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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ELIZABETH CARDOSO,

Petitioner-Plaintiff,

v.

CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center, San Diego, California;
JOSEPH FREDEN, Acting Field Office Director, San Diego Office of Detention and Removal, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;
TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;
SIRCE OWEN, Acting Director for Executive Office for Immigration Review;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security;
PAM BONDI, Attorney General of the United States;

Respondents-Defendants.

Case No.: '25CV3043 BJC VET

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

Agency File No. [redacted]

Petitioner ELIZABETH CARDOSO petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining her unlawfully, and states as follows:

INTRODUCTION

1. Petitioner, ELIZABETH CARDOSO ("Ms. Cardoso" or "Petitioner"), by and through her undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to compel her immediate release from immigration detention where she has been held by the U.S. Department of Homeland Security (DHS) since being detained on October 2, 2025. Petitioner is in the physical custody of Respondents at the Otay Mesa Detention Center in Otay Mesa, California.

2. Petitioner is unlawfully detained. The Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have improperly concluded that Petitioner, despite being physically present within the interior of and residing in the United States and being arrested at the downtown San Diego ICE office, should be deemed to be seeking admission to the United States and therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

3. DHS has placed Petitioner in removal proceedings pursuant to 8 U.S.C. § 1229a and has charged Petitioner with being present in the United States without admission and therefore removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).

4. Based on the charge of removability, DHS has denied Petitioner's release from immigration custody. This denial is in large part based upon a new DHS policy issued on

July 8, 2025,[1] instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) - i.e., present without admission - to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention during the removal hearing process.

5. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) which defies decades of precedent and practice by Respondents stating that the plain language of INA 235(b)(2)(A) divests jurisdiction from immigration judges to redetermine the custody of aliens who are present in the United States without admission.

6. Both prior to and since the issuance of *Matter of Yajure Hurtado*, other district courts nationwide have overwhelmingly concluded that individuals similarly situated to Petitioner, present and residing within the United States, are not "applicants for admission" who are "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A).

7. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now present and residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to

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[1] "Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025. Available at: https://immpolicytracking.org/policies/ice-issuesmemo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policydocuments.

people who, like Petitioner, are charged as removable for having entered the United States without inspection and being present without admission.

8. The BIA and Respondents' new legal interpretation of the INA is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner who are present within the United States. The new interpretation also conflicts with Ninth Circuit and Supreme Court precedent. See Jennings v. Rodriguez, 583 U.S. 281, 288, 301 (2018); Torres v. Barr, 976 F.3d 918, 926 (9th Cir. 2020); and United States v. Gambino-Ruiz, 91 F.4th 981, 989 (9th Cir. 2024).

9. In addition to Petitioner's statutory right to a bond hearing under § 1226(a), individuals within the United States have constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

10. Accordingly, the Petitioner seeks a writ of habeas corpus requiring that she be released, or at a minimum that she be provided with a bond hearing complying with the procedural requirements in Singh v. Holder, 638 F.3d 1196 (9th Cir. 2011).

JURISDICTION

11. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702 (waiver of sovereign immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and Article I, Section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Central District of California, the judicial district in which Petitioners are currently detained.

14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

PARTIES

15. Petitioner Elizabeth Cardoso is a Mexican national who most recently entered the United States in 2004 without inspection. Ms. Cardoso was in removal proceedings in 2012 but she was never detained and those proceedings were administratively closed that same year. Ms. Cardoso's case was recently reopened and she was arrested by ICE agents on October 2, 2025 at an ICE appointment in San Diego, California. Ms. Cardoso has been in immigration detention since that date.

16. Respondent JOSEPH FREDEN is the Field Office Director of ICE in San Diego, California and is named in his official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

17. Respondent TODD M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Petitioner.

18. Defendant SIRCE OWEN is the Acting Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings. Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. She is sued in her official capacity.

19. Respondent KRISTI NOEM is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In her capacity as Secretary, Respondent Noem has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent Noem is the ultimate legal custodian of Petitioner.

