IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

GUADALUPE DEL CARMEN SERVANDO PEREZ,

Petitioner,

v.

JASON STREEVAL, *in his official capacity as Warden of Stewart Detention Center*; GEORGE STERLING, *in his official capacity as Field Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations Atlanta Field Office*; KRISTI NOEM, *in her official capacity as Secretary of Homeland Security*; PAMELA J. BONDI, *in her official capacity as Attorney General of the United States,*

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

Case No. 4:25-cv-368

INTRODUCTION

1. Respondents recently announced an unlawful and unprecedented policy to detain, without the opportunity to seek bond, any immigrant who is alleged to have entered the United States ("U.S.") without inspection – including young people who have gone through the arduous process of obtaining Special Immigrant Juvenile Status ("SIJS"). Under this policy, young people who are on the path to lawful permanent resident status are being arrested, detained, and refused bond simply based on the allegation that they crossed the border illegally years ago as children. Petitioner Guadalupe Del Carmen Servando Perez ("Guadalupe" or "Petitioner") is one of those young people.

2. Guadalupe has lived in the United States since 2022, when she came to the U.S. at the age of seventeen after suffering a sexual assault and threats of death in her native country of El Salvador. She was initially apprehended by U.S. immigration officials within the country, designated an unaccompanied child because no parent or guardian was with her, and subsequently released to a family friend in the U.S. who obtained legal custody over her. Border officials issued a Notice to Appear ("NTA") to Guadalupe at the time but failed to file it with the immigration court. As such, removal proceedings against her were not commenced until recently.

3. In 2023, the Department of Homeland Security ("DHS") granted SIJS to Guadalupe. SIJS provides noncitizen children who have been abused, abandoned, or neglected with a pathway to lawful permanent resident ("LPR" or "green card") status and eventual U.S. citizenship. A visa number in the SIJS category must be available before the young person can apply for LPR status, and there is currently a multi-year visa backlog preventing Guadalupe and other SIJS-holders from applying for LPR status. While they are waiting to apply for LPR status, SIJS recipients sometimes receive "deferred action," which is a commitment from DHS to not remove them absent a new justification. Guadalupe received deferred action incident to her grant of SIJS in 2023, and DHS has not revoked that deferred action.

4. Nevertheless, given Respondents' new policies, DHS is now seeking to remove Guadalupe based on the allegations that she is "present in the United States without being admitted or paroled," *see* 8 U.S.C. §1182(a)(6)(A)(i), and that she lacked a valid visa or other entry document when she entered the United States, *see* 8 U.S.C. §1182(a)(7)(A)(i). Significantly, a person with SIJS is exempt from these two grounds of removability, *see* 8 U.S.C. § 1227(c), and Guadalupe plans to move the Immigration Court to terminate her proceedings on that basis.

5. Had DHS detained Guadalupe before September 5, 2025 – indeed, at any time during the past three decades – she would have been entitled to seek a bond hearing before an Immigration Judge ("IJ") under 8 U.S.C. §1226(a) (Section 236(a) of the Immigration and Nationality Act ("INA")). However, in a dramatic reimagining of the law, the Board of Immigration Appeals ("BIA") issued a decision holding that an IJ has *no jurisdiction* to consider bond requests for any noncitizen who is "present in the United States without admission," finding that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A). *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025). Accordingly, Guadalupe is currently being subjected to mandatory detention due to DHS' and the BIA's erroneous interpretation of law (an interpretation that has been roundly rejected by habeas courts across the country).

6. This Court has already soundly rejected the BIA's flawed reasoning in numerous recent habeas decisions. *See, e.g.*, *J.A.M.* v. *Streeval, et al.*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2-3 (M.D. Ga. Nov. 1, 2025); *see also* Order, ECF No. 12, *Patel v. Bondi et al.*, 4:25-cv-00277-CDL-AGH (Nov. 4, 2025); Order, ECF No. 5, *Garcia-Reynoso v. Streeval et al.*, 4:25-cv-00278-CDL-AGH (Nov. 4, 2025); Order, ECF No. 19, *Dominguez Rivera v. Streeval et al.*, 4:25-cv-00288-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Pascual Pedro v. Streeval et al.*, 4:25-cv-00290-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Hernandez Gomez v. Streeval et al.*, 4:25-cv-00291-CDL-AGH (Nov. 4, 2025); Order, ECF No. 13, *Paredes Alvarez v. Streeval et al.*, 4:25-cv-00296-CDL-AGH (Nov. 4, 2025); Order, ECF No. 4, *Guzman Paulino v. Sterling et al.*, 4:25-cv-00297-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Ospina Capera v. Sterling et al.*, 4:25-cv-00298-CDL-AGH (Nov. 4, 2025); Order, ECF No. 9, *Escobar Olivares v. Sterling et al.*, 4:25-cv-00299-CDL-AGH (Nov. 4, 2025); Order, ECF No. 9, *Merino Ortiz v. Sterling et al.*, 4:25-cv-00300-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Mauricio Lopez v. Sterling et al.*, 4:25-

