UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

CARLA PIEDRAHITA-SANCHEZ, *Petitioner*, *v.* JONATHAN TUREK, Acting Interim Superintendent of Chittenden Regional Correctional Facility; PATRICIA HYDE, Acting Field Office Director; TODD LYONS, Acting Director, U.S. Immigrations and Customs Enforcement; SIRCE OWEN, Acting Director, Executive Office for Immigration Review; PAMELA BONDI, U.S. Attorney General; and KRISTI NOEM, U.S. Secretary of Homeland Security, *Respondents*.	)	Case No. 2:25-cv-875-wks

FEDERAL RESPONDENTS' OPPOSITION TO
EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

Patricia Hyde, in her official capacity as Acting Field Office Director of the Boston Field Office of United States Immigration and Customs Enforcement ("ICE"); Todd Lyons, in his official capacity as Acting Director of ICE; Sirce Owen, in her official capacity as Acting Director of the Executive Office for Immigration Review within the United States Department of Justice; Pamela Bondi in her official capacity as United States Attorney General; and Kristi Noem, in her official capacity as Secretary of the United States Department of Homeland Security ("DHS") (collectively, "Federal Respondents"), by and through their attorney, Michael P. Drescher, Acting United States Attorney for the District of Vermont, respectfully submit this opposition to the Petition for Writ of Habeas Corpus that Carla Piedrahita-Sanchez ("Petitioner") filed with this Court on November 7, 2025 (ECF Doc. No. 2) (the "Petition").

PRELIMINARY STATEMENT

Petitioner is a noncitizen who entered the United States unlawfully in or about November 2022. On November 1, 2025, ICE took Petitioner into custody in Massachusetts, and Petitioner remains detained by ICE (currently in Vermont) pursuant to 8 U.S.C. § 1225(b)(2), which provides that an applicant for admission shall be detained for removal proceedings unless they are clearly and beyond a doubt entitled to be admitted. Petitioner now seeks habeas relief, contending principally that she is not subject to mandatory detention under § 1225(b)(2) because, as someone who has been physically present in the United States for roughly three years, she is not seeking admission to the country.[1] According to Petitioner, her detention is authorized, if at all, by 8 U.S.C. § 1226(a), under which detainees may request a bond hearing before an Immigration Judge. As discussed herein, her argument is flawed legally and factually.

Although she was allegedly residing in Massachusetts when ICE took her into custody less than two weeks ago, Petitioner has not been lawfully admitted to the United States. The Immigration and Nationality Act ("INA"), as amended, provides that "an alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Moreover, Petitioner concedes in her Petition that she is presently seeking admission to the United States as an asylee. By virtue of that status, Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2). Her Petition thus lacks merit and should be denied. In any event, her request for an order releasing her from ICE custody is improper; should the Court disagree with Federal Respondents and determine that Petitioner is subject to detention under 8 U.S.C. § 1226(a) and, hence, entitled to a bond hearing before an Immigration Judge, the proper habeas remedy would be to order such a hearing.

[1] Petitioner also contends that her detention violates the Administrative Procedure Act ("APA").

RELEVANT BACKGROUND

A. Factual History

Petitioner is a noncitizen who last entered the United States unlawfully, without inspection by an immigration officer, in Texas, along the United States' southern border with Mexico, on or about November 10, 2022. *See* Pet. at ¶ 2. On or about November 14, 2022, immigration officers encountered Petitioner. *See id.* at ¶ 3. She was released and issued a Form I-862 Notice to Appear in immigration court for removal proceedings based on her presence in the United States without having been admitted or paroled into the country. *See id.* at ¶¶ 3, 9.

On November 1, 2025, ICE arrested Petitioner when she appeared for a check-in at an ICE facility in Massachusetts. *See id.* at ¶ 1. On or about November 2, 2025, ICE transferred Petitioner to Vermont, where she remains detained at the Chittenden Regional Correctional Facility. *See id.*

Petitioner is currently in removal proceedings, and she claims to have filed a Form I-589 application for asylum. *See id.* at ¶ 3.

