UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

P.B. Petitioner, v. **THOMAS BERGAMI,** Warden, Prairieland Detention Center; **JOSHUA JOHNSON,** Field Office Director, Dallas Field Office, U.S. Immigration and Customs Enforcement **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security; **PAMELA BONDI,** Attorney General of the United States, in their official capacities Respondents.	**CIVIL ACTION NO. 3:25-cv-2978**

PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR ORDER TO SHOW CAUSE

Petitioner P.B. brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241; the All Writs Act, 28 U.S.C. § 1651; and Article I, Section 9, of the United States Constitution. P.B. alleges in support of her petition as follows:

INTRODUCTION

1. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and

imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

2. The Great Writ exists precisely to protect the constitutional rights of vulnerable individuals such as Petitioner P.B.—who is being detained without lawful authority and due process, and while in detention, is being denied necessary medical care and other basic human needs.

3. P.B. is a 21-year-old Colombian woman who entered the United States in November 2024. Upon entry, she presented herself immediately to border patrol officials and was detained by the Department of Homeland Security (DHS). During her detention, P.B. met with an asylum officer, who determined that she demonstrated a credible fear of persecution or torture. Ex. B-2 Notice to Appear. Based on this determination, on December 4, 2025, DHS vacated P.B.'s § 1225 detention order under 8 CFR § 208.30 and issued her a Notice to Appear for an asylum hearing, which remains pending. *Id.* DHS subsequently released and paroled P.B. into the United States on or about January 13, 2025, pursuant to its authority under section 212(d)(5)(A) of the INA for "urgent humanitarian reasons or significant public benefit." Ex. B-1 Interim Authorizing Parole.

4. Since her release, P.B. has resided in Dallas, Texas and lived a quiet and peaceful life with her family. She cares for her 1-year-old sister who is a United States Citizen ("USC"), and in her spare time, she studies English and attends church with her family. Before she was recently detained, she complied with the law and all the conditions of her parole, including presenting for scheduled check-ins with Immigration and Customs Enforcement (ICE).

5. On or around February 19, 2025, P.B. attended her first check-in with no issue. Ex. B Decl. of P.B. at ¶ 15. When she presented for her second check-in on October 14, 2025, however,

ICE agents inexplicably arrested and detained her. P.B. has since been detained at Prairieland Detention Center ("Prairieland") for 17 days.

6. P.B. has Type 1 diabetes. Management of her condition requires daily doses of insulin, a specialized diet, and adequate water. During her detention at Prairieland, she has routinely been denied all three. As a result of her inadequate medical care, P.B. has suffered severe adverse health consequences—at one point requiring her to be hospitalized for several days. In addition, Prairieland's failure to provide P.B. with adequate insulin puts her at risk for a host of other long-term health concerns, including the risk of diabetic coma and death.

7. Upon information and belief, P.B. is being detained pursuant to 8 U.S.C. § 1225 (also known as INA § 235), under a July 8, 2025 policy memorandum ("the July 8 Memorandum" or "the Memorandum") mandating detention without a bond hearing of all noncitizens who are not deemed admissible. *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, Am. Immigr. Laws. Ass'n, https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited Oct. 27, 2025) [https://perma.cc/4Q6X-GAZC].

8. This detention is unlawful for many reasons. First, P.B. cannot be lawfully classified as a § 1225 detainee because she is not an alien "seeking admission" to the United States—she has already lived peacefully in this country for nearly a year. Indeed, P.B. was previously detained under § 1225 when she presented at the border "seeking admission" into the United States, but her § 1225 order was already vacated by DHS when she was found to have demonstrated a fear of persecution or torture. DHS lacks statutory authority to detain P.B. a second time under § 1225. And, even if DHS could lawfully detain P.B. a second time under § 1225, her present detention constitutes revocation of her humanitarian parole under 8 U.S.C. § 1182(d)(5)(A)

(also known as INA 212(d)(5)) without minimal process, as required by the Due Process Clause of the Fifth Amendment.

