



Customs and Border Protection; Kristi Noem, in her official capacity as United States Secretary of Homeland Security; Marco Rubio, in his official capacity as Secretary of State; and Pamela Bondi, United States Attorney General (collectively, Federal Respondents) respectfully submit this opposition to the Petition for Writ of Habeas Corpus filed by Petitioner Angie Maralen Gonzales Lopez.

### **INTRODUCTION**

This Court cannot grant the writ of habeas corpus unless Petitioner demonstrates she “is in custody in violation of the Constitution or laws or treaties of the United States[.]” 28 U.S.C. § 2241(c)(3). Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2) because she is an applicant for admission who has not been admitted to the United States and is not clearly and beyond a doubt entitled to be admitted to the United States. Petitioner claims that despite her lack of admission in the United States, she cannot be detained under Section 1225(b)(2) because she is not presently “seeking admission” to the United States. Pet. ¶ 35. Petitioner’s position is legally erroneous and factually inaccurate because she is actively and affirmatively seeking admission to the United States by applying for asylum. *See id.* ¶ 28.

Petitioner further argues that authority to detain her must be found in 8 U.S.C. § 1226(a), not § 1225(b)(2), because she was released but not paroled at the time of her arrest in October 2022. *See id.* ¶¶ 36-37. Previously noncitizens like Petitioner, who entered the United States without admission and were later detained away from the border, were subject to discretionary detention under 8 U.S.C. § 1226(a); however, this approach was inconsistent with the statutory text and history. Rather, Section 1225 and its requirement of mandatory detention during removal proceedings apply to such circumstances. Further, even if Section 1226(a) governs Petitioner’s

detention, her request for release is improper, as her relief must be confined to an order for a bond hearing in Immigration Court.

### **LEGAL BACKGROUND**

#### **A. Before 1996, the Statutory Framework Gave Preferential Treatment to Aliens Unlawfully Present in the United States.**

Prior to 1996, the Immigration and Nationality Act (“INA”) treated noncitizens differently based on whether the noncitizen had physically “entered” the United States. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 222-223 (BIA 2025) (citing 8 U.S.C. §§ 1225(a), 1251 (1994)); *Hing Sum v. Holder*, 602 F.3d 1092, 1099-1100 (9th Cir. 2010) (same). “Entry” referred to “any coming of an alien into the United States,” 8 U.S.C. § 1101(a)(13) (1994), and whether an alien had physically entered the United States (or not) “dictated what type of [removal] proceeding applied” and whether the alien would be detained pending those proceedings, *Hing Sum v. Holder*, 602 F.3d at 1099.

At the time, the INA “provided for two types of removal proceedings: deportation hearings and exclusion hearings.” *Hose v. I.N.S.*, 180 F.3d 992, 994 (9th Cir. 1999) (en banc). An alien who arrived at a port of entry would be placed in “exclusion proceedings and subject to mandatory detention, with potential release solely by means of a grant of parole[.]” *Hurtado*, 29 I. & N. Dec. at 223; see 8 U.S.C. § 1225(a)-(b) (1995); *id.* § 1226(a) (1995). By contrast, an alien who physically entered the United States unlawfully would be placed in deportation proceedings. *Hurtado*, 29 I. & N. Dec. at 223; *Hing Sum*, 602 F.3d at 1100. Aliens in deportation proceedings, unlike those in exclusion proceedings, “were entitled to request release on bond.” *Hurtado*, 29 I. & N. Dec. at 223 (citing 8 U.S.C. § 1252(a)(1) (1994)).

Thus, the INA’s prior framework distinguishing between aliens based on physical “entry” had an “unintended and undesirable consequence” of creating a statutory scheme under which

“non-citizens who had entered without inspection could take advantage of the greater procedural and substantive rights afforded in deportation proceedings,’ while non-citizens who actually presented themselves to authorities [at a port of entry] were restrained by ‘more summary exclusion proceedings.’” *Martinez v. Att’y General of U.S.*, 693 F.3d 408, 413 n.5 (3rd Cir. 2012) (quoting *Hing Sum*, 602 F.3d at 1100); *see also* H.R. Rep. No. 104-469, pt. 1, at 225 (1996) (“House Rep.”) (“illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry”).

