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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

Antonia Aguilar Maldonado

Petitioner,

v.

Joshua Marx, Field Office Director of  
Enforcement and Removal  
Operations, St. Paul Field Office,  
Immigration and Customs  
Enforcement; Kristi NOEM, in her  
official capacity as Secretary of the  
U.S. Department of Homeland  
Security; U.S. Dept. of Homeland  
Security; Eric Tollefson, Kandiyohi  
County Jail Sheriff.

Respondents.

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

## INTRODUCTION

1  
2 1. Petitioner, Antonia Aguilar Maldonado, is in the physical custody  
3 of Respondents at the Kandiyohi County Jail. She now faces unlawful  
4 detention because the Department of Homeland Security (DHS) and the  
5 Executive Office of Immigration Review (EOIR) have concluded Petitioner is  
6 subject to mandatory detention.  
7

8 2. Petitioner is charged with, inter alia, having entered the United  
9 States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

10 3. Based on this allegation in Petitioner's removal proceeding, DHS  
11 denied Petitioner release from immigration custody, consistent with a new  
12 DHS policy issued on July 8, 2025, instructing all Immigration and Customs  
13 Enforcement (ICE) employees to consider anyone inadmissible under §  
14 1182(a)(6)(A)(i)—i.e., those who entered the United States without  
15 inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A)  
16 and therefore subject to mandatory detention.  
17

18 4. Petitioner sought a bond redetermination hearing before an  
19 immigration judge (IJ), but on July 31, 2025, the IJ granted bond, set at  
20 \$10,000. However, the DHS filed an EOIR-43 form subject the IJ's bond order  
21 to an automatic stay and remanded the Petitioner to detention. DHS  
22 application of the EOIR-43 auto-stay presumes the Petitioner is detainable  
23 under section 1225(b)(2)(A) of the Immigration and Nationality Act.  
24

1 5. Petitioner's detention on this basis violates the plain language of  
2 the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to  
3 individuals like Petitioner who previously entered and are now residing in  
4 the United States. Instead, such individuals are subject to a different statute,  
5 § 1226(a), that allows for release on conditional parole or bond. That statute  
6 expressly applies to people who, like Petitioner, are charged as inadmissible  
7 for having entered the United States without inspection.  
8

9 6. Respondents' new legal interpretation is plainly contrary to the  
10 statutory framework and contrary to decades of agency practice applying §  
11 1226(a) to people like Petitioner.  
12

13 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring  
14 that she be released unless Respondents provide a bond hearing under §  
15 1226(a) within fourteen days.  
16

## 17 JURISDICTION

18 8. Petitioner is in the physical custody of Respondents. Petitioner is  
19 detained at the Kandiyohi County Jail in Wilmar, Minnesota.

20 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas  
21 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2  
22 of the United States Constitution (the Suspension Clause).  
23  
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1 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the  
2 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28  
3 U.S.C. § 1651.

#### 4 VENUE

5 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*,  
6 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court  
7 for the District of Minnesota, the judicial district in which Petitioner  
8 currently is detained.

9 12. Venue is also properly in this Court pursuant to 28 U.S.C. §  
10 1391(e) because Respondents are employees, officers, and agencies of the  
11 United States, and because a substantial part of the events or omissions  
12 giving rise to the claims occurred in the District of Minnesota.

#### 13 REQUIREMENTS OF 28 U.S.C. § 2243

14 13. The Court must grant the petition for writ of habeas corpus or  
15 order Respondents to show cause “forthwith,” unless the petitioner is not  
16 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the  
17 Respondents must file a return “within three days unless for good cause  
18 additional time, not exceeding twenty days, is allowed.” *Id.*

19 14. Habeas corpus is “perhaps the most important writ known to the  
20 constitutional law . . . affording as it does a *swift* and imperative remedy in  
21 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400  
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1 (1963) (emphasis added). “The application for the writ usurps the attention  
2 and displaces the calendar of the judge or justice who entertains it and  
3 receives prompt action from him within the four corners of the application.”  
4 *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

5  
6 **PARTIES**

7 15. Petitioner Antonia Aguilar Maldonado is a citizen of El Salvador  
8 who has been in immigration detention since July 17, 2025. After arresting  
9 Petitioner in Saint Paul, MN, ICE did not set bond and Petitioner requested  
10 review of her custody by an IJ. On July 31, 2025, Petitioner was granted bond  
11 by an IJ at the Fort Snelling Immigration Court. DHS then filed an EOIR-43  
12 automatic stay form under the theory she was an “applicant for admission.”  
13 Petitioner was then remanded to DHS custody. Petitioner has resided in the  
14 United States since November 9, 2016.

15  
16 16. Respondent Joshua Marx is the Director of the MSP Field Office  
17 of ICE’s Enforcement and Removal Operations division. As such, Joshua  
18 Marx is Petitioner’s immediate custodian and is responsible for Petitioner’s  
19 detention and removal. He is named in his official capacity.