B. Relevant Legal Framework

1. Historical Overview of the Immigrations Laws and the Elimination of Preferential Treatment for Persons Who Enter the United States Illegally

Our immigration laws have long authorized immigration officials to charge noncitizens as removable from the country, to arrest noncitizens subject to removal, and to detain noncitizens during their removal proceedings. *See, e.g.*, *Abel v. United States*, 362 U.S. 217, 232-37 (1960). With specific regard to detention, Congress enacted a multi-layered statutory framework governing, among other things, the detention of noncitizens pending a decision on their removal. *See generally* 8 U.S.C. §§ 1225, 1226. That legal framework was amended significantly in 1996 to address, among other things, lawmakers' concerns that noncitizens who entered the United States unlawfully were, until that time, afforded greater legal rights and protections than those who

properly presented at a port of entry or otherwise lawfully sought admission to the country, resulting in a perverse incentive for noncitizens to attempt to enter the country unlawfully.

Prior to 1996, the INA treated noncitizens differently based on whether they had physically "entered" the United States. *See, e.g.*, *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); *Ibragimov v. Gonzales*, 476 F.3d 125, 130 n.11 (2d Cir. 2007). "Entry" referred to "any coming of an alien into the United States," 8 U.S.C. § 1101(a)(13) (1994), and, whether such an individual had physically entered the United States "dictated what type of [removal] proceeding applied" and whether the individual would be detained pending those proceedings. *Hing Sum*, 602 F.3d at 1099; *see, e.g.*, *Ibragimov*, 476 F.3d at 130 n.11.

At that time, the INA provided for two separate types of proceedings to adjudicate the legal status of noncitizens: "deportation" proceedings and "exclusion" proceedings. *Ibragimov*, 476 F.3d at 130 n.11. Noncitizens who arrived at a port of entry would be placed in exclusion proceedings and subject to mandatory detention absent a grant of humanitarian parole. *See Hurtado*, 29 I. & N. Dec. at 223; 8 U.S.C. §§ 1225, 1226(a) (1995). In contrast, noncitizens who physically (albeit unlawfully) entered the United States would be placed in deportation proceedings and, 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)); *see, e.g.*, *Hing Sum*, 602 F.3d at 1100; *Ibragimov*, 476 F.3d at 130 n.11.

The pre-1996 INA framework 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").

In 1996, Congress overhauled the INA 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 enactment added 8 U.S.C. § 1225(a)(1) to the INA to "ensure 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—in the position of an 'applicant for admission.'" *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc) (quoting 8 U.S.C. § 1225(a)(1) and citing House Rep. at 225-29 (1996)). Towards that end, IIRIRA replaced the focus on physical "entry" with a focus on lawful "admission," defined as "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, IIRIRA amended the INA to no longer distinguish aliens based on whether they had managed to evade detection and enter the country without permission. IIRIRA relatedly eliminated the exclusion-deportation dichotomy and consolidated both sets of proceedings into "removal proceedings." *Hurtado*, 29 I. & N. Dec. at 223.

2. Detention of Applicants for Admission Under 8 U.S.C. § 1225

Section 1225(a) defines an "applicant for admission" as "[a]n 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 . . .) . . . ." 8 U.S.C. § 1225(a)(1). Subsection (a) of the statute further provides that

"[a]ll aliens . . . who are applicants for admission or otherwise seeking admission . . . shall be inspected by immigration officers" to determine their admissibility. 8 U.S.C. § 1225(a)(3).

Upon requisite inspection by immigration officers, all applicants for admission generally "fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). And, "read 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).