**B. IIRIRA Eliminated the Preferential Treatment of Aliens Unlawfully Present in the United States and Mandated Detention of all “Applicants for Admission.”**

Congress discarded that regime through enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996). Among other things, that law had the goal of “ensur[ing] that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA[.]” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc).

To that end, IIRIRA replaced the focus on physical “entry” with a focus on lawful “admission.” IIRIRA defined “admission” to mean “the *lawful* entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A) (emphasis added). In other words, the immigration laws would no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. Instead, the “pivotal factor in determining an alien’s status” would be “whether or not the alien has been *lawfully* admitted.” House Rep., *supra*, at 225 (emphasis added); *see also Hing Sum*, 602

F.3d at 1100. IIRIRA also eliminated the exclusion-deportation dichotomy and consolidated both sets of proceedings into “removal proceedings.” *Hurtado*, 29 I. & N. Dec. at 223.

IIRIRA effected these changes through several provisions codified in Section 1225 of Title 8. First, Section 1225(a) codifies Congress’s decision to make lawful “admission,” rather than physical entry, the touchstone. That provision provides:

An alien present in the United States who has *not been admitted* or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) *shall be deemed for purposes of this chapter an applicant for admission*.

8 U.S.C. § 1225(a)(1) (emphasis added). “All aliens . . . who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States” are required to “be inspected by [an] immigration officer[.]” *Id.* § 1225(a)(3). The inspection by the immigration officer is designed to determine whether the alien may be lawfully “admitted” to the country or, instead, must be referred to removal proceedings. *See generally id.* § 1225(b) (inspection requirements).

IIRIRA divided removal proceedings for these applicants for admission into two tracks—expedited removal (not relevant here) and normal “Section 240” proceedings—and mandated that applicants for admission be detained pending those proceedings. 8 U.S.C. §§ 1225(b)(1)-(2). Section 1225(b)(2) is a “catchall provision that applies to all applicants for admission not covered by [expedited removal pursuant to subsection (b)(1)].” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). It requires that those aliens be detained pending Section 240 removal proceedings:

Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under section 1229a of this title [Section 240].

8 U.S.C. § 1225(b)(2)(A) (emphasis added);<sup>1</sup> *see also Jennings*, 583 U.S. at 302 (holding that Section 1225(b)(2) “mandate[s] detention of aliens throughout the completion of applicable proceedings and not just at the moment those proceedings begin”).

IIRIRA also created a separate authority addressing the arrest, detention, and release of aliens generally (versus applicants for admission specifically). *See* 8 U.S.C. § 1226. This is the only provision that governs the detention of aliens who, for example, lawfully enter the country but overstay, otherwise violate the terms of their visas, or are later determined to have been improperly admitted. The statute 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.” *Id.* § 1226(a). Detention under this provision is generally discretionary: the Attorney General “may” either “continue to detain the arrested alien” or release the alien on bond or conditional parole. *Id.* § 1226(a)(1)-(2).

**C. DHS Concluded That Section 1225(b)(2) Requires Detention of All Applicants for Admission.**

For many years after IIRIRA, immigration judges treated aliens who entered the United States without admission and were later detained away from the border as being subject to discretionary detention under 8 U.S.C. § 1226(a) rather than mandatory detention under 8 U.S.C. § 1225(b)(2). *See Hurtado*, 29 I. & N. Dec. at 225 n.6. Since July 2025, the Department of Homeland Security (“DHS”) has taken the position that all aliens who enter the country without being admitted or who otherwise arrive in the United States are subject to mandatory detention under Section 1225(b) and cannot be released from ICE custody except through parole under 8

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<sup>1</sup> Subsection (b)(2) does not apply to (1) aliens subject to expedited removal, (2) crewman, (3) stowaways, or (4) aliens who “arriv[e] on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States.” 8 U.S.C. § 1225(b)(2)(B)-(C).

U.S.C. § 1182(d)(5). As a result, DHS concluded that the only aliens eligible for a custody determination and release pursuant to Section 1226(a) are those lawfully admitted but chargeable with deportability under Section 1227.

