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Counsel for Petitioner
Angel Martinez Sanchez

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

ANGEL MARTINEZ SANCHEZ,
[redacted],

Petitioner,
v.

TODD BLANCHE, in his official capacity as Acting Attorney General,

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security,

U.S. DEPARTMENT OF HOMELAND SECURITY,

CHRISTOPHER CHESTNUT, in his official capacity as Warden of California City Detention Facility,

SERGIO ALBARRAN, in his official capacity as ICE Field Office Director,

Case No.

VERIFIED PETITION FOR HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

IMMIGRATION HABEAS CASE

ORAL ARGUMENT REQUESTED

Defendants.

FACTUAL BACKGROUND

1. Angel Martinez Sanhcez (Petitioner), by and through his undersigned counsel, hereby files this petition for a writ of habeas corpus and a motion for a temporary restraining order challenging his continued unlawful detention. He requests immediate release, arguing that Respondents violated his due process rights, that he was subjected to an unlawful arrest, and Respondents violated the Administrative Procedure Act (APA) and is in violation of the preliminary injunction in *ICWC v. Noem*.
2. Petitioner has resided in the United States for a period of twenty-three years having entered the country in or around 2003 when he was 13 years old. He had no prior contact with immigration authorities during his time in the United States. Petitioner maintained stable employment and built a life for himself to provide for his two daughters, who are both United States citizens.
3. In 2019, he married a citizen of the United States. During the marriage Petitioner was subjected to battery and extreme cruelty and as result separated from his wife in or around July 2021. *See* Exhibit A. He has since divorced his wife in 2022.
4. On December 24, 2025, ICE, Enforcement and Removal Operations (ERO) arrested Petitioner and transferred him from San Luis Obispo County Jail into ICE custody. He was not shown a warrant for his arrest. Petitioner was

shown a copy of a pending petition for an immigration benefit, a VAWA self-petition. He was ultimately transferred to California City detention center.

5. On January 26, 2026, Petitioner was issued a Notice to Appear where he is charged as a noncitizen present without admission or parole and is charged with removability under 8 U.S.C. § 1182(a)(6)(A)(i), for being present without admission or parole. *See* Exhibit B.

6. Petitioner has been detained in ICE custody since December 24, 2025, for a period of over six months. In proceedings, Petitioner is pursuing an application of special rule cancellation of removal under 8 U.S.C. § 1229b(b)(2) based on the battery and extreme cruelty he was subjected to during his marriage to his United States citizen wife.

7. Petitioner previously applied for protection as a Violence Against Women Act (VAWA) self-petitioner who suffered battery and extreme cruelty at the hands of his United States citizen wife under 8 U.S.C. 1154(a) on July 22, 2024. Exhibit A. On September 09, 2025, U.S. Citizenship and Immigration Services (USCIS) issued a Prima Facie Determination notice valid until March 08, 2026. *Id.*

8. Prior to 2025, ICE issued a directive and policy to refrain from immigration enforcement action for those who have pending applications for victim-based benefits, acknowledging the responsibility to "protect and assist noncitizen

crime victims." *See* Exhibit C, ICE Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims (Aug. 10, 2021) (2021 Directive); *see also* Exhibit D, John Morton, ICE Policy Statement 10076.1, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs* (Jun. 17, 2011) (2011 Policy).

9. As such, Petitioner respectfully requests that this Honorable Court issue a writ of habeas corpus and order his release.

PARTIES

10. Petitioner Angel Martinez Sanchez is a citizen of Mexico, who is currently in the custody of the ICE at the California City Detention Center in California City, California.

11. Respondent Todd Blanche, the Acting Attorney General, is the highest-ranking official within the Department of Justice (DOJ). Respondent Blanche has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. As the Immigration and Nationality Act (INA) has not been amended to reflect the designation of the Secretary of the DHS as the administrator and enforcer of immigration laws, Respondent Blanche is sued in his official capacity to the extent that 8 U.S.C. § 1102 gives him authority over immigration law.

