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6 UNITED STATES DISTRICT COURT
7 MIDDLE DISTRICT OF GEORGIA
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9 LOURDES DIAZ FLORES,
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12 Petitioner,
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14 v.
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16 JOHN TSOUKARIS, Field Office Director of
17 Enforcement and Removal Operations,
18 ATLANTA Field Office, Immigration and
19 Customs Enforcement; Kristi NOEM,
20 Secretary, U.S. Department of Homeland
21 Security; U.S. DEPARTMENT OF
22 HOMELAND SECURITY; Pamela BONDI,
23 U.S. Attorney General; EXECUTIVE OFFICE
24 FOR IMMIGRATION REVIEW; JASON
STREEVAL Warden of STEWART
DETENTION CENTER

Case No.
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PETITION FOR WRIT OF
HABEAS CORPUS

Respondents.

INTRODUCTION

1. Petitioner LOURDES DIAZ FLORES is in the physical custody of Respondents
2 at the STEWART DETENTION CENTER. She now faces unlawful detention because the
3 Department of Homeland Security (DHS) and the Executive Office of Immigration Review
4 (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, *inter alia*, having entered the United States without
7 admission or inspection. *See 8 U.S.C. § 1182(a)(6)(A)(i).*

3. Based on this allegation in Petitioner's removal proceedings, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
13 therefore ineligible to be released on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
15 Board) issued a precedent decision, binding on all immigration judges, holding that an
16 immigration judge has no authority to consider bond requests for any person who entered the
17 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
18 The Board determined that such individuals are subject to detention under 8 U.S.C. §
19 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration
21 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
22 previously entered and are now residing in the United States. Instead, such individuals are
23 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

1 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
2 having entered the United States without inspection.

3 6. Respondents' new legal interpretation is plainly contrary to the statutory
4 framework and contrary to decades of agency practice applying § 1226(a) to people like
5 Petitioner.

6 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be
7 released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

9 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
10 STEWART DENENTION CENTER in Lumpkin, Georgia.

11 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
12 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
13 Constitution (the Suspension Clause).

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

VENUE

17 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
18 500 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF
19 GEORGIA, the judicial district in which Petitioner currently is detained.

20 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
21 Respondents are employees, officers, and agencies of the United States, and because a
22 substantial part of the events or omissions giving rise to the claims occurred in the MIDDLE
23 DISTRICT OF GEORGIA.

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause shown, not exceeding twenty days, is allowed.” *Id.*

7 14. Habeas corpus is “perhaps the most important writ known to the constitutional
8 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
9 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
10 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
11 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
12 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

14 15. Petitioner LOURDES DIAZ FLORES is a citizen of Mexico who has been in
15 immigration detention since September 14, 2025. After arresting Petitioner in Ellabell, Georgia,
16 ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to
17 the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

18 16. Respondent JOHN TSOUKARIS is the Director of the Atlanta Field Office of
19 ICE's Enforcement and Removal Operations division. As such, JOHN TSOUKARIS is
20 Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is
21 named in his official capacity.

17. Respondent Kristi Noem is the Secretary of the Department of Homeland
23 Security. She is responsible for the implementation and enforcement of the Immigration and

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

3 18. Respondent Department of Homeland Security (DHS) is the federal agency
4 responsible for implementing and enforcing the INA, including the detention and removal of
5 noncitizens.

6 19. Respondent Pamela Bondi is the Attorney General of the United States. She is
7 responsible for the Department of Justice, of which the Executive Office for Immigration Review
8 and the immigration court system it operates is a component agency. She is sued in her official
9 capacity.

10 20. Respondent Executive Office for Immigration Review (EOIR) is the federal
11 agency responsible for implementing and enforcing the INA in removal proceedings, including
12 for custody redeterminations in bond hearings.

13 21. Respondent JASON STREEVALIS is employed as Warden of the STEWART
14 DETENTION CENTER, where Petitioner is detained. He has immediate physical custody of
15 Petitioner. He is sued in his official capacity.

16 **LEGAL FRAMEWORK**

17 22. The INA prescribes three basic forms of detention for the vast majority of
18 noncitizens in removal proceedings.

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

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

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

6 26. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

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

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

17 29. Thus, in the decades that followed, most people who entered without inspection
18 and were placed in standard removal proceedings received bond hearings, unless their criminal
19 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
20 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
21 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
22 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
23 “restates” the detention authority previously found at § 1252(a)).

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1 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
2 rejected well-established understanding of the statutory framework and reversed decades of
3 practice.

4 31. The new policy, entitled “Interim Guidance Regarding Detention Authority for
5 Applicants for Admission,”¹ claims that all persons who entered the United States without
6 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
7 policy applies regardless of when a person is apprehended and affects those who have resided in
8 the United States for months, years, and even decades.

9 32. On September 5, 2025, the BIA adopted this same position in a published
10 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
11 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
12 ineligible for IJ bond hearings.