The Board of Immigration Appeals endorsed this interpretation in *Hurtado*. The Board concluded that Section 1225(b)(2)'s mandatory detention regime applies to *all* aliens who entered the United States without inspection and admission:

Aliens . . . who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer. Remaining in the United State for a lengthy period of time following entry without inspection, by itself, does not constitute an "admission."

29 I. & N. Dec. at 228; *see also id.* at 225 ("Immigration Judges lack authority to hear bond requests or to grant bond to aliens . . . who are present in the United States without admission").

#### **FACTUAL AND PROCEDURAL BACKGROUND**

Petitioner entered the United States without inspection or admission in September 2022. *See Pet.* ¶¶ 26-28; Ex. A, Declaration of Deputy Chief of Staff Sarah Lapointe ¶ 7. U.S. Customs and Border Patrol ("USBP") encountered Petitioner on or about September 29, 2022 at or near San Luis, Arizona. Ex. A ¶ 7. On or about September 30, 2022, USBP served Petitioner with a Notice to Appear, charging her as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), and a Form I-200, Warrant for Arrest, notifying her that she was taken into custody pursuant to 8 U.S.C. § 1226. *See id.* ¶ 8. On October 4, 2022, an immigration court accepted the NTA, initiating removal proceedings pursuant to 8 U.S.C. § 1229a. *Id.* ¶ 9. Petitioner was released on bond on October 13, 2022. *Id.* ¶ 10. In August 2025, Petitioner was arrested for driving under the influence of alcohol or drugs, operating a motor vehicle without a license, and failure to drive in a proper lane. *See Pet.* ¶ 29; Ex. A ¶ 11. On or around October 30, 2025, ICE detained Petitioner pursuant to 8 U.S.C. § 1225, and cancelled her immigration bond was due to her recent criminal arrest. *See Ex.*

A ¶ 12. Petitioner remains detained pending her removal proceedings remain pending. *Id.* ¶¶ 13-14. Petitioner has also filed an I-589 Application for Asylum and Withholding of Removal. *Id.* ¶ 28.

### **LEGAL STANDARD**

It is axiomatic that “[t]he district courts of the United States . . . are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil Corp. v. Allopah Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). The Supreme Court has recognized that § 2241(c)(3) confers on the District Court jurisdiction to hear habeas corpus challenges to the legality of the detention of aliens. *Rasul v. Bush*, 542 U.S. 466, 483-84 (2004) (“[Alien] Petitioners contend that they are being held in federal custody in violation of the laws of the United States. . . . Section 2241, by its terms, requires nothing more.”); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (“We note at the outset that the primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases.” (citing 28 U.S.C. § 2241(c)(3))). To warrant a grant of writ of habeas corpus, the burden is on the petitioner to prove that her custody is in violation of the Constitution, laws, or treaties of the United States. *See* 28 U.S.C. § 2241(c)(3); *Walker v. Johnston*, 312 U.S. 275, 286 (1941); *Skaftourous v. United States*, 667 F.3d 144, 158 (2d Cir. 2011).

### **ARGUMENT**

#### **A. Petitioner’s Detention is Mandated by Section 1225(b)(2).**

##### **1. Petitioner is an Applicant for Admission Subject to Mandatory Detention Under the Plain Language of Section 1225(b)(2).**

Petitioner is subject to mandatory detention because she is present in the United States without admission and is in removal proceedings. Section 1225(a)(1) defines “applicant for admission” to encompass an alien who either “arrives in the United States” or who is “present in

the United States who has not been admitted.” 8 U.S.C. § 1225(a)(1). And “admission” and “admitted” under the INA mean not physical entry, but rather “the lawful entry of the alien into the United States after inspection by immigration and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). Thus, an alien who enters the country without authorization is and remains an applicant for admission.<sup>2</sup>

