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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF TEXAS**
10 **HOUSTON DIVISION**

11
12
13 **LEAL GARCIA, Maria del Coral,**)

14)
15 Petitioner,)

16)
17 v.)

18)
19 **Martin Frink,** Warden, Houston Contract)
20 Detention Facility Administrator)

21 **Gabriel Martinez,** Acting Field Office Director)
22 ERO, in his official capacity)

23 **Bret Bradford,** Acting Field Office Director)
24 U.S. Immigration and Customs Enforcement;)

25 In his official capacity)

26 **Todd Lyons,** Acting Director of U.S. Immigration)
27 and Customs Enforcement, in his official capacity)

28 **Kristi Noem,** Secretary, Department of Homeland)
29 Security, in her official capacity)

30 **Pam Bondi,** Attorney General of the United States,)
31 in their official capacities,)

32 Executive Office for Immigration Review)

33)

34 Respondents.)

Case No. 4:25-cv-25-5387

Alien No. A 

**PETITION FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

35
36 **INTRODUCTION**

37 1. Petitioner Maria del Coral Leal Garcia is a native and citizen of Mexico, who has
38 been residing in the United States since 2000. She was apprehended by immigration authorities on
39 or about June 23, 2025, in a traffic stop in Conroe, Texas.

1 2. She is currently detained in ICE custody at the Houston Contract Detention Facility
2 and is being held by immigration authorities and is subject to pending removal proceedings, though
3 she has already won her case before the Immigration Judge.

4 3. Petitioner was issued a Notice to Appear dated June 23, 2025, and is being charged
5 with having entered the United States without inspection. 8 U.S.C. 1182(a)(6)(A)(i).

6 4. Through her counsel, Petitioner requested a bond hearing on July 5, 2025. On or
7 about 17, 2025, Petitioner was denied release on bond by the Immigration Judge due to lack of
8 jurisdiction based on the newly published “Lyons Memo.” Pursuant to this very new interpretation
9 of the law, the immigration judge held that he lacked jurisdiction over the bond hearing based on
10 new agency policy that all persons who entered without inspection are deemed applications for
11 admission to the United States and are ineligible for bond redetermination hearings based on the
12 immigration statute, 8 U.S.C. §1225(b)(2)(A).

13 5. Petitioner immediately filed an appeal to the Board of Immigration Appeals on July
14 17, 2025, and requested an expedited decision, but none has been had.

15 6. Petitioner continued to fight her removal proceedings, requesting Cancellation of
16 Removal for Non-Lawful Permanent Residents, which was ultimately granted by the immigration
17 Judge on September 18, 2025. DHS reserved their right to appeal the decision of the IJ, and the
18 parties were informed that any appeal had to be filed on or before October 20, 2025. This granted
19 relief means that the Respondent was effectively granted status as a Legal Permanent Resident in
20 the USA.

21 7. Section 1225(b)(2)(A) states that an applicant for admission seeking admission
22 shall Thus, she was forced to wait out the appeal period while DHS determined if they would
23 appeal.

1 8. On October 21, 2025, Petitioner's undersigned attorney contacted DHS to request
2 that Petitioner be released forthwith. We received very troublesome non-answers until such time
3 that DHS responded that an appeal had been taken the evening of October 20, 2025, and that they
4 disagreed, that Respondent should not be allowed to be released. We requested service of the same,
5 since we had not received any notice of appeal via email or other available electronic means. This
6 was not provided. We received proof of DHS's appeal via regular mail on October 28, 2025.

7 9. As of today's date, Petitioner has been detained one hundred forty-one days (141
8 days). She has complied with the unjust terms of her detention, instead of giving up, filing for
9 relief and being ultimately granted relief, only to be forced to remain in detention indefinitely since
10 DHS took an appeal and the current interpretation of the law held by DHS prevents her from
11 seeking release on bond due to "lack of jurisdiction."

12 10. Section 1225(b)(2)(A) states that an applicant for admission seeing admission shall
13 be detained for removal proceedings. It is the position of the Executive Office for Immigration
14 Review (EOIR), which houses both the BIA and the immigration judges, that 8 U.S.C. §
15 1225(b)(2)(A) applies to *all* individuals who arrived in the United States without documents,
16 regardless of how long they have lived in the United States and regardless of how far they were
17 apprehended from the border.

18 11. However, § 1225 (b)(2)(A) does not apply to individuals, like Petitioner, who are
19 present in the United States. Instead, such individuals are subject to detention under a different
20 statute, § 1226(a), and eligible for release on bond.