Section 1225(b)(1), which provides a track for *expedited* removals, applies generally to aliens who are "arriving in the United States" and found to be inadmissible under 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7) (*i.e.*, due to certain fraud or willful misrepresentation, or lack of valid documentation) at the time of inspection. *See* 8 U.S.C. § 1225(b)(1)(A)(i). Section 1225(b)(1) also permits the Attorney General to designate certain other aliens for expedited removal, provided that such aliens: have not been admitted or paroled into the United States; are inadmissible under 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7); and have not affirmatively shown to the immigration officer that they have been present in the United States continuously for the two-year period immediately preceding inspection. 8 U.S.C. § 1225(b)(1)(A)(iii).

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)," *id.*, to include noncitizens who are already present in the United States and who have not been lawfully admitted. *See* 8 U.S.C. § 1225(a)(1).

Under § 1225(b)(2), an individual "who is an applicant for admission" "shall be detained" for full (*i.e.*, non-expedited) removal proceeding under 8 U.S.C. § 1229a "if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt

entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A); *see Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025). The mandatory detention required by § 1225(b)(2) extends throughout the applicant for admission's removal proceeding. *See Jennings*, 583 U.S. at 302. Once the applicant for admission is in removal proceedings, an Immigration Judge "shall conduct proceedings for deciding the inadmissibility or deportability of [the] alien." 8 U.S.C. § 1229a(a)(1). Such proceedings are the "sole and exclusive procedure for determining whether an alien may be admitted to the United States." 8 U.S.C. § 1229a(a)(3).

3. Detention of Other Aliens Under 8 U.S.C. § 1226

Section 1226 provides for arrest and detention "on a warrant" "pending a decision on whether the [subject] alien is to be removed from the United States." 8 U.S.C. § 1226(a). The statute does not make reference to applicants for admission.

Under § 1226(a), the government may detain an alien during removal proceedings, release the individual on bond, or release the individual on conditional parole. An alien can request a custody redetermination by an Immigration Judge at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody redetermination, the Immigration Judge may continue detention or release the alien on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). If, after the bond hearing, either party disagrees with the decision of the Immigration Judge, that party may appeal that decision to the Board of Immigration Appeals ("BIA"). *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3).

STANDARD OF REVIEW

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. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). 28 U.S.C.

§ 2241 provides district courts with jurisdiction to hear federal habeas petitions unless Congress has separately stripped the court of jurisdiction to hear the claim. To warrant a grant of habeas relief, the burden is on the petitioner to prove that her custody is in violation of the Constitution, laws, or treatises 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

THE COURT SHOULD DENY THE PETITION.

A. Petitioner's Detention Is Mandated by 8 U.S.C. § 1225(b)(2).

"As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute." *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Here, an examination of the relevant statutory text supports Federal Respondents' position that Petitioner is an applicant for admission who is subject to mandatory detention under Section 1225(b)(2)(A).

1. Petitioner Is an Applicant for Admission.

Petitioner is an applicant for admission because she is present in the United States without having been lawfully admitted to the country. Section 1225(a)(1) defines an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . ." 8 U.S.C. §1225(a)(1). In other words, the term encompasses both arriving aliens and those who are already in the United States, albeit without having been admitted. *See id*; *Cruz-Miguel v. Holder*, 650 F.3d 189, 197 (2d Cir. 2011) ("After IIRIRA, both aliens arriving at the border and aliens already present in the United States without inspection [and admission] are deemed 'applicants for admission' who must "be inspected by immigration officers' to determine their admissibility.") (quoting 8 U.S.C. §§ 1225(a)(1), 1225(a)(3)); *Ascencio-Rodriguez v. Holder*, 595 F.3d 105, 108 n.3 (2d Cir. 2010) (explaining that aliens whose entry into the United

States was not lawful or authorized are not considered "admitted" to the United States, and they are treated as "applicants for admission" and deemed to be legally at the border); *see also* 8 U.S.C. § 1101(a)(13)(A) (defining "admission and "admitted" with respect to an alien as "the lawful entry of the alien into the United States after inspection by immigration and authorization by an immigration officer").

