UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

AMELIA CARRILLO PANIAGUA,
Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
JOSH JOHNSON, in his official capacity as Acting Director of the Dallas Field Office of ICE, Enforcement and Removal Operations;
WARDEN OF THE PRAIRIELAND DETENTION CENTER; and
DAREN K. MARGOLIN, Director of the Executive Office for Immigration Review,
Respondents.

Civil Action No. 3:25-cv-02872

Immigration No. A [redacted]

PLAINTIFF'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner AMELIA CARRILLO PANIAGUA (A# [redacted] is a native and citizen of Mexico who has resided in the United States for many years, most recently in the Northeast Texas area. She is currently subject to indefinite detention after his apprehension by ICE in Texas and is currently detained at the Prairieland Detention Center in Alvarado, Texas. *See* Ex. A, Proof of Detention in ICE Custody.

2. Ms. Carrillo has been placed into removal proceedings before under INA § 240, 8 U.S.C. § 1229a, following her recent arrest by ICE officers following a routine traffic

incident that occurred in Tyler, Texas on October 16, 2025. *See* Ex. B, Unsworn Statement of Petitioner's Son, Jorge Luis Chavez.

3. In recent months, immigration judges have routinely denied requests for a bond hearing to individuals in situations substantially similar to that of Ms. Carrillo, due to a perceived lack of jurisdiction. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. C, Recent BIA Decisions on Bond. However, numerous federal district court, including some from within the jurisdiction of the United States Court of Appeals for the Fifth Circuit, have made clear that noncitizens detained under INA § 236(a) are entitled to individualized bond hearings.

4. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Ms. Carrillo with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous Board of Immigration Appeals precedent. The refusal to provide such a hearing violates the INA, the Due Process Clause of the Fifth Amendment, and the APA, because detention in § 240 proceedings is governed by INA § 236(a), which clearly provides that noncitizens are entitled to bond hearings.

5. Ms. Carrillo therefore petitions this Court for habeas relief under 28 U.S.C. § 2241, and seeks immediate injunctive relief, including a Temporary Restraining Order ("TRO") directing Respondents to provide her an individualized custody hearing or release her under reasonable conditions without delay.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also

has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

7. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seek class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

8. Venue is proper in this District, and in the Dallas Division, because Petitioner is detained at the Prairieland Detention Center in Alvarado, Texas, within this Court's jurisdiction, whereas Petitioner's immigration detention is controlled by the Dallas Field Office of ICE – Enforcement and Removal Operations. *See* Ex. A.

III. PARTIES

9. Petitioner, AMELIA CARRILLO PANIAGUA ("Ms. Carrillo"), is a citizen and national of Mexico who has lived in the United States for over twenty-five years. She was transferred to the Prairieland Detention Center, where she remains detained, following her transfer into ICE custody following a routine traffic incident in Tyler, Texas. Petitioner is currently awaiting placement into active removal proceedings under 8 U.S.C.

§ 1229a (INA § 240), despite the fact that she has remained in ICE custody for approximately a week as of the date of this filing.[1] Presently, Petitioner's removal proceedings have been scheduled for an initial appearance, called a Master Calendar Hearing, on November 3, 2025 at 8:30 a.m., before Immigration Judge Monica Thompson Guidry. *See* Ex. D, EOIR Automated Case Information System.

10. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

11. Respondent TODD LYONS is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

12. Respondent JOSH JOHNSON is the Acting Director of the Dallas Field Office of ICE – Enforcement and Removal Operations ("ERO"), and therefore, he oversees the Prairieland Sub-Office of ERO Dallas, which has jurisdiction over Petitioner. He is sued in his official capacity as Petitioner's local custodian and DHS's local decisionmaker.

13. Respondent, WARDEN OF THE PRAIRIELAND DETENTION CENTER, is responsible for housing noncitizens from various regions of Texas in ICE custody pending the completion of their removal proceedings. The Prairieland Detention Center is located at 1200 Sunflower Rd, Alvarado, Texas 77301. Respondent is sued in his official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

14. Respondent, DAREN K. MARGOLIN, is Director of the Executive Office for Immigration Review. As such, he is responsible for directing and coordinating policy for the United States Immigration Court system, including policies relating to immigration

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[1] The Immigration Court in Houston will likely be the administrative control docket due to ICE's transfer of Petitioner to detention in Alvarado, Texas.

bond applications and requests for custody redeterminations in immigration court. He is sued in his official capacity only.