9. To the extent that Respondents alternatively detained P.B. pursuant to its discretionary authority under § 1226, DHS was required to make an individualized assessment of any danger she posed to the health or safety of others, and of her flight risk prior to detention. Here, the individualized assessment was either not made or was inadequate, and therefore P.B.'s detention violates the Due Process Clause of the Fifth Amendment.

10. Moreover, the July 8 Memorandum itself violates the Administrative Procedure Act, because it is a substantive policy change DHS promulgated without notice-and-comment rulemaking. The Memorandum arbitrarily and capriciously altered longstanding agency interpretation of the INA, and it is contrary to the Due Process Clause.

11. Finally, the conditions of P.B.'s detention—including her inadequate access to medication, appropriate food, and adequate water—themselves constitute a violation of her rights under the Due Process Clause of the Fifth Amendment.

12. P.B. therefore respectfully petitions this Court to issue a Writ of Habeas Corpus ordering Respondents to release her immediately or, in the alternative, to schedule a bond hearing before an immigration judge at which Respondents bear the burden of showing, by clear and convincing evidence, that P.B. is a flight risk or a danger to the community.

JURISDICTION

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and/or the All Writs Act, 28 U.S.C. § 1651.

VENUE

16. Venue is proper because Petitioner is detained at 1209 Sunflower Lane Alvarado, TX 76009, which is within the jurisdiction of this District.

17. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to P.B.'s claims occurred in this District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

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

PARTIES

19. Petitioner is a citizen of Colombia and a resident of Dallas, Texas. Petitioner is in the custody, and under the direct control, of Respondents and their agents.

20. Respondent Thomas Bergami is sued in his official capacity as the Warden of the Prairieland. Respondent is a legal custodian of Petitioner and has authority to release her.

21. Respondent Joshua Johnson is sued in his official capacity as the Director of the Dallas Field Office of U.S. Immigration and Customs Enforcement. Respondent Joshua Johnson is a legal custodian of Petitioner and has authority to release her.

22. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs, the component agency responsible for Petitioner's custody. Respondent Noem is a legal custodian of Petitioner.

23. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In this capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

24. P.B. is a 21-year-old citizen of Colombia. She escaped to the United States in 2024 after [redacted] repeatedly threatened to kill P.B. and other members of her family. She currently lives in Dallas, Texas with her mother, stepfather, 17-year-old sister, and 1-year-old sister. P.B. serves as the caretaker of her USC sister. Ex. B. Decl. of P.B. at ¶ 12.

25. P.B. suffers from Type 1 diabetes and requires regular access to her insulin. Additionally, she requires to maintain a diabetic-friendly diet consisting of vegetables, protein, and fruits. *Id.* at ¶ 18.

26. On November 15, 2024, P.B. entered the United States with her then-16-year-old sister via El Paso, Texas. At that time, P.B. immediately presented herself to DHS and was detained by DHS in El Paso, Texas. *Id.* at ¶ 8.

27. During her detention, P.B. met with an asylum officer, who concluded that P.B. demonstrated a credible fear of persecution or torture. Ex. B-2 Notice to Appear. A Supervisory Asylum Officer subsequently vacated P.B.'s Section 235(b)(1) pursuant to 8 C.F.R. 208.30 and ordered her to appear before an immigration judge on February 6, 2025. *Id.* P.B. requested a change in venue for her immigration proceedings to Dallas, TX, which was granted. Decl. of P.B. at ¶ 10. She was then assigned a new court date, which remains pending. *Id.*

28. On or around January 13, 2025, DHS released and paroled P.B. into the United States pursuant to its authority under section 212(d)(5)(A) of the INA. Ex. B-1 Interim Authorizing Parole. DHS released P.B. into the United States with a monitoring bracelet and an order to report to the ICE office at 8101 N. Stemmons Fwy Dallas, TX 75247 on February 19, 2025. *Id.* at ¶ 11.