1 12. Nevertheless, earlier in July 2025, ICE released a memorandum instructing its
2 attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond
3 redeterminations for applicants who arrived in the United States without documents.¹

4 13. EOIR has already applied this reasoning in a May 22, 2025 BIA decision, finding
5 that a noncitizen who had been residing in the United States for almost ten years and had entered
6 into the United States without documents was ineligible for bond, and then further made it BIA
7 binding precedent in the recent case of *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

8 14. Further, despite a legal ruling in *Rodriguez v. Bostock*, 2025 WL 1193850 (W.D.
9 Wa. Apr. 24, 2025), rejecting this position, Respondents continue to maintain that noncitizens who
10 entered the United States without inspection are not eligible for bond redetermination hearings,
11 because they are applicants for admission within the meaning of 8 U.S.C. § 1225 (b)(2)(A).

12 15. This reading is a violation of the statute and due process.

13 16. As such, Petitioners seek an order of declaratory and injunctive relief and set aside
14 relief under the Administrative Procedure Act requiring that they be immediately released, or
15 provided a bond redetermination hearing before the Immigration Judge.

16 17. Accordingly, to vindicate Petitioner's statutory and constitutional rights, this Court
17 should grant the instant petition for a writ of habeas corpus. Absent an order from this Court,
18 Petitioner will have significant health complications, and be unjustly detained in violation of the
19 constitution for at least another five to six months, given the time frame for appeal from the BIA
20 of detained cases, or longer.

¹" ICE Says Many in Immigration Detention No Longer Qualify for Bond Hearings," *CBS News* (Jul. 15, 2025) <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>; "ICE declares millions of undocumented immigrants ineligible for bond hearings," *The Washington Post* (Jul 15, 2025) <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigranbts-bond-hearings/>

1 **JURISDICTION**

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

4 19. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
5 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
6 (Suspension Clause).

7 20. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et.*
8 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
9 § 1651.

10 **VENUE**

11 21. Venue is proper because Petitioner is detained at Houston Contract Detention
12 Facility in Houston, Texas, which is within the jurisdiction of this District.

13 22. Furthermore, venue is proper in this District because Respondents are officers,
14 employees, or agencies of the United States and Respondents Martin Frink, Gabriel Martinez, and
15 Bret Bradford reside in this District; and a substantial part of the events or omissions giving rise
16 to her claims occurred in this District, and Petitioner resides in this District and no real property is
17 involved in this action. 28 U.S.C. § 1391(e).

18
19 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

1 allowed.” *Id.* (emphasis added).

2 24. Courts have long recognized the significance of the habeas statute in protecting
3 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
4 important writ known to the constitutional law of England, affording as it does a *swift* and
5 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
6 (1963) (emphasis added).

7 **PARTIES**

8 25. Petitioner was granted Legal Permanent Resident status on or about September 18,
9 2025, an order which is currently on appeal before the Board of Immigration Appeals. Prior to
10 that, she was undocumented, having resided in the USA for a period of over twenty-five (25) years.
11 She is currently detained at Houston Contract Detention Facility. She is in the custody, and under
12 the direct control, of Respondents and their agents.

13 26. Respondent Martin Frink is the Warden of Houston Contract Detention Facility,
14 and he has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S.
15 Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
16 Respondent Frink is a legal custodian of Petitioner.

17 27. Respondent Gabriel Martinez is sued in his official capacity as the Acting Director
18 of the Houston Field Office for ICE enforcement and Removal Operations. Respondent Martinez
19 is a legal custodian of the Petitioner and has authority to release her.

20 28. Respondent Bret Bradford, or any successor is sued in his official capacity as the
21 Acting Director of the Houston Field Office of U.S. Immigration and Customs Enforcement.
22 Respondent Bradford is a legal custodian of Petitioner and has authority to release her.

23 29. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs

1 Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention of
2 Petitioners. Respondent Lyons is a legal custodian of Petitioner and has authority to release her.

3 30. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S.
4 Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for
5 the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S.
6 Immigration and Customs Enforcement, the component agency responsible for Petitioner's
7 detention and custody. Respondent Noem is a legal custodian of Petitioner.

8 31. Respondent Pam Bondi is sued in her official capacity as the Attorney General of
9 the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity,
10 she has the authority to adjudicate removal cases and to oversee the Executive Office for
11 Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent
12 Bondi is a legal custodian of Petitioner.

13 32. Respondent Executive Office for Immigration Review is a component agency of
14 the Department of Justice responsible for conducting removal and bond hearings of noncitizens.
15 EOIR is comprised of lower adjudicatory body administered by immigration judges and an
16 appellate body known as the Board of Immigration Appeals (BIA). Immigration judges issue bond
17 determination hearing decisions, which are then subject to appeal to the BIA.

18 **LEGAL BACKGROUND**

19 33. The Immigration and Nationality Act (INA) prescribes three basic forms of
20 detention for noncitizens in removal proceedings.