Petitioner is present in the United States, and she does not (and cannot) assert that she has been lawfully admitted to the United States. Indeed, she concedes that she is presently seeking admission as an asylee. *See* Pet. at ¶ 3. As such, Petitioner fits squarely within the § 1225(a)(1) definition of an "applicant for admission," and she will remain an applicant for admission until the conclusion of her removal proceedings. *See, e.g.*, *Ibragimov*, 476 F.3d at 131 ("[A]n individual who is an 'applicant for admission' to the United States at the time of his removal proceeding is deemed to be legally at the border and bears the burden of establishing that he is 'clearly and beyond doubt entitled to be admitted and is not inadmissible . . . .").[2]

2. *Section 1225(b)(2) Mandates the Detention of Applicants for Admission Who Are Placed Into Full Removal Proceedings Upon Inspection.*

As an applicant for admission who is "not clearly and beyond a doubt entitled to be admitted" to the country, and who does not meet the criteria for expedited removal under

[2] In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court noted that 8 U.S.C. § 1226 applies to "certain aliens already in the country," *id.* at 289, and some district courts have cited that passage in refusing to apply § 1225(b) to noncitizens who are present in the country without having been lawfully admitted. *See, e.g.*, *Lopez Benitez v. Francis*, No. 25-CV-5937, 2025 WL 2371588, at *3, 5 (S.D.N.Y. Aug. 13, 2025). However, Federal Respondents' interpretation is consistent with the language from *Jennings*; § 1226 is the exclusive source of detention authority for certain aliens who already in the country, such as those who were admitted to the United States but are now removable. Nothing in the quoted language from *Jennings* suggests that Section 1226 is the *sole* detention authority applicable to aliens already in the country. Indeed, the Supreme Court's use of the word "certain" in the subject passage conveys the opposite. At a minimum, that language from *Jennings* is ambiguous and thus insufficient to displace the statute's plain text, particularly given the manifest congressional purpose of eliminating preferential treatment for those who enter the country unlawfully, as discussed above.

§ 1225(b)(1), Petitioner is subject to mandatory detention pursuant to § 1225(b)(2). 8 U.S.C. § 1225(b)(2); *see, e.g.*, *Jennings*, 583 U.S. at 288.

Section 1225(b)(2) provides that an alien who is an applicant for admission "shall be detained" for removal proceedings when the examining immigration officer determines that "[the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2). The statute's use of the term "shall" makes clear that detention is mandatory under the specified circumstances. *See Chavez v. Noem*, No. 25-CV-2325, 2025 WL 2730228, at *4 (S.D. Cal. Sept. 24, 2025) (holding, in the context of denying motion for temporary restraining order, that movant-petitioners who entered the United States without inspection or parole were subject to mandatory detention under § 1225(b)(2)); *Pena v. Hyde,* No. 25-cv-11983, 2025 WL 2108913, *1 (D. Mass. July 28, 2025) (holding, in the context of denying habeas relief, that 1225(b)(2) applied to require the detention of the petitioner, who entered the country unlawfully and remained an "applicant for admission" despite a pending visa application).

Petitioner falls squarely within the ambit of § 1225(b)(2). As discussed above, she is an applicant for admission because she was "present in the United States" when she was encountered by immigration officers, and she has "not been admitted," 8 U.S.C. § 1225(a)(1), and she does not contend that she is "clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). To the contrary, she concedes that she is in removal proceedings and presently seeking admission as an asylee. *See* Pet. at ¶ 3. Petitioner is thus properly subject to mandatory detention while she is in removal proceedings. *See* 8 U.S.C. § 1225(b)(2).

Petitioner argues that § 1225(b)(2) cannot apply to her, and that her detention is instead authorized, if at all, by § 1226(a), because, "as a person already present in the United States," [she]

is not presently 'seeking admission' to the United States." Pet. at ¶ 25. Her argument fails to withstand scrutiny, legally and factually.

