UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Huong Thi Nguyen, Petitioner, Kristi Noem, Secretary of Homeland Security; Pamela Bondi, U.S. Attorney General, Todd M. Lyons, Acting Director of Immigration and Customs Enforcement; Miguel Vergara San Antonio Field Office Director; Jose Rodriguez Jr., Warden of the South Texas Family Residential Center Respondents.	**Civil Case No. 5:25-cv-1565**

PETITIONER'S REPLY TO THE RESPONDENTS' RESPONSE TO THE PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner entered the United States without inspection on or about September 6, 2024. She was apprehended by U.S. immigration officials after her entry. The arresting officer determined that Petitioner was inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for being "present in the United States without being admitted or paroled." *See* Exh. A, ECF No. 1-2 (Notice to Appear). The officer made no other inadmissibility determination. Immigration and Customs Enforcement (ICE) then released the Petitioner from custody pursuant to Form I-200A, Order of Release on Recognizance, which provided that, "[i]n accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations," Petitioner was being released on her "own recognizance." *See* Exh. B, ECF No. 1-2 (Form I-220A). The Petitioner fully complied with this order.

On or about October 28, 2025, however, ICE abruptly re-detained the Petitioner at a routine check-in without any change in circumstances, any violation of conditions, or any lawful basis for

altering her custody status. Critically, "[t]he law requires a change in relevant facts, not just a change in [the government's] attitude." *Singh v. Andrews*, No. 1:25-CV-00801-KES-SKO (HC), 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025) (quoting *Valdez v. Joyce*, 25 Civ. 4627 (GBD), 2025 WL 1707737, at *3 n.6 (S.D.N.Y. June 18, 2025)).

Respondents now attempt to recast her detention as arising under 8 U.S.C. § 1225(b)(1), asserting—incorrectly—that she is an arriving noncitizen subject to expedited removal. The record makes clear that Petitioner has at all times been detained under § 1226(a), as such her sudden redetention is unlawful, violating both the Immigration and Nationality Act (INA) and the Fifth Amendment's Due Process Clause. Insofar as the Respondents' position is legally untenable and contradicted by their own actions, this Court should reject their argument, grant the Petition for a Writ of Habeas Corpus, and order Petitioner's immediate release from unlawful detention.[1]

I. Factual Statement

The facts of this case are fully provided in the Petitioner's Verified Petition for Writ of Habeas Corpus and her motion for temporary restraining order. *See* ECF No. 1 and 2. She fully adopts those facts in this reply. Notably, the Respondents do not dispute that Petitioner was previously released from custody under an order of recognizance under 8 U.S.C. § 1226(a), nor can they.

II. Argument

[1] The Court recently ordered the immediate release of a petitioner under substantially similar circumstances; it should do so again here. *See Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025); *see also Y.M.M. v. Wamsley*, No. 2:25-CV-02075, 2025 WL 3101782 (W.D. Wash. Nov. 6, 2025) (ordering immediate release on the same conditions of release previously imposed before Petitioner's rearrest); *Sanchez v. LaRose*, No. 25-CV-2396-JES-MMP, 2025 WL 2770629 (S.D. Cal. Sept. 26, 2025) (same). Moreover, the Respondents themselves acknowledge that release is the only remedy available in a habeas. Resp'ts' Response at 3, ECF No. 6 ("As a threshold issue, the only relief available to Petitioner through a habeas is release from custody."). Finally, since Respondents have already previously determined that Petitioner is not a flight risk or a danger to the community, immediate release is appropriate. *See Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.").

The sole issue in this case is whether the Petitioner's continued immigration detention is lawful. The Court should (A) reject Respondents' erroneous contention that the Court lacks jurisdiction; (B) determine that Petitioner's detention violates the governing statutes and the U.S. Constitution; and (C) order the Petitioner's immediate release.

A. This Court has jurisdiction over the Petitioner's habeas petition.

This Court has jurisdiction over the legal claims brought in this habeas corpus proceeding under 28 U.S.C. § 2241(c)(3), which authorizes federal courts to grant habeas relief to individuals held "in custody in violation of the Constitution or laws or treaties of the United States." Petitioner challenges the legality of her detention under federal immigration law—specifically, whether 8 U.S.C. § 1226 or § 1225 governs her custody. That question falls squarely within the jurisdiction conferred by § 2241. *See I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001) ("At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest."). Courts across the country have repeatedly held that habeas petitions contesting the statutory basis of immigration detention remain reviewable under § 2241. Accordingly, the Court should find that it has jurisdiction over this habeas petition and determine that Petitioner is detained under § 1226, not § 1225.

