UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Ana L. Cruz Mendoza,
Alien No. [redacted]

Petitioner,

v.

Warden, Broward Transitional Center;

Field Office Director, Enforcement and Removal Operations, Miami Field Office, Immigration and Customs Enforcement;

Kristi Noem, *in her official capacity as* Secretary, U.S. Department of Homeland Security;

Pamela Bondi, *in her official capacity as* U.S. Attorney General;

Respondents.

Case No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241 AND EMERGENCY RELIEF

The Petitioner, Ana L. Cruz Mendoza, submits this emergent verified petition for writ of habeas corpus, by and through counsel, and alleges as follows:

INTRODUCTION

1. Petitioner, Ana L. Cruz Mendoza, has been in the physical custody of Respondents since at least November 14, 2025, and is currently detained at the Broward Transitional Center.

2. Petitioner is being detained unlawfully by Respondents because the Department of Homeland Security (DHS) and the Department of Justice (DOJ), through the Executive Office of Immigration Review (EOIR), have concluded that Petitioner is subject to mandatory detention.

3. Petitioner is charged with being present in the United States without being admitted or paroled. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

4. Respondents DHS adopted a new policy on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who, like Petitioner, entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

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

6. Petitioner's detention without the ability to be released on bond violates the plain language of the Immigration and Nationality Act (INA). Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

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

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

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the ICE Detention Facility at Broward Transitional Center, located at 3900 N. Powerline Rd, Pompano Beach, Florida. *See* ICE Detainee Locator Search Results from November 24, 2025, attached hereto as Exhibit 1. She is therefore in "'custody' of [the DHS] within the meaning of the habeas corpus statute." Jones v. Cunningham, 371 U.S. 236, 243 (1963).

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

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

VENUE

12. Venue is properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because Petitioner is detained at Broward Transitional Center in Pompano Beach, Florida, within this judicial district.

PRUDENTIAL EXHAUSTION

13. "Generally 'exhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]'" *Puga v. Assistant Field Office Director, Krome North Service Processing Center*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025) (quoting *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982)).

14. It would be futile for Petitioner to seek a custody redetermination hearing before an Immigration Judge (IJ) because a recent BIA decision held that anyone, like Petitioner, who has entered the U.S. without inspection is now considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

REQUIREMENTS OF 28 U.S.C. § 2243

15. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift and imperative remedy* in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

16. 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 additional time, not exceeding twenty days, is allowed." *Id.*

PARTIES

17. Petitioner Ana L. Cruz Mendoza was born in Mexico and has been living in the United States since March of 1995, and has been in immigration detention since November 14, 2025.

18. Respondent Field Office Director of the Miami Office of ICE's Enforcement and Removal Operations division is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal.

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

21. Respondent Warden of the Broward Transitional Center has immediate physical custody of Petitioner where she is being detained, and is being sued in their official capacity.

LEGAL FRAMEWORK

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

23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§

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

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

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

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

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

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

29. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer.

See 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

30. The Supreme Court has also explained that the mandatory detention scheme of § 1225 applies "at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Conversely, "[s]ection 1226 generally governs the process of arresting and detaining that group of aliens [already in the country]." *Id.* at 288.

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

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

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

34. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts, including the Southern District of Florida, have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as DHS and ICE. *See e.g., Puga v. Assistant Field Office*

[1] A copy of the internal DHS policy is available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission

Director, Krome North Service Processing Center, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025); *Hinojosa Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025); *Patel v. Almodovar*, No. CV 25-15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025).

35. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the Court in *Puga* and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner, who were present in the U.S. for years before being arrested and detained. *See Puga*, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025).

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

FACTS

37. Petitioner has resided in the United States since March of 1995 and lives in West Palm Beach, Florida.

38. On February 28, 2024, Petitioner applied affirmatively for Asylum, Withholding of Removal and protection under the Convention Against Torture ("CAT") with Respondent, DHS, through the United States Citizenship and Immigration Service (USCIS).

39. On November 12, 2025 Petitioner was detained following a traffic stop in West Palm Beach. Petitioner was held at the Palm Beach County jail until November 14, when she was picked up by ICE and transferred to the Martin County Jail.

40. For seven days, while Petitioner was detained in the Martin County Jail, she was unable to contact her family or her attorney for legal counsel. Petitioner's family and her attorney diligently called ICE detention centers throughout the region looking for Petitioner to no avail. Petitioner's name finally appeared on the public ICE Detainee Locator database on November 20, but no specific location was listed.

41. On November 22, ICE transferred Petitioner to the Broward Transitional Center, where she is currently detained. Exhibit 1.

42. Petitioner is charged with being present in the United States without being admitted or paroled. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

43. DHS' new policy of mandatory detention and *Matter of Yajure Hurtado* effectively precludes any request for a bond redetermination by an IJ and makes it futile.

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

45. Petitioner is not a threat to national security nor a danger to the community.

46. Petitioner is not a flight risk. Petitioner has a pending application for Asylum, Withholding of Removal and Protection under CAT, and lives with her US-born children in West Palm Beach, Florida.

47. Petitioner also has a valid Employment Authorization Document, and is the main provider to her two minor U.S. citizen children.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

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

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

COUNT II

Violation of the Bond Regulations

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

52. 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. Specifically, under the heading of "Apprehension, Custody, and Detention of Aliens," the agencies explained that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

53. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

54. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Violation of Due Process

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

56. 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).

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

58. The government's detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Southern District of Florida while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a), within seven days, where the Government bears the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a flight risk;

e. Declare that Petitioner's detention is unlawful;

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

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

DATED: November 25, 2025

Respectfully submitted,

/s/Rolando Grillo
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ATTORNEY FOR PETITIONER

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

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

Executed this 25th day of November, 2025.

/s/Rolando Grillo
Rolando Grillo
Attorney for Petitioner