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8 UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF TEXAS
10 EL PASO DIVISION

11 ELIZABETH HUIPE RAMOS,

Case No. 3:25-CV-00503

12 Petitioner,

13 v.

14 VERIFIED PETITION FOR
15 WRIT OF HABEAS CORPUS

16 Warden, El Paso Service Processing Center;
17 Mary De Anda-Ybarra, *Field Office Director,*
18 *U.S. Immigration and Customs Enforcement;*
19 *Todd M. Lyons, Acting Director,*
20 *U.S. Immigration and Customs Enforcement;*
21 *Kristi Noem, Secretary of United States*
Department of Homeland Security;
22 *Pam Bondi, Attorney General of the*
United States, in their official capacities,

23 Expedited Hearing Requested

24 Respondents.

25 INTRODUCTION

26 1. PETITIONER/PLAINTIFF, Elizabeth Huipe Ramos ("Petitioner" or "Ms. Huipe"), by
27 and through her undersigned counsel, hereby petitions this Honorable Court to issue a
28 writ of habeas corpus to order her immediate release, or alternatively, a bond hearing be
held for her release from continued detention in the custody of the United States
Department of Homeland Security, Immigration and Customs Enforcement ("DHS-ICE")

1 as her continued detention is a violation of due process, and constitutes an unlawful
2 detention.

3 2. She now faces unlawful detention because the Department of Homeland Security (DHS)
4 and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is
5 subject to mandatory detention.
6

7 3. Petitioner is charged with, inter alia, having entered the United States without inspection.
8 8 U.S.C. § 1182(a)(6)(A)(i). *See Notice to Appear, Exhibit A.*

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

16 5. Petitioner sought a bond redetermination hearing before an immigration judge (IJ), but on
17 October 28, 2025, the IJ denied bond. *See Immigration Judge Bond Decision, Exhibit*
18 *A.* The IJ based this decision on the same legal analysis. Indeed, the DHS policy states it
19 was issued “in coordination with the Department of Justice (DOJ).” The IJ concluded
20 that notwithstanding Petitioner's 21 years of residing in the United States, she is
21 nevertheless an “applicant for admission” who is “seeking admission” and subject to
22 mandatory detention under § 1225(b)(2)(A).
23

24 6. Petitioner's detention on this basis violates the plain language of the Immigration and
25 Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
26 previously entered and are now residing in the United States. Instead, such individuals
27
28

1 are subject to a different statute, § 1226(a), that allows for release on conditional parole
2 or bond. That statute expressly applies to people who, like Petitioner, are charged as
3 inadmissible for having entered the United States without inspection.
4

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

7 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be released
8 unless Respondents provide a bond hearing under § 1226(a) within fourteen days; where
9 the Government bears the burden of proof to show, by "clear and convincing evidence,"
10 that Ms. Huipe is either a flight risk or a danger to the community.
11

12 9. In support of this petition, petitioner states by and through counsel as follows:

13 **JURISDICTION**

14 10. This action arises under the Constitution, the Immigration & Nationality Act of 1990, as
15 amended ("INA"), 8 U.S.C. §1101 et seq., and the Administrative Procedure Act
16 ("APA"), 5 U.S.C. §701 et seq. This Court has habeas jurisdiction pursuant to 28 U.S.C.
17 §2241, Art. 1, §9, Cl. 2 of the United States Constitution (the "Suspension Clause"); and
18 the common law. This Court may also exercise jurisdiction pursuant to 28 U.S.C. §1331
19 and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §2201 et seq.,
20 and the All Writs Act, 28 U.S.C. §1651.
21

22
23 11. On May 11, 2005, Congress passed the REAL ID Act of 2005, Pub. L. No. 109-13, 119
24 Stat. 231. The REAL ID Act divested federal district courts of jurisdiction to review final
25 orders of deportation, exclusion and/or removal. However, federal district courts still
26 retain jurisdiction through habeas corpus over the detention of aliens.
27
28

1 VENUE

2 12. Venue lies in the United States District Court for the Western District of Texas, the
3 judicial district of confinement, as the petitioner is physically being held in custody at the
4 El Paso Service Processing Center located at 8915 Montana Ave, El Paso, TX 79925.
5 This is in accordance with the decision of the United States Supreme Court in Rumsfeld
6 v. Padilla, 124 S.Ct. 2711, 2725 (2004) (“Whenever a §2241 habeas petitioner seeks to
7 challenge his present physical custody within the United States, he should name his
8 warden as respondent and file the petition in the district of confinement”).
9
10