In turn, Section 1225(b)(2) provides that “an alien who is an applicant for admission” “shall be detained” pending removal proceedings if the “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). The statute’s use of the term “shall” makes clear that detention is mandatory. *See Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998). Therefore, the text of the statute mandates that DHS detain all “applicants for admission” unless an exception applies. *See Chavez v. Noem*, --- F.Supp.3d ---, 2025 WL 2730228, at \*4 (S.D. Cal. Sept. 24, 2025) (denying temporary restraining order when Petitioners did not contest they were aliens present in the United States who were not yet admitted and were thus applicants for admission subject to mandatory detention under the plain language of the statute); *Pena v. Hyde*, No. 25-11983-NMG, 2025 WL 2108913, \*1 (D. Mass. July 28, 2025)

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<sup>2</sup> Relying on language from *Jennings v. Rodriguez*, 583 U.S. 281 (2018), that notes Section 1226 applies to “certain aliens already in the country,” some lower courts have refused to apply Section 1225(b)(2) in circumstances in which a noncitizen, who has not been admitted, is present in the country. *See, e.g., Lopez Benitez v. Francis*, --- F.Supp.3d ---, 2025 WL 2371588, at \*5 (S.D.N.Y. Aug. 13, 2025) (petitioner was not mandatorily detained under Section 1225(b), but rather under Section 1226(a) as someone “already in the country”). However, the Federal Respondents’ interpretation is consistent with the language from *Jennings*: Section 1226 is the exclusive source of detention authority for the “certain aliens” who are were admitted into the United States (and so are “in the country”) but are now removable. Nothing in the quoted language from *Jennings* suggests that Section 1226 is the *sole* detention authority that applies to “aliens already in the country.” *Jennings*, 583 U.S. at 289. Indeed, the passage’s use of the word “certain” conveys the opposite. At a minimum, the quoted language is ambiguous and such uncertain language is insufficient to displace the statute’s plain text and the manifest congressional purpose, especially as no part of the holding in *Jennings* required it to decide the precise scope of Sections 1225(b) and 1226.

(Section 1225(b)(2) applies to petitioner who remained an “applicant for admission” after he entered unlawfully and visa petition was pending); *Maldonado v. Bostock*, No. 23-cv-00760, 2023 WL 5804021, at \*3 (W.D. Wash. Aug. 8, 2023) (explaining that petitioner “appears to be an applicant for admission because he is a noncitizen ‘present in the United States’ and ‘has not been admitted.’”). *But see J.A.C.P. v. Wofford*, No. 1:25-cv-01354, 2025 WL 3013328, at \*3 n.4 (E.D. Cal. Oct. 27, 2025) (collecting cases rejecting argument that Section 1225(b)(2)(A) applies to all noncitizens present in the United States without admission); *Romero v. Hyde*, --- F.Supp.3d ---, 2025 WL 2403827, at \*1 (D. Mass. Aug. 19, 2025) (same).

Petitioner falls squarely within Section 1225(b)(2). Petitioner was “present in the United States” when she was detained by immigration authorities, and she has “not been admitted.” 8 U.S.C. § 1225(a)(1); *see* Pet. ¶¶ 26-28; Ex. A ¶¶ 7, 9. Moreover, Petitioner does not contend that she is “clearly and beyond a doubt entitled to be admitted,” 8 U.S.C. § 1225(b)(2)(A), but rather acknowledges she has not been admitted. *See* Pet. ¶¶ 26-28 (describing ongoing immigration proceedings and asylum application). Therefore, under the plain language of Section 1225, Petitioner “shall be detained for a proceeding under [8 U.S.C. § 1229a].”

Prior agency practice—including DHS’s earlier decision to release Petitioner on bond—does not change the analysis here. Courts must “independently interpret the statute and effectuate the will of Congress subject to constitutional limits.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395 (2024). The agency’s prior practice therefore carries little weight. *See Maldonado*, 2023 WL 5804021, at \*3-4 (noting the agency provided “no authority for the proposition that DHS retains discretion to sidestep or override Section 1225 . . . and ‘choose’ between Sections 1225 and 1226 when it processes an applicant for admission.”); *Romero v. Bondi*, No. 1:25-cv-993, 2025 WL 2490659, at \*3 (E.D. Va. July 2, 2025) (finding petitioner’s detention governed by §

1225(b)(1)(B)(ii) when, despite being released on bond under Section 1226(a) and later re-detained, petitioner had never been admitted into the United States and therefore he remained an “applicant for admission.”); *Hurtado*, 29 I. & N. Dec. at \*227 (“the mere issuance of an arrest warrant does not endow an Immigration Judge with authority to set bond for an alien who falls under [Section 1225(b)].”). “[R]ead most naturally, §§ 1225(b)(1) and (b)(2), mandate detention for applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297 (cleaned up). Because Petitioner’s removal proceedings have not concluded Section 1225(b)(2) requires that she remain detained.

