

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Ariana Monserrat QUINTANILLA-
SIMONS,

Petitioner,

v.

John Doe, WARDEN, Eloy Detention
Center (CoreCivic); John Doe, FIELD
OFFICE DIRECTOR, U.S. Immigration
and Customs Enforcement, Enforcement
and Removal Operations, Phoenix Field
Office; Pamela BONDI, U.S. Attorney
General,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Ariana Monserrat Quintanilla-Simons is in the physical custody
3 of Respondents at the Eloy Detention Center (CoreCivic) in Eloy, Arizona located at
4 1705 East Hanna Rd., Eloy AZ 85131. She now faces unlawful detention because the
5 Department of Homeland Security (DHS) and the Executive Office of Immigration
6 Review (EOIR) have concluded Petitioner is subject to mandatory detention.

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

9 3. Based on this allegation in Petitioner's removal proceedings, DHS denied
10 Petitioner release from immigration custody, consistent with a new DHS policy issued on
11 July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to
12 consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the
13 United States without admission or inspection—to be subject to detention under 8 U.S.C.
14 § 1225(b)(2)(A) and therefore ineligible to be released on bond.

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

21 5. Petitioner's detention on this basis violates the plain language of the
22 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals
23
24

1 16. To the extent the government argues exhaustion, it is not jurisdictional and
2 is excused here: the petition presents predominantly legal questions; further agency
3 process would be futile where the government treats Petitioner as categorically ineligible
4 for bond; and continued detention imposes irreparable liberty harm. *See, e.g., People ex*
5 *rel. Van De Kamp v. Tahoe Regional Plan Agency*, 766 F.2d 1319, 1325-26 (9th Cir.
6 1985).

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

15 PARTIES

16 18. Petitioner Ariana Monserrat Quintanilla-Simons is alleged to be a citizen
17 of Nicaragua who has been in immigration detention since October 30, 2025. After
18 arresting Petitioner in Baltimore, Maryland, ICE did not set bond and Petitioner is unable
19 to obtain review of her custody by an IJ, pursuant to the Board’s decision in *Matter of*
20 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). To wit, a bond request was submitted
21 to EOIR, with a hearing held on November 18, 2025, wherein the IJ denied bond
22 claiming she had no jurisdiction pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec.
23 216 (BIA 2025).
24

1 19. John Doe is employed by CoreCivic as Warden of the Eloy Detention
2 Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He
3 is sued in his official capacity.¹

4 20. Respondent John Doe is the Director of the Phoenix Field Office of ICE's
5 Enforcement and Removal Operations division. As such, he is Petitioner's immediate
6 custodian and is responsible for Petitioner's detention and removal. He is named in his
7 official capacity.²

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

12 LEGAL FRAMEWORK

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

15 23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
16 removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a)
17 detention are generally entitled to a bond hearing at the outset of their detention, *see* 8
18 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged
19

20
21 ¹ Petitioner's counsel called the Eloy Detention Center on December 1, 2025 and was
22 told by staff that the "Acting Warden" is currently Christopher Howard. However, it is
unclear if or how long he will remain as Acting Warden.

23 ² Petitioner's counsel called the Phoenix Field Office on December 1, 2025 and was told
24 by staff that they "are not supposed to give out names" of their staff, including the name
of the current Field Office Director.

1 with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. §
2 1226(c).

3 24. 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
5 admission referred to under § 1225(b)(2).

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

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

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

15 28. Following the enactment of the IIRIRA, EOIR drafted new regulations
16 explaining that, in general, people who entered the country without inspection were not
17 considered detained under § 1225 and that they were instead detained under § 1226(a).
18 *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens;
19 Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar.
20 6, 1997).

21 29. Thus, in the decades that followed, most people who entered without
22 inspection and were placed in standard removal proceedings received bond hearings,
23
24

1 unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c).
2 That practice was consistent with many more decades of prior practice, in which
3 noncitizens who were not deemed “arriving” were entitled to a custody hearing before an
4 IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-
5 469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority
6 previously found at § 1252(a)).