cv-00302-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Guerra Guzman v. Sterling et al.*, 4:25-cv-00305-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Quistian Vazquez v. Sterling et al.*, 4:25-cv-00306-CDL-AGH (Nov. 4, 2025); Order, ECF No. 5, *Diaz-Baron v. Sterling et al.*, 4:25-cv-00309-CDL-AGH (Nov. 4, 2025).

7. Guadalupe is a young woman who fled her home country at the age of seventeen to seek safety in the United States. DHS recognized that she was particularly vulnerable and had met all the requirements to qualify for SIJS when it granted her that status in 2023, putting her on the pathway to permanent residence. And yet, as a result of Respondents' disingenuous interpretation of the law, Guadalupe is needlessly detained hundreds of miles from her attorneys, friends, and loved ones, without the opportunity to seek review of her custody before a neutral arbiter. To correct this injustice, this Court should grant this petition and order a bond hearing for Guadalupe as soon as practicable, or alternatively, order her immediate release.

JURISDICTION & VENUE

8. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution ("the Suspension Clause"), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

9. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

10. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is currently detained in this district and division, and events or omissions giving rise to this action occurred in this district and division.

PARTIES

11. Petitioner Guadalupe Del Carmen Servando Perez is a native and citizen of El Salvador and resident of North Carolina who is currently detained at Stewart Detention Center ("Stewart") in Lumpkin, Georgia.

12. Respondent Jorden Streeval is the Warden of Stewart, a detention center operated privately by CoreCivic that contracts, via an intergovernmental services agreement with Stewart County, Georgia, with U.S. Immigration and Customs Enforcement ("ICE") to detain noncitizens. Warden Streeval oversees Stewart's administration and management. Warden Streeval is Guadalupe's immediate custodian. He is sued in his official capacity.

13. Respondent George Sterling is the Field Office Director ("FOD") for the ICE Atlanta Field Office. In that capacity, he is charged with overseeing Stewart, and he has the authority to make custody determinations regarding individuals detained there. Respondent Sterling is a legal custodian of Petitioner. He is sued in his official capacity.

14. Respondent Kristi Noem is the DHS Secretary. She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws, and she has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States. Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

15. Respondent Pamela Bondi is the Attorney General of the United States. As the Attorney General, she oversees the Executive Office for Immigration Review ("EOIR"), including all IJs and the BIA. Respondent Bondi is sued in her official capacity.

STATEMENT OF FACTS

16. Guadalupe is a 21-year-old citizen of El Salvador and resident of North Carolina

who has lived in the U.S. since 2022. She has not left the U.S. since her last arrival, which was her first entry to the U.S.

17. Guadalupe was born and raised in El Salvador. Her father abandoned her mother before Guadalupe was born, and she has never known him. Her mother raised her, but she was unable to protect her after a relative with connections to organized crime sexually assaulted her and threatened to kill her if she told anyone about it. Guadalupe's mother remains in El Salvador.

18. In June 2022, when Guadalupe entered the U.S. at the age of seventeen, she was apprehended by U.S. Customs and Border Patrol ("CBP") and designated as an Unaccompanied Alien Child ("UC"), since she had no parent or legal guardian with her. Ex. 1, UC Designation.

19. Upon detaining Guadalupe, CBP issued her a Notice to Appear ("NTA") charging her as removable under 8 U.S.C. § 1182(a)(6)(A)(i) for being "an alien present in the United States without being admitted or paroled." Ex. 2, NTA dated June 25, 2022. They also issued an administrative warrant for her arrest. Ex. 3, Warrant for Arrest of Alien (stating that Guadalupe is "liable to being taken into custody as authorized by section 236 of the [INA]."). They also made a custody determination that she would be detained in DHS custody "[p]ursuant to the authority contained in section 236 of the [INA]" (8 U.S.C. § 1226(a)). Ex. 4, Form I-286, Notice of Custody Determination. However, as an Unaccompanied Child, DHS transferred her to the custody of the Office of Refugee Resettlement ("ORR"), a component of the U.S. Department of Health and Human Services.