29. On or around February 19, 2025, P.B. reported to the Dallas ICE Non-Detained Office as instructed and successfully completed her first check-in with no issues. *Id.* at ¶ 15.

30. On or around September 5, 2025, immigration counsel, on behalf of P.B., filed an I-589, Application for Asylum and for Withholding of Removal, claiming asylum based on being a member of a particular social group and the torture convention. *Id.* at ¶ 13. P.B.'s asylum application is currently pending, and her individual hearing is scheduled before Judge Jennifer Winfield on January 20, 2026, at 1:00 pm. Ex. B-3 EOIR Docket Sheet.

31. On or around October 14, 2025, P.B. presented for her second post-release check-in with the Dallas ICE Office as instructed. At that time, she was told to present to a second immigration office location. *Id.* at ¶ 16. As instructed, P.B. went to the second immigration

office. At that second location, she was arrested and detained without explanation or notice. *Id.* at ¶ 17.

32. During her initial detention at the immigration office, P.B. notified the staff that she is diabetic and requested insulin repeatedly. *Id.* at ¶ 19. P.B. was not given any insulin by the immigration office and instead was transferred to Prairieland. *Id.*

33. Upon her arrival at Prairieland, P.B. made three to four additional requests for insulin. *Id.* When she still was not given insulin after these repeated requests, P.B. began to feel ill due to her insulin withdrawal. She requested water from Prairieland staff, but she was told that there was no water available for her to drink. *Id.* at ¶ 20. Due to her extreme thirst (a symptom of Type 1 diabetes), P.B. resorted to drinking her own urine. *Id.*

34. On October 15, 2025, P.B. was hospitalized due to complications related to insulin withdrawal. At the hospital, the medical staff tested her blood sugar levels, administered insulin, and put her on a diabetic diet. *Id.* at ¶ 21.

35. P.B. was returned to Prairieland on October 18, 2025. *Id.* at ¶ [X].

36. Upon returning to Prairieland, P.B. struggled to receive the medication and food and water that she needs. *See Alvarado Aguilar v. Johnson*, 3:25-cv-01939, (N.D. Tex.) (identifying another detainee with Type 1 diabetes at Prairieland who was not receiving proper medical care).

37. For most of her detention, P.B. has received only a fraction of her necessary dosage of insulin. *Id.* at ¶ 23. Although P.B. requires 20 units of rapid-acting insulin a day, she has generally only received 5-10 units a day. Although P.B. requires 40 units of long-acting insulin a day, she has generally only received 20 units a day.

38. Because she frequently did not receive the necessary dosage of insulin, P.B. has suffered from symptoms of insulin withdrawal. These include headaches, frequent urination, extreme thirst, and severe fatigue. In addition, P.B. is at risk of long-term health complications due to her inadequate insulin dosage, including organ damage, vision loss, and diabetic coma. *Id.* at ¶ 27.

39. The health problems that P.B. is experiencing as a result of her inadequate insulin dosage are exacerbated by the diet she is being provided at Prairieland. During her detention, P.B. has not been provided a diet conducive to her diagnosis, and instead has been given primarily "bread, potatoes, sweet fruit juice, oatmeal, and processed meats." *Id.* at ¶ 25. All of these are high sugar foods that exacerbate her diabetes.

40. P.B. also continues to struggle to receive adequate water. One consequence of her inadequate insulin dosage and high sugar diet is that P.B. must frequently urinate and becomes dehydrated easily. *Id.* at ¶ 26. But she has not been provided adequate water despite frequent requests. *Id.* at ¶ 26.

41. As of the filing date of this Petition, DHS has detained P.B. for approximately 17 days without a bond hearing or any meaningful review of her custody.

42. P.B. is being held at the Prairieland under conditions that are far more punitive than those of county jail inmates serving criminal sentences.