1. Section 1252(g) does not bar jurisdiction over Petitioner's habeas claim.

8 U.S.C. § 1252(g) provides,

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, ... no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

The Supreme Court has made clear that 1252(g) is a "narrow" jurisdictional bar that "applies only to three discrete actions that the Attorney General make take: her 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" *Reno v. Am.-Arab Anti-*

Discrimination Comm., 525 U.S. 471, 482 (1999) (emphasis in original). Indeed, the Supreme Court has "rejected as 'implausible' the Respondents' argument that § 1252(g) covers 'all claims arising from deportation proceedings' or imposes 'a general jurisdictional limitation.'" *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 19 (2020) (citing *Reno*, 525 U.S. at 42)); *see also guilar Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 237441, at *5 (D. Minn. Aug. 15, 2025). Here, Petitioner's claims fall outside of § 1252(g)'s narrow jurisdictional bar. She does not challenge the Respondents' decision to commence proceedings, adjudicate her case, or execute a removal order. Rather, she challenges her continued detention without bond in violation of the federal immigration laws and the Fifth Amendment's right to due process. As numerous courts have held, detention pending removal does not "arise from" the Attorney General's decision to commence removal proceedings. *See, e.g.*, *Hernandez Marcelo v. Trump*, No. 3:25-CV-00094-RGE-WPK, 2025 WL 2741230, at *5 (S.D. Iowa Sept. 10, 2025); *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996 (D. Mass. Oct. 3, 2025). Thus, because Petitioner is not challenging any of the three "discrete actions" identified in *Reno*, § 1252(g) poses no bar to this Court's jurisdiction.

2. Section 1252(b)(9) does not preclude jurisdiction over the Petitioner's claims.

Section 1252(b)(9) provides that:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section.

8 U.S.C. § 1252(b)(9). This provision channels challenges to removal proceedings and final orders of removal into the courts of appeals. *See INS*, 533 U.S. at 313. It has absolutely no application to challenges to detention that are entirely separate from the challenge to a final removal order. As the district court in *Maldonado* emphasized that "§ 1252(b)(9) is aimed at challenges to removal

proceedings," and "is a judicial channeling provision, not a claim-barring one." 2025 WL 2374411, at *7 (D. Minn. Aug. 15, 2025) (citing *Aguilar v. U.S. Immigr. & Customs Enf't*, 510 F.3d 1, 11 (1st Cir. 2007)).

The Supreme Court confirmed this narrow reading in *Jennings*, explaining that the phrase "arising from" in § 1252(b)(9) does not cover all claims merely related to or resulting from the fact of removal. 583 U.S. at 293–94. Interpreting it otherwise, the Court cautioned, would lead to "staggering results." *Id.* at 293. It "would also make claims of prolonged detention effectively unreviewable. By the time a final order of removal was eventually entered, the alleged excessive detention would have already taken place." *Id.* Because the respondents in *Jennings* did not seek review "of an order of removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined," the Court held that § 1252(b)(9) did not apply. *Id.* at 294. Similarly, the Petitioner is not challenging a final order of removal, the removal process, or her initial custody determination, therefore, the case falls outside the scope of § (b)(9). Numerous courts have reached the same conclusion. *See, e.g.*, *Santiago Santiago, v. Kristi Noem, et al.*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *4–5 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *3–4 (W.D. Tex. Sept. 22, 2025); *Cerritos Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282, at *3 (D. Ariz. Oct. 3, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082. at *7 (D. Nev. Sept. 17, 2025).

3. Section 1225(b)(4) does not preclude jurisdiction.

Section 1225(b)(4) provides:

> The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge

> shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a proceeding under § 1229a of this title.

This provision is plainly inapplicable. The examining officer did not admit the Petitioner, thus, there has been no "decision . . . favorable to the admission" of Petitioner.

B. The Respondents' construction of the detention statutes runs contrary to the provisions' plain language, their legislative history, and decades of practice.

The Supreme Court considered 8 U.S.C. §§ 1225(b) and 1226 and the classes of individuals to whom they apply in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). The Court explained that § 1225(b) "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Id.* at 297. In contrast, the Court explained that § 1226 "applies to aliens already present in the United States." *Id.* at 303. The Court further noted that "Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings," and also "permits the Attorney General to release those aliens on bond." *Id.* Contrary to the Respondents' claims, § 1225(b) does not require the Petitioner's detention; rather, § 1226(a) plainly allows for her release from custody.