15. Respondents Noem and Lyons, who represent DHS and ICE, are properly included herein as the executives of federal agencies within the meaning of the Administrative Procedure Act ("APA").

IV. FACTUAL BACKGROUND

16. Petitioner Amelia Carrillo Paniagua is a citizen and national of Mexico, born in 1984. She has lived continuously in the United States since her initial entry in May 2000, when she crossed the southern border from Mexico near Hidalgo, Texas. *See* Ex. B, Documentation of Petitioner's Immigration Case. Since that time, she has continuously resided in the Tyler, Texas area with her husband, who became a lawful permanent resident in 2024, and her two United States citizen sons, who were born here.

17. Petitioner's adult son, Jorge Luis Chavez, filed a Form I-130 family petition for with U.S. Citizenship & Immigration Services ("USCIS"), approximately eight months before Mr. Carrillo's arrest by ICE. At present, Ms. Carrillo's I-130 family petition remains pending, and prior to her arrest by ICE, her plan was to seek a provisional unlawful presence waiver upon USCIS's approval of the I-130 family petition. *See* Ex. G, Affidavit of Petitioner's Immigration Counsel. However, Ms. Carrillo's placement into removal proceedings prevents her from seeking such a waiver. *See* 8 CFR 212.7(e)(4) (noncitizens in removal proceedings are ineligible for provisional unlawful presence waiver). Thus, ICE's recent arrest of Ms. Carrillo likely means her case will be delayed and needlessly prolonged, potentially resulting in family separation even though she was petitioned well *before* her recent arrest by immigration officials.

18. Despite the pending I-130 family petition, and despite having now been in ICE custody for nearly a week, Ms. Carrillo's removal proceedings reflect she will not have her first scheduled immigration hearing until November 3, 2025, before an immigration judge in Houston, as indicated by the official EOIR Automated Case Information System, as of October 16, 2025. *See* Ex. D, EOIR Case Information.

19. The illegality of Ms. Carrillo's detention by ICE is further compounded by the arbitrary nature of her initial apprehension. Ms. Carrillo entered ICE custody after she was allegedly involved in a minor traffic incident in Tyler, Texas, where a local police officer claims that Ms. Carrillo, who was on her way to pick up her son from school, bumped into the back of the officer's patrol vehicle. Upon information and belief, any available audiovisual evidence will prove that Ms. Carrillo did not rearend the officer's patrol vehicle, but rather, that this officer claimed that Ms. Carrillo did so as a mere pretext to detain her in violation of her Fourth Amendment rights.

20. After the alleged traffic accident, Ms. Carrillo called her husband, Mr. Chavez, who attempted to answer some of the questions posed by local law enforcement. When Mr. Chavez did so, the officers derisively asked why he did not speak English properly if he was a lawful permanent resident—a further indication that improper racial animus underlie Ms. Carrillo's apprehension.

21. Following this, local officers detained Ms. Carrillo on the spot and refused to release her until ICE officers could take her into federal custody. Upon arrival, ICE officers informed Ms. Carrillo that she would now be detained, despite her lengthy history in the United States and despite her pending I-130 family petition. As of today, October 21, 2025—nearly a week after her arrest on October 16—EOIR's case database

shows her first hearing date as a result of this apprehension will not be until November 3, over two weeks after her arrest. *See* Ex. D, EOIR Case Information System.

22. On or about the night of October 16, 2025, ICE transferred Ms. Carrillo from the Dallas Field Office to the Prairieland Detention Center in Alvarado, Texas, located in Johnson County. The facility is operated under contract with the Alvarado Sub-Field Office of the Dallas Field Office of ICE – Enforcement and Removal Operations ("ERO"). The ICE Detainee Locator confirms Petitioner's custody in Alvarado, Texas, as of October 16, 2025. *See* Ex. A.

23. Until her recent transfer into a remote immigration facility in Alvarado, Texas, Ms. Carrillo had lived and worked in the Northeast Texas area for many years, where she developed close ties to her community. Ms. Carrillo has no history of violence and no criminal record whatsoever that would justify treating her as a danger to society—no arrests, convictions, or even traffic citations—since entering the United States. To the contrary, she has demonstrated continuous residence, stable employment, and strong family and community ties in Tyler, Texas. Ms. Carrillo's detention was not the result of any criminal act or immigration violation but rather a routine traffic incident that ICE converted into an arbitrary arrest, likely in violation of her Fourth Amendment rights.