12. Respondent Markwayne Mullin, the Secretary of the DHS, is the highest-

ranking official within the DHS. Respondent Mullin, by and through his agency for the DHS, is responsible for the implementation of the INA, and for ensuring compliance with applicable federal law. He is also responsible for the detention of non-citizens by ICE. Respondent Mullin is sued in his official capacity as an agent of the government of the United States.

13. The DHS is the agency responsible for detaining Petitioner.

14. Respondent Christopher Chestnut is the warden at California City Detention Facility. He oversees Petitioner's place of custody.

15. Respondent Sergio Albarran is the San Francisco Field Office Director for ICE's Enforcement and Removal Operations Division. He oversees the custody of all ICE detainees at the California City Detention Facility. He is Petitioner's immediate custodian and is responsible for Petitioner's detention. He is sued in his official capacity.

JURISDICTION AND VENUE

16. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension Clause); and the common law. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C.

§ 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

17. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

18. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the San Francisco Office of the Immigration and Customs Enforcement and the warden of the California City Detention Center, which is in the jurisdiction of the Eastern District of California; and there is no real property involved in this action.

LEGAL BACKGROUND

19. **Immigration Arrests**: The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV.

20. Immigration officers may only conduct warrantless arrests in limited circumstances. *See Arizona v. United States*, 567 U.S. 387, 410 (2012). The INA permits warrantless arrest if an immigration officer has reason to believe that a noncitizen (1) is in the United States in violation of the

immigration laws and (2) "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); *see also* 8 C.F.R. § 287.8(c)(2)(i)-(ii). An officer "has reason to believe" when they have the equivalent of "the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

21. **Detention of noncitizens:** 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

22. The INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

23. On July 8, 2025, DHS issued a new policy, instructing all ICE employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to

detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond during the removal hearing process.[1]

24. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board), a component of the DOJ, issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

25. The Board determined that such individuals are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. Prior to these policy and administrative law changes, it was well-settled that noncitizens who entered without inspection were entitled to bond hearings.

26. "Courts nationwide, including [in this district] have overwhelmingly rejected Respondents' arguments and found DHS's new policy unlawful." *Ernesto R.A. v. Cruz*, No. 1:26-CV-00138-TLN-EFB, 2026 WL 218957, at *1 (E.D. Cal. Jan. 28, 2026) (citing *Hortua v. Chestnut, et al.*, No. 1:25-cv-01670-TLN-JDP, 2025 WL 3525916 (E.D. Cal. Dec. 9, 2025); *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *4

[1] "Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025. *Available at*: https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents.

(S.D.N.Y. Nov. 26, 2025) (estimating over 350 cases ruled DHS's July policy improper across 160 different judges sitting in about 50 different courts nationwide); *Mirley Adriana Bautista Pico, et al. v. Kristi Noem, et al.*, No. 25-CV-08002-JST, 2025 WL 3295382, at *2 (N.D. Cal. Nov. 26, 2025) (collecting cases); *Armando Modesto Estrada-Samayoa v. Orestes Cruz, et al.*, No. 1:25-CV-01565-EFB (HC), 2025 WL 3268280, at *4 (E.D. Cal. Nov. 24, 2025) (collecting cases).

27. Additionally, as Petitioner is detained outside of the Central District, given the Ninth Circuit's stay, *Maldonado Bautista v. Santacruz*, 813 F. Supp. 3d 1084, 1127 (C.D. Cal. 2025) does not apply to him and he is not entitled to any bond hearing under the agency's current legal interpretation. *See Bautista v. DHS*, No. 26-1044, Dkt. No. 17 (9th Cir. 2026).

28. **Due process:** The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). These due process rights are both substantive and procedural.

29. *First*, "[t]he touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification

in the service of a legitimate governmental objective." *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

30. These protections extend to non-citizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom 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." *Zadvydas*, 533 U.S. at 690.

31. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

32. *Second*, the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

33. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing).