20 17. Respondent Kristi Noem is the Secretary of the Department of  
21 Homeland Security. She is responsible for the implementation and  
22 enforcement of the Immigration and Nationality Act (INA), and oversees ICE,  
23  
24

1 which is responsible for Petitioner's detention. Ms. Noem has ultimate  
2 custodial authority over Petitioner and is sued in her official capacity.

3 18. Respondent Department of Homeland Security (DHS) is the  
4 federal agency responsible for implementing and enforcing the INA, including  
5 the detention and removal of noncitizens.

6  
7 19. Respondent Eric Tollefson is employed by Kandiyohi County as  
8 Sheriff of Kandiyohi County Jail, where Petitioner is detained. Kandiyohi  
9 County Jail is operated by the sheriff's department of Kandiyohi County. He  
10 has immediate physical custody of Petitioner. He is sued in his official  
11 capacity.

## 12 LEGAL FRAMEWORK

13 20. The INA prescribes three basic forms of detention for the vast  
14 majority of noncitizens in removal proceedings.

15  
16 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in  
17 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals  
18 in § 1226(a) detention are generally entitled to a bond hearing at the outset of  
19 their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who  
20 have been arrested, charged with, or convicted of certain crimes are subject to  
21 mandatory detention, *see* 8 U.S.C. § 1226(c).

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

4           23.    Last, the INA also provides for detention of noncitizens who have  
5 been ordered removed, including individuals in withholding-only proceedings,  
6 *see* 8 U.S.C. § 1231(a)–(b).

7           24.    This case concerns the detention provisions at §§ 1226(a) and  
8 1225(b)(2).

9           25.    The detention provisions at § 1226(a) and § 1225(b)(2) were  
10 enacted as part of the Illegal Immigration Reform and Immigrant  
11 Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03,  
12 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was  
13 most recently amended earlier this year by the Laken Riley Act, Pub. L.  
14 No.119-1, 139 Stat. 3 (2025).

15           26.    Following the enactment of the IIRIRA, EOIR drafted new  
16 regulations explaining that, in general, people who entered the country  
17 without inspection were not considered detained under § 1225 and that they  
18 were instead detained under § 1226(a). *See* Inspection and Expedited  
19 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal  
20 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).  
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1           27. Thus, in the decades that followed, most people who entered  
2 without inspection and were placed in standard removal proceedings received  
3 bond hearings, unless their criminal history rendered them ineligible. That  
4 practice was consistent with many more decades of prior practice, in which  
5 noncitizens who were not deemed “arriving” were entitled to a custody  
6 hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994);  
7 *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)  
8 simply “restates” the detention authority previously found at § 1252(a)).  
9

10           28. On July 8, 2025, ICE, “in coordination with” DOJ, announced a  
11 new policy that rejected well-established understanding of the statutory  
12 framework and reversed decades of practice.

13           29. The new policy, entitled “Interim Guidance Regarding Detention  
14 Authority for Applicants for Admission,”<sup>1</sup> claims that all persons who entered  
15 the United States without inspection shall now be deemed “applicants for  
16 admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory  
17 detention provision under § 1225(b)(2)(A). The policy applies regardless of  
18 when a person is apprehended and affects those who have resided in the  
19 United States for months, years, and even decades.  
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23 \_\_\_\_\_  
24 <sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

1           30. In a May 22, 2025, unpublished decision from the Board of  
2 Immigration Appeals (BIA), EOIR adopts this same position.<sup>2</sup> That decision  
3 holds that all noncitizens who entered the United States without admission  
4 or parole are considered applicants for admission and are ineligible for  
5 immigration judge bond hearings.

6           31. ICE and EOIR have adopted this position even though federal  
7 courts have rejected this exact conclusion. For example, after IJs in the  
8 Tacoma, Washington, immigration court stopped providing bond hearings for  
9 persons who entered the United States without inspection and who have  
10 since resided here, the U.S. District Court in the Western District of  
11 Washington found that such a reading of the INA is likely unlawful and that  
12 § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon  
13 arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---  
14 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No.  
15 1:25-CV-11571-JEK, 2025 WL 1869299, at \*8 (D. Mass. July 7, 2025)  
16 (granting habeas petition based on same conclusion).

17           32. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez*  
18 *Vazquez* court explained, the plain text of the statutory provisions  
19 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.  
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24 <sup>2</sup> Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf>.

1           33. Section 1226(a) applies by default to all persons “pending a  
2 decision on whether the [noncitizen] is to be removed from the United  
3 States.” These removal hearings are held under § 1229a, to “decid[e] the  
4 inadmissibility or deportability of a[] [noncitizen].”