43. Upon information and belief, DHS has designated P.B.'s present detention as mandatory detention under 8 U.S.C. § 1225, pursuant to DHS's July 8 Memorandum instructing ICE officials to invoke § 1225 when detaining any persons who were not deemed admissible.

44. DHS § 1225 detention does not apply to P.B., among other reasons, because she was previously released on parole pursuant to INA 212(d)(5)(A) and a positive credible fear

determination and active asylum case. Hence, P.B. is being detained arbitrarily, illegally, and indefinitely without a bond hearing. Additionally, her health is actively declining due to the lack of urgency by Prairieland's staff to provide adequate medical attention.

45. If released, P.B. will live with her immediate family, including her 1-year-old USC sibling. Her immigration proceedings will continue in immigration court, and she will continue to comply with all immigration directives.

EXHAUSTION

46. As a noncitizen challenging the lawfulness of her detention, P.B. is not statutorily required to exhaust administrative remedies. *C.f.* 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies prior to challenging removal order in circuit court); *Lopez-Arevelo v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (holding that administrative exhaustion is not required when a detained individual is raising a due process claim due to their ongoing detention).

47. Because the circumstances of P.B.'s detention leave her with "no genuine opportunity for adequate relief," *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003), she is also excused from any prudential requirement of administrative exhaustion.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT – P.B.'S DETENTION IS UNLAWFUL

48. The allegations in the above paragraphs are realleged and incorporated herein.

49. Under 8 U.S.C. § 1225(b)(2)(A), noncitizens "seeking admission" into the United States are subject to mandatory detention if they are "not clearly and beyond a doubt entitled to be admitted[.]" On its face, § 1225 applies only to "alien[s] at the threshold of initial entry." *Lopez-Arevelo*, 2025 WL 2691828.

50. In contrast, a noncitizen not on the threshold of initial entry—including those who have already been released on parole and established a life in the United States—are not subject to mandatory detention under § 1225. *Id.* (concluding that the petitioner was not detained under § 1225(b) because he had already been detained on his initial entry); *see Martinez v. Hyde*, No. 25-11613-BEM, 2025 WL 2084238, at *4 (D. Mass. July 24, 2025) (dismissing Respondents' argument that "virtually every non-citizen not previously admitted to the United States is subject to mandatory detention, without the possibility of a bond hearing, regardless of how long or under what circumstances that person has maintained a presence in the United States").

51. Instead, the Attorney General may exercise discretionary authority under 8 U.S.C. § 1226(a) to arrest and detain noncitizens pending a determination on their removability. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (holding that the INA "authorizes the Government to detain certain aliens *seeking admission* into the country under §§ 1225(b)(1) and (b)(2)," but it "also authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).") (emphasis added); *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (Att'y Gen. 2019) (determining that §§ 1225 and 1226 "can be reconciled only if they apply to different classes of aliens.")

52. However, certain procedural and substantive requirements must be met for a noncitizen to be detained under § 1226. Among other requirements, the implementing regulations of § 1226(a) require individualized assessments when arresting a noncitizen. *See* 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien . . . provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding."); *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *9

(W.D. Tex. Sept. 8. 2025) (interpreting 8 C.F.R. § 1236.1(c)(8) as requiring individualized custody determinations). A noncitizen detained under § 1226(a) is also entitled to a bond hearing in which "the burden of proof should be on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk." *Id.*

53. P.B. was already detained upon her arrival in the United States under Section 1225 and released on parole pursuant to INA section 212(d)(5)(A). As a noncitizen who has resided in the United States for over 11 months, she is not properly designated as an arriving alien "seeking admission into the country" but rather an "alien[] already in the country pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289; *but cf. Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020) (emphasizing the ruling's narrow posture—an individual apprehended 25 yards from the border in expedited removal—and reserving broader questions about habeas and due process for noncitizens with more substantial ties or different circumstances).

