petitioner on bond; and

12 (3) Petitioner is entitled to a new custody redetermination hearing where he has the
13 opportunity to challenge the Immigration Judge's constitutionally deficient judgement
14 and where the government bears the burden of proof.

15 **Count IV**

16 **Injunctive Relief**

17 67. Petitioner re-alleges and incorporates by reference the paragraphs above.

18 68. Absent immediate intervention by this Court, Petitioner faces imminent and irreparable
19 harm in the form of unlawful and continued detention, in violation of his due process and this
20 country's immigration laws. The harm Petitioner faces is not speculative: it is concrete and
21 irreparable, as the Las Vegas, Nevada Immigration Court has already been instructed by the Chief
22 Immigration Judge to follow the BIA's holding in *Matter of Hurtado*, and explicitly declined
23
24

jurisdiction over any of Petitioner's custody redetermination requests, and has thus continued to subject him to mandatory detention with no release in the reasonably foreseeable future. **Exh. C.**

RELIEF REQUESTED

WHEREFORE, Petitioner demands judgment against Respondents and requests the following injunctive and declarative relief:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner is being unlawfully held in custody.
3. HABEAS CORPUS. Issue a writ of habeas corpus under 28 U.S.C. § 2241 directing Respondents to immediately release Petitioner from ICE custody or at minimum order that Respondents provide Petitioner with a new custody redetermination hearing where the government bears the burden of proof.
4. DECLARATORY JUDGMENT. Pursuant to 28 U.S.C. § 2201, declare:
 - a. The U.S. Department of Justice's policy refusing to recognize jurisdiction over Petitioner's custody redetermination unlawful.
 - b. Petitioner's immediate release under supervision in accordance with the \$1,500 bond established in 8 U.S.C. § 1226 or, at minimum, a new custody hearing where the government bears the burden of proof.
 - c. Petitioner is not subject to 8 U.S.C. § 1225's mandatory detention requirements without release on bond.
 - d. Any continued detention for the purpose of effectuating the Attorney General's decision in *Matter of Yajure Hurtado* is an unlawful detention and unconstitutional.

5. INJUNCTIVE RELIEF. Pursuant to the Court's equitable powers, Fed. R. Civ. P. 65, and the All Writs Act, 28 U.S.C. § 1651, enter:

- a. Preliminary injunction immediately prohibiting Respondents, their agents, employees, and all persons acting in concert with them from continuing to detain Petitioner pending his underlying removal proceedings and any relevant appeals and adjudication of immigration petitions;
- b. A permanent injunction barring Respondents from attempting to subject Petitioner to 8 U.S.C. § 1225's mandatory detention provision;
- c. A permanent injunction barring Respondents from refusing to recognize jurisdiction over Petitioner's custody redetermination and bond request;
- d. An order retaining jurisdiction to monitor and enforce compliance with the foregoing injunctions.

6. FEES AND COSTS. Award Petitioner his reasonable attorneys' fees and litigation expenses under the ECJA, 28 U.S.C. § 2412, and any other applicable authority.

7. SUCH OTHER RELIEF. Grant such further legal or equitable relief as the Court deems just and proper.

8. Grant such further relief as the Court deems just, equitable, and proper.

Respectfully submitted on this 11th day of February 2026.

By: s/Maria E. Quiroga
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Attorney for Petitioner

CERTIFICATE OF SERVICE

Pursuant to LCR 47-4, I, Maria Quiroga, counsel for Petitioner Cesar Hernandez Navarro, do hereby certify that on the 11th day of February, 2026, a true and correct copy of the foregoing Writ of Habeas Corpus Complaint was forwarded to the Office of the U.S. Attorney's Office for Respondents by U.S. Mail at the following address:

Office of the United States Attorney
Sigal Chattah, First Assistant U.S. Attorney
501 Las Vegas Boulevard South
Suite 1100
Las Vegas, NV 89101
Phone: (702) 388-6336
Email: sigal.chattah@usdoj.gov

Date: February 11, 2026

By: s/ Maria Quiroga
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