20. Guadalupe left ORR custody in July 2022 when a sponsor was located for her in North Carolina. Soon after, Guadalupe's sponsor sued for legal custody in a family court in Mecklenburg County, North Carolina. Ex. 5, Child Custody Order from Mecklenburg County District Court. After her sponsor was granted legal custody of Guadalupe, they were able to secure

pro bono legal representation for purposes of filing a Form I-360 Petition for SIJS. Guadlupe's petition for SIJS was filed in November 2022 and approved in May 2023. Ex. 6, Notice of SIJS approval and deferred action.

21. With her grant of SIJS, Guadalupe also received work authorization. Ex. 7, Employment Authorization Document. Since then, Guadalupe has worked to support herself and has filed income taxes. Ex. 8, Tax Returns for 2024. In October 2024, she began working as a machine operator at Prodigi USA, Inc. Ex. 9, Letter from Present Employer. According to her employer, she demonstrates "dedication, skill, and strong work ethic." *Id.*

22. On October 19, 2025, while driving home from a friend's house in the morning, Guadalupe was arrested by police in Charlotte, North Carolina. She was charged with Driving While Impaired, No Operator's License, and Reckless Driving. Guadalupe was taken to the Mecklenburg County Jail in Charlotte, North Carolina, and was ordered to be released on a $5,000 bond. Ex. 10, Criminal Court Records.

23. On October 20, 2025, Guadalupe was preparing to post bond on the pending charges when ICE came to the jail and took her into DHS custody. *Id.* Guadalupe was taken from Charlotte, North Carolina, to Stewart in Lumpkin, Georgia. Stewart is approximately 400 miles from Guadalupe's home in Charlotte.

24. Guadalupe has no criminal convictions in the U.S. or in any other country, including her home country of El Salvador. Because she is presently detained in Stewart, she cannot attend any of her court dates in Charlotte.

25. Although DHS issued an NTA to Guadalupe when she entered in 2022, DHS did not file the NTA with the Immigration Court, and thus her removal proceedings were never initiated. Following her re-detention in October 2025, DHS issued a new, largely identical NTA

to Guadalupe and filed it with the Immigration Court. Ex. 11, NTA dated October 21, 2025. Guadalupe is now facing deportation to a country where she fears persecution, torture, and death.

26. Guadalupe appeared before an IJ at Stewart for her first-ever Master Calendar Hearing on November 3, 2025. Through counsel, Guadalupe denied the two charges of removability listed on the NTA. A hearing on the contested NTA charges is scheduled for November 17, 2025.

27. If and when Guadalupe is released from DHS custody, she will return to living with her partner, her work, and her community of friends and chosen family who miss her and are concerned about her safety in detention, not to mention fear that she will be harmed or killed upon return to El Salvador.

LEGAL FRAMEWORK

A. Special Immigrant Juvenile Status

28. Congress established SIJS in 1990 to "protect abused, neglected, or abandoned children who . . . illegally entered the United States." *Osorio Martinez v. Att'y Gen. United States of Am.*, 893 F. 3d 153, 163 (3d Cir. 2018) (citations omitted). To obtain SIJS, a noncitizen child must meet a set of rigorous, congressionally defined eligibility criteria, including a state court determination, as part of a proceeding bearing on the child's legal custody, that it would not be in the child's best interest to return to her country of nationality and that she cannot be reunified with one or both of her parents because of abuse, abandonment, neglect or similar basis under state law. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

29. In creating SIJS, Congress included in the INA certain protections against removal for this class of young people. *See* 8 U.S.C. § 1227(c) (certain grounds for deportation "shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that

existed before the date the [noncitizen] was provided such special immigrant status."). Accordingly, although a young person with SIJS can be removed on certain grounds, such as having been convicted of a serious criminal offense, they cannot be removed for having entered the country without admission or parole. *See id.*

30. Indeed, upon receipt of SIJS, a noncitizen is deemed "admitted or paroled" into the U.S. by operation of law, therefore rendering them eligible to adjust their status to that of an LPR. *See* 8 U.S.C. § 1255(h); 8 C.F.R. § 245.1(e)(3).

31. Further, "Congress has granted SIJ designees various forms of support within the United States, such as access to federally funded educational programming and preferential status when seeking employment-based visas." *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 659 (E.D. Va. 2020) (citing 8 U.S.C. §§ 1232(d)(4)(A), 1153(b)(4)). These benefits reflect Congress' intent "to assist a limited group of abused children to remain safely in the country . . . as a ward of the United States with the approval of both state and federal authorities." *Osorio-Martinez*, 893 F.3d at 168 (citing *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011)).

