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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10
11 **YANELA GHILARY HUAMAN**)
12 **VILLANUEVA,**)

13 **Petitioner,**)

14 **v.**)

15)
16 **Ron Murray, Warden Mesa Verde ICE**)
17 **Processing Facility; Polly Kaiser, Field**)
18 **Office Director, U.S. Immigration and**)
19 **Customs Enforcement;**)

20 **Todd M. Lyons, Acting Director,**)
21 **U.S. Immigration and Customs Enforcement;**)

22 **Kristi Noem, Secretary of United States**)
23 **Department of Homeland Security;**)

24 **Pam Bondi, Attorney General of the**)
25 **United States, in their official capacities,**)

26 **Respondents.**)
27)

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

Expedited Hearing Requested

28 **INTRODUCTION**

1. PETITIONER/PLAINTIFF, Yanela Ghilary Huaman Villanueva

1 (“Petitioner” or “Ms. Huaman”), by and through her undersigned counsel,
2 hereby petitions this Honorable Court to issue a writ of habeas corpus to
3 order a bond hearing be held for her release from continued detention in the
4 custody of the United States Department of Homeland Security, Immigration
5 and Customs Enforcement (“DHS-ICE”) as her continued detention is a
6 violation of due process, and constitutes an unlawful detention. In support of
7 this petition, petitioner states by and through counsel as follows:
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11 **JURISDICTION**

- 12 2. This action arises under the Constitution, the Immigration & Nationality Act
13 of 1990, as amended (“INA”), 8 U.S.C. §1101 et seq., and the
14 Administrative Procedure Act (“APA”), 5 U.S.C. §701 et seq. This Court
15 has habeas jurisdiction pursuant to 28 U.S.C. §2241, Art. 1, §9, Cl. 2 of the
16 United States Constitution (the “Suspension Clause”); and the common law.
17 This Court may also exercise jurisdiction pursuant to 28 U.S.C. §1331 and
18 may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §2201
19 et seq., and the All Writs Act, 28 U.S.C. §1651.
20
21 3. On May 11, 2005, Congress passed the REAL ID Act of 2005, Pub. L. No.
22 109-13, 119 Stat. 231. The REAL ID Act divested federal district courts of
23 jurisdiction to review final orders of deportation, exclusion and/or removal.
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1 However, federal district courts still retain jurisdiction through habeas
2 corpus over the detention of aliens.

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4 **VENUE**

5 4. Venue lies in the United States District Court for the Eastern District of
6 California, the judicial district of confinement, as the petitioner is physically
7 being held in custody at the Mesa Verde ICE Processing Facility located in
8 Bakersfield, CA. This is in accordance with the decision of the United
9 States Supreme Court in Rumsfeld v. Padilla, 124 S.Ct. 2711, 2725 (2004)
10 (“Whenever a §2241 habeas petitioner seeks to challenge his present
11 physical custody within the United States, he should name his warden as
12 respondent and file the petition in the district of confinement”).
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17 **REQUIREMENTS OF 28 U.S.C. § 2243**

18 5. The Court must grant the petition for writ of habeas corpus or issue an order
19 to show cause (OSC) to the respondents “forthwith,” unless the petitioner is
20 not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued,
21 the Court must require respondents to file a return “within *three days* unless
22 for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
23 (emphasis added).
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26 6. Courts have long recognized the significance of the habeas statute in
27 protecting individuals from unlawful detention. The Great Writ has been
28

1 referred to as “perhaps the most important writ known to the constitutional
2 law of England, affording as it does a *swift* and imperative remedy in all
3 cases of illegal restraint or confinement.” Fay v. Noia, 372 U.S. 391, 400
4 (1963) (emphasis added).
5

6
7 **PARTIES**

- 8 7. Petitioner, Yanela Ghilary Huaman Villanueva, is a native and citizen of
9 Peru who has been held in continuing detention by DHS-ICE since July 2,
10 2025. She is currently detained at the Mesa Verde ICE Processing Facility in
11 Bakersfield, CA.
12
- 13 8. Respondent, Ron Murray, Warden of the Mesa Verde ICE Processing
14 Facility is sued in their official capacity as the Warden of the Mesa Verde
15 ICE Processing Facility in Bakersfield, CA. The warden has chief executive
16 authority over the administration of the Mesa Verde ICE Processing Facility.
17 In this capacity, they have direct responsibility over the confinement of
18 Yanela Ghilary Huaman Villanueva.
19
- 20 9. Respondent, Polly Kaiser, is sued in her official capacity as the Director of
21 the San Francisco Field Office of U.S. Immigration and Customs
22 Enforcement. Respondent Kaiser is a legal custodian of Petitioner and has
23 authority to release her.
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1 10. Respondent, Todd M. Lyons, is sued in his official capacity as the Acting
2 Director of U.S. Immigration and Customs Enforcement. Respondent Lyons
3 is a legal custodian of Petitioner and has authority to release her.
4