54. DHS's continued detention of P.B. under § 1225 therefore does not comport with the text and purpose of the INA. Section 1225's "active construction" in the phrase "seeking admission" requires "some sort of present-tense action"—and a noncitizen who has already "entered the country (albeit unlawfully)" cannot "continue [] to be actively *seeking*" lawful entry. *Id.* at *6 (citations and internal quotation marks omitted) (emphasis added). *Lopez-Arevelo*, 2025 WL 2691828 (holding that an individual detained after living in the United States can lawfully challenge their detention as opposed to an individual on the "threshold of initial entry").

55. Because P.B. is not subject to mandatory detention under § 1225, her continued detention without a bond hearing violates the INA.

56. To the extent DHS is detaining P.B. under 8 U.S.C. § 1226, her detention is nevertheless unlawful because DHS has failed to perform an adequate individualized assessment, as required by the statute. If she is not immediately released, P.B. is entitled to a bond hearing before an immigration judge.

SECOND CAUSE OF ACTION

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT – P.B.'S DETENTION IS UNCONSTITUTIONAL.

57. The allegations in the above paragraphs are realleged and incorporated herein.

58. P.B.'s continued detention also violates her rights under the Due Process Clause of the Fifth Amendment.

A. DHS's re-detention of P.B. violates the Due Process Clause of the Fifth Amendment.

59. The Supreme Court has directed that a procedural due process challenge must balance three factors set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Those factors are: "First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

60. In P.B.'s case, each of these factors weighs in favor of her immediate release.

61. As to the first element, P.B. has strong private interests in maintaining her freedom from detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (holding that "[t]he interest in being free from physical detention' is 'the most elemental of liberty interests."). In *Lopez-Arevelo*, 2025 WL 2691828, the court held that after being released from immigration custody, noncitizens have a "protectable liberty interest in remaining out of custody on bond." *Id.* at 22.

62. Even if P.B.'s detention is construed as a detention under § 1225, DHS still did not accord her minimal process when it detained her, effectively revoking her humanitarian parole. P.B. was initially detained upon her arrival to the United States in pursuant to § 1225, not § 1226, and her subsequent release was based on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A). Accordingly, her alleged re-detention at present under § 1225 constitutes a revocation of her § 1182(d)(5)(A) parole without any process or notice, which violates her Fifth Amendment rights. *Id.*

63. Under the second *Mathews* element, the court will determine "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Martinez*, 2025 WL 2598379, at *3 (quoting *Gunaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154, at *8 (D. Minn. May 21, 2025)). The risk of erroneous deprivation of liberty is proven: P.B. has been re-detained without a bond hearing or individualized findings of danger or flight risk. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). In fact, there is no evidence P.B. poses any danger to the community or is at risk of fleeing. P.B. has resided in the United States for 11 months without incurring any criminal charges. P.B. has also complied with all instructions provided to her by immigration officials, including appearing at immigration check-ins.

64. An individualized assessment through a bond hearing or otherwise would constitute an alternative procedure that would minimize the risk of erroneous deprivation of her liberty. *See* 8 C.F.R. §§ 236.1(c)(8), 1003.19(h)(3) (highlighting that immigration decisionmakers retain the ability to conduct custody determinations).

65. Finally, the government's interest here is weak and its burden would be very small,

as the procedural safeguard that P.B. seeks is merely what Respondents are already legally required to do: conduct an individualized assessment to determine whether her own facts and circumstances have changed such that he is now a flight risk or a danger to his community. *See* 8 U.S.C. § 1226(a); *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Had Respondents conducted such an assessment, they would have concluded that no facts or circumstances had changed to justify a revocation of P.B.'s parole. *See generally* Ex. B. Decl. of P.B. Indeed, it is not clear that Respondents have any interest at all in re-detaining P.B. *See Addington v. Texas*, 441 U.S. 418, 426 (1979). ("The [government] has no interest in confining individuals involuntarily if they . . . do not pose some danger."); *Morrissey*, 408 U.S. at 483 ("[T]he State has no interest in revoking parole without some informal procedural guarantees.").

