UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS AUSTIN DIVISION

Christopher Saul Diaz-Rogel,

Petitioner,

v.

Todd Blanche, Acting U.S. Attorney General,

Markwayne Mullin, Secretary, U.S. Department of Homeland Security,

David J. Venturella, Senior Official Performing the Duties of the Director of Immigration and Customs Enforcement,

Sylvester M. Ortega, Field Office Director for the San Antonio Field Office of ICE,

and

Charlotte Collins, Warden of the T. Don Hutto Residential Center,

Respondents.

Case No. 1:26-cv-1777

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Expedited Handling Requested

INTRODUCTION

1. Petitioner, Christopher Saul Diaz-Rogel ("Petitioner"), by and through counsel, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to release Petitioner from ICE detention or, alternatively, provide Petitioner with

a bond hearing at with the government bears the burden of showing by clear and convincing evidence that Petitioner is a danger or flight risk.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution ("Suspension Clause"); U.S. Const. amend. V (Due Process Clause of the Fifth Amendment); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Petitioner seeks to challenge Petitioner's custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security ("DHS"). *Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Petitioner is detained within the Western District of Texas, Austin Division. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973) (venue is proper in the judicial district in which petitioner is currently detained).

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this District.

PARTIES

7. Petitioner, a citizen of Mexico, is being detained by ICE in Texas. Petitioner is under the direct control of Respondents and has no scheduled release date. Petitioner has been detained at T. Don Hutto Residential Center, 1001 Welch Street, Taylor, TX 76574, since on or about January 16, 2026.

8. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States and the head of the Department of Justice. Attorney General Blanche shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Markwayne Mullin, Secretary, U.S. Department of Homeland Security. Acting Attorney General Blanche is a legal custodian of Petitioner.

9. Respondent Markwayne Mullin is being sued in his official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Mullin is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the Western District of Texas, Austin Division, supervises T. Don Hutto Residential Center, and is legally responsible for pursuing Petitioner's detention and removal. As such, Respondent Mullin is a legal custodian of Petitioner.

10. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Venturella is responsible for Petitioner's detention.

11. Respondent Sylvester M. Ortega is sued in his official capacity as the Field Office Director for the San Antonio Field Office of Immigration and Customs Enforcement (ICE) within DHS. In that capacity, Field Director Ortega has supervisory authority over the ICE agents responsible for detaining Petitioner.

12. Charlotte Collins sued in her official capacity as Warden of the T. Don Hutto Residential Center, where Petitioner is currently detained. She has legal and physical custody of Petitioner.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

13. Petitioner is a citizen of Mexico and was born in Mexico on or abou[redacted] [redacted] He has lived in the United States since in or around April 2000, when he was about eighteen months old.

14. Petitioner entered the United States with his mother, Gabriela Rogel, and Father, Orlando Diaz, in or around April 2000, without inspection. Petitioner seeks a Writ of Habeas Corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to immediately release Petitioner from detention or, in the alternative, provide Petitioner with a bond hearing at which ICE bears the burden of proof to show by clear and convincing evidence that Petitioner is a public danger or flight risk.

15. Petitioner has been employed in construction, customer service and sales for most of his time in the United States, although he does not have a work permit.

16. Petitioner has lived in Texas since his entry and held DACA until it expired on about June 29, 2025. His DACA renewal application was denied following a recent arrest.

17. Petitioner lived with his parents in Austin, Texas, from approximately April 2000 until approximately September 2023. In or about September 2023, Christopher moved to Pflugerville, Texas, to live with his then second girlfriend, Adriana P., and her parents until approximately March 2025, when he and Adriana P. moved into an apartment together in Hutto, Texas. Petitioner reports that he and Adriana ended their relationship in or around June 2025 but continued to share the apartment.

18. In or around 2022 Petitioner was arrested in Hays County, Texas, for possession of marijuana. He does not recall the month. He was on the way to Austin, Texas, from a concert in San Angelo and was stopped by a sheriff in or near McCulloch County for speeding, driving without a license, and possession of marijuana with paraphernalia. Petitioner was initially charged with a felony due to the quantity of marijuana involved; however, his attorney negotiated a reduction of the charge to a misdemeanor and Petitioner was placed on probation. Although Petitioner initially complied with the reporting requirements of his probation for several years, beginning in or around 2025, he failed to comply with the reporting requirements.