11 REQUIREMENTS OF 28 U.S.C. § 2243

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

18 14. Courts have long recognized the significance of the habeas statute in protecting
19 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the
20 most important writ known to the constitutional law of England, affording as it does a
21 *swift* and imperative remedy in all cases of illegal restraint or confinement.” Fay v. Noia,
22 372 U.S. 391, 400 (1963) (emphasis added).
23

24 PARTIES

25 15. Petitioner, Elizabeth Huipe Ramos, is a native and citizen of Mexico who has been held
26 in continuing detention by DHS-ICE since July 10, 2025. She is currently detained at the
27 El Paso Service Processing Center in El Paso, TX.
28

1 16. Warden of the El Paso Service Processing Center is sued in their official capacity as the
2 Warden of the El Paso Service Processing Center in El Paso, TX. The warden has chief
3 executive authority over the administration of the El Paso Service Processing Center. In
4 this capacity, they have direct responsibility over the confinement of Elizabeth Huipe
5 Ramos.
6

7 17. Respondent, Mary De Anda-Ybarra, is sued in her official capacity as the Director of the
8 El Paso Field Office of U.S. Immigration and Customs Enforcement. Respondent Anda-
9 Ybarra is a legal custodian of Petitioner and has authority to release her.
10

11 18. Respondent, Todd M. Lyons, is sued in his official capacity as the Acting Director of
12 U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of
13 Petitioner and has authority to release her.
14

15 19. Respondent, Kristi Noem, is sued in her official capacity as the Secretary of the U.S.
16 Department of Homeland Security (DHS). In this capacity, Respondent Noem is
17 responsible for the implementation and enforcement of the Immigration and Nationality
18 Act, and oversees U.S. Immigration and Customs Enforcement the component agency
19 responsible for Petitioner's continued detention. Respondent Noem is a legal custodian of
20 Petitioner.
21

22 20. Respondent, Pam Bondi, is sued in her official capacity as the Attorney General of the
23 United States and the senior official of the U.S. Department of Justice (DOJ). In that
24 capacity, she has the authority to adjudicate removal cases and to oversee the Executive
25 Office for Immigration Review (EOIR), which administers the immigration courts and
26 the BIA. Respondent Bondi is a legal custodian of Petitioner.
27
28

LEGAL FRAMEWORK

A. Petitioner’s detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful, and her custody is properly governed by 8 U.S.C. § 1226(a).

21. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

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

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

24. Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

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

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

27. Following enactment of the IIRIRA, DOJ drafted new regulations explaining that, in general, people who had entered the country without inspection and had been continuously

1 present in the United States for over two years were not considered detained under § 1225,
2 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
3 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
4 Asylum Procedures, 62 Fed. Reg. 10312, 10355 (Mar. 6, 1997).

5
6 28. Thus, in the decades that followed, most people who entered without inspection—unless
7 they were subject to some other detention authority—received bond hearings. That practice
8 was consistent with many more decades of prior practice, in which noncitizens who were
9 not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing
10 officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
11 (noting that § 1226(a) simply “restates” the detention authority previously found at §
12 1252(a)).

13
14 29. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected
15 well-established understanding of the statutory framework and reversed decades of
16 practice.
17

18 30. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants
19 for Admission,” claims that all persons who entered the United States without inspection
20 shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore are
21 subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies
22 regardless of when a person is apprehended, and affects those who have resided in the
23 United States for months, years, and even decades.
24

25 31. In a September 5, 2025, published decision from the Board of Immigration Appeals (BIA),
26 EOIR adopts this same position. That decision holds that all noncitizens who entered the
27 United States without admission or parole are considered applicants for admission and are
28

1 ineligible for immigration judge bond hearings. Matter of Yajure Hurtado, 29 I&N Dec.
2 216 (BIA 2025).

3 32. This case is binding on Immigration Judges and essentially strips the Immigration Judges
4 of jurisdiction to grant bonds to individuals caught within the U.S. who were not admitted
5 or paroled; like the petitioner.

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

16
17
18 34. DHS's and DOJ's interpretation defies the INA. As the Rodriguez Vazquez court
19 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not §
20 1225(b), applies to people like Petitioner.