21 34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-
22 expedited removal proceedings before an immigration judge (IJ). See 8 U.S.C. § 1229a.
23 Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention,

1 see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with,
2 or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

3 35. Second, the INA provides for mandatory detention of noncitizens subject to
4 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
5 referred to under § 1225(b)(2).

6 36. Last, the Act also provides for detention of noncitizens who have been previously
7 ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–
8 (b).

9 37. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). 26. The
10 detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration
11 Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§
12 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently
13 amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

14 38. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that,
15 in general, people who entered the country without inspection were not considered detained under
16 § 1225 and that they were instead detained under § 1226(a). See *Inspection and Expedited Removal*
17 *of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum*
18 *Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

19 39. Thus, in the decades that followed, most people who entered without inspection—
20 unless they were subject to some other detention authority—received bond hearings. That practice
21 was consistent with many more decades of prior practice, in which noncitizens who were not
22 deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. See 8

1 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
2 simply “restates” the detention authority previously found at § 1252(a)).

3 40. Respondents’ new policy turns this well-established understanding on its heads and
4 violates the statutory scheme.

5 41. Indeed, this legal theory that noncitizens who entered the United States without
6 admission or parole are ineligible for bond hearings was already rejected by a District Court in the
7 Western District of Washington, finding that such individuals are entitled to bond redetermination
8 hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases.
9 *Rodriguez v. Bostock*, No. 3:25-CV-05240- TMC, 2025 WL 1193850, at *12 (W.D. Wash. Apr.
10 24, 2025).

11 42. Despite this finding from a federal court, in July 2025, ICE released a memorandum
12 instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR,
13 to reject bond redetermination hearings for applicants who arrived in the United States without
14 documents.

15 43. A May 22, 2025 unpublished BIA decision confirms that EOIR is taking this same
16 position that noncitizens who entered the United States without admission or parole are ineligible
17 for immigration judge bond hearings. The precedential decision in *Matter of Yajure Hurtado* of
18 the BIA later bound all underlying EOIR and BIA cases to the same standard.

19 44. This is now a widespread position applying across the United States.

20 45. This interpretation defies the INA. The plain text of the statutory provisions
21 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

1 46. Section 1226(a) applies by default to all persons “pending a decision on whether
2 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
3 § 1229a, which “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

4 47. The text of § 1226 also explicitly applies to people charged as being inadmissible,
5 including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s
6 reference to such people makes clear that, by default, such people are afforded a bond hearing
7 under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face
8 charges of being inadmissible to the United States, including those who are present without
9 admission or parole.

10 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
11 recently entered the United States. The statute’s entire framework is premised on inspections at
12 the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).
13 38. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like
14 Petitioner who are alleged to have entered the United States without admission or parole.

15 **STATEMENT OF FACTS**

16 39. Petitioner is a 45-year-old native and citizen of Mexico, with three United States
17 Citizen Children, no criminal record, and significant family ties to the United States including
18 siblings, her mother, and her common law partner. She has no criminal record, is employed, and
19 has filed taxes with the IRS for a number of years. She has significant family and community ties
20 in this country, and currently has a diagnosis of  which is not being adequately treated while
21 in detention.

22 40. Petitioner has resided in the United States since 2000, and has lived the past
23 several years in Conroe, Texas.

1 41. On June 23, 2025, she was arrested by immigration authorities after a traffic stop
2 in Conroe, Texas, in which no charges were filed. She was driving a loaner vehicle from a local
3 dealership while her vehicle was in the repair shop. The alleged reason for the stop was the
4 license plate of the loaner vehicle.

5 42. Petitioner was then placed in removal proceedings to appear before an IJ, and was
6 charged with having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

7 43. ICE denied Petitioner's request for release, and she subsequently requested a bond
8 redetermination hearing before an Immigration Judge.

9 44. Petitioner has three United States Citizen Children, two of whom have been the
10 victims of lengthy sexual abuse by another family member. Petitioner had just become aware of
11 this prior to her detention and was working to provide counseling and pay for the same for her
12 children. Her children also have a myriad of other health and emotional issues which have only
13 been worsened by her arrest and detention. Her family is also losing their home during her
14 lengthy detention. When she was not detained, together with her partner the two worked to
15 provide a home for their family through her steady employment, attended church regularly, and
16 is an active volunteer in her community. She is neither a danger to others nor a flight risk.

17 45. On July 17, 2025, IJ Timothy Cole issued a decision that he lacked jurisdiction to
18 conduct a bond redetermination hearing because Petitioner was an applicant for admission under
19 the "Lyons Memo."

20 46. Petitioner immediately filed appeal to the BIA, but that appeal is futile, given the
21 decision in *Matter of Yajure Hurtado*.