32. Many SIJS recipients enter the U.S. as Unaccompanied Children ("UCs"). In 2008, Congress enacted the Trafficking Victims and Protection Reauthorization Act ("TVPRA"), requiring that "the care and custody of all unaccompanied [noncitizen] children, including responsibility for their detention, where appropriate, shall be the responsibility of the Secretary of Health and Human Services," under whose purview the ORR operates. 8 U.S.C. § 1232(b)(1). The TVPRA also requires any other federal agency to transfer the custody of an unaccompanied minor to HHS within 72 hours, except in exceptional circumstances. *Id.* §1232(b)(3)

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B. Detention During Removal Proceedings

33. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which DHS seeks to remove non-citizens from the United States. It specifies that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be *the sole and exclusive procedure for determining whether [a non-citizen] may be . . . removed from* the United States." 8 U.S.C. § 1229a(a)(3).

34. To initiate removal proceedings against a non-citizen under Section 1229a, DHS must issue the non-citizen an NTA. 8 U.S.C. § 1229(a)(1). Most non-citizens go through removal proceedings from outside detention. But ICE is increasingly detaining non-citizens during their removal proceedings.

35. 8 U.S.C. § 1226(a) (Section 236(a) of the INA) is the "the default rule" for detaining noncitizens "already present in the United States." *See Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). It states that "on a warrant issued by the Attorney General,[1] [a non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States" 8 U.S.C. § 1226(a). Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ. *Id.* § 1226(a)(2).

36. A separate provision governs the detention of people who seek admission to the U.S. at the border or at a port of entry like an airport. It states that "in the case of a [non-citizen] who is an applicant for admission, if the examining immigration officer determines that a [non-citizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the non-citizen

[1] In 2003, the Immigration and Naturalization Service (INS) within the Department of Justice (DOJ) became what is now ICE, which is housed within DHS. Therefore, some statutory references to the "Attorney General," like this one, now refer to authorities delegated in whole or in part to the Secretary of DHS.

shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). IJs do not have jurisdiction to grant bond for such individuals seeking admission, though DHS retains the discretion to release such non-citizens on a specific type of parole "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

37. 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 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

38. Following IIRIRA's enactment, then-INS drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and were instead detained under § 1226(a), making them eligible to be released on bond. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination").

39. In the decades that followed, most people who entered without admission or parole and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice in which noncitizens who had entered the U.S., even if without inspection, were entitled to a custody redetermination hearing before an IJ or other hearing officer. *See e.g.*, *Jennings*, 583 U.S. at 287

(discussing Section 1226(a) as the "default rule" for detaining noncitizens "already present in the United States"); *Miranda v. Garland*, 34 F.4th 338, 346 (4th Cir. 2022) (same); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9 (D. Md. Aug. 24, 2025) ("Since at least 1996, the INA has mandated the detention of arriving aliens and certain criminal non-citizens detained in the United States. The Board of Immigration Appeals has long held to this interpretation. For everyone else, 8 U.S.C. § 1226(a) provides DHS the discretion to detain noncitizens, subject to review during a custody hearing before an immigration judge."); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255, at *9 (E.D. Va. Sept. 19, 2025) ("Before July 8, 2025, 'DHS's long-standing interpretation has been that § 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.'") (quoting Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022)). *See also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

40. In the past several months, Respondents have adopted an entirely new interpretation of the statute. On September 5, 2025, the BIA issued a precedential decision holding that any noncitizen who is present in the United States without having been inspected or admitted is subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

41. Bound by this decision, IJs across the country are now holding that they lack jurisdiction to determine bond for any person who has entered the United States without inspection, even if that person was designated as a UC, has obtained SIJS, or has resided in the U.S. for years. Instead, consistent with *Matter of Yajure Hurtado*, IJs are concluding that such people are subject to mandatory detention under § 1225(b)(2)(A).

42. The mandatory detention provision of § 1225(b)(2) does not apply to people like Guadalupe who are arrested in the interior of the United States, because these individuals are evidently not "seeking admission" into the United States. *J.A.M.* v. *Streeval, et al.*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2-3 (M.D. Ga. Nov. 1, 2025). Additionally, Guadalupe is not an "applicant for admission" because her SIJS grant means that she has been "admitted or paroled" for purposes of adjusting her status to that of an LPR. *See* 8 U.S.C. § 1255(h); 8 C.F.R. § 245.1(e)(3). Accordingly, Guadalupe is entitled to a bond hearing under 8 U.S.C. § 1226(a) and release on bond, if appropriate.

CLAIMS FOR RELIEF

COUNT I
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

43. Petitioner incorporates by reference the allegations set forth in paragraphs 1-42 herein.

44. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to those arrested in the interior of the U.S. who are not "seeking admission." Such noncitizens are detained under § 1226(a) and are eligible for release on bond.