24. As of the filing of this petition, Petitioner remains detained at the Prairieland Detention Center. Although ICE filed her Notice to Appear with EOIR, Ms. Carrillo is ineligible for any bond hearing or opportunity for review under INA § 236(a) under the current policies of ICE and EOIR. The government's arbitrary arrest of Ms. Carrillo, coupled with agency policy, renders her detention ultra vires, indefinite, and

constitutionally infirm. She has been held for nearly a week contrary to the immigration statutes, and without being afforded judicial oversight or administrative review.

25. Petitioner's ongoing detention has caused significant emotional and financial hardship to her husband and minor son, who depend on her for emotional and logistical support. Given Respondents' failure to file schedule Ms. Carrillo for a prompt immigration hearing, to provide her with a bond hearing, or justify continued custody, Petitioner respectfully seeks a Temporary Restraining Order and Preliminary Injunction ordering her immediate release, or alternatively, requiring Respondents to promptly provide her with an individualized custody determination before an immigration judge.

26. On or about October 16, 2025, ICE placed Ms. Carrillo into removal proceedings by serving her with a Notice to Appear ("NTA"), formally charging her as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] for entry without inspection into Texas. *See* Ex. B, Documentation of Immigration History.

27. Due to the nature of her entry into the United States and the length of her residence here, it is clear Ms. Carrillo is not an arrival alien. Thus, she claims entitlement to the full panoply of due process guaranteed by the INA, including a hearing on relief from removal and a bond hearing under § 236(a), and not merely a summary expulsion.

28. Yet despite her case history, current immigration policy treats Ms. Carrillo for bond purposes as though she were subject to the harshest form of "arriving alien" detention, even though she has been properly placed in § 240 proceedings. Instead of being allowed to seek release on bond before an immigration judge, ICE has categorically denied her any chance to demonstrate that she is neither a danger to the community nor a flight risk. This blanket denial is not based on any individualized finding, but on the

government's insistence on applying the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Those decisions—issued without notice-and-comment rulemaking, and in direct tension with binding circuit law—purport to strip immigration judges of authority to hold bond hearings for individuals like Ms. Carrillo.

29. As a result of this, as well as ICE's arbitrary arrest and transfer of Ms. Carrillo within the bowels of the immigration industrial complex, Ms. Carrillo now finds herself locked away at the Prairieland Detention Center in Alvarado, Texas, a remote facility over an hour away from her home in North Texas. *See* Ex. A. She is held under conditions indistinguishable from those reserved for dangerous criminals, despite the absence of any criminal conviction that would bar her release under Section 236(c) of the INA. Each day of confinement exacerbates the harm—separating her from family and community support, impeding her ability to consult with counsel, and inflicting the psychological strain that prolonged and unnecessary detention inevitably produces.

30. In sum, Ms. Carrillo is a woman with deep roots in the United States, strong claims for humanitarian protection, and no disqualifying criminal record. She has been thrust into seemingly indefinite civil detention solely because of the government's reliance on recent, non-binding BIA decisions that contravene the plain language of the INA and the recent decisions of multiple federal district courts. Ms. Carrillo's continued detention, absent the possibility of an individualized bond hearing, is unlawful, arbitrary, and profoundly unjust.

V. LEGAL FRAMEWORK

A. Statutory Framework for Immigration Custody Determinations.

31. Immigration detention is governed primarily by two provisions of the INA: Section 235(b) [8 U.S.C. § 1225(b)] and Section 236(a) [8 U.S.C. § 1226(a)]. Whereas Section 236(a) of the INA authorizes the Attorney General to release noncitizens on bond pending removal proceedings, in contrast, Section 235(b) applies to certain categories of "arriving aliens" and mandates detention pending completion of expedited or threshold screening.

32. Congress designed § 236(a) to govern the detention of individuals who, like Petitioner, are in regular removal proceedings under § 240. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

33. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 235(b) mandatory detention and § 236(a) discretionary custody). The Board of Immigration Appeals itself recognized for decades that individuals in § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

34. Despite this clear statutory scheme, DHS has invoked recent BIA decisions (*i.e.*, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)) to strip immigration judges of bond authority in cases such as those of Petitioner. Those decisions, however, cannot override the plain language of the statute.

35. In recent weeks, multiple district courts in 2025 have directly addressed the Government's efforts to expand § 1225(b)(2)(A) beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded

that the clear and unambiguous language of Section 236 of the INA permits noncitizens who arrived without inspection—persons in precisely the same legal circumstances as Ms. Carrillo—are eligible to request bond hearings before the immigration court.

36. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is proper to correct statutory misclassification and to preserve the petitioner's due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under § 1226(a), rejecting the Government's assertion that § 1225(b) applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause. *See* Ex. H, Appendix of Recent Habeas Decisions.

37. Similarly, recent decisions from district courts within the Fifth Circuit, such as *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), further confirm that courts are rejecting agency efforts to apply § 1225(b)(2)(A) to individuals who are properly subject to § 1226(a). *See also Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 3 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, slip op. at 3-4 (S.D. Tex. Oct. 8, 2025) (reviewing new detention policy). This Court should follow suit.

38. These holdings reflect a growing consensus that district courts retain jurisdiction to intervene where detention rests on a statutory misapplication and results in ongoing constitutional harm. The cumulative weight of these decisions underscores that Ms. Carrillo is entitled to bond consideration under § 1226(a).

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

39. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

40. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and the recent decisions of multiple federal district courts from around the country, including courts within the Fifth Circuit.

41. INA § 236(a), 8 U.S.C. § 1226(a), provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

42. By its plain text, Section 236(a) applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) applies.

43. In interpreting the plain language of Section 236(a), various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond application by detained aliens pending the outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

44. Petitioner was served an NTA indicating ICE's intention to place her into removal proceedings under Section 240 of the INA [8 U.S.C. § 1229a] claiming she has arrived

without inspection, yet ICE inexplicably also treat her as an arriving alien for purposes of bond. This policy means Ms. Carrillo remains detained at the Prairieland Detention Center, where she is effectively being detained without bond. Because Petitioner has been detained in anticipation of removal proceedings, and because she has now lived in the United States for several years and taken steps to apply for immigration status affirmatively, her custody should be governed by § 236(a), not § 235(b).

45. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a) and thus treating her as though she were an arriving alien or otherwise ineligible for a bond, Respondents have acted contrary to statutory authority requiring consideration of such bond application. This policy supports the conclusion that the filing of a bond application with the immigration courts is currently a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

46. Accordingly, this Court should grant the writ and order that Petitioner receive an individualized bond hearing under INA § 236(a), as recently made clear by the decisions of multiple federal district courts to examine these issues around the country.

Count II – Fifth Amendment Due Process Violation

47. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

48. Petitioner's continued detention without access to an individualized custody redetermination hearing also violates the Due Process Clause of the Fifth Amendment. Prolonged detention without bond review is arbitrary, punitive, and unconstitutional.

49. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

50. Because Petitioner is detained by ICE at the Prairieland Detention Center, she is categorically barred from presenting evidence that she is not a danger to the community and that she poses no flight risk. The blanket denial of access to a bond hearing strips Petitioner of the individualized determination required by due process and by the plain language of Section 236(a).

51. Unlike noncitizens subject to mandatory detention for serious criminal offenses under Section 236(c) [8 U.S.C. § 1226(c)], Petitioner has no qualifying convictions that justify a categorical denial of release. Her only arrest was conducted by ICE as a result of perceived alienage. The government has no legitimate basis to insist that Petitioner's detention be mandatory, yet she remains confined with no opportunity for release.

52. Denying Petitioner any access to a bond hearing deprives her of procedural protections guaranteed by the Due Process Clause. Moreover, prolonged detention without meaningful review violates the substantive limits of due process, as articulated in *Zadvydas* and *Demore v. Kim*, 538 U.S. 510 (2003).

53. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a), and by turning a blind eye to Petitioner's affirmatively filed I-130 family petition, Respondents have attempted to circumvent the ordinary processing of her application for an immigrant visa.

54. Petitioner is a long-time resident of the United States, with over twenty-five years of continuous presence. She has strong family and community ties in Northeast Texas. There has been no finding that she is a danger to the community or a flight risk. Yet, solely because of recent, erroneous BIA decisions—decisions not binding in this Circuit—she has been categorically denied the process to which she is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

55. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be afforded an immediate bond hearing, or that she be released from custody pending the final outcome of her Section 240 removal proceedings.

Count III – Unlawful Agency Action (APA)

56. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

57. Respondents' continued detention of Petitioner without affording her a bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. The abrupt departure from longstanding precedent without reasoned explanation violates the Administrative Procedure Act.

58. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a), including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *see also* Ex. E, Pre-2025 Unpublished BIA Bond Decisions. That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");
- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

59. In 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that certain noncitizens who entered without inspection are subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). These decisions abruptly stripped immigration judges of bond authority for a large class of detainees, including Petitioner, without notice-and-comment rulemaking and without reasoned explanation for abandoning prior precedent.