20. Respondent PAM BONDI is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret the immigration laws and adjudicate removal

cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

21. Respondent CHRISTOPHER LAROSE is the Warden of the Otay Mesa Detention Center where Petitioner is being held. Respondent Christopher LaRose oversees the day-to-day operations of the Otay Mesa Detention Center and acts at the Direction of Respondents Frede, Lyons and Noem. Respondent Christopher LaRose is a custodian of Petitioner and is named in their official capacity.

LEGAL FRAMEWORK

22. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a.

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

24. Second, the INA provides for mandatory detention of noncitizens subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. See 8 U.S.C. § 1225(b)(2).

25. Lastly, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. See 8 U.S.C. § 1231(a)–(b).

26. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

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

28. Following the enactment of the IIRIRA, EOIR drafted new regulations applicable to proceedings before immigration judges explaining that, in general, people who entered the country without inspection – also referred to as being "present without admission" – were not considered detained under § 1225 and that they were instead detained under § 1226(a). 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).

29. Thus, in the decades that followed, most people who entered without inspection and were placed in standard § 1229a removal proceedings received bond hearings before IJs, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); 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)).

30. This practice both pre- and post-enactment of IIRIRA is consistent with the fact that noncitizens present within the United States – as opposed to noncitizens present at a

border and seeking admission – have constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

31. On July 8, 2025, ICE "in coordination with" the Department of Justice, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

32. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[2] claims that all noncitizens present within the United States who entered without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

33. On September 5, 2025, the Board of Immigration Appeals (BIA) adopted this same position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) stating that all persons who entered without inspection are applicants for admission and are subject to mandatory detention under INA 235(b)(2). The BIA stated that "[b]ased on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission."

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[2] Available at: https://immpolicytracking.org/policies/ice-issues-memoeliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents.

34. The overwhelming majority of district courts to consider this question across the country (including in this district), however, have rejected the ICE policy memo and the BIA's decision in *Matter of Yajure Hurtado*. Courts have instead held that Section 1225 governs detention of noncitizens outside the country who are "seeking admission" to the United States, while Section 1226 governs those living in the United States who entered without inspection. See Garcia v. Noem, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); Maldonado Bautista v. Noem, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025) Order Granting Temporary Restraining Order, Dkt. 14 at 9 ("[T]he Court finds that the potential for Petitioners' continued detention without an initial bond hearing would cause immediate and irreparable injury, as this violates statutory rights afforded under § 1226(a)."); Ceja Gonzalez, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. August 13, 2025); Lopez Benitez v. Francis, No. 25-Civ-5937, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); Rosado v. Figueroa, No. CV-25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted without objection, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); Martinez v. Hyde, No. CV 25-11613-BEM, (D. Mass. July 24, 2025); Gomes v. Hyde, No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); Padron Covarrubias v. Vergara, No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025); Rodriguez Vazquez v. Bostock, 2025 WL 1193850, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); Diosdado A.V. v. Bondi, No. 25-cv-3162 (KMM/ECW), Doc. No. 16 (D. Minn. Aug. 19, 2025); Lopez-Campos v. Raycraft, No. 2:25-cv-124862025 WL 2496379 (E.D. Mich. Aug. 29, 2025); Kostak v. Trump, No. 3:25-cv-01093-JE-KDM, Doc. 20 at 7 (W.D. La. Aug. 27, 2025); Benitez v. Noem, No.

5:25-cv-02190-RGK-AS, Doc. 11 at 5 (C.D. Cal. Aug. 26, 2025); Leal-Hernandez v. Noem, No. 1:25-cv-02428-JRR, 2025 WL 2430025, at *10 (D. Md. Aug. 24, 2025); Romero v. Hyde, No. 25-11631-BEM, 2025 WL 2403827, at *13 (D. Mass. Aug. 19, 2025); Arrazola-Gonzalez v. Noem, No. 5:25-cv-01789-ODW, 2025 WL 2379285, at *2 (C.D. Cal. Aug. 15, 2025); Dos Santos v. Noem, No. 1:25-cv-12052-JEK, 2025 WL 2370988, at *8 (D. Mass. Aug. 14, 2025); Belsai v. Bondi, et al., 2025 WL 2802947, at *5 (D. Minn., 2025); Buenrostro Mendez v. Bondi, 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025); Pizarro Reyes, 2025 WL 2609425, at *4; Lopez-Arevelo, 2025 WL 2691828, at *7; Chogllo Chafla v. Scott, No. 2:25-cv-437, 2025 WL 2688541, at *5 (D. Me. Sep. 21, 2025); Eliseo v. Olson et al, 25-3381 JWB/DJF (D. Minn. Oct. 8, 2025).