1. Section 1225(b)(1) is not applicable.

Respondents incorrectly contend that Petitioner is detained under 8 U.S.C. § 1225(b)(1)(A)(iii). That provision applies only to certain noncitizens subject to expedited removal who have not "been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph." Critically, § 1225(b)(1) authorizes expedited removal only for individuals deemed inadmissible under § 1182(a)(6)(C) or § 1182(a)(7). Respondents never made either finding. Instead, the Notice

to Appear explicitly charges Petitioner as inadmissible under § 1182(a)(6)(A)(i)—a ground that does not fall within § 1225(b)(1)'s scope. *See* Exh. A, ECF No. 1-2.

Moreover, § 1225(b)(1) mandates detention only for noncitizens in expedited removal proceedings. *See Tinoco Pineda*, 2025 WL 3471418, at *4 (citing 8 U.S.C. § 1225(b)(1), (b)(1)(B)(ii), (b)(1)(B)(iii)(IV)). Yet Respondents concede that Petitioner is in "full" removal proceedings under 8 U.S.C. § 1229a. ECF No. 6 at 4, 14. Courts—including Respondents themselves in prior litigation—have recognized that a noncitizen cannot be simultaneously placed in both full and expedited removal. *See id.* (citing *Patel v. Tindall*, No. 3:25-CV-373-RGJ, 2025 WL 2823607, at *5 (W.D. Ky. Oct. 3, 2025)); *see also Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *7 (N.D. Cal. Sep. 12, 2025) (stating that "The Government concedes that Ms. Salcedo Aceros is currently in full removal proceedings under Section 1229, and that while those proceedings are live, she cannot be simultaneously subjected to Section 1225(b)(1)'s expedited removal proceedings."). As such, "Respondents cannot detain Petitioner in connection with expedited removal proceedings that do not exist." *Tinoco Pineda*, 2025 WL 3471418, at *4

2. Section 1225(b)(2) is not applicable.

Section 1225(b)(2) is inapplicable because the plain language of the statute limits its application to noncitizens who are "seeking admission" into the United States. The statute states:

> Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

(Emphasis added). The statute is inapplicable here because the Petitioner was not "seeking admission" when she was detained. By the time the Petitioner was redetained, she had been residing in the United States for over a year and was thus an "alien[] already present in the United

States," rather than an "alien[] seeking entry." *Jennings*, 583 U.S. at 297. Under *Jennings*, this means that § 1226, rather than § 1225(b) applies.

The plain language of § 1225(b)(2)(A) indicates that it applies only to individuals who are "seeking admission into the United States," a phrase that implies a present, affirmative act. *See Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025) ("One who is 'seeking admission' is presently attempting to gain admission into the United States."). "Admission" refers to "lawful entry . . . into the United States after inspection and authorization by an immigration officer." *Id.* § 1101(a)(13)(A). When Respondents redetained Petitioner years after she entered the United States, she was not seeking entry, much less "lawful entry . . . after inspection and authorization by an immigration officer." *See Martinez v. Mukasey*, 519 F.3d 532, 544 (5th Cir. 2008), *as amended* (June 5, 2008) ("Under th[e] statutory definition, 'admission' is the lawful *entry* of an alien after inspection, something quite different, obviously, from post-entry adjustment of status." (Emphasis in original)). Once an individual has entered the United States, there is no longer any ongoing act of seeking admission; the process is complete. *See Bethancourt Soto v. Soto et al.*, No. 25-CV-16200, 2025 WL 2976572, at *6 (D.N.J. Oct. 22, 2025)

The Respondents cannot equate "seeking admission" with being an "applicant for admission." As multiple courts have explained, this interpretation contravenes basic canons of statutory construction—namely, that different terms within a statute are presumed to have different meanings, and that no word should be rendered superfluous. Section 1225(b)(2)(A) expressly requires that a noncitizen be both an "applicant for admission" and "seeking admission." Reading these terms as synonymous would nullify the latter phrase entirely. *See, e.g.*, *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 488 (S.D.N.Y. 2025); *Guerrero Orellana v. Moniz*, No. 25-CV-

12664-PBS, 2025 WL 2809996, at*7 (D. Mass. Oct. 3, 2025) ("After all, § 1225(b)(2)(A) requires that the noncitizen be both an 'applicant for admission' and 'seeking admission.' If the provision 'were intended to apply to all 'applicant[s] for admission,' there would be no need to include the phrase 'seeking admission' in the statute.'") (alterations in original)). As such, the plain text of statute supports the Petitioner's position that she is detained under § 1226(a) and is entitled to release on bond. That is the end of the inquiry.