**2. Section 1225(b)(2)’s Reference to Aliens “Seeking Admission” Does Not Narrow Its Scope.**

Petitioner argues that Section 1225(b)(2) does not apply because she is not currently “seeking admission.” Petitioner’s argument both legally flawed and factually inaccurate, particularly given her pending asylum application.

First, Section 1225(b)(2) has no requirement that an alien be actively or affirmatively seeking admission. *See Chavez*, 2025 WL 2730228, at \*4 (rejecting Petitioner’s argument that Section 1225(b)(2) is inapplicable because they have not “affirmatively sought admission”). *But see, e.g., Lopez Benitez*, --- F.Supp.3d ---, 2025 WL 2371588, at \*6-7 (S.D.N.Y. Aug. 13, 2025) (holding that Section 1225(b)(2) only applies to aliens who are “actively” seeking admission); *Romero*, 2025 WL 2403827, at \*9-10 (the phrase “seeking admission” requires present-tense action). Such a requirement is entirely absent from the text of the statute. Rather, Section 1225 itself makes clear that a noncitizen who is an “applicant for admission” is simply engaged in one way of “seeking admission.” *See* 8 U.S.C. § 1225(a) (“[a]ll aliens . . . who are applicants for admission *or otherwise* seeking admission or readmission . . . shall be inspected.”) (emphasis added); *see also Matter of Lemus-Losa*, 25 I & N. Dec. 734, 743 (BIA 2012) (“[M]any people who

are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be ‘seeking admission’ under the immigration laws”). Although there is necessarily some overlap between “applicants for admission” and aliens “seeking admission,” redundancy is “not a license to rewrite” the statute “contrary to its text.” *Barton v. Barr*, 590 U.S. 222, 223 (2020) (refusing to interpret provisions of the INA that create “redundant surplusage” in a manner that would “entirely rewrite” the statute). And that is especially true, where that rewriting would be so clearly contrary to Congress’s objective in passing the law, as set forth below.

Moreover, even if Section 1225(b)(2) only applied to noncitizens who are “actively seeking admission,” Petitioner is in fact doing so. Petitioner acknowledges that she filed an I-589 Application for Asylum and Withholding of Removal. Pet. ¶ 28. She has thus taken a “present-tense action” to “actively” seek admission to the country. *Lopez Benitez*, 2025 WL 2371588, at \*6-7. Therefore, this case is distinguishable from those in which courts hold Section 1225(b)(2) to be inapplicable on the ground that the noncitizen had not taken some active or affirmative step to seek admission. Petitioner is clearly an applicant for admission who is seeking admission, including through affirmatively filing an application for asylum. She is thus subject to mandatory detention pursuant to Section 1225(b)(2).

### **3. Congress Intended Mandatory Detention for All Applicants for Admission Under Section 1225(b)(2).**

The mandatory nature of detention for all applicants for admission under Section 1225(b)(2) is further supported by the statutory history of the INA. Application of Section 1226(a) to individuals in Petitioner’s situation would subvert IIRIRA’s express goal of eliminating preferential treatment for aliens who enter the country unlawfully. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting interpretation that would lead to result “that Congress designed the Act

to avoid”); *New York State Dep't of Soc. Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973) (“We cannot interpret federal statutes to negate their own stated purposes.”).

As discussed above, one of IIRIRA’s express objectives was to dispense with the inequitable pre-1996 regime under which aliens who entered the United States unlawfully were given “equities and privileges in immigration proceedings that [were] not available to aliens who present[ed] themselves for inspection” at the border, including the right to secure release on bond. House Rep., *supra*, at 225. Applying Section 1226(a) to Petitioner’s detention would restore the regime Congress sought to discard; it would require detention for those who present themselves for inspection at the border in compliance with law, yet grant bond hearings to aliens who evade immigration authorities, enter the United States unlawfully, and remain there unlawfully until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate.