35. As the court in Rodriguez Vazquez explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." Rodriguez Vazquez, 2025 WL 1193850 at *12.

36. Other portions of the text of § 1226 also explicitly apply to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible individuals makes clear that, by default, inadmissible individuals not subject to subparagraph (E)(ii) are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at

*12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

37. On September 19, 2025, the Western District of Kentucky, Louisville Division, reached the same conclusion taking notice of the recent Congressional amendments, the Laken Riley Act, to Section 1226. See Barrera v. Tindall, No. 3:25-cv-541-RGJ (W.D. Ken., Sept. 19, 2025). The Laken Riley Act added new a new subsection under Section 1226(c) for certain individuals who would have otherwise fallen under Section 1226(a). The Barrera Court noted that if § 1225(b)(2) already mandated detention of any alien who has not been admitted, regardless of how long they have been here, then "adding § 1226(c)(1)(E) to the statutory scheme was pointless and this Court, too, will not find that Congress passed the Laken Riley Act to 'perform the same work' that was already covered by § 1225(b)(2)." See Barrera, at *9-10.

38. In its further analysis of the text, the Barrera Court observed, "Respondents 'completely ignore,' or even read out, the term 'seeking' from 'seeking admission.'" (citing Lopez-Campos, 2025 WL 2496379, at *6). The term "seeking" "implies action." Id. Noncitizens who are present in the country for years, like Barrera who has been here 20 years, are not actively "seeking admission." Id. Since the plain language of Section 1225 requires someone to be "seeking admission" to be subject to mandatory detention, the Petitioner here (like Barrera) is not subject to mandatory detention.

39. Relying on the Supreme Court's decision in Jennings v. Rodriguez, 583 U.S. 281 (2018), the court in Lopez Santos v. Noem, 3:25-cv-01193-TAD-KDM (W.D. La., September 11, 2025) also reached the same conclusion. The Lopez Santos Court noted

that the Supreme Court in Jennings held that Section 1225(b), the provision at issue in the instant habeas petition, "applies primarily to aliens seeking entry into the United States" (Jennings at 297), and that Section 1226 "applies to aliens already present in the United States." Id. at 303. As such the Court in Lopez Santos v. Noem, too determined that a noncitizen residing in the U.S. is entitled to a bond hearing. Lopez Santos v. Noem at *11.

40. In light of the foregoing and the plain language of Sections 1225 and 1226, Section 1226 applies to noncitizens who are present without admission and who face charges in removal proceedings of being inadmissible to the United States.

41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States and are encountered at or near the border. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

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

FACTS

43. Petitioner Elizabeth Cardoso is a Mexican national and devoted mother of two grown children.

44. She has been residing in Southern California since 2004 when Ms. Cardoso most recently entered the United States without inspection. In 2005 Ms. Cardoso was remarried (in that her prior husband had been tragically murdered in 2002).

45. In approximately 2011, she and her husband went to a document preparer for them to start the process for the husband to petition Ms. Cardoso. Due to deficiencies in the filing, she was referred to immigration court in approximately 2012.

46. Ms. Cardoso attended one court hearing and then her case was administratively closed in 2012. Never at any point during her removal proceedings was she taken into custody.

47. Later she and her husband went to another form preparer in approximately 2020 who again filed a Form I-130 Petition by her husband on Ms. Cardoso's behalf. This petition was approved by USCIS in 2021.

48. Unfortunately, [redacted] Ms. Cardoso and her children had to move to a different address in June of 2024.

49. On July 24, 2025, Ms. Cardoso (through counsel) filed a Form I-360 Petition with USCIS [redacted]

50. Because of Ms. Cardoso's move, when a notice for an August 1, 2025 hearing in immigration court was mailed to Ms. Cardoso – as well as an ICE call-in letter requesting her to come to the downtown San Diego ICE office – she did not receive these documents as they were mailed to her old address.

