

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

ANA GUADALUPE COJ CHINGO,

Petitioner,

v.

DERRICK STAMPER, Chief Patrol Agent,  
Houlton Sector, U.S. Border Patrol,  
MATTHEW HLADIK, Area Port Director,  
Area Port of Portland, Maine, Office of Field  
Operations, U.S. Customs and Border  
Protection, RODNEY SCOTT, Commissioner,  
U.S. Customs and Border Protection, DAVID  
WESLING, Acting Field Office Director,  
Boston Field Office, Enforcement and  
Removal Operations, U.S. Immigration and  
Customs Enforcement, TODD LYONS, Acting  
Director, U.S. Immigration and Customs  
Enforcement, KRISTI NOEM, Secretary, U.S.  
Department of Homeland Security, PAMELA  
BONDI, Attorney General, U.S. Department of  
Justice,

Petitioners.

**PETITION FOR WRIT OF HABEAS CORPUS**  
**PURSUANT TO 28 U.S.C. § 2241**  
**(Expedited Consideration Requested)**

**PARTIES**

1. Petitioner Ana Guadalupe Coj Chigno is a noncitizen from Guatemala. Exhibit 1 (Guatemalan Passport).
2. Petitioner lives in New Bedford, Massachusetts, and works at Market Basket, under a valid Employment Authorization Document. Exhibit 2 (Employment Authorization Document, valid from March 21, 2024 to March 20, 2029). She lives with her husband, Selbin Joel Reyes Urbian, a Lawful Permanent Resident, and their children. She shares 2 children with

Mr. Reyes Urbina, both of whom are US citizens. Mr. Reyes Urbina has 2 US citizen children from a prior relationship that live with them, and Petitioner has a son, a citizen of Guatemala, and a derivative on her application for asylum. Exhibit 3 (Form I-918 Approval Notice, Petitioner's Marriage Certificate, Copy of Petitioner's Husband's Lawful Permanent Resident Card and Birth Certificates of Petitioner's Children.)

3. The U.S. Department of Homeland Security ("DHS") is an executive department of the government of the United States.
4. U.S. Customs and Border Protection ("CBP") is a component of DHS. The U.S. Border Patrol and the CBP Office of Field Operations ("OFO") fall within CBP.
5. U.S. Customs and Immigration Enforcement ("ICE") is a component of DHS. ICE Enforcement and Removal Operations ("ERO") falls within ICE.
6. The U.S. Department of Justice ("DOJ") is an executive department of the government of the United States. The Executive Office of Immigration Review ("EOIR") is a component within DOJ. Immigration Courts and the Board of Immigration Appeals fall within EOIR.
7. Petitioner Derrick Stamper is the Chief Patrol Agent for the Houlton Sector of the U.S. Border Patrol. He is being sued in his official capacity. He is Petitioner's immediate and legal custodian.
8. Petitioner Rodney Scott is the Commissioner of CBP. He is being sued in his official capacity. He is also Petitioner's immediate and legal custodian.
9. Petitioner David Wesling is the Field Office Director for the Boston Field Office of ICE. He is being sued in his official capacity. He is also Petitioner's legal custodian.
10. Petitioner Todd Lyons is the Acting Director of ICE. He is being sued in his official capacity. He is also Petitioner's legal custodian.

11. Petitioner Kristi Noem is the Secretary of DHS. She is being sued in her official capacity.

She is also Petitioner's legal custodian.

12. Petitioner Pamela J. Bondi is the United States Attorney General, and, as such, the head of

DOJ. She is being sued in her official capacity. She oversees the Immigration Courts and

the Board of Immigration Appeals. She is also Petitioner's legal custodian.

13. All Petitioners are named in their official capacities. One or more of the Petitioners is

Petitioner's immediate custodian.

#### **JURISDICTION AND VENUE**

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28

U.S.C. § 1331 (federal question).

15. Venue is proper because Petitioner is detained in the District of Maine.

#### **FACTUAL BACKGROUND**

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18. She entered the United States in or near Brownsville, Texas, on or about September 5,

2014.

19. The U.S. Department of Homeland Security ("DHS") detained Petitioner shortly after she

entered the U.S. and held him for about 3 days.