5 11. Respondent, Kristi Noem, is sued in her official capacity as the Secretary of
6 the U.S. Department of Homeland Security (DHS). In this capacity,
7 Respondent Noem is responsible for the implementation and enforcement of
8 the Immigration and Nationality Act, and oversees U.S. Immigration and
9 Customs Enforcement the component agency responsible for Petitioner's
10 continued detention. Respondent Noem is a legal custodian of Petitioner.
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14 12. Respondent, Pam Bondi, is sued in her official capacity as the Attorney
15 General of the United States and the senior official of the U.S. Department
16 of Justice (DOJ). In that capacity, she has the authority to adjudicate
17 removal cases and to oversee the Executive Office for Immigration Review
18 (EOIR), which administers the immigration courts and the BIA. Respondent
19 Bondi is a legal custodian of Petitioner.
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22 **LEGAL FRAMEWORK**

23 **A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary** 24 **Arrest and Detention.**

25 13. The Constitution establishes due process rights for “all ‘persons’ within the
26 United States, including [noncitizens], whether their presence here is lawful,
27 unlawful, temporary, or permanent.” Hernandez v. Sessions, 872 F.3d 976,
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1 990 (9th Cir. 2017) (*quoting Zadvydas*, 533 U.S. at 693 (2001)). These due
2 process rights are both substantive and procedural.
3

4 14. First, “[t]he touchstone of due process is protection of the individual against
5 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558
6 (1974), including “the exercise of power without any reasonable justification
7 in the service of a legitimate government objective,” *Cnty. of Sacramento v.*
8 *Lewis*, 523 U.S. 833, 846 (1998).
9

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11 15. These protections extend to noncitizens facing detention, as “[i]n our society
12 liberty is the norm, and detention prior to trial or without trial is the carefully
13 limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).
14 Accordingly, “[f]reedom from imprisonment—from government custody,
15 detention, or other forms of physical restraint—lies at the heart of the liberty
16 that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.
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20 16. Substantive due process thus requires that all forms of civil detention—
21 including immigration detention—bear a “reasonable relation” to a non-
22 punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The
23 Supreme Court has recognized only two permissible non-punitive purposes
24 for immigration detention: ensuring a noncitizen’s appearance at immigration
25 proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at
26 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).
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1 17. Second, the procedural component of the Due Process Clause prohibits the
2 government from imposing even permissible physical restraints without
3 adequate procedural safeguards. Generally, “the Constitution requires some
4 kind of a hearing before the State deprives a person of liberty or property.”

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6 Zinermon v. Burch, 494 U.S. 113, 127 (1990).

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8 18. This is so even in cases where that freedom is lawfully revocable. *See Hurd*
9 *v. D.C., Gov’t*, 864 F.3d at 683 (*citing Young v. Harper*, 520 U.S. 143, 152
10 (1997) (re-detention after pre-parole conditional supervision requires pre-
11 deprivation hearing)); Gagnon v. Scarpelli, 411 U.S. 778, 782 (1973) (same,
12 in probation context); Morrissey v. Brewer, 408 U.S. 471 (1972) (same, in
13 parole context).

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16 19. After an initial release from custody on conditions, even a person paroled
17 following a conviction for a criminal offense for which they may lawfully
18 have remained incarcerated has a protected liberty interest in that conditional
19 release. Morrissey at 408 U.S. at 482. As the Supreme Court recognized,
20 “[t]he parolee has relied on at least an implicit promise that parole will be
21 revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever
22 name, the liberty is valuable and must be seen within the protection of the
23 [Constitution].” *Id.*

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28 20. This reasoning applies with equal if not greater force to people released from

1 civil immigration detention at the border, like Petitioner. After all, noncitizens
2 living in the United States like Petitioner have a protected liberty interest in
3 their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690.
4 And, “[g]iven the civil context [of immigration detention], [the] liberty
5 interest [of noncitizens released from custody] is arguably greater than the
6 interest of parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal.
7 2019).