Section 1225(a)(1) expressly provides that a noncitizen who, like Petitioner, is present in the United States without having been admitted, is an "applicant for admission," and § 1225(a)(3) makes clear that an "applicant for admission" is, simply by virtue of that status, deemed to be "seeking admission." *See* 8 U.S.C. § 1225(a)(3) ("All aliens who are applicants for admission *or otherwise seeking admission* . . . .") (emphasis added); *Chavez*, 2025 WL 2730228, at *4 (rejecting the petitioners' argument that § 1225(b)(2) did not apply to them because they entered the United States unlawfully and had not "affirmatively sought admission"). Stated differently, Petitioner is legally deemed to be seeking admission to the United States irrespective of whether she has, in fact, affirmatively sought to be admitted. As repeatedly recognized by the Second Circuit, "[a]liens not admitted are treated as 'applicants for admission,'" and "[t]hey are 'deemed to be legally at the border' and bear the burden of establishing their entitlement to admission." *Ascencio-Rodriguez*, 595 F.3d at 108 n.3 (quoting *Ibragimov*, 476 F.3d at 131).

Federal Respondents' interpretation of § 1225(b)(2) is also supported by the legislative history of the INA. Application of § 1226(a) to Petitioner would subvert IIRIRA's express goal of eliminating preferential treatment for aliens who manage to enter the United States unlawfully without inspection and admission. *See King v. Burwell*, 576 U.S. 473, 492 (2015) (rejecting statutory interpretation that would lead to a 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 statutory framework 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. at 225. Applying § 1226(a) to Petitioner's detention would restore the regime that 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 manage to evade immigration authorities, enter the United States unlawfully, and remain in the country unlawfully until an involuntary encounter with immigration authorities. That is *exactly* the perverse preferential treatment for illegal entrants that IIRIRA sought to eradicate.

In any event, Petitioner concedes in her petition that she is presently and actively seeking admission to the United States as an asylee. *See* Pet. at ¶ 3. She thus falls squarely within the scope of § 1225(b)(2).[3]

B. Petitioner's Detention Does Not Violate the Constitution.

Because Petitioner is properly detained pursuant to § 1225(b)(2), which mandates detention during removal proceedings, she is not entitled to a bond hearing. Petitioner claims that her lack of access to a bond hearing violates due process, but it is well established that "[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)).

In *Demore*, the Supreme Court upheld the constitutionality of a statutory provision that requires mandatory detention during removal proceedings without access to bond hearings. The

[3] Prior agency practice (including ICE's decision to release Petitioner from custody in 2022) does not change the foregoing analysis. In cases such as this, courts must "independently interpret the statute [at issue] 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 here. *See, e.g.*, *Romero v. Bondi*, No. 25-cv-993, 2025 WL 2490659, at *3 (E.D. Va. July 2, 2025) (holding, in the context of denying habeas relief, that the petitioner's detention was governed by § 1225(b)(1)(B)(ii) when, despite being released under § 1226(a) and later re-detained, the petitioner had never been admitted into the United States and he therefore remained an "applicant for admission"); *see also Hurtado*, 29 I. & N. Dec. at *227 ("[T]he mere issuance of an arrest warrant does not endow an Immigration Judge with authority to set bond for an alien who falls under [§ 1225(b)].").

Court "recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process." *Id.* at 523. In doing so, the Court reaffirmed its "longstanding view that the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 526; *see also id.* ("[W]hen the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal."); *Id.* at 522 ("Congress may make rules as to aliens that would be unacceptable if applied to citizens.").

Petitioner's detention pursuant to § 1225(b), while mandatory, is not indefinite.[4] Rather, "§§ 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.[5] Here, Petitioner does not appear to specifically challenge the length of her detention, nor can she credibly do so, as she has been detained for less than two weeks as of the time of this submission. *See* Pet. at ¶ 1.