34. **2011 Policy and 2021 Directive:** In 1994, Congress passed the Violence against Women Act ("VAWA") to address the widespread problem of noncitizens remaining in relationships with abusers who held the key to their eligibility for lawful immigration status in the United States. *See* Violent Crime Control and Law Enforcement Act of 1994, Title IV, Pub. L. 103-322, 108 Stat. 1796 (September 13, 1994). "[T]he goal of the bill is to 'permit[ ] battered immigrant women to leave their batterers without fearing deportation.'" *Hernandez v. Ashcroft*, 345 F.3d 824, 841 (9th Cir. 2003) (quoting H.R. Rep. No. 103–395, at 25).

35. VAWA self-petitioners must establish: a qualifying relationship to an abusive U.S. citizen; a good faith marriage in the case that the qualifying relationship is to a spouse; battery or extreme cruelty perpetrated by the U.S. citizen; residence with the abusive U.S. citizen; good moral character. 8 U.S.C. §1154(a)

36. To fulfill the purpose of legislation, Congress also created additional benefits during the process of a VAWA self-petition, including eligibility for deferred action and work authorization. Upon receipt of a petition, USCIS will promptly determine whether an applicant has established support for each requirement and issue a "prima facie" notification, making a self-petitioner eligible for federal public benefits such as health or unemployment while the petitions are pending. *See* 8 C.F.R. § 204.2(c)(6)(i); 8 U.S.C. §§ 1611(a), 1641(c). If USCIS approves a VAWA self-petition, a petitioner will be eligible for work authorization and deferred action. 8 U.S.C. § 1154(a)(1)(K).

37. Consistent with Congress's intent to encourage noncitizen victims to report crime, and for nearly two decades, DHS policies have generally required ICE to refrain from pursuing removal efforts against people with pending VAWA self-petitions, like Petitioner, absent serious public safety concerns. *See* Exhibit C; Exhibit D.

38. The 2011 Policy reiterated that "[a]bsent special circumstances or aggravating factors," it is generally "against ICE policy to initiate removal proceedings against" known victims of crime. *Id.* Notably, the 2011 Policy explains "that a flag now exists in" DHS systems "to identify those victims of domestic violence, trafficking, or other crimes who already have filed for . . .victim-based immigration relief." *Id.*

39. The 2021 Directive continued ICE's longstanding policy to "refrain from taking civil enforcement action against" individuals "known to have a pending application" for "victim-based immigration benefits," "absent exceptional circumstances" such as national security or public safety concerns. *Id.* If such an application was pending, ICE was to "defer" enforcement until USCIS adjudicates the petition or issues a negative interim adjudication. *Id.*

40. On January 30, 2025, ICE issued a policy directive that, for the first time in the agency's history, authorized the routine detention and removal of noncitizen victims of crime who had petitioned for victim-based immigration benefits, such as the U visa. *See* Exhibit E, ICE Policy Number 11005.4, *Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits* (Jan. 30, 2025) (2025 Guidance) ("ICE officers and agents are not required to affirmatively seek to identify indicia or evidence suggesting an alien is a victim of a crime or consider such evidence as a positive discretionary factor in determining whether to take civil immigration enforcement action."). It explicitly "rescinded and superseded" the 2021 Directive and 2011 Policy, thereby reneging the government's promise to protect noncitizen crime victims and greenlighting a deportation campaign that ignores their potential eligibility for relief.

41. The 2025 Guidance marked an abrupt about-face from longstanding DHS practices, under which immigration agencies generally refrained from enforcement against crime victims absent serious adverse factors. As a result, ICE now engages in an unlawful policy and practice under which it routinely detains and deports people, whom USCIS has determined have established *prima facie* eligibility for a victim-based benefits in connection with a pending application.

42. On October 14, 2025, several individual plaintiffs and non-profit legal organizations serving immigrant survivors filed a class action complaint in *ICWC*, challenging the lawfulness of the 2025 Guidance. *See* Compl. ¶¶ 200-233 *Immigr. Ctr. for Women & Child. v. Noem, et al.*, No. 2:25-cv-09848-AB-AS (C.D. Cal. Oct. 14, 2025) [Dkt. 1].