5           34. The text of § 1226 also explicitly applies to people charged as  
6 being inadmissible, including those who entered without inspection. *See* 8  
7 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes  
8 clear that, by default, such people are afforded a bond hearing under  
9 subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress  
10 creates “specific exceptions” to a statute’s applicability, it “proves” that  
11 absent those exceptions, the statute generally applies. *Rodriguez Vazquez*,  
12 2025 WL 1193850, at \*12 (citing *Shady Grove Orthopedic Assocs., P.A. v.*  
13 *Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

14           35. Section 1226 therefore leaves no doubt that it applies to people  
15 who face charges of being inadmissible to the United States, including those  
16 who are present without admission or parole.

17           36. By contrast, § 1225(b) applies to people arriving at U.S. ports of  
18 entry or who recently entered the United States. The statute’s entire  
19 framework is premised on inspections at the border of people who are  
20 “seeking admission” to the United States. 8 U.S.C.  
21 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this  
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1 because whether an alien has an active removal order can be checked by  
2 typing the Petitioner's A-number into respondent EOIR's Automated Case  
3 Information.<sup>3</sup> The petitioner is now detained at the Kandiyohi County Jail.

4 40. Petitioner is currently in removal proceedings before the Fort  
5 Snelling Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged  
6 Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. §  
7 1182(a)(6)(A)(i) as someone who entered the United States without  
8 inspection.  
9

10 41. Petitioner has a two-year old child, and she is currently lactating  
11 to provide milk. ICE has historically declined to detain pregnant,  
12 postpartum, or nursing individuals "unless release is prohibited by law or  
13 exceptional circumstances[.]" Petitioner is neither a flight risk nor a danger  
14 to the community.  
15

16 42. Following Petitioner's arrest and transfer to Kandiyohi County  
17 Jail, ICE issued a custody determination to continue Petitioner's detention  
18 without an opportunity to post bond or be released on other conditions.

19 43. Petitioner subsequently requested a bond redetermination  
20 hearing before an IJ.  
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24 <sup>3</sup> <https://acis.eoir.justice.gov/en/>

1 44. On July 31, 2025, an IJ granted bond and set it at \$10,000  
2 finding the Petitioner was not a threat to public safety and a bond was  
3 necessary to mitigate a present, but not significant flight risk.

4 45. As a result, Petitioner remains in detention. Without relief from  
5 this court, she faces the prospect of months, or even years, in immigration  
6 custody, separated from her family and community.

7 46. Any appeal to the BIA, while available, is futile for her release.  
8 DHS's new policy was issued "in coordination with DOJ," which oversees the  
9 immigration courts. Further, as noted, the most recent unpublished BIA  
10 decision on this issue held that persons like Petitioner are subject to  
11 mandatory detention as applicants for admission. Finally, in the *Rodriguez*  
12 *Vazquez* litigation, where EOIR and the Attorney General are defendants,  
13 DOJ has affirmed its position that individuals like Petitioner are applicants  
14 for admission and subject to detention under § 1225(b)(2)(A). *See* Mot. to  
15 Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash.  
16 June 6, 2025), Dkt. 49 at 27–31.

17  
18  
19 **CLAIMS FOR RELIEF**

20 **COUNT I**

21 **Violation of the INA**

22 47. Petitioner incorporates by reference the allegations of fact set  
23 forth in the preceding paragraphs.  
24

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

9 49. The application of § 1225(b)(2) to Petitioner unlawfully mandates  
10 her continued detention and violates the INA.

11 **COUNT II**  
12 **Violation of Due Process**  
13

14 50. Petitioner repeats, re-alleges, and incorporates by reference each  
15 and every allegation in the preceding paragraphs as if fully set forth herein.

16 51. The government may not deprive a person of life, liberty, or  
17 property without due process of law. U.S. Const. amend. V. “Freedom from  
18 imprisonment—from government custody, detention, or other forms of  
19 physical restraint—lies at the heart of the liberty that the Clause protects.”  
20 *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653  
21 (2001).  
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1 52. Petitioner has a fundamental interest in liberty and being free  
2 from official restraint.

3 53. The government's detention of Petitioner without a bond  
4 redetermination hearing to determine whether he is a flight risk or danger to  
5 others violates her right to due process.

6 **PRAYER FOR RELIEF**

7  
8 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 9 a. Assume jurisdiction over this matter;
- 10 b. Issue a writ of habeas corpus requiring that Respondents release  
11 Petitioner or provide Petitioner with a bond hearing pursuant to  
12 8 U.S.C. § 1226(a) within 14 days;
- 13 c. Award Petitioner attorney's fees and costs under the Equal  
14 Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412,  
15 and on any other basis justified under law; and
- 16  
17 d. Grant any other and further relief that this Court deems just and  
18 proper.

19 DATED this 6<sup>th</sup> day of August 2025.

20  
21 /s/Gloria Contreras Edin  
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