45. Therefore, Petitioner is neither an "applicant for admission" nor is she "seeking admission." She is detained pursuant to § 1226(a) and eligible for bond. Indeed, ICE itself has previously treated Petitioner as being detained under § 1226(a). *See* Ex. 3, Warrant for Arrest of Alien (stating that Guadalupe is "liable to being taken into custody as authorized by section 236 of the [INA]."); Ex. 4, Form I-286, Notice of Custody Determination (determining that Guadalupe would be detained in DHS custody "[p]ursuant to the authority contained in section 236 of the [INA]" (8 U.S.C. § 1226(a)).

46. DHS and the Immigration Courts have adopted a policy and practice of applying § 1225(b)(2) to people like Petitioner.

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

COUNT II
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Procedural Due Process

48. Petitioner incorporates by reference the allegations set forth in paragraphs 1-42 herein.

49. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights.

50. Respondents' erroneous application of Section 1225(b)(2)(A) to Petitioner and deprivation of her ability to seek review of her custody before a neutral adjudicator violates her due process rights under *Mathews* because her liberty interest, and the risk of erroneous deprivation of her liberty posed by mandatory detention under 1225(b)(2)(A), outweigh Respondents' interest in detaining Petitioner, who is not a flight risk, not a danger, and is not even removable from the United States for the reasons DHS alleges.

COUNT III
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Substantive Due Process

51. Petitioner incorporates by reference the allegations set forth in paragraphs 1-42 herein.

52. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

53. Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. Respondents' new no-bond policy, subjecting Petitioner to mandatory detention, is wholly unjustified. The government has not demonstrated that unaccompanied minors and special immigrant juveniles—whose custody, care, release, and pathway to permanent immigration protection is specifically articulated in the TVPRA, the INA, implementing regulations and decades of practice and policy—need to be detained without consideration for release on bond.

54. The Supreme Court has only recognized two justifications for civil immigration detention: preventing danger to the community and eliminating risk of flight in the event the noncitizen is ordered removed. *See Zadvydas*, 533 U.S. at 690 (finding that immigration detention must further the twin goals of preventing danger to the community or flight before removal). Neither justification applies here, and ICE's detention of Petitioner therefore violates her substantive due process rights.

55. On danger, Guadalupe cannot reasonably be deemed a danger to the community. She has no criminal convictions, and her pending charges are relatively low-level traffic offenses. On flight risk, the risk is quite low since Guadalupe was already on the pathway to lawful permanent resident status via SIJS and the likelihood of DHS securing a removal order against her is quite low since she is exempted by statute from being removed from the United States based on the charges DHS has lodged against her in removal proceedings.

56. Because Respondents have no legitimate, non-punitive objective in denying Petitioner a bond hearing to consider her release, her detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

COUNT IV
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)
No Authority to Detain

57. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1-42 herein.

58. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings.

59. There are no valid removal proceedings currently pending against Guadalupe because she cannot be removed on the grounds with which she is currently charged. DHS is seeking to remove Guadalupe based on the allegations that she entered the United States without *inspection, see 8 U.S.C. §1182(a)(6)(A)(i), and that she lacked a valid visa or other entry document* when she entered the United States, *see* 8 U.S.C. §1182(a)(7)(A)(i)(I). Significantly, a person with SIJS is exempt from these two grounds of removability, *see* 8 U.S.C. § 1227(c), and is deemed "admitted or paroled" into the U.S. by operation of law, thereby rendering them eligible to adjust their status to that of an LPR. *See* 8 U.S.C. § 1255(h); 8 C.F.R. § 245.1(e)(3). Therefore, Respondents have no authority to detain her.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer Petitioner outside of the jurisdiction of the U.S. District Court for the Middle District of Georgia during the pendency of this petition;

b. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;

c. Order that Respondents provide a bond hearing to Petitioner within 3 business days of the date of the order;

d. Alternatively, declare that Respondents have no reasonable justification for detaining Petitioner and order her immediate release from ICE custody;

e. Award Petitioner reasonable fees under the Equal Access to Justice Act, 5 U.S. Code § 504;

d. Grant any other further relief this Court deems just and proper.

Respectfully submitted,

Dated: November 7, 2025

/s/ Rebecca O'Neill

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 7, 2025

Respectfully submitted,

/s/ F. Evan Benz
Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing (NEM) to all counsel of record. I will furthermore serve a copy of the petition and exhibits on each Respondent by certified mail.

Dated: November 7, 2025

Respectfully submitted,

/s/ F. Evan Benz
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