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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Franyelit Stefany Ponte-Guanare,

Petitioner,

vs.

John Archambeault, et al.,

Respondents.

Case No.: 3:25-cv-02081-TWR-KSC

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PETITION FOR WRIT OF HABEAS
CORPUS**

1 **INTRODUCTION**

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3 1. Petitioner Franyelit Stefany Ponte-Guanare challenges her ongoing detention
4 without access to a bond hearing. She was arrested well inside the United States and
5 initially released on her own recognizance—not paroled under INA § 212(d)(5). The
6 immigration court later denied her bond request, relying on Matter of Q. Li, 29 I&N Dec.
7 66 (BIA 2025), which misclassifies all individuals 'present without admission' as subject
8 to INA § 235(b)(2)(A).
9

10
11 2. This interpretation was recently expanded in Matter of Yajure Hurtado, 29 I&N
12 Dec. 216 (BIA 2025). These decisions strip immigration judges of bond jurisdiction for
13 nearly all noncitizens who entered without inspection, even if arrested years later in the
14 interior.
15

16 3. In the Ninth Circuit, such a position is unlawful. Long-standing precedent—
17 including Martinez v. Clark, 36 F.4th 1219 (9th Cir. 2022)—confirms that interior arrests
18 fall under § 236(a), which expressly provides for bond hearings. Under Loper Bright v.
19 Raimondo, 144 S. Ct. 2244 (2024), this Court must interpret the statute de novo, without
20 deference to the BIA's expansive reading.
21

22 4. Petitioner has now been detained for months, with no individualized determination
23 of necessity. This violates both statutory requirements and constitutional protections under
24 the Fifth Amendment. Habeas relief is urgently needed.
25

26 **STATEMENT OF RELEVANT FACTS**
27
28

1 5. Petitioner entered the U.S. near El Paso, Texas on September 10, 2023, and was
2 later released on her own recognizance pending removal proceedings. She was never
3 granted parole under INA § 212(d)(5). After a missed hearing due to inadequate
4 instructions, an in absentia removal order was issued. Petitioner successfully moved to
5 reopen proceedings, vacating that order.
6

7 6. On May 21, 2025, while complying with ICE inspection, she was re-detained and
8 has remained in ICE custody since. On July 25, 2025, the Immigration Judge denied bond
9 solely because of Matter of Q. Li, ruling that the court lacked jurisdiction to hold a bond
10 hearing.
11

12 7. Petitioner is married to a U.S. Army servicemember and has pending Parole-in-
13 Place and family-based immigration applications. Conditions at Otay Mesa Detention
14 Center are unsafe and abusive, compounding the harm of her prolonged detention.
15
16

17 **LEGAL STANDARD FOR HABEAS RELIEF**

18

19 8. Habeas corpus is the proper vehicle to challenge unlawful civil detention. Jennings
20 v. Rodriguez, 138 S. Ct. 830, 839 (2018). Immigration detention without statutory or
21 constitutional authority constitutes unlawful custody redressable under 28 U.S.C. § 2241.
22

23 9. The Court retains jurisdiction under the Suspension Clause, Article I, § 9, cl. 2,
24 which prohibits Congress or an agency from stripping courts of their power to review the
25 legality of detention.
26

27 **ARGUMENT**

28

1 **A. The Court Has Jurisdiction Under 28 U.S.C. § 2241 and the Suspension**
2 **Clause**

3
4 10. The Supreme Court has held that challenges to detention remain cognizable in
5 habeas even in the immigration context. Jennings, 138 S. Ct. at 839. INA § 1252(b)(9)
6 does not bar individual habeas petitions attacking detention itself. The Ninth Circuit
7 reaffirmed this in Aleman Gonzalez v. Barr, 955 F.3d 762, 770 (9th Cir.2020).
8

9
10 **B. Petitioner's Detention is Governed by § 236(a), Not § 235(b)(2)(A)**

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12
13 11. Under Ninth Circuit precedent, DHS must detain noncitizens arrested inside the
14 U.S. under § 236(a), which provides for bond hearings. See Martinez v. Clark, 36 F.4th
15 1219, 1223 (9th Cir. 2022). Section 235(b)(2)(A) applies only to individuals seeking
16 admission at ports of entry.
17

18
19 **C. Matter of Q. Li and Matter of Yajure Hurtado Are Not Controlling After**
20 **Loper Bright Loper Bright overruled Chevron deference.**

21
22 12. Courts now interpret statutes de novo without giving special weight to agency
23 interpretations. Thus, the BIA's decisions are merely persuasive and cannot override
24 Ninth Circuit precedent.
25

26 **D. Prolonged Detention Without a Bond Hearing Violates the Fifth**
27 **Amendment**
28

1 13. Even if § 235(b)(2)(A) applied, prolonged detention without individualized
2 review violates due process. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v.*
3 *Kim*, 538 U.S. 510 (2003); *Prieto-Romero v. Clark*, 534 F.3d 1053 (9th Cir. 2008).
4

5 **E. Delay in BIA Bond Appeals Violates Due Process**
6

7 14. BIA bond appeals average 204 days, sometimes over a year. This delay denies
8 meaningful review, unlike the prompt review required for criminal pretrial detention.
9 See *United States v. Salerno*, 481 U.S. 739, 752 (1987).
10

11 **REQUEST RELIEF**
12

13 Petitioner respectfully requests that this Court:
14

- 15 1. Declare that Petitioner is detained under INA § 236(a), not § 235(b)(2)(A);
16
17 2. Order Respondents to provide a bond hearing before an immigration judge within
18 10 days, with the government bearing the clear and convincing burden;
19
20 3. Alternatively, if § 235(b)(2)(A) applies, order a constitutionally adequate hearing
21 or immediate release;
22
23 4. Declare that Matter of Q. Li and Matter of Yajure Hurtado are inconsistent with
24 Ninth Circuit law;
25
26 5. Award attorneys' fees under the EAJA, 28 U.S.C. § 2412.

27 **CONCLUSION**
28

1 The Ninth Circuit has consistently protected the right to a bond hearing for
2 noncitizens arrested in the interior. The BIA's recent decisions cannot override circuit
3 precedent or the Constitution. Petitioner's ongoing detention without judicial review is
4 unlawful. This Court should grant the writ of habeas corpus and order immediate relief.
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8 Respectfully submitted,
9

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