21
22 35. Section 1226(a) applies by default to all persons "pending a decision on whether the
23 [noncitizen] is to be removed from the United States." These removal hearings are held
24 under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

25 36. The text of § 1226 also explicitly applies to people charged as being inadmissible, including
26 those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s
27 reference to such people makes clear that, by default, such people are afforded a bond
28

1 hearing under subsection (a). As the Rodriguez Vazquez court explained, “[w]hen
2 Congress creates “specific exceptions” to a statute’s applicability, it “proves” that absent
3 those exceptions, the statute generally applies. Rodriguez Vazquez, 2025 WL 1193850, at
4 *12 (citing Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400
5 (2010)).
6

7 37. Section 1226 therefore leaves no doubt that it applies to people who face charges of being
8 inadmissible to the United States, including those who are present without admission or
9 parole.
10

11 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
12 entered the United States. The statute’s entire framework is premised on inspections at the
13 border of people who are “seeking admission” to the United States. 8 U.S.C. §
14 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention
15 scheme applies “at the Nation’s borders and ports of entry, where the Government must
16 determine whether a[] [noncitizen] seeking to enter the country is admissible.” Jennings v.
17 Rodriguez, 583 U.S. 281, 287 (2018).
18

19 39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people
20 like Petitioner, who have already entered and were residing in the United States at the time
21 they were apprehended.
22

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

25 40. The Constitution establishes due process rights for “all ‘persons’ within the United States,
26 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
27 permanent.” Hernandez v. Sessions, 872 F.3d 976, 990 (9th Cir. 2017) (quoting Zadvydas,
28 533 U.S. at 693 (2001)). These due process rights are both substantive and procedural.

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

5
6 42. These protections extend to noncitizens facing detention, as “[i]n our society liberty is the
7 norm, and detention prior to trial or without trial is the carefully limited exception.” United
8 States v. Salerno, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
9 imprisonment—from government custody, detention, or other forms of physical restraint—
10 lies at the heart of the liberty that [the Due Process] Clause protects.” Zadvydas, 533 U.S.
11 at 690.

12
13 43. Substantive due process thus requires that all forms of civil detention—including
14 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See*
15 Jackson v. Indiana, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two
16 permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s
17 appearance at immigration proceedings and preventing danger to the community.
18 Zadvydas, 533 U.S. at 690–92; *see also* Demore v. Kim, 538 U.S. 510 at 519–20, 527–28,
19 31 (2003).

20
21
22 44. Second, the procedural component of the Due Process Clause prohibits the government
23 from imposing even permissible physical restraints without adequate procedural
24 safeguards. Generally, “the Constitution requires some kind of a hearing before the State
25 deprives a person of liberty or property.” Zinermon v. Burch, 494 U.S. 113, 127 (1990).

26
27 45. This is so even in cases where that freedom is lawfully revocable. *See* Hurd v. D.C., Gov’t,
28 864 F.3d at 683 (*citing* Young v. Harper, 520 U.S. 143, 152 (1997) (re-detention after pre-

1 parole conditional supervision requires pre-deprivation hearing)); Gagnon v. Scarpelli, 411
2 U.S. 778, 782 (1973) (same, in probation context); Morrissey v. Brewer, 408 U.S. 471
3 (1972) (same, in parole context).

4
5 46. After an initial release from custody on conditions, even a person paroled following a
6 conviction for a criminal offense for which they may lawfully have remained incarcerated
7 has a protected liberty interest in that conditional release. Morrissey at 408 U.S. at 482. As
8 the Supreme Court recognized, “[t]he parolee has relied on at least an implicit promise that
9 parole will be revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever
10 name, the liberty is valuable and must be seen within the protection of the [Constitution].”
11

12 *Id.*

13 47. This reasoning applies with equal if not greater force to people found within the U.S. who
14 were never caught at the border, like Petitioner. After all, noncitizens living in the United
15 States like Petitioner have a protected liberty interest in their ongoing freedom from
16 confinement. *See Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of
17 immigration detention], [the] liberty interest [of noncitizens released from custody] is
18 arguably greater than the interest of parolees.” Ortega v. Bonnar, 415 F. Supp. 3d 963, 970
19 (N.D. Cal. 2019).
20
21

22 STATEMENT OF FACTS

23 48. Ms. Huipe, a 38-year-old native and citizen of Mexico, entered the United States on or
24 about February of 2004; over 21 years ago. She was never apprehended by ICE, and has
25 no known criminal arrests nor convictions.
26