51. Because Ms. Cardoso did not receive the hearing notice, she did not know to appear at the August 1, 2025 court hearing and she was ordered removed in her absence.

52. On September 9, 2025, Ms. Cardoso went to the attorney who had represented her in removal proceedings prior to 2012 and learned she had a removal order from the August 1, 2025 hearing.

53. On September 15, 2025, Ms. Cardoso (through counsel) filed a motion to reopen her removal proceedings with the immigration judge on the basis that she never received the hearing notice because it was sent to her previous address.

54. Ms. Cardoso's previous counsel also received a call-in letter for her to report to ICE in downtown San Diego on October 2, 2025 and let Ms. Cardoso know about this. Ms. Cardoso went to this ICE appointment and was taken into custody.

55. Towards the end of October, 2025 Ms. Cardoso's removal proceedings were reopened by the immigration judge. Ms. Cardoso, however, remains detained.

EXHAUSTION

56. Exhaustion in this case is futile. First, ICE's new policy was issued "in coordination with DOJ," which oversees the immigration courts. Moreover, as noted, the most recent published BIA decision on this issue (*Matter of Yajure Hurtado*) states that persons like Petitioner are subject to mandatory detention as applicants for admission.

57. Furthermore, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, the DOJ has affirmed its position that individuals like Petitioner is an applicant for admission and subject to detention under § 1225(b)(2)(A). See Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

58. The DOJ has taken the same position in the *Maldonado Bautista* litigation, see Opp. to Ex Parte TRO Application, Maldonado Bautista, No. 5:25-cv-01873-SSS-BFM, (C.D. Cal. July 24, 2025), Dkt. 8, and in the *Ceja Gonzalez* litigation. See Opp. to Ex Parte TRO Application and OSC, *Ceja Gonzalez*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. August 8, 2025), Dkt. 7 at 17-21.

59. As such, for the reasons discussed above, exhaustion is futile.

60. Moreover, exhaustion is also not required for Constitutional claims and here the Petitioner alleges that her detention under Section 1225(b)(2) violates her due process rights. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

FIRST CLAIM FOR RELIEF

Petitioner's Detention is in Violation of 8 U.S.C. § 1226(a)

61. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

62. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner who is present and residing in the United States and has been placed under § 1229a removal proceedings and charged with inadmissibility pursuant 8 U.S.C. § 1182(a)(6)(A)(i). As relevant here, § 1225(b)(2) does not apply to those who previously entered the country and have been present and residing in the United States prior to being

apprehended and placed in removal proceedings by Respondents. Such noncitizens may only be detained pursuant to § 1226(a), unless subject to § 1226(c), or § 1231.

63. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).

SECOND CLAIM FOR RELIEF

Petitioner's Detention Violates the Administrative Procedure Act,

5 U.S.C. § 706(2)

64. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

65. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

66. Respondents' detention of Petitioner pursuant to § 1225(b)(2) is arbitrary and capricious. Respondents' detention of Petitioner violates the INA and the Fifth Amendment. Respondents do not have statutory authority under § 1225(b)(2) to detain Petitioner.

67. Petitioner's detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

THIRD CLAIM FOR RELIEF

Petitioner's Detention Violates His Fifth Amendment Right to Due Process

68. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

69. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

70. Petitioner has a fundamental interest in liberty and being free from official restraint.

71. The Respondents' continued detention of Petitioner violates her due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully asks that this Court take jurisdiction over this matter and grant the following relief:

a. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner, or in the alternative, that she be provided with a bond hearing complying with the procedural requirements in Singh v. Holder, 638 F.3d 1196 (9th Cir. 2011);

b. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other

basis justified under law; and

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

Dated: November 10, 2025

Respectfully submitted,

By: /s/ Bashir Ghazialam
Bashir Ghazialam
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

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

Executed on this November 10, 2025, in San Diego, California.

/s/ Kirsten Zittlau
Kirsten Zittlau
Attorney for Petitioner