66. Because Respondents revoked P.B.'s parole without a rational and individualized determination of whether she is a safety or flight risk, and they have not identified any government interest to re-detain her, they have violated her constitutional right to due process.

B. Respondent's failure to provide adequate medical care and adequate confinement conditions to P.B.R. violates the Due Process Clause of the Fifth Amendment.

67. "[T]he State cannot punish a pretrial detainee." *Hare v. City of Corinth, Miss.*, 74 F.3d 633, 639 (5th Cir. 1996) (citation omitted); *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). The government violates the due process rights of individuals in civil detention when their conditions of confinement "amount to punishment." *Garza v. City of Donna*, 922 F.3d 626, 632 (5th Cir. 2019), *cert. denied sub nom. Garza v. City of Donna, Texas*, 140 S. Ct. 651 (2019).

68. Conditions of confinement violate the Fifth Amendment—and therefore immigration detainees' due process rights—where they bear "no reasonable relationship to a legitimate governmental interest." *Duvall v. Dallas Cty., Tex.*, 631 F.3d 203, 207 (5th Cir.

2011). [1]

69. Here, P.B. is subject to conditions of confinement that expose her to the serious risks associated with untreated Type 1 diabetes. "[A] pervasive pattern of serious deficiencies" that subjects a detainee to the risk of serious injury, illness, or death amounts to unconstitutional punishment in violation of due process. *See Shepherd v. Dallas Cty.*, 591 F.3d 445, 454 (5th Cir. 2009); *Duvall*, 631 F.3d at 207 (quoting *Hare*, 74 F. 3d at 644) ("[T]he law is well settled that 'even where a State may not want to subject a detainee to inhumane conditions of confinement or abusive jail practices, its intent to do so is nevertheless presumed when it incarcerates the detainee in the face of such known conditions and practices.'").

70. Here, the conditions of P.B.'s detention violates ICE's own guidelines.

71. The National Detention Standards 2025 ("NDS") outlines the rules and regulations that guide ICE actions as they relate to immigration detention and removal enforcement. U.S. Immigration & Customs Enforcement, *National Detention Standards Revised 2025* (2025).

72. Standard 4.3 Section I of the NDS states that "All detainees shall have access to appropriate medical, dental, and mental health care, including emergency services." It further notes that "every facility shall directly or contractually provide to its detainee population with the following: initial medical… screening, medically necessary and appropriate medical… and pharmaceutical services…, emergency care…, hospitalization as needed…, and Staff or professional language services necessary to allow for access for detainees with limited English proficiency (LEP), and effective communication for detainees with disabilities, during any medical

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[1] In such cases, "it is assumed that 'by the [defendant's] very promulgation and maintenance of the complained-of condition . . . it intended to cause the alleged constitutional deprivation.'" *Cadena v. El Paso Cty.*, 946 F.3d 717, 727 (5th Cir. 2020) (quoting *Scott v. Moore*, 114 F.3d 51, 53 (5th Cir. 1997)).

or mental health appointment, sick call, treatment, or consultation." ICE, *National Detention Standards Revised 2025*, Standard 4.3 "Medical Care" (2025).

73. Contrary to the Respondents' own guidance set forth in the NDS, Respondents have refused P.B. access to vital medical care.