19. In or around February 2023, shortly after ending his first romantic relationship and before beginning a relationship with Adriana P., Petitioner went to his first former girlfriend's residence to ask for another opportunity to reconcile. Petitioner's first former girlfriend allowed him to enter the living room of her residence and then left him

there alone. Shortly thereafter, another man entered the living room, did not speak, and pointed a firearm at Petitioner. Petitioner immediately turned and walked toward the front door to leave the residence. When Petitioner began walking toward the door to leave the residence, the first man lowered the firearm. A second man then entered the room, and the two men physically pushed Petitioner out of the residence. A few weeks later, Petitioner received a telephone call from an individual identifying himself as a sheriff, who informed Petitioner that a warrant had been issued for his arrest and instructed him to turn himself in. Petitioner does not know whether the caller was in fact a law enforcement officer or whether a warrant had been issued. Petitioner ended the call and did not surrender to law enforcement.

20. In or around March 2023, Petitioner was arrested in Williamson County, Texas, following a motor vehicle collision in which another vehicle rear-ended the vehicle behind Petitioner, causing that vehicle to strike Petitioner's vehicle. When law enforcement officers arrived at the scene, Petitioner informed them that he believed there was an outstanding warrant for his arrest. Petitioner was taken to the Williamson County Jail and was released on bond approximately six hours later that same day.

21. On or about June 6, 2024, Petitioner was arrested in Williamson County, Texas, when Petitioner was stopped for speeding. During the traffic stop, the law enforcement officer discovered an outstanding warrant for Petitioner's arrest based on Petitioner's failure to comply with the reporting requirements for his probation in the marijuana case. Petitioner was arrested and incarcerated for approximately 30 days, which Petitioner believes were served in the McCulloch County Jail. On or about July 7, 2024,

Petitioner was transferred to the Hays County Jail and was released on bond on or about July 8, 2024.

22. On or about October 6, 2025, Petitioner was arrested in Williamson County, Texas, and charged with burglary of a habitation and assault causing bodily injury. Earlier that day, Petitioner returned to the apartment that he shared with his former girlfriend, Adriana P., and found an unfamiliar man inside the apartment. Petitioner asked the man to leave. [redacted] from choking him, Petitioner grabbed the man's neck. The man then released Petitioner and left Petitioner's apartment. Petitioner was arrested that same day and charged with assault causing bodily injury and burglary of a habitation. The burglary charge was subsequently dismissed because the alleged habitation was Petitioner's own apartment. Although Petitioner pleaded not guilty to the assault charge, he was subsequently found guilty and incarcerated in the Williamson County Jail for approximately 101 days, from on or about October 6, 2025, until January 16, 2026, when ICE transferred him to the T. Don Hutto Detention Center.

23. Petitioner later learned that the man was his former girlfriend, Adriana P.'s, new boyfriend and that the District Attorney considered Adriana P.'s new boyfriend to be

an invited guest with a legal right to be in Adriana P. and Petitioner's apartment. Petitioner maintains that the man initiated the physical altercation and that Petitioner acted in self-defense and in defense of his property because he believed the man was a stranger unlawfully present in his apartment.

24. Petitioner also obtained access to a recording of Adriana P.'s call to the police during which she reported that her ex-boyfriend was breaking into her apartment. Petitioner disputes that characterization because the apartment was also his residence. The recording also included Adriana P.'s new boyfriend stating the Petitioner had assaulted him after breaking into "their residence." Petitioner also disputes that characterization because Adriana P.'s new boyfriend did not reside in the apartment Petitioner shared with Adriana P. Petitioner further maintains that Adriana P.'s new boyfriend initiated the physical altercation and that Petitioner acted in self-defense.

25. Petitioner's criminal history reflects a small number of isolated incidents rather than a pattern of persistent or escalating criminal conduct evidencing a danger to the community. The burglary of a habitation was dismissed because the alleged habitation was Petitioner's own apartment. The remaining assault conviction arose from an isolated personal confrontation inside Petitioner's residence after he encountered an unfamiliar man whom he believed to be a stranger. Petitioner has consistently maintained that the other individual initiated the physical altercation and that he acted in self-defense after being physically attacked.

26. Since entering the United States, Petitioner has maintained consistent employment, demonstrating stability, a strong work ethic, and an ability to support himself through lawful employment.

27. At the time of this filing, to the best of the undersigned's knowledge, Petitioner is in ICE detention in Taylor, Texas. This understanding is based on Petitioner's location listed on the ICE locator website.

28. Petitioner respectfully seeks the opportunity to return to his U.S. home and continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

STANDARD OF LAW

29. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The "Great Writ" has been referred to by United States Courts as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 2241(c)(3). The writ should be granted if petitioner can show that their detention is unlawful by a preponderance of evidence. *Aguilar v. Bondi*, No. 5:25-CV-01453-JKP, 2025 WL 3471417, at *2 (W.D. Tex. Nov. 26, 2025) (citing *Bruce v. Estelle*, 536 F.2d 1051, 1058 (5th Cir. 1976)).