22 47. Petitioner continued to fight against the removal proceedings, filing an application
23 for Cancellation of Removal for Non Lawful Permanent Residents. She fought for months, and

1 had several days of trial on the matter. IJ Timothy Cole ultimately granted that application,
2 which would allow the Petitioner to remain in the United States of America as a Lawful
3 Permanent Resident.

4 48. DHS reserved appeal through their Trial Attorney. They were given thirty (30)
5 days to appeal the decision to the BIA. Petitioner patiently waited the thirty days to be over. On
6 October 21, 2025, through Undersigned Counsel, we contacted DHS to request her release since
7 no appeal had been filed. That request was denied, and over a week later we were provided with
8 the proof that DHS had filed appeal to the BIA.

9 49. Given the backlog of immigration cases, it is likely that Respondent will be
10 detained for an additional six to seven months or more, even despite her winning her removal
11 proceedings. This is incredibly unjust, as Petitioner herein has been a victim to the process, has
12 remained steady in fighting for her relief through all available legal avenues, has won her case,
13 and is now being detained at government expenses despite a fact-finding authority having
14 granted her lawful permanent residence. Further, their delay in filing the appeal can be viewed
15 as purposeful, in order to cause as much hardship as possible to the Petitioner and her family,
16 despite the already dire circumstances of her family.

17 **CLAIMS FOR RELIEF**

18 **COUNT ONE (I)**
19 **Violation of the Administrative Procedure Act**
20 **Unlawful Denial of Bond**
21

22 50. Petitioner repeats, re-alleges, and incorporates by reference each and every
23 allegation in the preceding paragraphs as if fully set forth herein.

24 51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
25 noncitizens residing in the United States who are subject to grounds of inadmissibility because

1 they originally entered the United States without inspection or parole. Such noncitizens are
2 detained under § 1226(a), unless they are subject to another detention provision, such as §
3 1225(b)(1), § 1226(c), or §1231.

4 52. The application of § 1225(b)(2) to bar Petitioner from receiving a bond
5 redetermination hearing before an immigration judge violates the Immigration and Nationality
6 Act.

7 **COUNT TWO (II)**
8 **Violation of 8 U.S.C. § 1226(a)**
9 **Unlawful Denial of Bond Hearing**

10 52. Petitioner repeats, re-alleges, and incorporates by reference each and every
11 allegation in the preceding paragraphs as if fully set forth herein.

12 53. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
13 noncitizens residing in the United States who are subject to grounds of inadmissibility because
14 they originally entered the United States without inspection or parole. Such noncitizens are
15 detained under § 1226(a), unless they are subject to another detention provision, such as §
16 1225(b)(1), § 1226(c), or §1231.

17 54. The application of § 1225(b)(2) to bar Petitioner from receiving a bond
18 redetermination hearing before an immigration judge is arbitrary, capricious, and not in
19 accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

20 55. For these reasons, Petitioner's continued detention violates 8 U.S.C. § 1226(a).

21 **COUNT THREE (III)**
22 **Violation of Fifth Amendment Right to Due Process**

23 56. Petitioner repeats, re-alleges, and incorporates by reference each and every
24 allegation in the preceding paragraphs as if fully set forth herein.

25 57. The government may not deprive a person of life, liberty, or property without due
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1 process of law. U.S. Const. amend. V. “Freedom from imprisonment---from government custody,
2 detention, or other forms of physical restraint—lies at the heart of liberty that the Clause protects.”
3 *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed.2d 653 (2001).

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

5 59. The government’s continued detention of Petitioner without a bond redetermination
6 hearing to determine whether she is a flight risk or danger to others violates her right to due
7 process.

8 60. For these reasons, Petitioner’s detention violates the Due Process Clause of the
9 Fifth Amendment.

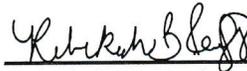
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11 **PRAYERS FOR RELIEF**

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

- 13 (1) Assume jurisdiction over this matter;
- 14 (2) Declare that the refusal to allow Petitioner a bond redetermination hearing before an
15 immigration judge violates the INA, APA, and Due Process;
- 16 (3) Issue a writ of habeas corpus requiring the Defendants release them or provide the
17 Petitioner a bond hearing to which they are entitled within 14 days;
- 18 (4) Issue an Order to Show Cause ordering Respondents to show cause why this Petition
19 should not be granted within three days.
- 20 (5) Set aside Respondent’s unlawful detention policy under the APA, 5 U.S.C. § 706(2);
- 21 (6) Award reasonable attorneys’ fees and costs pursuant to the Equal Access to Justice Act,
22 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and
- 23 (7) Order any further relief this Court deems just and proper.

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Respectfully submitted,



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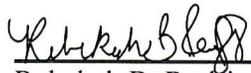
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Maria del Coral Leal Garcia, 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 11th day of November, 2025.



Rebekah B. Rodriguez