74. Refusal to provide proper medical treatment for Type 1 diabetes, including access to adequate insulin, a diabetic-friendly diet, and adequate water, serves no legitimate purpose. *See Shepherd*, 2008 WL 656889 at *7 (denying government's motion for summary judgment because "a reasonable jury could find under the Bell standard that the conditions to which [a detainee] was subjected"—refusal to monitor or provide medicine for a known medical condition that resulted in a stroke—"were not reasonably related to a legitimate government purpose and therefore 'punished' him, in violation of his Fourteenth Amendment rights"). Nor is detention under these circumstances reasonably related to the enforcement of immigration laws. *See Unknown Parties v. Johnson*, 2016 WL 8188563, at *5, *15 (D. Ariz. Nov. 18, 2016), *aff'd sub nom. Doe v. Kelly*, 878 F.3d 710 (9th Cir. 2017). In *Zadvydas v. Davis*, the Supreme Court held that "[t]here is no sufficiently strong special justification . . . for indefinite civil detention." 533 U.S. 678, 690 (2001). If the government's interest in effectuating removal and protecting the community cannot justify indefinite detention, it also cannot justify the similarly "potentially permanent" medical harm and death that P.B. could well face. *See id.* at 690–91.

75. In addition to inadequate medical care, P.B. has been subjected to overcrowding that deprives her of an actual bed and mattress and forced her to sleep on a plastic mat on the floor. This is a clear violation of P.B.'s due process clause rights. *See Scott v. Moore*, 114 F.3d 51, 53 & n.2 (5th Cir. 1997) (en banc) (recognizing that "[i]nadequate food, heating, or sanitary conditions," overcrowding, and policies refusing detainees access to medication constitute

unconstitutional conditions of confinement).

76. In *Thompson v. City of Los Angeles*, the court held that "[d]etention facilities (and prisons) must provide detainees held overnight with beds and mattresses. The absence of either violates detainees' due process rights." 885 F.2d 1439, 1448 (9th Cir. 1989); *accord Anela v. City of Wildwood*, 790 F.2d 1063, 1069 (3rd Cir. 1986)). Courts have recognized that detention facilities must provide detainees held overnight with both a bed and a mattress because the absence of either constitutes unconstitutional punishment of civil detainees. That principle has been reaffirmed across jurisdictions, including decisions holding that "the use of floor mattresses—mattresses without bed frames—is unconstitutional without regard to the number of days a person is so confined." *Id.* (quoting *Lareau v. Manson*, 651 F.2d 96, 105 (2nd Cir. 1981)); *Unknown Parties v. Johnson*, 2016 WL 8188563, at *7.

77. Here, Petitioner has been compelled to sleep in precisely these conditions due to overcrowding, which transforms her civil detention into punitive treatment not reasonably related to any legitimate governmental purpose. The government's failure to provide basic sleeping accommodations falls below the minimum standards of decency required for civil detention, is excessive in relation to any asserted objective, and therefore violates substantive due process. Immediate relief is warranted to remedy these ongoing constitutional violations.

THIRD CAUSE OF ACTION

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – THE DHS JULY 8, 2025, MEMORANDUM IS ARBITRARY, CAPRICIOUS, AND CONTRARY TO LAW

78. The allegations in the above paragraphs are realleged and incorporated herein.

79. On July 8, 2025, ICE undertook a new nationwide campaign to detain people appearing for a regularly scheduled check-in with ICE without assessing their dangerousness or

flight risk. *See ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, Am. Immigr. Laws. Ass'n, https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited Oct. 27, 2025) [https://perma.cc/4Q6X-GAZC] (July 8, 2025 memo from Todd Lyons, acting ICE director, instructing ICE employees to detain immigrants who arrived in the United States without legal authorization while they fight their deportation proceedings in immigration court and arguing they are no longer eligible for bond hearings).

80. Respondents, acting through DHS and ICE, executed on the July 8, 2025, Memorandum by detaining noncitizens encountered within the United States regardless of the circumstances of their entry, including P.B.

81. As a substantive policy change, the Memorandum constitutes a "rule" and accordingly violates the Administrative Procedure Act ("APA") because it was issued without notice-and-comment rulemaking, as required by 5 U.S.C. § 553(c).

82. By categorically designating all noncitizens who are present in the United States as applicants for admission, ineligible for parole, and ineligible for a bond hearing, the Memorandum departs from longstanding interpretations of the mutually exclusive scopes of § 1225 and § 1226 without a reasoned explanation and consequently is arbitrary and capricious under 5 U.S.C. § 706(2)(A).