11 **B. Due Process and the Immigration and Nationality Act Protect**
12 **Noncitizens like Petitioner from Summary Removal Without a Hearing.**

13 21. Deportation, like detention, constitutes a deprivation of liberty protected by
14 the Due Process Clause. As the Supreme Court has held, a noncitizen’s
15 interest in deportation proceedings “is, without question, a weighty one”
16 because “[s]he stands to lose the right ‘to stay and live and work in this land
17 of freedom.’” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (*quoting Bridges*
18 *v. Wixon*, 326 U.S. 135, 154 (1945)).

21 22. Indeed, modern-day removal proceedings developed in response to a series of
22 Supreme Court decisions recognizing that the deportation of noncitizens
23 already in the United States without a hearing before a neutral arbiter would
24 violate due process. *See Yamataya v. Fisher*, 189 U.S. 86, 101 (1903)
25 (construing immigration statutes to require hearing before deportation to
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1 “bring them into harmony with the constitution”); Wong Yang Sung v.
2 McGrath, 339 U.S. 33, 49, modified, 339 U.S. 908 (1950) (same, reasoning
3 that “the difficulty with any argument premised on the proposition that the
4 deportation statute does not require a hearing is that, without such hearing,
5 there would be no constitutional authority for deportation”).
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8 23. Removal proceedings under 8 C.F.R. §1240 or Section 240 of the Immigration
9 and Nationality Act (“Section 240” proceedings) accordingly provide
10 important substantive and procedural protections.
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12 24. Noncitizens in Section 240 proceedings, like Petitioner when she was
13 arrested, are entitled to full hearings in immigration court before immigration
14 authorities can remove them. 8 U.S.C. § 1229a.
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17 25. They are statutorily afforded rights and procedural protections, including the
18 right to be represented by counsel of their choice, and the right to present and
19 confront evidence. *See id.* § 1229a(4).
20

21 26. They are also entitled to administrative appellate review at the Board of
22 Immigration Appeals and further judicial review in the federal Courts of
23 Appeals. *See* 8 C.F.R. § 1003.1(b) (Board of Immigration Appeals); 8 U.S.C.
24 § 1252(a)(5) (Courts of Appeals).
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27 27. Alternatively, expedited removal is a form of summary removal historically
28 applicable only to **recently-arrived** noncitizens that sharply limits the rights

1 and process available in Section 240 proceedings. In contrast to Section 240
2 proceedings, expedited removal takes place almost entirely outside of
3 immigration court: A person subject to expedited removal can be removed by
4 an immigration officer “without further hearing or review.” 8 U.S.C. §
5 1225(b)(1)(A)(i).
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8 28. At this stage, the person is typically detained and unable to access counsel. In
9 effect, immigration enforcement agents from ICE or Border Patrol serve as
10 judge, jury, and jailer; they detain the noncitizen, unilaterally determine
11 whether they are subject to the expedited removal statute, and unilaterally
12 order them removed. When a person in expedited removal expresses a fear of
13 persecution or intent to seek asylum, the immigration officer refers the person
14 to an asylum officer for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii).
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18 29. If the asylum officer finds that the person has a credible fear, they are
19 permitted to seek to apply for asylum through Section 240 proceedings. *Id.* §
20 1225(b)(1)(B)(ii). However, when an asylum officer determines that someone
21 has not established a credible fear, the officer must order them removed
22 “without further hearing or review,” subject to highly limited review by an
23 immigration judge that the person “does not have a credible fear of
24 persecution.” *Id.* § 1225(b)(1)(B)(iii).
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28 30. Finally, the Board of Immigration Appeals, on May 15, 2025 decided the case

1 of Matter of Q. Li., 29 I&N Dec. 66 (BIA 2025). Matter of Q. Li held:

2 a. “An applicant for admission who is arrested and detained without a
3 warrant while arriving in the United States, whether or not at a port of
4 entry, and subsequently placed in removal proceedings is detained
5 under section 235(b) of the Immigration and Nationality Act (“INA”),
6 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release
7 on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018).
8

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11 b. An alien detained under section 235(b) of the INA, 8 U.S.C. § 1225(b),
12 who is released from detention pursuant to a grant of parole under
13 section 212(d)(5)(A) of the INA, 8 U.S.C. § 1182(d)(5)(A) (2018), and
14 whose grant of parole is subsequently terminated, is returned to custody
15 under section 235(b) pending the completion of removal proceedings.”
16
17

