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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA (LAS VEGAS)**

Baldemar MORA-ESPEJO

Petitioner,

vs.

Kristi NOEM, Acting Secretary of the
United States Department of Homeland
Security;

Pamela BONDI, Attorney General of the
United States;

Jason KNIGHT, Salt Lake City Acting Field
Office Director, Enforcement and Removal
Operations, U.S. Immigration and Customs
Enforcement;

John MATTOS, Warden at Southern
Nevada Southern Detention Center.

Respondents.

Case No. 
Agency 

**VERIFIED PETITION FOR A WRIT
OF HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241**

Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241

Petitioner, Baldemar Mora-Espejo, petitions this Court for a writ of habeas corpus to remedy his unlawful detention by Respondents, as follows:

I. INTRODUCTION

1. This is a Petition for Writ of Habeas Corpus filed on behalf of Baldemar Mora-Espejo (“Petitioner”) seeking relief to remedy his unlawful detention. Respondents are detaining Mr. Mora-Espejo due to their new policy interpreting the provision of 8 U.S.C. §1225 (b)(2) which subjects individuals to mandatory detention to persons that entered the U.S. without inspection and have been residing in the U.S. for years, instead of applying 8 U.S.C. 1226(a) which would allow them to seek discretionary release on bond during the pendency of their removal proceedings.¹ The government’s nationwide policy has been affirmed by the Board of Immigration Appeals (“BIA”) precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
2. On November 20, 2025, the U.S. District Court for the Central District of California issued a partial summary judgment declaring the DHS policy affirmed by *Matter of Yajure Hurtado* is unlawful. *Bautista v. Santacruz*, 25-CV-01873, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the U.S. District Court for the Central District of California extended the ruling nationwide when it certified a class consisting of:

¹ See Interim Guidance Regarding Detention Authority for Applicants for Admission, available at <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

[a]ll noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

3. *Bautista v. Santacruz*, No. 25-CV-01873, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 20, 2025). Despite this nationwide ruling in *Bautista*, the government continues to apply their unlawful policy as evidenced by EOIR Chief Immigration Judge Teresa L. Riley's January 13, 2026's leaked email directing all immigration judges to continue treating *Hurtado* as binding precedent. *See Ramirez v. Noem*, 2026 U.S. Dist. LEXIS 23793, *4-5, 2026 LX 36829.
4. In addition to the nationwide ruling, this Court has recently certified class membership consisting as:

All noncitizens in the U.S. without lawful status (1) who are or will be arrested or detained by ICE; (2) who are or will be in removal proceedings before an Immigration Court within the District of Nevada; (3) whom DHS alleges or will allege to have entered the United States without inspection or parole; (4) who are not or will not be subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time they are scheduled for or request a bond hearing; and (5) whose most recent arrest by ICE occurred inside the United States and not while arriving in the United States.

See Ramirez v. Noem, 2026 U.S. Dist. LEXIS 23793, *48, 2026 LX 36829.

However, a final resolution has not been issued, necessitating the instant action.

- 1 5. In addition to the nationwide ruling, this Court has recognized on various occasions that
2 noncitizens in Petitioner's circumstances are subject to detention under § 1226(a). *See,*
3 *e.g., Ramriez v. Noem*, 25-CV-02136, 2025 WL 3270137, at *2 (D. Nev. Nov. 24, 2025).
- 4 6. Prior to this policy and BIA decision, Petitioner would have been eligible for a bond
5 hearing under 8 U.S.C. §1226(a) to assess his danger to the community and risk of flight.
- 6 7. Furthermore, in the event that an Immigration Judge grants the Petitioner a bond, the U.S.
7 Department of Homeland Security ("DHS or "Department" or "Government") has been
8 systemically invoking the automatic stay under 8 C.F.R. §1003.19(i)(2), which keeps an
9 individual detained throughout his removal proceedings including the appeals process,
10 even if the individual is successful on the merits of his case.
- 11 8. It is immaterial whether the Petitioner appeals his bond denial to the BIA, because in
12 *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220–28 (BIA 2025), the BIA has established
13 precedent which results in the Immigration Judges' bond determinations and orders
14 continued detention without bond. Consequently, any such appeal would be futile, as the
15 BIA is now uniformly applying this decision to deny bond relief.
- 16 9. Mr. Mora-Espejo is a 24-year-old individual who entered the United States on or about
17 December 2022 and has resided continuously in this country since that time. He and his
18 partner are the parents of two U.S. citizen children, ages two and about to turn one, who
19 depend on him for care, support, and stability. Mr. Mora-Espejo is deeply loved by his
20 family and plays an essential role in their daily lives. Throughout his time in the United
21 States, Mr. Mora-Espejo has been a law-abiding citizen and has no criminal record.
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1 States, he has never been arrested and has no criminal history. Overall, Mr. Mora-Espejo
2 has lived an honest, responsible, and productive life in the United States.