Nevertheless, the Respondents contend that Congress enacted IIRIRA to correct an inequity in the prior law by substituting the term "admission" for "entry." ECF No. 6 at 9. Yet, there is no "inequity" in treating a recent arrival differently from one who, like the Petitioner, has resided in the United States for over a year, has family ties in this country, employment authorization, and holds a path toward lawful status. Congress did not act unreasonably by allowing IJs to consider these very different classes of nonimmigrants differently—allowing bond for those with demonstrable equities but not for new arrivals.

The critical distinction is between individuals who are inside the United States and those who are not. *See Romero v. Hyde*, 795 F. Supp. 3d 271, 287 (D. Mass. 2025). As the Supreme Court explained, "once an alien enters the country, the legal circumstance changes, for the 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); *Hernandez Marcelo v. Trump*, No. 3:25-CV-00094-RGE-WPK, 2025 WL 2741230, at *8 (S.D. Iowa Sept. 10, 2025) ("Federal Respondents' argument as to congressional intent would allow anyone located in the United States to be examined by an immigration officer and detained without bond as if at the border, eschewing due process rights."). It is therefore appropriate to interpret the detention statutes with that constitutional backdrop in mind. *See Romero*, 795

F.Supp.3d at 297 (quoting *Hewitt v. United States*, 605 U.S. ——, 145 S. Ct. 2165, 2173 (2025)). Under that framework, Respondents' interpretation not only conflicts with statutory text, it violates due process of law.

Finally, Respondents claim that their interpretation does not render the Laken Riley Act (LRA) superfluous simply because it appears redundant." ECF No. 6 at 6. Respondents' claim is unpersuasive. Section 1226(c) requires mandatory detention for specifically enumerated categories of noncitizens. Section 1226(c), until recently, required the detention of noncitizens who are inadmissible or deportable because they have committed or been sentenced for certain criminal offenses, or because they are affiliated with terrorist groups or activities. *See* §§ 1226(c)(1)(A)-(D). In January 2025, Congress enacted the LRA, which expanded this list by adding § 1226(c)(1)(E), which requires detention of individuals who (1) are inadmissible under §§ 1182(a)(6)(A), (C), or (7), *and* (2) who have been charged with, arrested for, or convicted of certain crimes, including burglary, theft, shoplifting, or crimes resulting in death or serious bodily injury. Pub. L. No. 119-1, 139 Stat. 3. The LRA would not have been necessary if all noncitizens who entered the country illegally are subject to mandatory detention under § 1225(b)(2). Thus, the Respondents' construction runs contrary to the statutes' plain language and Congressional intent as manifested in the recent passage of the LRA. *See Stone v. I.N.S.*, 514 U.S. 386, 397 (1995), *abrogation on other grounds recognized by Riley v. Bondi*, 606 U.S. 259, 276 (2025) ("When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect."); *see also Mejia v. Noem, et al*, 4:25-cv-04812 (S.D. Tex. Nov. 17, 2025) ("The respondents' argument that all undocumented immigrants are subject to mandatory detention would render § 1226(c)(1)(E) redundant. Such a reading violates the canons of statutory

construction as set out by Justice Scalia and Bryan A. Garner in their seminal work READING LAW: THE INTERPRETATION OF LEGAL TEXTS (2012).").

C. The Due Process Clause entitles Petitioner to habeas corpus relief based on unlawful detention.

The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. "[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*, 533 U.S. at 693. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Id.* at 690. The Petitioner has a weighty liberty interest in her freedom even if the "government wields significant discretion." *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CBD), --- F. Supp. 3d ----, 2025 U.S. Dist. LEXIS 156344, at *33 (D. Ariz. Aug 11, 2025). When the government, as here, is detaining a noncitizen in violation of the plain language of a statute, the detention violates procedural due process.

To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. As explained in the TRO, these factors all favor a determination that the Petitioner is being held without due process of law. *See* ECF No. 2 at 10–12. The deprivation of the Petitioner's liberty interest based on their erroneous

interpretation of the detention statutes carries a high risk that the Petitioner's liberty is being erroneously deprived that is not outweighed by any valid governmental interest.

Critically, the Respondents fail to address the *Matthews* factors. Instead, they rely on *Thuraissigiam* for their contention that applying § 1225(b) to the Petitioner does not violate due process. As multiple courts have determined, *Thuraissigiam* is distinguishable.