43. On May 20, 2026, the U.S. District Court for the Central District of California granted plaintiffs' Motion for Class Certification and granted in part plaintiffs' Motion for APA § 705 Relief and Individual and Classwide Preliminary Injunction. *Immigr. Ctr. for Women & Child. v. Noem*, No. 2:25-CV-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026). As part of its ruling, the court determined that "VAWA self-petitioners, U visa petitioners, and T visa petitioners whose petitions USCIS determines present a prima facie case for approval or are bona fide are eligible for a combination of federal public benefits and protection from enforcement by ICE until

USCIS finally adjudicates their petitions." *Id.* at *5. Specifically, the court concluded that plaintiffs were likely to prevail on the merits of their claims that 2025 Guidance is arbitrary and capricious under the APA, violates the *Accardi* doctrine requiring agencies to follow their own procedures, and violates class members' due process rights under the Fifth Amendment. As a result, ICE cannot rely on the 2025 Guidance to detain *ICWC* class members.

44. The court provisionally certified three classes (Pending Petition Class, Deferred Action Class, Stay of Removal Class) and stayed 2025 Guidance pursuant to 5 U.S.C. § 705 as to all three classes. *Id.* at *46-47 ("Pursuant to 5 U.S.C. § 705, the Court hereby **STAYS** the 2025 Guidance, including its rescission of prior policies. This stay applies in favor of All Individual Plaintiffs, the current and future clients of the Organizational Plaintiffs, and the members of all three Classes.").

45. Here, Petitioner is a member of the Pending Petition Class in *ICWC* because he has a pending VAWA self-petition and was detained by ICE. Accordingly, 2025 Guidance may not be applied to Petitioner. Therefore, immediate release is warranted. Absent release, Petitioner will continue to experience harm and hardship, specifically the separation forms his U.S. citizen children and arbitrary disruption from his established ties to the United States.

FIRST CAUSE OF ACTION

VIOLATION OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION (SUBSTANTIVE DUE PROCESS)

46. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-45.

47. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

48. Because "[a]rbitrary civil detention is not a feature of our American government," *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018), civil confinement is only permissible "in certain special and narrow non-punitive circumstances," where a "special justification" asserted by the government "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (cleaned up).

49. Here, Petitioner has a fundamental interest in liberty and being free from official restraint, as he has freely lived in the United States for twenty-three years. Moreover, Petitioner had received a prima facie determination as a VAWA self-petitioner. At this time, Petitioner has been detained for over six months, which amounts to punitive confinement.

SECOND CAUSE OF ACTION

VIOLATION OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION (PROCEDURAL DUE PROCESS)

50. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-45.

51. To determine whether detention violates procedural due process, courts apply the three-part test established in *Mathews v. Eldridge*, 424 U.S. 319 (1976), which requires weighing three factors: (1) the private interest affected; (2) the risk of an erroneous deprivation and the probable value of any additional or substitute procedural safeguards; and (3) the government's interest. Each of these factors weighs in Petitioner's favor.

52. First, as noted above, Petitioner has a significant liberty interest in remaining free from detention as he has lived in the United States for twenty-three years, has been gainfully employed and has two U.S. citizen children. *See Ramirez-Serna v. Mullin, et al.*, No. 5:26-CV-02384-DTB, 2026 WL 1514337, at *6 (C.D. Cal. May 28, 2026)[2] ("the Court finds that Petitioner developed a substantial liberty interest in remaining out of custody based on the life he built in the United States since arriving here 34 years ago.")

[2] The petitioner in this case had not previously been released on parole or an order of release on recognizance and the court granted immediate release based on the violation of his procedural due process rights in being detained without a pre-deprivation hearing. *See Ramirez-Serna* at *6 ("Given the violation of Petitioner's due process rights, the Court further concludes that Petitioner's release is necessary to return him to the status quo.").