3
4 10. On January 21, 2026, Petitioner was detained by United States Immigration and Customs
5 Enforcement (“ICE”) and will likely remain detained indefinitely, even if he prevails on
6 any application for relief from removal, he files throughout the entirety of his removal
7 proceedings.

8
9 11. Prior to his detention, Petitioner lived with his long-term partner and their young children,
10 for whom he provided consistent financial and emotional support. Given the tender ages
11 of their children, Petitioner’s partner dedicated herself full time to caring for them as a
12 stay-at-home mother, relying primarily on Petitioner’s income to meet the family’s basic
13 needs. Since Petitioner’s detention, however, his partner has struggled to cover essential
14 household expenses and has been forced to rely on limited savings and loans from friends
15 and family. As a result, she has been compelled to seek employment while leaving their
16 young children in the care of a relative. Petitioner’s detention has caused significant
17 disruption to the family’s stability and deprived his children of his daily presence, care,
18 and support.
19

20 12. Petitioner has struggled with significant mental health challenges that have gone untreated
21 due to his lack of health insurance and limited access to care. Over the past four years, he
22 has experienced recurring episodes of depression and anxiety, including at least two
23 severe mental health crises. During these breakdowns, he suffered from extreme
24 confusion, shortness of breath, and an inability to control his emotional and physical
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26

reactions. Petitioner’s continuing detention makes him especially vulnerable to heightened stress, isolation, and further deterioration of his mental health.

13. Due to this mental health history, detention has been especially devastating for Petitioner.

The isolation and uncertainty of confinement have significantly exacerbated his symptoms, leaving him overwhelmed, fearful, and emotionally destabilized. What may be a difficult experience for others is, for Petitioner, an oppressive and harmful environment that he is uniquely ill-equipped to endure given his prior mental health crises and lack of access to consistent treatment while detained.

14. His unlawful detention is not justified under the Constitution nor the Immigration and Nationality Act (“INA”). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 858-59 (2018) (leaving the door open for Constitutional claims challenging the prolonged detention of immigrant detainees pre-final order of removal); *see also Vazquez v. Feeley*, 2025 U.S. Dist. LEXIS 182412, 2025 LX 460110, 2025 WL 2676082 (D. Nev. Sep. 17, 2025); *see also Roman v. Noem*, No. 25-CV-01684-RFB-EJY, 2025 WL 2710211 (D. Nev. Sep. 23, 2025).

15. Although no circuit court has yet addressed this precise question, more than three hundred federal district courts, including this one, have held that applying 8 U.S.C. § 1225(b)(2) to impose mandatory detention is unlawful. *See Ramirez v. Noem*, 2026 U.S. Dist. LEXIS 23793, *3, 2026 LX 36829.

16. A federal court in this District has likewise granted relief in at least 60 similar cases. *See n.1 Ramirez v. Noem*, 2026 U.S. Dist. LEXIS 23793, *3, 2026 LX 36829.