> In *Thuraissigiam*, "[t]he Court did not address whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention, as [Petitioners do] here." *Lopez-Arevelo*, 2025 WL 2691828, at *8. Unlike in *Thuraissigiam*, where the petitioner challenged his deportability and the denial of his asylum admission, Parada-Hernandez challenges his detention. *See* 591 U.S. at 114-15.
>
> In the context of detention under Sections 1225(b) and 1226(a), the Fifth Circuit has "expressly left open the constitutional due process question" for lower courts to consider. *See Lopez-Arevelo*, 2025 WL 2691828, at *8 (citing *Jennings*, 583 U.S. at 312).
>
> The petitioner in *Thuraissigiam* was also stopped and detained "within twenty-five yards of the border" and was not released or permitted to reside in the United States. 591 U.S. at 114.
>
> But Petitioners have been released on their own recognizance and permitted to reside in the United States since 2018 (Pineda) and 2019 (Parada-Hernandez). Dkt. No. 1 at 9; *see Lopez-Arevelo*, 2025 WL 2691828, at *9 (distinguishing *Thuraissigiam* because petitioner had resided in the United States for three years).
>
> And, so, Parada-Hernandez is entitled to procedural protections under the Fifth Amendment's Due Process Clause.

Parada-Hernandez v. Johnson, No. 3:25-CV-2729-K-BN, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025). Similarly, Petitioner in this case was previously released from custody, has resided in the U.S. with her U.S. citizen husband who is a veteran for over a year, has obtained employment authorization, and is gainfully employed. Therefore, she is entitled to the procedural protections under the Fifth Amendment's Due Process Clause.

D. Petitioner will suffer irreparable injury as a result of her unlawful detention.

As explained in her motion for TRO, unlawful detention alone constitutes irreparable injury in the immigration context. ECF No. 2 at 14–15. Courts have similarly recognized that threatened removal satisfies the irreparable injury requirement, including harms such as separation from family and home, uncertainty about legal status, and difficulties establishing a life in the United States, such as access to healthcare, education, and employment. *Id.* (citing collecting cases). In this case, the Petitioner will continue to suffer irreparable harm from the Respondents' violation of the INA, its implementing regulations, and the Fifth Amendment's Due Process Clause. Indeed, the deprivation of Petitioner's fundamental liberty interest alone constitutes irreparable harm. In addition, she is separated from her family and community, is unable to work due to detention, and is facing ongoing uncertainty about her legal status, all of which further compounds the injury. Each of these factors independently constitutes irreparable harm warranting immediate injunctive relief.

E. The remaining factors weigh in favor of a TRO and preliminary injunction.

As explained above, DHS has no lawful authority to continue detention without an individualized bond hearing. The government cannot claim any legitimate interest in continuing detention that is not authorized by statute or consistent with due process. Petitioner is suffering real and immediate harm each day she remains unlawfully detained. Because the government lacks any valid interest in maintaining unlawful detention—and because Petitioner continues to suffer ongoing irreparable harm—the balance of equities and the public interest strongly support granting relief and ordering his release.

III. Conclusion

For the foregoing reasons, the Court should grant the Petitioner's writ of habeas corpus and order her release from custody immediately. In the alternative, the Court should order the

Respondents to provide her a bond hearing under 8 U.S.C. § 1226(a) within five days of this Court's order, **at which DHS bears the burden to justify her redetention** by demonstrating, by clear and convincing evidence, materially changed circumstances rendering Petitioner a danger to the community or a flight risk. *See, e.g.*, *Erazo Rojas v. Noem et al.*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *4 (W.D. Tex. Oct. 30, 2025) (holding that "when ordering a bond hearing as a habeas remedy" the burden shifts to the Government); *Salazar*, 2025 WL 2676729, at *7; *Y.M.M.*, 2025 WL 3101782, at *2.

Respectfully submitted,

/s/ Alejandra Martinez
Alejandra Martinez
Texas Bar No. 24096346
Alejandra.Martinez@dmcausa.com

/s/ Lance Curtright
Lance Curtright
Texas Bar No. 24032109
lance@dmcausa.com

De Mott, Curtright, Armendariz, LLP
8023 Vantage Drive, Ste. 800
San Antonio, Texas 78230
(210)590-1844 (telephone)
(210)212-2116 (facsimile)

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that on today's date, December 10, 2025, I electronically filed the above reply by using the Court's CM/ECF system which will automatically send a notice of electronic filing to Respondents' counsel.

/s/ Alejandra Martinez
Alejandra Martinez