(citing *Tinoco v. Noem*, 2025 WL 3567862, at *6 (E.D. Cal. Dec. 14, 2025) ("The length of time and the connections Petitioner made with his community during that time create a powerful interest for Petitioner in his continued liberty."); *Garcia v. Andrews*, 2025 WL 1927596, at *4 (E.D. Cal. July 14, 2025) ("The length of time and the connections Petitioner made with his community during that time create a powerful interest for Petitioner in his continued liberty."); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) ("Even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty."); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (This "liberty is valuable and must be seen as within the protection of the [Due Process Clause].").

53. Further, an I-360 VAWA self-petition was submitted on Petitioner's behalf in July 2024 and, thus, immigration authorities were aware of his unlawful presence at that time "[a]lthough the government did not detain and then release [him], it made a decision *not* to detain [him] in the first place; Petitioner thus has the same liberty interest in [his] continued freedom as an individual initially detained." *Kharitonova v. Albarran*, No. 3:26-CV-01362-JSC, 2026 WL 531441, at *2 (N.D. Cal. Feb. 25, 2026) (citing *Barco Mercado v. Francis*, 811 F.Supp.3d 487, 494(S.D.N.Y. Nov. 26, 2025) (attaching appendix identifying "350 [ ] cases decided by over 160 different

judges sitting in about 50 different courts spread across the United States" "overwhelmingly" finding individuals detained and then released had a vested liberty interest); *see also Kalkan v. Chestnut, et al.*, No. 1:26-cv-02028-DAD-EFB, 2026 WL 788112 (E.D. Cal. Mar. 20, 2026) (ordering immediate release for a petitioner who had not previously been detained) (citing *Prior v. Andrews, et al.*, No. 1:25-cv-01131-JLT-EPG (HC), 2026 WL 698801, at *3 (E.D. Cal. Mar. 12, 2026) ("Petitioner developed a liberty interest in remaining out of custody following ICE's decision not to detain him for the past five years, despite being aware of his deportable convictions as early as February 24, 2020, when the Notice to Appear was issued."); *Anderson v. Chernut*, No. 1:26-CV-01960-DAD-CKD, 2026 WL 809990, at *2 (E.D. Cal. Mar. 24, 2026) ("This court has previously found that the government's knowing decision not to detain an individual creates a liberty interest in their continued release.").

54. Second, "the risk of an erroneous deprivation [of liberty] is high" when, as here, "[the petitioner] has not received any bond or custody redetermination hearing." *A.E. v. Andrews*, No. 1:25-cv-00107-KES-SKO, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (internal citations and quotations omitted). Respondents are unlawfully maintaining that Petitioner is detained under 8 USC 1225, when his detention should in fact be governed by § 1226(a). Further, the Notice to Appear contains absolutely no information

supporting any legitimate basis for detaining Petitioner, as he is not removable as a result of any criminal convictions and establishes long-term presence in and extensive ties to the United States and, is eligible for a victim-based benefit. *See* Exhibit A.

55. Finally, the government has not articulated any legitimate interest in support of detaining Petitioner without a pre-detention hearing. "In immigration court, custody hearings are routine and impose a minimal cost." *Singh v. Andrews*, 803 F. Supp. 3d 1035, 1048 (E.D. Cal. 2025) (cleaned up). "If the government wishes to re-arrest [Petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

56. However, a bond hearing is not the appropriate remedy here, as it will not return Petitioner to the status quo prior to his unlawful detention. *See Esmail v. Noem*, Case No. 2:25-cv-8325-WLH-RAO, 2025 WL 3030590, at *6 (C.D. Cal. Sept. 12, 2025) ("Providing Petitioner an interview *ex post facto*, while keeping him detained in ICE's custody, would not remedy the apparent constitutional violation that Petitioner has suffered in being re-detained without any measure of due process. The fact that he was not given an interview renders his detention unlawful in the first place, necessitating his release.").