- 1 17. These courts have recognized that DHS's new policy and the BIA's reasoning in *Matter*
2 *of Yajure Hurtado* misapply 8 U.S.C. § 1225(b)(2) to cases like Petitioner's, when the
3 proper authority lies under 8 U.S.C. § 1226(a). This growing body of authority
4 underscores the fundamental error in treating Petitioner as subject to mandatory detention.
5
- 6 18. The government's position which has been affirmed by the Board of Immigration
7 Appeals, that Petitioner is an "applicant for admission" subject to mandatory detention
8 under INA § 235(b)(2)(A) and ineligible for bond, has resulted in Petitioner remaining
9 detained at the Nevada Southern Detention Center.
10
- 11 19. Petitioner's continued detention is in violation of the Due Process Clause of the Fifth
12 Amendment. His mandatory detention is not justified under the Constitution or the INA.
13 Mr. Mora-Espejo seeks an order from this Court finding that his continued detention is
14 unlawful and directing the Respondents to provide Mr. Mora-Espejo with a custody
15 hearing within seven (7) days under 8 U.S.C § 1226(a), and to enjoin the government from
16 denying bond on the ground that he is detained under § 1225(b)(2). If the government fails
17 to provide the required bond hearing, Petitioner further requests his immediate release.
18
- 19 20. Furthermore, if the Immigration Judge finds that Mr. Mora-Espejo is not a danger to the
20 community or flight risk and is given a bond, that he be allowed to post the bond,
21 prohibiting the U.S. Department of Homeland Security to seek an automatic stay under 8
22 C.F.R. § 1003.19(i)(2), or in the alternative provide a status conference to monitor the case.
23
- 24 21. In the event, Mr. Mora-Espejo is successful with his bond request, he further requests the
25 Respondents be enjoined from re-detaining Mr. Mora-Espejo throughout his removal
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proceedings and any appellate process, including judicial review, unless Mr. Mora-Espejo is arrested for a new alleged crime and that he be afforded another bond hearing under 8 U.S.C. 1226(a); INA 236(a).

II. CUSTODY

22. Petitioner is in the physical custody of Respondents and ICE. At the time of the filing of this petition, Mr. Mora-Espejo is detained at the Nevada Southern Detention Center in Pahrump, Nevada. The Nevada Southern Detention Center contracts with DHS to detain aliens such as Mr. Mora-Espejo. Mr. Mora-Espejo is under the direct control of Respondents and their agents.

III. JURISDICTION

23. This action arises under the Constitution of the United States and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701, et seq.

24. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States.

25. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All-Writs Act, 28 U.S.C. § 1651. While Section 1226(e) of the INA precludes an alien from challenging a discretionary judgment by the Attorney General or a decision that the Attorney General has made regarding their detention or release, *see Jennings v. Rodriguez*,

1 138 S. Ct. 830, 841 (2018), Section 1226(e) “does not preclude challenges to the statutory
2 framework that permits the alien’s detention without bail.” *Jennings*, 138 S. Ct. at 841.
3 Moreover, this court has already determined in *Vazquez v. Feeley*, that none of the
4 jurisdiction stripping provisions of the INA such as 8 U.S.C. §§1252 (b)(9), 1252(g),
5 1252(a) and 1226(e) are applicable here.
6

7 IV. VENUE

8 26. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 500, 93 S.
9 Ct. 1123, 1132, 35 L. Ed. 2d 443 (1973), venue lies in the United States District Court for
10 Nevada, the judicial district where Petitioner currently is detained, pursuant to 28 U.S.C.
11 §1391(e).
12

13 V. PARTIES

14 27. Petitioner, Baldemar Mora-Espejo, is a native and citizen of Mexico, who has lived
15 continuously in the U.S. since December 2022. Mr. Mora-Espejo has been in the custody
16 of Respondents since January 21, 2026.
17

18 28. Respondent Kristi Noem is the Acting Secretary of the Department of Homeland Security.
19 She is responsible for the implementation and enforcement of the Immigration and
20 Nationality Act (INA) and oversees ICE. Mrs. Kristi Noem has ultimate custodial
21 authority over Petitioner.
22

23 29. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible
24 for the implementation and enforcement of the INA, and oversees the Executive Office
25 for Immigration Review (EOIR), which is comprised of the Office of the Immigration
26

1 Judge and the Board of Immigration Appeals (BIA or Board). She is being sued in her
2 official capacity.

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4 30. Respondent Jason Knight, is the Acting Field Office Director for Salt Lake City Field
5 Office of Detention and Removal Operations, U.S. Immigration and Customs
6 Enforcement, Department of Homeland Security. As such, Respondent Jason Knight is
7 Petitioner's legal custodian, charged with the responsibility of determining whether Mr.
8 Mora-Espejo will be detained in ICE custody or released pending the conclusion of his
9 Petitioner for Review and any ensuing immigration removal proceedings. He is being sued
10 in his official capacity.

11
12 31. Respondent John Mattos is the Warden and the highest-ranking employee at the Nevada
13 Southern Detention Center and is, therefore, Petitioner's immediate custodian. He is being
14 sued in his official capacity.

15
16 **FACTUAL ALLEGATIONS**

17 32. Petitioner is a 24-year-old citizen and national of Mexico who last entered the United
18 States in or around December 2022. Since his entry, he has resided continuously in the
19 United States and established meaningful ties to his family and community. Since his
20 entry, Petitioner has demonstrated stability, responsibility, and a strong commitment to
21 building a lawful and productive life in the United States.