30. The Court must grant a petition for writ of habeas corpus or issue an order to show cause to the respondents "forthwith," unless the petitioner is not entitled to relief. 28

U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

31. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Scott v. Stephens*, No. 1:21-CV-620, 2023 WL 5945600, at *3 (E.D. Tex. Aug. 23, 2023), report and recommendation adopted, No. 1:21-CV-620, 2023 WL 5943127 (E.D. Tex. Sept. 11, 2023).

32. Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Fernandez v. Dickey*, No. CV 4:25-6088, 2026 WL 74184, at *1 (S.D. Tex. Jan. 9, 2026).

33. In *Petgrave v. Aleman*, 529 F. Supp. 3d 665, 672 n.14 (S.D. Tex. 2021), the court held that exhaustion is not required where an appeal timeline would exacerbate petitioner's alleged injury of unlawful detention. *See also Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 680 (W.D. Tex. 2025).

34. "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

35. Further, the Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado* held that immigration judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. 29 I. & N. Dec. 216, 225 (B.I.A. 2025) (internal citations omitted).

36. Only under certain circumstances are immigrants subject to ongoing detention without a bond hearing. *See, e.g.*, 8 U.S.C. § 1226(c) (individuals with certain criminal convictions may be detained without a bond hearing for the pendency of removal proceedings); 8 U.S.C. § 1225(b)(2) (authorizing mandatory detention of immigrants seeking admission from outside the United States, who are "not clearly and beyond a doubt entitled to be admitted").

37. In order to bring a detained individual under the purview of 8 U.S.C. § 1226(c), an individual's criminal conviction must be one enumerated in the INA under 8 U.S.C. §§ 1182(a)(2), 1182(a)(3)(B), 8 U.S.C. §§ 1227(a)(2)(A)(i-iii), and 8 U.S.C. §§ 1227(a)(2)(B-D).

38. These specified offenses include crimes of moral turpitude, violations of laws regulating controlled substances, terroristic activities, firearm offenses, espionage, treason, and other serious crimes. *Id.* Crimes of moral turpitude do not apply in situations where the maximum sentence for the crime was less than one year, and the person was sentenced to less than six months of imprisonment. 8 U.S.C. § 1182(a)(2)(A)(ii)(III).

39. If the individual has not been convicted of one of the aforementioned enumerated crimes, the "default rule" is that 8 U.S.C. § 1226(a) and its implementing regulations apply to immigrants "already present in the United States" and subject to pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). Under this default rule, immigrants are constitutionally entitled to a bond hearing. *Membreno, v. Thompson*, No. SA-25-CA-01845-XR, 2026 WL 93980, at *3 (W.D. Tex. Jan. 7, 2026).

40. Here, Petitioner fits the 'default rule': Petitioner has been in the United States for more than two years and does not have criminal convictions that fall under the purview of 8 U.S.C. § 1226(c). Thus, Petitioner is entitled to **release**.

41. Immigration detention is civil in nature. As a result, Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

42. A noncitizen seeking only to challenge the legality of their detention, not the substance of their removal proceedings in immigration court, may properly ask a federal court to find jurisdiction over such a request pursuant to 28 U.S.C. § 2241. *See, e.g., Trejo v. Warden of ERO El Paso E. Montana*, No. EP-25-CV-401-KC, 2025 WL 2992187, at *3 (W.D. Tex. Oct. 24, 2025).

43. Since 8 U.S.C. § 1225 does not apply to noncitizens who are in Petitioner's situation—who have been detained while residing within the United States for more than two years, as opposed to those who are detained while in the process of physically entering the United State—the law that Respondents are using to detain Petitioner simply does not apply so as to authorize Petitioner's detention. *See Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 685 (W.D. Tex. 2025); *Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418, at *5 (W.D. Tex. Dec. 2, 2025); *Abdelalim-Elmetaher v. Thompson*, No. SA-25-CA-01608-XR, 2025 WL 3654267, at *4 (W.D. Tex. Dec. 16, 2025); *Madrazo Rodriguez v. Noem*, No. SA-25-CA-01657-XR, 2025 WL 3654332, at *5 (W.D. Tex.

Dec. 16, 2025); *Perez-Prieto v. Lyons*, No. SA-25-CA-01808-XR, 2026 WL 94644, at *4 (W.D. Tex. Jan. 6, 2026).

44. On February 6, 2026, a panel of three judges on the Fifth Circuit diverged from the majority of federal district courts addressing this issue and against the plain meaning of the statutes, finding that people like Petitioner are in fact detained under section 1225(b)(2)(A), rather than section 1226(a). *Buenrostro-Mendez v. Bondi,* 166 F.4th 494 (5th Cir. 2026).