83. For these reasons, the July 8, 2025, Memorandum violates the APA.

FIFTH CAUSE OF ACTION

VIOLATION OF THE REHABILITATION ACT § 504, 29 U.S.C. § 794

84. P.B. re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

85. Section 504 of the Rehabilitation Act prohibits public entities receiving federal funding from discriminating against qualified individuals or depriving them of the benefits of the entities' programs or activities, on the basis of the disability. *See* 29 U.S.C. §§ 794(a), (b).

86. A federally funded agency illegally discriminates against individuals with disabilities when it fails to provide "meaningful access" to its benefits, programs, or services. *Alexander v. Choate*, 469 U.S. 287, 301, 304–05 (1985); *Cadena v. El Paso Cnty.*, 946 F.3d 717 (5th Cir. 2020). Section 504 requires federally funded entities to remedy a lack of meaningful access by providing "reasonable accommodation." *Disabled in Action*, 752 F.3d at 197; *see also Henrietta D. v. Bloomberg*, 331 F.3d 261, 272–73 (2d Cir. 2003). A proposed accommodation is reasonable if it does not fundamentally alter the nature of the federal program or impose an undue hardship. *See id.* at 280–81.

87. It is the Government's burden to prove that an accommodation is not necessary because it either poses a "fundamental alteration" or "undue financial or administrative burdens." 28 C.F.R. § 35.150(a)(3); *Choate*, 469 U.S. at 299–300, 302 n.21; 28 C.F.R. § 35.130(b)(7)(i).

88. To state a claim under the Rehabilitation Act, a petitioner must show that: (1) she is a qualified individual, pursuant to 29 U.S.C. § 705(20) and 6 C.F.R. § 15.3(d)(1)(ii); (2) Respondent is subject to the Act, namely that it is a public entity that receives federal assistance, *see* 29 U.S.C. §§ 794(a), (b); and (3) Petitioner was denied the benefits of, or discriminated against while participating in, one of defendant's programs or activities because of her disability. *See id.*; *see also Kiman v. N.H. Dep't of Corr.*, 451 F.3d 274, 283 (1st Cir. 2006) (listing the three requirements to bring a claim under the Rehabilitation Act). All factors are met here.

89. P.B. is a qualified individual with a disability under 6 C.F.R. § 15.3(d)(1)(ii) due to her Type 1 diabetes diagnosis.

90. Respondents receive federal funding and are subject to the Rehabilitation Act. Section 504 therefore requires that Respondents make reasonable accommodation for P.B.'s disabilities in connection with her immigration proceedings.

91. Respondents have violated section 504 by subjecting P.B. to re-detention rather than making reasonable modifications to its detention policy so as to avoid discrimination against her on the basis of her medical disability.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(3) Require Respondents to keep Petitioner in this District pending these proceedings or if relocated, require Respondents to keep Petitioner in this District pending these proceedings;

(4) Declare that the Petitioner's detention violates 8 U.S.C. § 1225 or, in the alternative, that her detention without a bond hearing violates 8 U.S.C. § 1226;

(5) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

(6) Declare that Respondents' actions to arrest and detain Petitioner violate the Administrative Procedures Act;

(7) Declare that the conditions of Petitioner's detention violate section 504 of the Rehabilitation Act;

(8) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, in the alternative, to schedule a bond hearing before an immigration judge at which Respondents bear the burden of showing, by clear and convincing evidence, that Petitioner is a flight risk or a danger to the community;

(9) Require Respondents to disclose the location of Petitioner to her attorneys at all times during these proceedings;

(10) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

(11) Grant any further relief this Court deems just and proper.

Respectfully submitted,

By: */s/ Betty X. Yang*
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Counsel for Petitioner

Dated: November 1, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, P.B., and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 1st day of November, 2025.

By: */s/ Betty X. Yang*
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