20. On September 7, 2014, DHS initiated removal proceedings against Petitioner, issuing her a Notice to Appear. Exhibit 4 (I-862, Notice to Appear, Sept. 7, 2014). The NTA alleges that Petitioner is “an alien present in the United States who has not been admitted or paroled.” *Id.* The NTA does not allege that Petitioner is an “arriving alien.” *Cf. id.*
21. On September 6, 2014, DHS performed a custody determination “[p]ursuant to the authority contained in section 236 of the Immigration and Nationality Act”—8 U.S.C. § 1226—“and part 236 of title 8, Code of Federal Regulations”—regulations promulgated under 8 U.S.C. § 1226—and determined that Petitioner should be “detained in the custody of the Department of Homeland Security.” Exhibit 5 (I-286, Notice of Custody Determination, Sept. 6, 2014).
22. On September 8, 2014, DHS released Petitioner from detention on an Order of Release on Recognizance, “[i]n accordance with section 236 of the Immigration and Nationality Act”—8 U.S.C. § 1226—“and the applicable provisions of Title 8 of the Code of Federal Regulations.” Exhibit 6 (I-220A, Order of Release on Recognizance, Sept 8, 2014).
23. Petitioner traveled to the state of Massachusetts, where she has resided every since. She resided with her parents for a number of years, before she married. She has resided with her husband since 2018.
24. In July of 2015, Petitioner lodged an Application for Asylum, Withholding of Removal, and Relief Under the Convention Against Torture Act (“Asylum Application”) with the Boston, Massachusetts Immigration Court. “Boston Immigration Court” The Asylum Application was then filed with the Boston Immigration Court on July 27, 2023. On August 11, 2025, Petitioner Filed an Application for Cancellation of Removal for Non-Permanent Residents with the Boston Immigration Court. “(Non-LPR Cancellation”. On May 12,

2025, Petitioner's husband, a Lawful Permanent Resident, filed Form I-929, Petition for Qualifying Family Member of a U-1 Nonimmigrant with United States Citizenship and Immigration Services. "USCIS" Exhibit 7 (USCIS Receipt, Form I-929)

25. Petitioner has appeared before the Boston Immigration Court on many occasions over the years. On October 29, 2025, Petitioner and counsel appeared before the Boston Immigration Court, for Petitioners Individual Hearing. After a conference with the Immigration Judge, and Assistant Chief Counsel for DHS, the case was reset for an Individual Hearing on December 5, 2029, to allow USCIS to process the Form I-929.
26. In June of 2025, U.S. Citizenship and Immigration Services issued Petitioner an Employment Authorization Document valid until June 9, 2030. Ex. 2.
27. On April 8, 2025, Petitioner and *pro bono* counsel appeared before the Chelmsford, Massachusetts Immigration Court. Petitioner was scheduled for an individual hearing regarding his Asylum Application on January 21, 2027. Exhibit 8 (Executive Office of Immigration Review ("EOIR") Notice of Hearing.)
28. On information and belief, on about Tuesday, November 18 2025, Petitioner was involved in an argument with her spouse.
29. On information and belief, Petitioner went to her parent's home after the argument.
30. On information and belief, local police arrived to the Petitioner's home on Wednesday November 19, 2025. Both the Petitioner and her husband were questioned, and the Petitioner was taken into custody and transferred to a local station. Her family believed she would be released after a few hours.
31. On information and belief, Petitioner was transferred into US Immigration and Customs Enforcement "ICE" custody after being processed at the police station.

32. On information and belief, the agents did not have an administrative warrant at the time of the arrest.
33. On information and belief, she was transferred to the ICE office in Burlington, MA, where she spent two nights.
34. On information and belief, she was then transported to the Cumberland County Jail in Maine.
35. On November 19, 2025, Petitioner called family members by telephone, and reported that she was being held at the ICE office in Burlington, MA. On November 20, 2025 Petitioner called family members by telephone, and reported that she had been transferred to Cumberland County Jail.
36. On information and belief, Petitioner is currently being held in ICE custody at the Cumberland County Jail.
37. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), including because Petitioner does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at \*23 (D.D.C. Aug. 29, 2025).
38. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, Petitioner is not presently “seeking admission” to the United States. *See Choglla Chafra*, No. 25-cv-437-SDN, 2025 WL 2688541, at \*2–9 (D. Me. Sept. 22, 2025); *Aguiriano v. Romero v. Hyde*, No. 25-11631, 2025 WL 2403827, at \*1, 8-13 (D. Mass. Aug. 19, 2025).
39. On information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and therefore Petitioner could not “be returned” under that provision to mandatory custody under 8 U.S.C. § 1225(b) or any other

form of custody. Petitioner is not subject to mandatory detention under § 1225 for this reason as well.

40. Instead, as a person arrested inside the United States and held in civil immigration detention, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See Choglla Chafra*, 2025 WL 2688541, at \*2–9 (collecting cases); *Aguiriano*, 2025 WL 2403827, at \*1, 8-13 (collecting cases).

41. Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because she has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).

42. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).

43. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon their request, receive a custody redetermination hearing (colloquially called a “bond hearing”) with strong procedural protections. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021); *Brito v. Garland*, 22 F.4th 240, 256-57 (1st Cir. 2021) (affirming class-wide declaratory judgment); 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

44. Petitioner requests such a bond hearing.

45. However, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision which purports to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner.

46. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing.