#### **B. Petitioner’s Detention Does Not Violate the Constitution**

Because Petitioner is properly detained pursuant to Section 1225, she is not entitled to a bond hearing. While Petitioner claims that her detention violates due process, “[d]etention during removal proceedings is a constitutionally valid aspect of the deportation process.” *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)). And although detention pursuant to section 1225(b) is mandatory, it is not indefinite. On the contrary, “§§ 1225(b)(1) and (b)(2) . . . provide for detention for a specified period of time.” *Jennings*, 583 U.S. at 299. Specifically, detention shall continue “until removal proceedings have concluded.” *Id.* (internal citation omitted). “Once those proceedings end, detention under § 1225(b) must end as well.” *Id.* at 297. Further, while section 1225(b) does not provide for bond hearings, it does not preclude relief entirely. In fact, it contains a specific provision authorizing DHS to permit temporary parole for “urgent humanitarian reasons or significant public benefit” to

noncitizens detained under §§ 1225(b)(1) and (b)(2). See *Jennings*, 583 U.S. at 300 (quoting 8 U.S.C. § 1182(d)(5)(A)). Here, Petitioner has yet to seek any relief from the Immigration Court and has not challenged the length of her detention, which has been less than two weeks. Therefore, she has not established a Fifth Amendment violation.

**C. Any Potential Relief Is Limited to a Bond Hearing.**

Petitioner requests that the Court issue a writ of habeas corpus ordering Respondents to release her immediately, or in the alternative, to provide Petitioner with a bond hearing. Pet. at 14. Where courts have expressed concerns about due process due to the unavailability of bond, immediate release is not the proper remedy. Rather, “the comfortable majority position—both historically and in recent weeks—is to instead require a bond hearing before an IJ.” *Lopez-Arevelo v. Ripa*, No. --- F.Supp.3d ---, 2025 WL 2691828, at \*12-13 (W.D. Tex. Sept. 22, 2025). As the Court noted in *Lopez-Arevelo*, the petitioner’s rights “are not violated by the very fact of his detention. Rather, they are violated because he has been detained without a bond hearing that accords with due process.” 2025 WL 2691828, at \*12. In these instances, courts thus have ordered that a bond hearing be held. *Id.* (citing *Velasquez Salazar v. Dedos*, No. 25-cv-835, 2025 WL 2676729, at \*9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo*, No. 24-cv-221, 2025 WL 2653707, at \*1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-cv-4987, 2025 WL 2614688, at \*1 (S.D.N.Y. Sept. 10, 2025); *Arostegui-Maldonado v. Baltazar*, --- F. Supp. 3d ---, 2025 WL 2280357, at \*12 (D. Colo. Aug. 8, 2025)). *But see, e.g., Lopez Benitez*, 2025 WL 2371588, at \*15 (ordering immediate release following grant of habeas due to due process violations).

For the reasons discussed above, intervention by this Court is at best, premature. Petitioner has not had the opportunity to present any defenses to removal and has not requested and been denied the opportunity for a bond hearing with an Immigration Judge. Even if the Court were to find that the facts and law support a finding which merits this Court’s intervention, the Court

should not order her immediate release. Instead, the Court should provide the opportunity for further evaluation of the propriety and terms of her potential release or continued detention by an Immigration Judge. This is particularly true here, given that Petitioner's recent arrest for driving while intoxicated is highly relevant to analyzing her eligibility for release. *See* 8 C.F.R. § 1003.19 (eligibility for release on bond takes into account whether noncitizen poses a danger to the community).<sup>3</sup>

### **CONCLUSION**

For the reasons discussed herein, the Court should deny the petition for a writ of habeas corpus.

Dated at Burlington, in the District of Vermont, this 7th day of November, 2025.

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<sup>3</sup> There is no basis for further extension of the Temporary Restraining Order (TRO) beyond the current November 21, 2025 deadline. *See* ECF No. 8. Indeed, Petitioner's claims present purely legal issues, and thus, there is no need for further injunctive relief upon resolution of her claims.