18 Matter of Q. Li., 29 I&N Dec. 66 (BIA 2025).
19

20 **STATEMENT OF FACTS**

21 31. Ms. Huaman, a 26-year-old native and citizen of Peru, entered the United
22 States on December 16, 2022 at or near San Luis, Arizona and was detained
23 by ICE.
24

25 32. After being detained by ICE, Ms. Huaman was issued Parole pursuant to 8
26 C.F.R. §212(d)(5), allowing her release.
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28 33. Ms. Huaman was instructed to appear for a check-in at the ICE, Non-Detained

1 Unit. Ms. Huaman attended her check-in and was placed on an intensive
2 supervision appearance program (“ISAP”) with required weekly registration.
3 She was also issued a Notice to Appear placing her in Section 240 Proceedings
4 before the Van Nuys Immigration Court. Her Section 240 Proceedings began
5 on March 21, 2023.
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8 34. Ms. Huaman was scheduled for an ICE check-in where she was told to return
9 a week later on July 2, 2025.
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11 35. On July 2, 2025, 2.5 years after her release, Ms. Huaman went for her
12 scheduled check-in with ICE. At this appointment, Ms. Huaman was taken
13 back into custody. When asked why she was not detained a week before, the
14 duty officer informed Ms. Huaman that they now had bed space to detain her.
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17 36. Ms. Huaman has since been detained at the Mesa Verde ICE Processing
18 Facility located at 425 Golden State Ave, Bakersfield, CA 93301.
19

20 37. On August 18, 2025, Ms. Huaman had a hearing before the Immigration Judge
21 who held that she did not have jurisdiction to grant a bond in Petitioner’s case
22 pursuant to Matter of Q. Li., 29 I&N Dec. 66 (BIA 2025).
23

24 38. As a result, Ms. Huaman was not afforded even an opportunity to present
25 evidence of her non dangerousness, nor proof she is not a flight risk.
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27 39. As of this date, she has been detained for 70 days without having an
28 opportunity to be heard for an individualized bond request.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process (Substantive Due Process—Detention)

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5 40. Petitioner restates and realleges all paragraphs as if fully set forth here.

6 41. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
7 prohibits the federal government from depriving any person of "life, liberty,
8 or property, without due process of law." U.S. Const. Amend. V. Due process
9 protects "all 'persons' within the United States, including [non-citizens],
10 whether their presence here is lawful, unlawful, temporary, or permanent."
11 Zadvydas, 533 U.S. at 693. Immigration detention is constitutionally
12 permissible only when it furthers the government's legitimate goals of ensuring
13 the noncitizen's appearance during removal proceedings and preventing
14 danger to the community. *See id.*

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19 42. Here, petitioner was released for 2.5 years, resided with her U.S. Citizen
20 family in Bakersfield, CA, is involved in the local Church and the community
21 in Bakersfield. She has established a stable home and has not committed any
22 crimes.

23
24 43. Additionally, she filed her Asylum application alleging a fear of returning to
25 her country and has been in Section 240 Proceedings since March 21, 2023.
26 She was scheduled for an ICE check-in where she was told to check-in again
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1 a week later.

2 44. A week later, she was detained without any form of notice and an opportunity
3 to rebut. Instead, her ICE officer simply told her that they had enough bed
4 space for her now.
5

6 45. Such a deprivation of liberty without any allegation of wrong doing, proof
7 provided to her of changed circumstances in her individual case, or an
8 opportunity to provide evidence of innocence is irrational and arbitrary.
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11 46. Moreover, Petitioner's detention is punitive as it bears no "reasonable
12 relation" to any legitimate government purpose. *Id.* (finding immigration
13 detention is civil and thus ostensibly "nonpunitive in purpose and effect").
14 Here, the purpose of Petitioner's detention appears to be "not to facilitate
15 deportation, or to protect against risk of flight or dangerousness, but to
16 incarcerate for other reasons"—namely, to meet newly-imposed DHS quotas
17 and transfer immigration court venue to an expedited docket. Demore, 538
18 U.S. at 532–33 (Kennedy, J., concurring).
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22 47. Because Petitioner's detention has no reasonable relation to her being a flight
23 risk nor a danger to society, her continued confinement violates the Fifth
24 Amendment.
25