57. Further, a bond hearing would be futile as judges are flagrantly violating court orders. Specifically, the Court should take note that immigration judges in the Central District, where *Maldonado Bautista* is still binding (and where Petitioner's immigration court hearings are taking place, though he is detained in the Eastern District), are refusing bond hearings on lack of jurisdiction. Any bond hearing ordered by this Court would be conducted by a judge in the Adelanto Immigration Court, which has already shown a propensity for violating court orders. *See e.g.*, *Ramirez-Serna v. Mullin*, 2026 WL 1514337, *7-*8 (C.D. Ca. May 28, 2026) (unpub) (noting that "notwithstanding Respondents' admission that Petitioner is a member of the *Maldonado Bautista* class, Respondents failed to comply with the final judgment in *Maldonado Bautista* with respect to Petitioner, as they did not provide him with an individualized bond hearing during the entirety of his detention" and ordering immediate release of a petitioner who had been detained for just under two months); *Vega-Huerta v. Acting Director, ICE*, 2026 WL 1529239, *3-*4 (C.D. Ca. May 28, 2026) (unpub) (noting that a bond hearing would be futile, in part, because "many immigration judges in this District have improperly denied bond to noncitizen detainees under 8 U.S.C. § 1226(a) solely based on the alleged lack of jurisdiction" and ordering immediate release of the petitioner); *Calixtro v. Mullin*, 2026 WL 1288654, *3-*4 (May 7, 2026) (unpub) (noting the immigration judge

improperly determined that she lacked jurisdiction to grant bond to a class member and ordering the petitioner's immediate release); *Garcia Aguilar v. Mullin*, 2026 WL 1196090, *4-*5 (C.D. Ca. Apr. 28, 2026) (unpub) (same); *Herrera Castro v. Johnson*, 2026 WL 1104766, *3-*4 (C.D. Ca. Apr. 17, 2016) (unpub) (same).

58. Additionally, available statistics establish that bond denials across all courts have risen since 2025, further establishing the futility of ordering a bond hearing here. *See* Exhibit F ("The national data show a marked increase in bond adjudication volume and a broad shift toward more denial-heavy outcomes. Completed bond records more than doubled from 34,845 in 2024 to 80,130 in 2025, while grant/denial records increased to about 2.5 times the 2024 level. Over the same annual comparison, the grant rate fell from 42.2% to 36.7%, and denial share rose from 36.1% to 43.2%. The denial-share increase became more pronounced in later periods, reaching 50.8% in 2025 Q4 and 54.9% in 2026 Q1.").

THIRD CAUSE OF ACTION

VIOLATION OF THE ADMINISTRATIVE PROCEDURAL ACT — 5 U.S.C. § 706(2)(A) (VIOLATION OF 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(ii) — WARRANTLESS ARREST WITHOUT PROBABLE CAUSE OF LIKELIHOOD OF ESCAPE)

59. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1–45.

60. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has "reason to believe" that an individual is "likely to escape before a warrant can be obtained for [their] arrest." To meet this requirement, officers must have "grounds for a reasonable belief that they were particularly likely to escape." *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995); *see also Yeleshev v. Larocco*, No. 26-cv-2294, 2026 WL 1353806, at *3 (E.D.N.Y. May 14, 2026) (noting that "the limited circumstances permitting warrantless arrests ... often all turn on the existence of exigent circumstances").

61. Similarly, 8 C.F.R. § 287.8(c)(2)(ii) requires that before making a warrantless arrest, an immigration officer must make an individualized determination that an individual is "likely to escape before a warrant can be obtained."

62. Respondents' warrantless arrest of Petitioner without an individualized determination that Petitioner was "likely to escape" before a warrant is issued is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

63. Given Petitioner was in a county jail where he could not escape, the warrantless arrest fails to demonstrate the exigency requirement. *See Curimilma Quille v. Blanche, et al.*, No. 26-CV-2818 (HG), 2026 WL 1453889, at *6 (E.D.N.Y. May 22, 2026) ("Taken together, the government does not overcome the deficiencies in its exigency argument.").

FOURTH CAUSE OF ACTION

PETITIONER'S CONTINUED DETENTION IS IN VIOLATION OF 8 U.S.C. § 1226(a)

64. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1–45.

65. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who have entered and were residing in the United States prior to being arrested, who have been placed under § 1229a removal proceedings, and are charged with removability under 8 U.S.C. § 1182(a)(6)(A)(i). Such noncitizens may only be detained pursuant to § 1226(a), unless subject to § 1225(b)(1), § 1226(c), or § 1231. Individuals detained under § 1226(a) are entitled to bond hearings.

66. The application of § 1225(b)(2) and *Matter of Yajure Hurtado* to Petitioner unlawfully mandates his continued detention and violates 8 U.S.C. § 1226(a).

67. Further, due to the legally erroneous misclassification of the detention statute that Petitioner is detained under, ICE failed to conduct an initial

custody determination as required under § 1226(a). *See also Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-06065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025) (ordering a noncitizen's release on this basis because "a bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation at issue here" where the noncitizen's detention was unlawful from its inception).

FIFTH CAUSE OF ACTION

PETITIONER'S CONTINUED DETENTION AND UNLAWFUL DENIAL OF BOND VIOLATES THE ADMINISTRATIVE PROCEDURES ACT

68. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1–45.

69. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

70. Respondents' detention of Petitioner pursuant to § 1225(b)(2) and the denial of a bond hearing that is legally required is arbitrary and capricious, violates

the INA and the Fifth Amendment, is not authorized under § 1225(b)(2), and therefore is in violation of 5 U.S.C. § 706(2).

SIXTH CAUSE OF ACTION

PETITIONER'S ARREST AND CONTINUED DETENTION VIOLATES THE ADMINISTRATIVE PROCEDURES ACT AND IS NOT IN ACCORDANCE WITH LAW BECAUSE IT VIOLATES THE *ICWC* PRELIMINARY INJUNCTION ORDER

71. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1–45.

72. Under the APA, courts "shall . . . hold unlawful and set aside agency action . . .found to be . . .not in accordance with law." 5 U.S.C. § 706(2)(A). Respondent's detention of Petitioner constitutes final agency action under the APA. 5 U.S.C. § 551(13), 704; *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

73. In *ICWC,* the court concluded that plaintiffs were likely to succeed on their claim that the 2025 Guidance is arbitrary and capricious and not in accordance with law under the APA. *Immigr. Ctr. for Women & Child.*, 2026 WL 1455004 at *. As a result, the court stayed the 2025 Guidance, which failed to include "any direction that ICE officers refrain from enforcement actions against petitioners." *Id.* at *6. The stay applies in favor to members of the Pending Petition Class, which includes Petitioner. *Id.*

74. Respondents detained Petitioner pursuant to the 2025 Guidance. Accordingly, Respondents' detention of Petitioner is not in accordance with law in violation of the APA, as it directly contravenes the § 705 relief issued in the *ICWC* preliminary injunction order.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Declare Petitioner's detention is unlawful;
3. Declare that Petitioner's warrantless arrests without probable cause violate the Fourth Amendment, the APA, the INA, and implementing regulations;
4. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the federal immigration statutes, binding federal case law, and the APA;
5. Declare that Petitioner's detention violates the APA and is in violation of the court's preliminary injunction in *ICWC*.
6. Order Respondents to immediately release Petitioner from custody without the imposition of any restraints on his liberty, such as reporting requirements, GPS, or electronic monitoring;

7. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any further basis justified under law;

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

RESPECTFULLY SUBMITTED this 22nd of July, 2026.

/s/ Sabrina Damast
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TABLE OF EXHIBITS

Exhibit A: Form I-797C Receipt Notice for Form I-360 and Prima Facie Determination Notice

Exhibit B: Notice to Appear (January 26, 2026)

Exhibit C: ICE Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims (December 2, 2021)

Exhibit D: John Morton, ICE Policy Statement 10076.1, Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs (June 17, 2011)

Exhibit E: ICE Policy Number 11005.4, Interim Guidance on Civil Immigration Enforcement Actions Involving Current or

Potential Beneficiaries of Victim-Based Immigration Benefits (Jan. 30, 2025)

Exhibit F: Declaration of Zabdi J. Salazar on National Immigration Court Bond Outcomes and Recorded Bond Amounts