7
8 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy
9 that rejected well-established understanding of the statutory framework and reversed
10 decades of practice.

11 31. The new policy, entitled “Interim Guidance Regarding Detention Authority
12 for Applicants for Admission,”³ claims that all persons who entered the United States
13 without inspection shall now be subject to mandatory detention provision under §
14 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and
15 affects those who have resided in the United States for months, years, and even decades.

16 32. On September 5, 2025, the BIA adopted this same position in a published
17 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who
18 entered the United States without admission or parole are subject to detention under §
19 1225(b)(2)(A) and are ineligible for IJ bond hearings.

20 33. Since Respondents adopted their new policies, dozens of federal courts
21 have rejected their new interpretation of the INA’s detention authorities. Courts have
22

23
24 ³ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute
2 as ICE.

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

10
11 35. Subsequently, court after court has adopted the same reading of the INA's
12 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g.*,
13 *Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz.
14 Oct. 3, 2025) (granting habeas to compel a prompt IJ bond hearing; explaining that
15 respondents' reading would nullify § 1226(a)'s default rule and misreads "seeking
16 admission"); *Vargas-Murillo v. Bondi*, No. CV-25-03396-PHX-MTL (CDB), 2025 WL
17 3280904 (D. Ariz. Nov. 25, 2025) (rejecting § 1252 jurisdiction bars; granting petition;
18 ordering bond hearing or release); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL
19 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F.
20 Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV
21 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and*
22 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D.
23 Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL
24

1 2371588, at *1 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
2 SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*,
3 No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025);
4 *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025);
5 *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24,
6 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La.
7 Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----,
8 2025 WL 2466670, at *8 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-
9 cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v.*
10 *Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025);
11 *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530
12 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL
13 2609425 (E.D. Mich. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494,
14 2025 WL 2531566 at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree”
15 that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-
16 03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v.*
17 *Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025)
18 (same).
19

20 36. Courts have uniformly rejected DHS’s and EOIR’s new interpretation
21 because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the
22 plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies
23 to people like Petitioner.
24

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

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

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

17 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
18 who recently entered the United States. The statute’s entire framework is premised on
19 inspections at the border of people who are “seeking admission” to the United States. 8
20 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
21 detention scheme applies “at the Nation’s borders and ports of entry, where the
22
23
24

1 Government must determine whether a [noncitizen] seeking to enter the country is
2 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

6 42. On November 20, 2025, a district court granted partial summary judgment
7 on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class
8 and extended declaratory judgment to the certified class. *Maldonado Bautista v.*
9 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11
10 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-
11 Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.
12 Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying
13 Plaintiffs-Petitioners’ proposed nationwide Bond Eligible Class, incorporating and
14 extending declaratory judgment from Order Granting Petitioners’ Motion for Partial
15 Summary Judgment).

17 43. The declaratory judgment held that the Bond Denial Class members are
18 detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release
19 on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

20 **FACTS**

21 44. Petitioner has resided in the United States since August 4, 2022 and lives in
22 Frederick, Maryland. After her initial entry into the country on August 4, 2022, Petitioner
23 was released into the interior of the United States pursuant to § 1226(a) on an ICE Form
24

1 I-220A Order of Release on Recognizance. The form stated very clearly that Petitioner
2 was being released pursuant to Section 236 of the INA (8 U.S. C. § 1226).

3 45. Simultaneously to that initial release, DHS placed Petitioner in removal
4 proceedings before the Baltimore Immigration Court pursuant to 8 U.S.C. § 1229a. ICE
5 has charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as
6 someone who entered the United States without inspection.

7 46. On October 30, 2025, Petitioner was arrested by ICE during a routine check-in
8 at the Baltimore ERO office. Petitioner is now detained at the Eloy Detention Center in
9 Eloy, Arizona. Petitioner's current detention stems from this October 30, 2025, rearrest,
10 which clearly occurred in the interior of the United States and not upon Petitioner's
11 arrival. This rearrest also came well after the Petitioner had filed an asylum application
12 with the immigration court, clearly indicating an intent to seek asylum.