22
23 33. Petitioner lives with his long-term partner and their young children, with whom he shares
24 a close and supportive family relationship. He has been an active presence in his children's
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1 lives and a primary source of financial and emotional support for the household. His
2 family relies on him for daily stability, care, and guidance.

3
4 34. Petitioner has a history of untreated mental health crises due to lack of health insurance.

5 Over the past several years, he has grappled with numerous episodes of emotional and
6 physical distress marked by depression and anxiety. Unfortunately, Petitioner's symptoms
7 have never been formally treated, leaving Petitioner particularly vulnerable during periods
8 of heightened stress and uncertainty.

9
10 35. Prior to his detention, Petitioner was steadily employed and contributed consistently to
11 his household's financial stability. His income was essential in covering rent, food,
12 utilities, and other basic living expenses for his family. Since his detention, his partner has
13 struggled to meet these obligations, underscoring Petitioner's critical role as a provider.

14
15 36. Beginning on or about March 2023, Petitioner was employed by Lorin Orvin
16 Construction, where he worked reliably and maintained steady employment. His
17 supervisors and coworkers regarded him as hardworking, dependable, and committed to
18 his job responsibilities. Petitioner took pride in his work and consistently reported as
19 scheduled.

20
21 37. Since his entry in December 2022, Petitioner has worked diligently to establish deep and
22 meaningful ties to the United States through employment, family life, and community
23 involvement. He has demonstrated a clear commitment to remaining a productive member
24 of society and to supporting his family. His detention has abruptly severed these ties and
25 disrupted the stability he worked to build.

1 38. On January 21, 2026, Petitioner was arrested on warrant by ICE and served by DHS with
2 a Notice to Appear initiating removal proceedings. Petitioner was charged with violating
3 INA § 212(a)(6)(A)(i) (as an alien present in the United States without being admitted or
4 paroled, or who arrived in the United States at any time or place other than as designated
5 by the Attorney General) and INA §212(a)(7)(A)(i)(I)(as an immigrant who, at the time
6 of application for admission, is not in possession of a valid unexpired immigrant visa,
7 reentry permit, border crossing card, or other valid entry document required by the Act,
8 and a valid unexpired passport, or other suitable travel document, or document of identity
9 and nationality as required under the regulations issued by the Attorney General under
10 section 211 (a) of the Act.)
11

12
13 39. Mr. Mora-Espejo poses no danger to the community. Throughout his time of residence in
14 the United States, he has maintained an exemplary record, with no arrests.
15

16 40. Mr. Mora-Espejo has maintained overall good moral character, has longstanding
17 residence in the United States, and has strong equities in the form of family and
18 community ties, employment history, demonstrating he is not a flight risk.

19 41. Further, Mr. Mora-Espejo is prima facie eligible for asylum related relief because he has
20 fear of returning to Mexico.
21

22 42. In light of Mr. Mora-Espejo unlawful detention, it is both necessary and appropriate for
23 this Court to exercise its authority to consider the merits of his request for a bond hearing
24 under 8 U.S.C. §1226(a) under the present Petition. Mr. Mora-Espejo continued detention
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1 serves no legitimate purpose and only exacerbates the hardship already suffered by his
2 family.

3 VII. CLAIMS FOR RELIEF

4 A. Statutory Violation

5 43. Petitioner re-alleges and incorporates by reference paragraphs 1 through 42, above.

6 44. The Department's new position, reaffirmed by the BIA's precedential decision in *Matter*
7 *of Yajure Hurtado* contravenes the plain text of the statute. Section §1226(a), not
8 §1225(b), applies to individuals like the Petitioner.
9

10 45. Section 1226(a) governs by default all individuals in removal proceedings under § 1229a,
11 which determine inadmissibility or deportability. The statute explicitly covers those
12 charged as inadmissible, including entrants without inspection, and ensures they are
13 entitled to bond hearings under subsection (a). On the other hand, § 1225(b) applies only
14 to individuals arriving at ports of entry or immediately after entry, as it is built around
15 inspection of applicants for admission. Thus, the mandatory detention provision of §
16 1225(b)(2) does not extend to the Petitioner.
17

18 46. Therefore, Respondents' continued detention of Petitioner is therefore unlawful and
19 contravenes 8 U.S.C. § 1226(a), and the U.S. Constitution. Accordingly, Respondent's
20 continued detention of Petitioner is contrary to statute.
21

22 B. Violation of Fifth Amendment Due Process

23 47. Petitioner re-alleges and incorporates by reference paragraphs 1 through 46, above.
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1 48. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and
2 meaningful opportunity to demonstrate that he should not be detained or removed. *See,*
3 *e.g., Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292,
4 306 (1993)).