C. Relief Under the APA Is Unavailable to Petitioner.

In addition to seeking habeas relief, Petitioner asserts a claim for relief under the Administrative Procedure Act ("APA"). *See* Pet. at ¶¶ 51-53. More specifically, Petitioner claims that "the BIA's decision in *Matter of Hurtado* is unlawful because it violates the [APA], including because the BIA's decision is arbitrary, capricious, and contrary to law," Pet. at ¶ 52, and "[her]

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[4] Moreover, while section 1225(b) does not provide for bond hearings, it does not entirely preclude relief from detention; DHS is statutorily authorized to grant those detained under §§ 1225(b)(1) or (b)(2) temporary parole for "urgent humanitarian reasons or significant public benefit." *See, e.g.*, *Jennings*, 583 U.S. at 300 (quoting 8 U.S.C. § 1182(d)(5)(A)). Here, the Petition is silent as to whether Petitioner has sought such parole.

[5] In *Demore*, the Supreme Court explained that, unlike the potentially indefinite detention at issue in *Zadvydas v. Davis*, 533 U.S. 678 (2001), which was a case that concerned the detention of aliens *following a final order of removal*, detention during removal proceedings has a "definite termination point" and therefore does not implicate the same due process concerns. 538 U.S. at 529.

detention is therefore unlawful." Pet. at ¶ 53. Petitioner's bare-boned allegations in this regard fail to state a claim under the APA. More fundamentally, however, relief under the APA is unavailable to her because the APA permits judicial review of final agency action only "for which there is no other adequate remedy in a court," 5 U.S.C. § 704, and habeas relief is available to detainees who demonstrate that their detention is in violation of the Constitution, laws, or treatises of the United States. *See* 28 U.S.C. § 2241(c)(3); *see also Finley v. Hersh*, No. 12-CV-162, 2013 WL 3450270, at *7 (D. Vt. July 9, 2013) (holding that APA relief was unavailable to the plaintiff because "the habeas corpus statute provided [him] with an adequate remedy").

D. Any Potential Relief Should be Limited to a Bond Hearing.

Petitioner requests that the Court order, among other things, that Petitioner be afforded a bond hearing, and that she be released from ICE custody. *See* Pet. at 11 (Petitioner's prayer for relief). Should this Court disagree with Federal Respondents and determine that Petitioner is subject to detention pursuant to 8 U.S.C. § 1226(a), the appropriate remedy would be to order that Petitioner be provided a bond hearing, not immediate release.

Although some courts have ordered the immediate release of a detainee held in violation of due process, "the comfortable majority position—both historically and in recent weeks—is to instead require a bond hearing before an [Immigration Judge]." *Lopez-Arevelo v. Ripa*, No. 25-CV-337, 2025 WL 2691828, at *12 (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." *Id.* District courts across the country have thus ordered that a bond hearing be held in cases presenting such circumstances. *See, e.g., 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*, No. 25-CV-2205, 2025 WL 2280357, at *12 (D. Colo. Aug. 8, 2025)); *but see, e.g.*, *Lopez Benitez v. Francis*, No. 25-CV-5937, 2025 WL 2371588, at *15 (S.D.N.Y. Aug. 13, 2025) (ordering immediate release following the grant of habeas relief for a violation of due process).

For the foregoing reasons, intervention by this Court is unwarranted at this juncture, and the Petition should be denied. However, even if the Court were to find that Petitioner has met her burden to justify judicial intervention at this juncture, the Court should not order her immediate release. Instead, the Court should in such instance order that Petitioner be afforded a bond hearing before an Immigration Judge in the first instance.

CONCLUSION

For the reasons discussed above, the Court should (1) deny the Petition for a Writ of Habeas Corpus (ECF Doc. No. 3) and (2) dissolve the Court's Temporary Restraining Order of November 7, 2025 (ECF Doc. No. 4).

Dated at Burlington, in the District of Vermont, this 12th day of November, 2025.

Respectfully submitted,

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