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27 **COUNT TWO**
28 **Violation of Fifth Amendment Right to Due Process (Procedural Due Process—**
Detention)

1 48. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs
2 of this Petition as if fully set forth herein.
3

4 49. As part of the liberty protected by the Due Process Clause, Petitioner her a weighty
5 liberty interest in avoiding re-incarceration after her release. *See Young v. Harper*, 520
6 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973);
7 *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d
8 at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out
9 of custody following an IJ’s bond determination).
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12 50. Accordingly, “[i]n the context of immigration detention, it is well-settled that due
13 process requires adequate procedural protections to ensure that the government’s
14 asserted justification for physical confinement outweighs the individual’s
15 constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872
16 F.3d at 990; *Zinemon*, 494 U.S. at 127 (Generally, “the Constitution requires some
17 kind of a hearing before the State deprives a person of liberty or property.”). In the
18 immigration context, for such hearings to comply with due process, the government
19 must bear the burden to demonstrate, by clear and convincing evidence, that the
20 noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638
21 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786
22 (9th Cir. 2024).
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28 51. Petitioner’s re-detention without a pre-deprivation hearing violated due process. Over

1 two years after deciding to release Petitioner from custody on her own recognizance,
2 Respondents re-detained Petitioner with no notice, no explanation of the justification
3 of her re-detention, and no opportunity to contest her re-detention before a neutral
4 adjudicator before being taken into custody. In fact, she attempted to seek a bond
5 hearing before a neutral arbiter, and the Immigration Judge did not provide an
6 individualized analysis of her case; instead denied the bond on jurisdiction.
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10 52. Petitioner has a profound personal interest in her liberty. Because she received no
11 procedural protections, the risk of erroneous deprivation is high. And the government
12 has no legitimate interest in detaining Petitioner without a hearing; bond hearings are
13 conducted as a matter of course in immigration proceedings, and nothing in
14 Petitioner's record suggested that she would abscond or endanger the community
15 before a bond hearing could be carried out. *See, e.g., Jorge M.F. v. Wilkinson*, 2021
16 WL 783561, at 3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at
17 3 (N.D. Cal. Aug. 23, 2020) ("the government's concern that delay in scheduling a
18 hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's
19 strong family ties and his continued employment during the pandemic as an essential
20 agricultural worker"). As a result, Respondent's failure to provide an opportunity to
21 prove she is not a flight risk nor a danger, violated her due process rights afforded to
22 her by the Constitution.
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1 **COUNT THREE**

2 **Violation of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706**

3 **(Dismissal/Expedited Removal)**

4 53. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs
5 of this Petition as if fully set forth herein. 8 U.S.C. § 1225(b)(1) covers the
6 “[i]nspection of aliens arriving in the United States and certain other aliens who have
7 not been admitted or paroled.” 8 U.S.C. § 1225(b)(1). Section 1225(b)(1)(A)(iii)(II)
8 further clarifies that “[a]n alien described in this clause is an alien who is not described
9 in subparagraph (F), who has not ... been physically present in the United States
10 continuously for the 2-year period.” 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

11 54. The government’s own records make clear that Petitioner entered the United States
12 on December 16, 2022. Because Petitioner has been in the United States for more
13 than two years, 8 U.S.C. § 1225(b)(1) cannot be applied to her.

14 55. Given expedited removal proceedings cannot be applied to her, and she has already
15 been placed in full Section 240 Proceedings; she logically cannot be detained
16 pursuant to an expedited removal. As a result, the Immigration Judge erred in
17 determining she lacked jurisdiction for a bond.

18 **PRAYER FOR RELIEF**

19 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 20 (1) Assume jurisdiction over this matter;
- 21 (2) Issue an Order to Show Cause ordering Respondents to show cause
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- 1 why this Petition should not be granted within three days;
- 2 (3) Declare that Petitioner's detention violates the Due Process Clause
- 3 of the Fifth Amendment;
- 4
- 5 (4) Issue a Writ of Habeas Corpus ordering Respondents to release
- 6 Petitioner from custody;
- 7
- 8 (5) Issue an Order prohibiting the Respondents from transferring Petitioner
- 9 from the district without the court's approval;
- 10
- 11 (6) Enjoin Respondents from re-detaining Petitioner unless her re-detention
- 12 is ordered at a custody hearing before a neutral arbiter in which the
- 13 government bears the burden of proving, by clear and convincing
- 14 evidence, that Petitioner is a flight risk or danger to the community;
- 15
- 16 (7) Order that Respondents may not dismiss Petitioner's Section 240
- 17 proceedings;
- 18
- 19 (8) Order that Respondents may not place Petitioner in expedited removal
- 20 proceedings or remove Petitioner except based on a final, executable
- 21 removal order issued through Section 240 removal proceedings;
- 22
- 23 (9) Award Petitioner attorney's fees and costs under the Equal Access to
- 24 Justice Act, and on any other basis justified under law; and
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- 26 (10) Grant any further relief this Court deems just and proper.
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Respectfully submitted,