5
6 49. Respondents have deprived Mr. Mora-Espejo of his right to procedural due process by
7 detaining him since January 21, 2026, prohibiting him from having a bond
8 redetermination hearing under 8 C.F.R. §1003.19. *See Ramirez*, 2025 WL 3270137, at
9 *11.

10
11 **C. Substantive Due Process Violation**

12 50. Petitioner re-alleges and incorporates by reference paragraphs 1 through 49, above.

13 51. Petitioner's continued detention violates Petitioner's right to substantive due process
14 through a deprivation of the core liberty interest in freedom from bodily restraint.

15
16 52. The Due Process Clause of the Fifth Amendment requires that the deprivation of
17 Petitioner's liberty interest be narrowly tailored to serve a compelling government
18 interest. Any interest Respondents may claim in detaining Petitioner to facilitate his
19 removal does not justify his unlawful and prolonged detention without an opportunity for
20 an individualized assessment. Petitioner is entitled to a bond hearing before an
21 immigration judge to determine whether he poses a flight risk or danger to the community.

22
23 53. Petitioner's continued detention separates him from his long-term partner, his young
24 children, and his employment, as well as from other members of his community. His
25 family suffers in his absence and is deprived of the emotional support, daily caregiving,
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1 and financial stability he provided to the household. The conditions of confinement
2 impose additional and ongoing harms, including incarceration in jail-like facilities, limited
3 access to adequate medical and mental health care, and other substandard living conditions
4 that exacerbate the hardship experienced by Petitioner and his family.

5
6 54. Therefore, his mandatory detention without a bond hearing infringes upon the
7 fundamental liberty interest in freedom from physical restraint. Accordingly, Respondents
8 cannot show a “sufficiently strong special justification” for continuing to deprive Mr.
9 Mora-Espejo of his fundamental human rights.

10 11 **VIII. PRAYER FOR RELIEF**

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

- 13 1. Assume jurisdiction over this matter;
- 14 2. Enjoin Respondents from transferring Petitioner outside of this judicial district pending
15 litigation of this matter or his removal proceedings;
- 16 3. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action
17 brought under chapter 153 (habeas corpus) of Title 28;
- 18 4. Pursuant to 28 U.S.C. § 2243 issue an order directing Respondents to show cause why the
19 writ of habeas corpus should not be granted;
- 20 5. Grant Petitioner a writ of habeas corpus directing the Respondents to immediately provide
21 a bond hearing under 8 U.S.C. § 1229(a), and if the Immigration Judge grants a bond, to
22 further enjoin the government from filing an automatic stay under
23 8 C.F.R. § 1003.19(i)(2);
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25
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- 1 6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA),
2 as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under
3 law; and
4
- 5 7. Grant any other and further relief as the Court deems just and proper.

6 Dated: February 12, 2026

7
8 /S/ SYLVIA L. ESPARZA
9 Sylvia L. Esparza, Esq.
10 Attorney for Petitioner
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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 12, 2026

/S/ SYLVIA L. ESPARZA

Sylvia L. Esparza, Esq.

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading/document was mailed certified mail, return receipt requested, and personal delivery, to the following, above mentioned Respondents on February 12, 2026 at the following addresses:

1. United States Attorney for the District of Nevada.
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, NV 89101-6519
2. Kristi NOEM, Secretary of the United States Department of Homeland Security.
Washington, D.C. 20528-0001
3. Pamela BONDI, Attorney General of the United States.
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
4. Jason KNIGHT, Acting Field Office Director Office of Detention and Removal Operations, ICE.
2975 Decker Lake Drive, Suite 100
West Valley City, UT, 84119-6094
5. John MATTOS, Warden at Nevada Southern Detention Center.
2190 East Mesquite Avenue
Pahrump, NV 89060-3427

Dated: February 12, 2026

/S/ SYLVIA L. ESPARZA
Sylvia L. Esparza, Esq.
Attorney for Petitioner