27 49. Having resided in the U.S. for over 21 years; she has extensive family ties including her
28 U.S. Citizen husband; Antonio Magallanes, and her U.S. Citizen children: 

1 [REDACTED] (son), [REDACTED] (son). She has been gainfully employed, and most
2 recently has been the primary caretaker for her U.S. Citizen husband after he suffered a
3 traumatic brain injury. Petitioner is not a flight risk, nor a danger to society.
4

5 50. She was encountered by agents of ICE during a Los Angeles-area operation in Oxnard, CA
6 on July 10, 2025 aka "the Los Angeles ICE Raids". Ms. Huipe currently has pending
7 removal proceedings pursuant to 8 CFR §1240.

8 51. While her removal proceedings are pending, the Immigration Judge ("IJ") on October 28,
9 2025, denied bond indicating he lacked jurisdiction pursuant to Matter of Yajure Hurtado.
10 *See Exhibit A.*
11

12 52. To this date, Ms. Huipe has been detained for over 100 days pending removal proceedings,
13 and will remain detained and separated from her family for months or even years. Her next
14 hearing before the Immigration Judge is a Master Calendar hearing (preliminary hearing)
15 scheduled for December 11, 2025.
16

17 53. If released, Ms. Huipe would return to her home in Oxnard, CA and reside with her family;
18 who have promised to provide shelter and take her to all of her future hearing dates.
19

20 EXHAUSTION OF REMEDIES

21 54. There is no statutory exhaustion requirement in 28 U.S.C § 2241. However, the Court may
22 require prudential exhaustion. Courts may waive the prudential exhaustion requirement if
23 "administrative remedies are inadequate or not efficacious, pursuit of administrative
24 remedies would be a futile gesture, irreparable injury will result, or the administrative
25 proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)
26 (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981)).
27

28 55. In detention cases, appeals to the Board of Immigration Appeals (BIA) can take months or

1 years. Thus, requiring habeas petitioners to appeal to the BIA to prudentially exhaust is
2 not efficient, would cause irreparable harm by continuing to deprive a person of their
3 liberty, and/or would be futile. Petitioner, has exhausted her administrative remedies to the
4 extent required by law, and her only remedy is by way of this judicial action.
5

6 56. Despite the fact that Ms. Huipe properly requested a bond redetermination hearing before
7 an Immigration Judge; she was denied a full and fair hearing due to the Board of
8 Immigration Appeals decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).
9

10 57. Given an appeal before the BIA which decided Matter of Yajure Hurtado is futile; requiring
11 waiting for Petitioner to appeal and waiting for the BIA to decide on the appeal causes
12 irreparable harm to Ms. Huipe.

13 58. Additionally, while Petitioner is detained, her removal proceedings continue in an
14 expedited manner intended on ordering deportation before release; such that she is no
15 longer eligible for a bond post-removal order.
16

17 59. Accordingly, any efforts to obtain release from custody from the Department of Homeland
18 Security or from the Board of Immigration Appeals would be futile. Petitioner is currently
19 in removal proceedings, so there is no possibility of removal in the near future. The federal
20 district court retains authority to grant release on bond or any other condition of release.
21

22 **CLAIMS FOR RELIEF**

23 **1. COUNT ONE**

24 **Violation of the INA**

25 60. Petitioner incorporates by reference the allegations of fact set forth in the preceding
26 paragraphs.

27 61. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens
28 residing in the United States who are subject to the grounds of inadmissibility. As relevant here,

1 it does not apply to those who previously entered the country and have been residing in the
2 United States prior to being apprehended and placed in removal proceedings by Respondents.
3 Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §
4 1226(c), or § 1231.
5

6 62. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention
7 and violates the INA.

8 **2. COUNT TWO**

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

11 63. Petitioner restates and realleges all paragraphs as if fully set forth here.

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

20 65. Here, petitioner has resided with her U.S. Citizen family in California for over 21 years, is
21 gainfully employed, and involved in her community in Oxnard, CA. She has established a stable
22 home and has not committed any crimes. Additionally, she is in removal proceedings pursuant to
23 8 CFR §1240, and cannot be removed until an immigration judge orders her removal. She has
24 applied for Cancellation of Removal for Certain Non-Permanent Residents pursuant to 8 U.S.C.
25 § 1229b; offering her an opportunity for relief from removal. Having a stable residence, strong
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27
28

1 family ties, eligibility for relief, and no criminal history; she is neither a flight risk nor a danger to
2 society.