13 47. Upon her transfer to Arizona, her EOIR proceedings were moved to the Eloy
14 Immigration Court.

15 48. Petitioner is neither a flight risk nor a danger to the community. Prior to her
16 October 30, 2025, arrest by ICE, she had obtained employment authorization and was
17 working full-time at the ALDI distribution center in Frederick, Maryland. She has no
18 criminal record, ample community support from U.S. citizen sponsors, and was enrolled
19 in Community College.
20

21 49. Prior to that arrest, Petitioner was awaiting an individual merits hearing on her
22 pending I-589 asylum application, that was scheduled for February 11, 2026, at the
23 Baltimore Immigration Court. Petitioner had already secured legal representation for that
24

1 hearing and was ready to appear for that merits hearing. Upon her arrest, that hearing date
2 was vacated despite the Petitioner having already filed all supporting evidence and legal
3 briefing in support of her application for asylum.

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

7 51. Petitioner subsequently requested a bond redetermination hearing before an IJ.

8 52. Pursuant to *Matter of Yajure Hurtado*, on November 18, 2025, the immigration
9 judge ruled that she was unable to consider Petitioner's bond request because she lacked
10 jurisdiction. A motion to reconsider that decision was filed with the immigration court on
11 November 25, 2025, following the recent Partial Summary Judgment and Class
12 Certification in *Maldonado Bautista*. However, on November 28, 2025, the immigration
13 judge once again denied Petitioner's request for bond, finding that "that Respondent has
14 not set forth an error of law that requires reconsideration of its earlier decision."

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

18
19 **CLAIMS FOR RELIEF**

20 **COUNT I**

21 **Violation of the INA**

22 54. Petitioner incorporates by reference the allegations of fact set forth in the
23 preceding paragraphs.
24

1 55. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
2 all noncitizens residing in the United States who are subject to the grounds of
3 inadmissibility. As relevant here, it does not apply to those who previously entered the
4 country and have been residing in the United States prior to being apprehended and
5 placed in removal proceedings by Respondents. Such noncitizens are detained under §
6 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

9
10 **COUNT II**

11 **Violation of Due Process**

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

14 58. The government may not deprive a person of life, liberty, or property without
15 due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from
16 government custody, detention, or other forms of physical restraint—lies at the heart of
17 the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct.
18 2491, 150 L.Ed.2d 653 (2001).

19 59. Petitioner has a fundamental interest in liberty and being free from official
20 restraint.

21 60. The government’s detention of Petitioner without a bond redetermination
22 hearing to determine whether she is a flight risk or danger to others violates her right to
23 due process.
24

PRAYER FOR RELIEF

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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 District of Arizona while this habeas petition is pending, unless an Immigration Judge authorizes her release on bond first;
- 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;
- e. Declare that Petitioner’s detention is unlawful;
- f. Order that if Respondents do not provide, within seven (7) days, an Immigration Judge bond hearing under 8 U.S.C. § 1226(a) that comports with due process—including the government’s clear-and-convincing burden, consideration of ability to pay, and alternatives to detention— Respondents shall immediately release Petitioner under appropriate conditions.
- g. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- h. Grant any other and further relief that this Court deems just and proper.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

DATED this 1st of December, 2025.

/s/ Jose M. Perez
Jose M. Perez, Esq.
The Law Office of Jose M. Perez, LLC
P.O. Box 336
Frederick, MD 21705
(T): (301) 980-1787
Email: JoseMPerezEsq@gmail.com
Attorney for Petitioner

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

I represent Petitioner Ariana Quintanilla-Simons 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 1st day of December, 2025.

/s/ Jose M. Perez
Jose M. Perez, Esq.
The Law Office of Jose M. Perez, LLC
P.O. Box 336
Frederick, MD 21705
(T): (301) 980-1787
Email: JoseMPerezEsq@gmail.com
Attorney for Petitioner