60. The APA requires agencies to engage in reasoned decision-making, and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very

definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

61. Although Petitioner has not filed a bond application since entering ICE custody on or about October 16, 2025, doing so would be futile, as immigration judges refuse to exercise jurisdiction, expressly relying on this recent BIA policy shift. *See* Ex. F, Sample IJ Bond Decision. By treating individuals such as Petitioner as subject to mandatory detention under Section 235(b), Respondents have applied an unlawful, arbitrary interpretation of the statute that is inconsistent with the plain language of Section 236(a) and unsupported by reasoned analysis.

62. Accordingly, Respondents' refusal to provide Petitioner an individualized custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant habeas relief to remedy the violation.

VII. REQUEST FOR INJUNCTIVE RELIEF

63. Petitioner respectfully requests that this Court issue a preliminary injunction directing Respondents to provide her with an immediate individualized custody redetermination hearing under INA § 236(a) within seven (7) days, or, in the alternative, to release her under reasonable conditions of supervision. Petitioner intends to seek a Temporary Restraining Order through a separate motion that is forthcoming, and upon a final hearing, Petitioner asks for permanent injunctive relief as appropriate.

64. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Ms. Carrillo Is Likely to Succeed on the Merits of His Petition.

65. Ms. Carrillo has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts including some from within the Fifth Circuit, have already determined that noncitizens in circumstances substantially similar to that of Ms. Carrillo, who are detained under Section 236(a), are entitled to individualized bond hearings before an immigration judge.

66. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Ms. Carrillo might file—due to the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of Section 236(a).

67. Additionally, Ms. Carrillo raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

68. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner's claim is exceptionally strong.

B. Ms. Carrillo Will Suffer Irreparable Harm If a TRO Does Not Issue.

69. If this Court does not grant immediate relief, Ms. Carrillo will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v.*

Davis, 533 U.S. 678, 690 (2001). Everyday Ms. Carrillo remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

70. Even if Ms. Carrillo were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. 556 U.S. at 435. Ms. Carrillo's ongoing imprisonment without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Ms. Carrillo's Favor.

71. The balance of equities tips decisively in Petitioner's favor. On her side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent, and in this Circuit nonbinding, precedents.

72. There is no evidence that Petitioner poses a danger to the community or a risk of flight, and the dismissal of his recent criminal indictment further diminishes any legitimate basis for continued detention. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

73. Additionally, the undersigned Counsel for Petitioner has undertaken to contact Counsel for DHS by emailing the Office of Principal Legal Advisor and ICE – ERO for Dallas, Texas, as well as the U.S. Attorney's Office for the Northern District of Texas, in

a good faith effort to notify Respondents of Petitioner's intent to obtain a hearing on this TRO request as soon as practicable.

D. There Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

74. Finally, the public interest strongly supports the issuance of a TRO. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

75. Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.

76. Each factor of the equitable test weighs heavily in Ms. Carrillo's favor. She has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) by various federal district courts and the Due Process Clause; she faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting her liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

77. For these reasons, this Court should issue a Temporary Restraining Order at the earliest possible opportunity, requiring Respondents to provide Ms. Carrillo an immediate bond hearing or release.

VIII. PRAYER FOR RELIEF

78. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Issue a writ of habeas corpus ordering Respondents to provide Petitioner with an individualized bond hearing under INA § 236(a), 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

b. Grant a temporary restraining order and preliminary injunction requiring such a hearing, or Petitioner's immediate release;

c. Issue a declaration that DHS may not initiate or pursue expedited removal against Ms. Carrillo while her § 240 removal proceedings remain non-final and while she seeks relief from removal before an Immigration Judge;

d. Issue a declaration that the plain language of INA § 236(a) permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

e. Grant permanent injunctive relief as appropriate;

f. Award Plaintiff reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

g. Grant such other relief as this Court deems just and proper.

DATE: October 21, 2025.

Respectfully submitted,

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By: */s/ Amelia Ruiz Fischer*
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CO-COUNSEL FOR PETITIONER

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF SMITH §

I, JORGE LUIS CHAVEZ ("Declarant"), am Petitioner's son. I am above the age of twenty-one (21) years of age, am of sound mind, and am in all ways competent to make this declaration. I acknowledge that I have had the substance of the foregoing document read to me, that I have personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of my knowledge and belief.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on October 21, 2025, at Tyler, Smith County, Texas.

Jorge Luis Chavez

Jorge Luis Chavez (Oct 21, 2025 18:15:11 CDT)

JORGE LUIS CHAVEZ,
Declarant