13 33. Since Respondents adopted their new policies, dozens of federal courts have
14 rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected
15 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

16 34. Even before ICE or the BIA introduced these nationwide policies, IJs in the
17 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
18 entered the United States without inspection and who have since resided here. There, the U.S.
19 District Court in the Western District of Washington found that such a reading of the INA is
20 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
21 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
22 1239 (W.D. Wash. 2025).

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24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 35. Subsequently, court after court has adopted the same reading of the INA's
2 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
3 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
4 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
5 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
6 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
7 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
8 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
9 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
10 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
11 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
12 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
13 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
14 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
15 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
16 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
17 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
18 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
19 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
20 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
21 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
22 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
23 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
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1 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
2 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
3 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

4 36. Courts have uniformly rejected DHS's and EOIR's new interpretation because it
5 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
6 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

7 37. Section 1226(a) applies by default to all persons "pending a decision on whether
8 the [noncitizen] is to be removed from the United States." These removal hearings are held under
9 § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

10 38. The text of § 1226 also explicitly applies to people charged as being inadmissible,
11 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
12 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
13 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress
14 creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions,
15 the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove
Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025
16 WL 1869299, at *7.

18 39. Section 1226 therefore leaves no doubt that it applies to people who face charges
19 of being inadmissible to the United States, including those who are present without admission or
20 parole.

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

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1 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
2 applies “at the Nation’s borders and ports of entry, where the Government must determine
3 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
4 U.S. 281, 287 (2018).

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

8 **FACTS**

9 42. Petitioner has resided in the United States since July 7, 1997 and resides
10 physically in Lumpkin, Georgia, where she is detained.

11 43. On September 4, 2025 Petitioner was arrested while working at the Hyundai plant
12 in Ellabell, Georgia. Petitioner is now detained at the Stewart Detention Center.

13 44. DHS had previously placed Petitioner in removal proceedings in Atlanta, Georgia
14 pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible
15 under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.
16 However, said proceedings were administratively closed on January 26, 2016. DHS has filed a
17 motion to recalendar the aforementioned proceedings.

18 45. Petitioner has resided in the United States for 28 years, most of the time in which
19 she has lived in Georgia. She has an application pending for adjustment of status with USCIS,
20 and was determined *prima facie* eligible for her petition through the Violence Against Women’s
21 Act (VAWA), which has been pending since November 15, 2023. Petitioner was gainfully
22 employed with Hyundai and was working legally with her Employment Authorization at the time
23 of her arrest. She has never been convicted of a crime, with the exception of traffic offenses. She
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1 has 5 children who all reside in Georgia. Petitioner is neither a flight risk nor a danger to the
2 community.

3 46. Following Petitioner's arrest and transfer to Stewart Detention Center, ICE issued
4 a custody determination to continue Petitioner's detention without an opportunity to post bond or
5 be released on other conditions.

6 47. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
7 Petitioner's bond request.

8 48. As a result, Petitioner remains in detention. Without relief from this court, she
9 faces the prospect of months, or even years, in immigration custody, separated from her family
10 and community.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
16 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
17 relevant here, it does not apply to those who previously entered the country and have been
18 residing in the United States prior to being apprehended and placed in removal proceedings by
19 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
20 § 1225(b)(1), § 1226(c), or § 1231.

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

COUNT II

Violation of the Bond Regulations

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

paragraphs.

53. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-

Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.

6 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the

7 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present

8 without having been admitted or paroled (formerly referred to as [noncitizens] who entered

⁹ without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323

¹⁰ (emphasis added). The agencies thus made clear that individuals who had entered without

¹¹ inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §

12 | 1226 and its implementing regulations.

54. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and

14 practice of applying § 1225(b)(2) to individual like Petitioner.

55. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued

16 || detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

56. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in

the preceding paragraphs as if fully set forth herein.

57. 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).

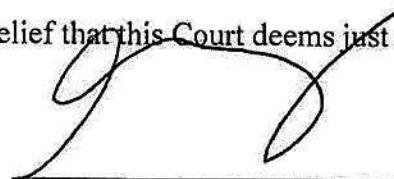
1 58. Petitioner has a fundamental interest in liberty and being free from official restraint.
2 59. The government's detention of Petitioner without a bond redetermination hearing to
3 determine whether he is a flight risk or danger to others violates her right to due process.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner prays that this Court grant the following relief:

6 a. Assume jurisdiction over this matter;
7 b. Order that Petitioner shall not be transferred outside the Middle District of
8 Georgia while this habeas petition is pending;
9 c. Issue an Order to Show Cause ordering Respondents to show cause why this
10 Petition should not be granted within three days;
11 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
12 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
13 1226(a) within seven days;
14 e. Declare that Petitioner's detention is unlawful;
15 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
16 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
17 law; and
18 g. Grant any other and further relief that this Court deems just and proper.

19 DATED this 12th of November, 2025.



20
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