3 66. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any
4 legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
5 “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be
6 “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to
7 incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas and transfer
8 immigration court venue to an expedited docket. Demore, 538 U.S. at 532–33 (Kennedy, J.,
9 concurring).
10
11

12 67. Because Petitioner’s detention has no reasonable relation to her being a flight risk nor a
13 danger to society, her continued confinement violates the Fifth Amendment.

14 **3. COUNT THREE**

15 **Violation of Fifth Amendment Right to Due Process**
16 **(Procedural Due Process—Detention)**

17 68. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this
18 Petition as if fully set forth herein.

19 69. “In the context of immigration detention, it is well-settled that due process requires adequate
20 procedural protections to ensure that the government’s asserted justification for physical
21 confinement outweighs the individual’s constitutionally protected interest in avoiding physical
22 restraint.” Hernandez, 872 F.3d at 990; Zinermon, 494 U.S. at 127 (Generally, “the Constitution
23 requires some kind of a hearing before the State deprives a person of liberty or property.”). In the
24 immigration context, for such hearings to comply with due process, the government must bear
25 the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight
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1 risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see*
2 *also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

3 70. Petitioner's detention without a pre-deprivation hearing violates due process. Having
4 resided in the U.S. for over 21 years without any criminal history, with no explanation of the
5 justification of her detention, and no opportunity to contest her detention before a neutral
6 adjudicator before being taken into custody; Petitioner has not been provided notice and an
7 opportunity to be heard. In fact, she attempted to seek a bond hearing before a neutral arbiter,
8 and the Immigration Judge did not provide an individualized analysis of her case; instead denied
9 the bond on jurisdiction.
10
11

12 71. Petitioner has a profound personal interest in her liberty. Because she received no procedural
13 protections, the risk of erroneous deprivation is high. And the government has no legitimate
14 interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of
15 course in immigration proceedings, and nothing in Petitioner's record suggested that she would
16 abscond or endanger the community before a bond hearing could be carried out. *See, e.g., Jorge*
17 *M.F. v. Wilkinson*, 2021 WL 783561, at 3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020
18 WL 5074312, at 3 (N.D. Cal. Aug. 23, 2020) ("the government's concern that delay in
19 scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
20 petitioner's strong family ties and his continued employment during the pandemic as an essential
21 agricultural worker"). As a result, Respondent's failure to provide an opportunity to prove she is
22 not a flight risk nor a danger, violated her due process rights afforded to her by the Constitution.
23
24

25 **PRAYER FOR RELIEF**

26 Wherefore, Petitioner respectfully requests this Court to grant the following:
27

- 28 (1) Assume jurisdiction over this matter;

- 1 (2) Issue an Order to Show Cause ordering Respondents to show cause why this
2 Petition should not be granted within three days;
- 3 (3) Declare that Petitioner is being detained pursuant to 8 USC § 1226(a) and order a
4 bond hearing to be held within 7 days of this order where the Government bears the
5 burden of proof to show, by "clear and convincing evidence," that Ms. Huipe is
6 either a flight risk or a danger to the community;
- 7 (4) Declare that Petitioner's detention violates the Due Process Clause of the
8 Fifth Amendment;
- 9 (5) Alternatively, Issue a Writ of Habeas Corpus ordering Respondents to release
10 Petitioner from custody;
- 11 (6) Issue an Order prohibiting the Respondents from transferring Petitioner from the
12 district without the court's approval;
- 13 (7) Enjoin Respondents from re-detaining Petitioner unless her re-detention is ordered
14 at a custody hearing before a neutral arbiter in which the government bears the
15 burden of proving, by clear and convincing evidence, that Petitioner is a flight risk
16 or danger to the community;
- 17 (8) Order that Respondents may not dismiss Petitioner's Section 240 proceedings;
- 18 (9) Order that Respondents may not place Petitioner in expedited removal proceedings
19 or remove Petitioner except based on a final, executable removal order issued
20 through Section 240 removal proceedings; and
- 21 (10) Grant any further relief this Court deems just and proper.