45. The Fifth Circuit panel's decision in *Buenrostro* addressed only the statutory habeas claim. *See id.* Accordingly, other claims for habeas relief sounding in the U.S. Constitution, such as due process claims, are not foreclosed by *Buenrostro.*

46. In fact, a number of federal courts in the Fifth Circuit have previously granted habeas petitions on procedural due process grounds. *See, e.g.*, *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Rojas v. Noem*, 2025 WL 3038262 (W.D. Tex. Oct. 30, 2025); *Cruz-Reyes v. Bondi*, 2026 WL 332315 (S.D. Tex. Feb. 3, 2026); *De Leon Hernandez v. Bondi*, 2025 WL 3217037 (W.D. La. Nov. 18, 2025); *Parada-Hernandez v. Johnson*, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), *report and recommendation adopted*, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025). Even if Respondents' statutory interpretation were credited, Petitioner's constitutional claims remain independently viable.

47. At least one district judge in the Fifth Circuit has already expressly found that *Buenrostro* did not change the outcome of a habeas grant on procedural due process grounds. *Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026).

48. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

49. Where detention is unlawfully based on 8 U.S.C. § 1225, which does not apply to Petitioner, release is an appropriate remedy.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement.

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

51. Petitioner has due process rights by virtue of his physical presence in the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

52. Petitioner has a cognizable protectable liberty interest in his freedom from detention. *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 686 (W.D. Tex. 2025) (holding noncitizens in mandatory detention without a bond hearing constitutes a due process violation); *Diaz v. Kaiser*, No. 25-cv-5071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025) (collecting cases); *accord M.S.L.*, 2025 WL 2430267, at *8 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen

released from immigration detention] have a liberty interest in remaining out of custody on bond.") (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) (same).

53. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

54. Here, all three factors favor the petitioner.

55. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 ("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 protects."). Petitioner currently experiences the full range of deprivations that come with physical detention.

56. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a hearing) is followed. Petitioner has a strong likelihood of meeting the criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999). Even if

Petitioner is not subsequently released, Petitioner still has a legal and constitutional interest in the hearing itself, including the opportunity to be heard.

57. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner is not a threat to public safety. Releasing Petitioner, or holding a hearing to release Petitioner on bond, would in fact *save* the government the resources and expense of continuing to imprison Petitioner.

58. The placement of Petitioner in detention violates his constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner's Ongoing Detention, without the Opportunity for a Bond Hearing, Violates his Statutory Right to a Hearing as Guaranteed by 8 U.S.C. § 1226

59. Petitioner re-alleges and incorporates by reference each and every allegation contained above.

60. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

61. Petitioner is not subject to 8 U.S.C. §§ 1225(b)(1), 1226(c), or § 1231.

62. Respondents' application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT THREE

Violation of the Administrative Procedure Act

63. Petitioner re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

64. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

65. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As applied to this Petitioner, it does not extend to individuals who previously entered the country and were residing in the United States before being apprehended and placed in removal proceedings by Respondents. Such noncitizens could properly be detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

67. Nonetheless, Respondents have adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

68. Respondents, through *Yajure Hurtado*, failed to articulate any reasoned explanations for their new interpretation of the Act. The Board's decision represents a

change in the agencies' policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

69. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

REQUEST FOR ORDER TO SHOW CAUSE

70. Within three days, unless good cause for a delay is shown, "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

71. Petitioner, by and through counsel, respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;
b. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the INA, and implementing regulations;
c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner under the same conditions as existed prior to his detention;
d. Alternatively, order Respondents to release Petitioner immediately unless they provide a bond hearing under 8 U.S.C. § 1226(a) within five days, at which hearing Respondents will bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of dangerousness or flight risk;

e. Issue an Order prohibiting Respondents from removing Petitioner from the United States or tranferring Petitioner out of this jurisdiction during the pendency of this petition;

f. Issue an Order to Show Cause ordering Respondents to explain why this Petition should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 USC § 2243;

g. Issue an Order prohibiting Respondents from re-detaining Petitioner without a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;

h. Grant any other and further relief that this Court deems just and proper.

Dated: July 1, 2026

Respectfully submitted,

/s/ Jonathan Levy
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because his current detention makes him unable to submit one on his own behalf. On information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Jonathan Levy
Jonathan Levy

CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant, the undersigned certifies and states that the true and correct copies of this Petition for Writ of Habeas Corpus will be served upon all counsels of record via the online CM/ECF system, on or before July 1, 2026.

/s/ Jonathan Levy
Jonathan Levy