Yanela Ghilary Huaman Villanueva

By her attorney:

Dated: 09/12/2025 Signed: /s/ Mitchell H. Shen

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VERIFICATION OF COMPLAINT

1
2 I, Mitchell H. Shen, Esq., state under penalty of perjury that I am the attorney
3
4 for the petitioner Yanela Ghilary Huaman Villanueva in the foregoing petition,
5
6 and declare the facts alleged here to be true, except those made on information
7
8 and belief, which I believe to be true, and further state that the sources of my
9
10 information and belief are documents and information provided to me by the
11
12 petitioner and his associates and family members.

13 Los Angeles, CA

Signed: /s/ Mitchell H. Shen

14 Dated: 09/12/2025

15 MITCHELL H. SHEN, ESQ.
16 Attorney for Petitioner
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via Certified Mail /
Return Receipt to:

United States Attorney's Office,
501 I Street, Suite 10-100
Sacramento, CA 95814;

Ron Murray, Senior Warden, Otay Detention Facility
425 Golden State Ave,
Bakersfield, CA 93301

Polly Kaiser, Field Office Director
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San Francisco, CA 94111

Todd M. Lyons, Acting Director
U.S. Immigration and Customs Enforcement (ICE)
500 12th St SW
Washington, DC 20536

Kristi Noem, Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Pam Bondi, Attorney General of the United States
950 Pennsylvania Ave., N.W. Room 45-45
Washington, DC 20530-0001; upon the date given below.

Date: 09/12/2025

Signature: /s/ Mitchell H. Shen
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Exhibit	Document	Page(s)
A	1. Order of the Immigration Judge Denying Bond.....	1-2

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EXHIBIT A

**Petition for Writ of Habeas Corpus
Yanela Ghilary Huaman Villanueva**



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ADELANTO IMMIGRATION COURT

Respondent Name:

HUAMAN VILLANUEVA, YANELA
GHIL

To:

Shen, Mitchell H
617 S. Olive St., Ste. 810
Los Angeles, CA 90014

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

08/18/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent’s request for a change in custody status is hereby ordered:

Denied, because

An “applicant for admission” is defined, in relevant part, as an alien “who arrives in the United States []whether or not at a designated port of arrival.” INA § 235(a)(1), 8 U.S.C. § 1225(a)(1). An alien, like the respondent, “who tries to enter the country illegally is treated as an ‘applicant for admission.’” *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (quoting INA § 235(a)(1), 8 U.S.C. § 1225(a)(1)). The Supreme Court of the United States has clarified that “an alien who is detained shortly after unlawful entry cannot be said to have ‘effected an entry,’” and is in the same position as an alien seeking admission at a port of entry. *Id.* (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)).

“Thus, consistent with the holding in *Matter of M-S-*, 27 I&N Dec. at 515–16, that aliens initially placed in expedited removal proceedings are subject to mandatory detention until the conclusion of any further immigration proceedings, we hold that an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).” *Matter of Q. Li* 29 I&N Dec. 66 (BIA 2025).

Respondent was arrested without a warrant by CBP shortly after entering the United States. She is subject to mandatory custody under INA Section 235(b)(2)(A).

- Granted. It is ordered that Respondent be:
- released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:

1

Other:

Alison E Daw

Immigration Judge: DAW, ALISON 08/18/2025

Appeal:	Department of Homeland Security:	<input checked="" type="checkbox"/> waived	<input type="checkbox"/> reserved
	Respondent:	<input type="checkbox"/> waived	<input checked="" type="checkbox"/> reserved

Appeal Due: 09/17/2025

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To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : HUAMAN VILLANUEVA, YANELA GHIL | A-Number : 

Riders:

Date: 08/18/2025 By: DAW, ALISON, Immigration Judge