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Respectfully submitted,
Elizabeth Huipe Ramos
By her attorney:

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Dated: 10/29/2025 Signed: /s/ Mitchell H. Shen

MITCHELL H. SHEN, ESQ.
Attorney for Petitioner
Law Office of Mitchell H. Shen & Associates
617 S. Olive St., Ste. 810
Los Angeles, CA 90014
Tel. (213) 878-0333; Fax (213) 402-2169
E-mail: MshenLaw@gmail.com

VERIFICATION OF COMPLAINT

I, Mitchell H. Shen, Esq., state under penalty of perjury that I am the attorney for the
Petitioner, Elizabeth Huipe Ramos, in the foregoing petition, and declare the facts alleged
here to be true, except those made on information and belief, which I believe to be true, and
further state that the sources of my information and belief are documents and information
provided to me by the Petitioner and her associates and family members.

Los Angeles, CA

Signed: /s/ Mitchell H. Shen

Dated: 10/29/2025

MITCHELL H. SHEN, ESQ.
Attorney for Petitioner
Law Office of Mitchell H. Shen & Associates
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3 **CERTIFICATE OF SERVICE**

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

6 United States Attorney's Office
7 700 E. San Antonio,
8 Suite 200
9 El Paso, Texas 79901;

10 Warden, El Paso Service Processing Center
11 8915 Montana Ave,
12 El Paso, TX 79925

13 Mary De Anda-Ybarra, Field Office Director
14 U.S. Immigration and Customs Enforcement (ICE)
15 999 S Oregon St,
16 El Paso, TX 79901

17 Todd M. Lyons, Acting Director
18 U.S. Immigration and Customs Enforcement (ICE)
19 500 12th St SW
20 Washington, DC 20536

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

24 Pam Bondi, Attorney General of the United States
25 950 Pennsylvania Ave., N.W. Room 45-45
26 Washington, DC 20530-0001; upon the date given below.

27 Date: 10/29/2025

28 Signature: /s/ Mitchell H. Shen
MITCHELL H. SHEN, ESQ.
Attorney for Petitioner
Law Office of Mitchell H. Shen & Associates
617 S. Olive St., Ste. 810
Los Angeles, CA 90014
Tel (213) 878-0333; Fax (213) 402-2169
E-mail: MshenLaw @ gmail.com

1 **Petition for Writ of Habeas Corpus**
2 **Elizabeth Huipé Ramos**

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4 Exhibit	Document	Page(s)
5 A	1. Notice to Appear.....	1-3
	2. Order of the Immigration Judge Granting Bond.....	4-5

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1 **Petition for Writ of Habeas Corpus**
2 **Elizabeth Huipe Ramos**

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EXHIBIT A

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DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]
Event No: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED] FINS: [REDACTED] File No: [REDACTED]

In the Matter of:

Respondent: ELIZABETH HUIFE RAMOS currently residing at:

8915 Montana Ave El Paso, TEXAS 79925
(Number, street, city, state and ZIP code) (Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

El Paso Service Processing Center 8915 Montana Ave. El Paso, Tx 79925.
(Complete Address of Immigration Court, including Room/Number, if any)

on August 14, 2025 at 8:30 am to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

J ORTEZ - SDDO
(Signature and Title of Issuing Officer)

Date: July 15, 2025 El Paso, TX
(City and State)

This Notice to Appear Supersedes the Notice to Appear issued on July 11, 2025

EOIR - 1 of 3

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration Judge. You will be advised by the Immigration Judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the Immigration Judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ere, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an Immigration Judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on July 15, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

PEREZ - Deportation Officer (Signature and Title of officer)

(2)

EOIR - 2 of 3

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
EL PASO SPC IMMIGRATION COURT

Respondent Name:

HUIPE RAMOS, ELIZABETH

To:

Wannamaker, Constance Russell
4171 N. Mesa Bldg D Ste 500
El Paso, TX 79902

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

10/28/2025

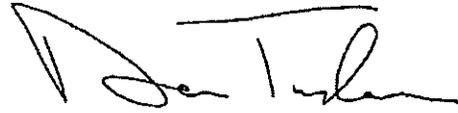
ORDER OF THE IMMIGRATION JUDGE

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
No jurisdiction. See Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).

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

Other:



Immigration Judge: Dean S. Tuckman 10/28/2025

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due: 11/28/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

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

Respondent Name : HUIPE RAMOS, ELIZABETH | A-Number : 

Riders:

Date: 10/28/2025 By: Antunez, Danny, Court Staff