47. Petitioner is being irreparably harmed by her ongoing unlawful detention without a bond hearing. *See Chiliquinga Yumbillo v. Stamper*, No. 25-cv-479-SDN, 2025 WL 2783642, at \*3–4 (D. Me. Sept. 30, 2025) (no exhaustion requirement because “many months of potentially unlawful detention” constitutes “irreparable harm”); *Aguiriano*, 2025 WL 2403827, at \*6-8 (no exhaustion required because “[o]bviously, the loss of liberty is a . . . severe form of irreparable injury” (internal quotation marks omitted)); *Flores Powell v. Chadbourne*, 677 F. Supp. 2d 455, 463 (D. Mass. 2010) (declining to require administrative exhaustion, including because “[a] loss of liberty may be an irreparable harm”); *cf. Brito v. Garland*, 22 F.4th 240, 256 (1st Cir. 2021) (citing *Bois v. Marsh*, 801 F.2d 462, 468 (D.C. Cir. 1986), for proposition that “[e]xhaustion might not be required if [the petitioner] were challenging her incarceration . . . or the ongoing deprivation of some other liberty interest”).
48. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims raised by Petitioner, and any attempt to raise such claims would be futile. *See Flores-Powell*, 677 F. Supp. 2d at 463 (holding “exhaustion is excused by the BIA’s lack of authority to adjudicate constitutional questions and its prior interpretation” of the relevant statute).
49. There is no statutory requirement for Petitioner to exhaust administrative remedies. *See Gomes v. Hyde*, No. 25-11571, 2025 WL 1869299, at \*4 (D. Mass. July 7, 2025) (“[E]xhaustion is not required by statute in this context.”).
50. Accordingly, there is no requirement for Petitioner to further exhaust administrative remedies before pursuing this Petition. *See Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, (1st Cir. 1997) (explaining that, where statutory exhaustion is not required,

administrative exhaustion not required in situations of irreparable harm, futility, or predetermined outcome).

**CLAIMS FOR RELIEF**

**COUNT ONE**

**Violation of 8 U.S.C. § 1226(a) and Associated Regulations  
(Failure to Provide Bond Hearing)**

50. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
51. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).
52. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
53. Petitioner's continuing detention is therefore unlawful.

**COUNT TWO**

**Violation of Fifth Amendment Right to Due Process  
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))**

54. Because Petitioner is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that Petitioner receive a bond hearing with strong procedural protections. *See Hernandez-Lara*, 10 F.4th at 41; *Doe*, 11 F.4th at 2; *Brito*, 22 F.4th at 256-57.
55. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
56. Petitioner's continuing detention is therefore unlawful.

**COUNT THREE**

**Violation of Fifth Amendment Right to Due Process  
(Failure to Provide an Individualized Hearing for Domestic Civil Detention)**

57. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

58. The Fifth Amendment’s Due Process Clause specifically forbids the Government to “deprive[]” any “person . . . of . . . liberty . . . without due process of law.” U.S. CONST. amend. V.

59. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); see *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”); cf. *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) (holding noncitizens due process rights were limited where the person was not residing in the United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the border while he was still “on the threshold”).

60. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

61. The Supreme Court has thus “repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); see also *Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

62. Petitioner was arrested inside the United States and is being held without being provided any individualized detention hearing.

63. Petitioner's continuing detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

**COUNT FOUR**  
**Violation of Fifth Amendment Right to Due Process**  
**(Substantive Due Process)**

64. Because Petitioner is not being provided a bond hearing, the government is not taking any steps to effectuate its substantive obligation to ensure that immigration detention bears a "reasonable relation" to the purposes of immigration detention (*i.e.*, the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

65. Petitioner's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

**COUNT FIVE**  
**Violation of 8 U.S.C. 1226(a)**  
**(Failure to Obtain Administrative Warrant)**

66. Petitioner could only be detained under 8 U.S.C. § 1226(a), if at all, "on a warrant issued by" DHS.

67. Petitioners detained Petitioner without obtaining an administrative warrant, in direct violation of the statute.

68. Petitioner's detention is therefore unlawful under 8 U.S.C. § 1226(a).

**PRAYER FOR RELIEF**

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

1. Assume jurisdiction over this matter;

2. Order that Petitioner shall not be transferred outside the District of Maine;
3. Issue an Order to Show Cause ordering Petitioners to show cause why this Petition should not be granted;
4. Declare that Petitioner's detention is unlawful;
5. Issue a Writ of Habeas Corpus ordering Defendants:
  - a. to immediately release Petitioner from detention, or, if at the time of the habeas hearing the Court has already ordered Petitioner released under its inherent Article III authority, not to re-detain Petitioner, or
  - b. in the alternative, to provide Petitioner an individualized bond hearing before an Immigration Judge on danger to the community and flight risk under 8 U.S.C. § 1226(a) and *Hernandez-Lara*, at a time and in a manner that places Petitioner in the same position he would be if not for the Petitioners' unlawful conduct, and, if the Immigration Judge grants bond, to immediately accept payment of the bond and release Petitioner from detention.
6. Grant any further relief this Court deems just and proper.

Dated: November 24, 2025

/s/ Melissa A. Hewey  
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(Proc Hac Vice certification forthcoming)

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

I represent Petitioner, Ana Guadalupe Coj Chingo, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of our knowledge.

Dated: November 24, 2025

/s/ Melissa A. Hewey

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