UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT OWENSBORO

JIMMAR MEJIA CRESPO — PETITIONER

v. — NO. 4:25-CV-00163-BJB

KRISTI NOEM, in her Official Capacity as Secretary, Department of Homeland Security;
TODD LYONS, in his Official Capacity as Acting Director, U.S. Immigration and Customs Enforcement;
PAM BONDI, in her Official Capacity as Attorney General of the United States; and
JASON WOOSLEY, in his Official Capacity as Grayson County Jailer — RESPONDENTS

PETITIONER'S BRIEF IN SUPPORT OF HABEAS PETITION

The Petitioner, Jimmar Mejia Crespo, by and through counsel, hereby submits the current brief pursuant to the Joint Status Report submitted to this Court on December 9, 2025. [Doc. 7].

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Petitioner, Jimmar Mejia Crespo, was born in, and is a citizen of Venezuela. She is a native Spanish speaker with minimal ability to read, write, or speak English. On September 22, 2023, Ms. Mejia Crespo appeared for an appointment, which she had made through the United States Customs and Border Protection Mobile Application, at the Brownsville, Texas Port of Entry. [Doc. 1, PageID# 4; Doc. 1-2, PageID #13, NTA]. U.S. Customs and Border Protection (CBP) subsequently arrested, vetted, and processed Ms. Mejia Crespo. [Doc. 6-1, PageID # 59].

At that time, CBP Officials provided Ms. Mejia Crespo with an I-94[1], which "admitted" her into the United States until September 20, 2025. [Doc. 1-1 PageID #12] The Department of Homeland Security (DHS) then issued Ms. Mejia Crespo a Form I-862, NTA, charging her with inadmissibility pursuant to § 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA) for being "an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document." [Doc. 1-2 PageID #13]. The NTA noticed Ms. Mejia Crespo of a master hearing to be held on June 5, 2025. *Id.* at 14. On January 16, 2024, USCIS issued Ms. Mejia Crespo an Employment Authorization Document (EAD) with an expiration date of September 20, 2025.[2] On October 2, 2024, she filed an I-589 Application for Asylum and Withholding of Removal with the Executive Office of Immigration Review (EOIR) in Chicago, Illinois.[3] [Doc 1, Page ID #5].

On June 5, 2025, Ms. Mejia Crespo appeared before the Chicago Immigration Court as directed in the NTA. DHS made an oral motion to dismiss her removal proceedings, indicating they planned to place her in expedited removal proceedings. [Doc. 1-3, PageID #17]. The motion was granted. *Id.* DHS subsequently served Ms. Mejia Crespo a Form I-860 Notice and Order of Expedited Removal, stating that she has been determined inadmissible under Section 212(a)(7)(A)(i)(I) of the INA. [Doc. 6-3, PageID #64].[4] The second page of the I-860, however, does not provide a basis or statute charging Ms. Mejia Crespo. *Id.* at PageID# 65. According to

[1] The Department of Homeland Security (DHS) issues Form I-94s to aliens who are admitted to the United States, adjusting status while in the U.S., or extending their stay. *See* "Form I-94, Arrival/Departure Record, Information for Completing USCIS Forms," *U.S. Citizenship and Immigration Services*, https://www.uscis.gov/forms/all-forms/form-i-94-arrivaldeparture-record-information-for-completing-uscis-forms (last visited December 15, 2025). See also 8 C.F.R. 1.4.

[2] See Exhibit 1, a copy of Petitioner's Employment Authorization Document.

[3] See Exhibit 2, a copy of Petitioner's stamped I-589 Application to the Chicago Immigration Court.

[4] The basis of inadmissibility in Form I-860 is the same as the basis set forth in the first NTA.

documentation provided by the Government, DHS also served a Form I-200 Warrant for Arrest of Alien on June 5, 2025. [Doc. 6-2, PageID # 62].[5] The Warrant for Arrest of Alien states:

> **To: Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations.**
>
> I have determineD that there is probable cause to believe that Mejia Crespo, Jimmar is removable from the United States. This determination is based upon:
>
> Biometric confirmation of the subject's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is removable under law.

Id.

DHS then arrested and detained Ms. Mejia Crespo outside of the courtroom. On July 14, 2025, she had a Credible Fear Interview. [Doc. 1, Page ID#]. On July 31, 2025, ICE told Ms. Mejia Crespo she passed the interview. *Id.* On August 14, 2025, DHS served Ms. Mejia Crespo with a second NTA, identical to the first NTA she was issued in September 2023. [Doc. 1-4, PageID #19]. However, this NTA also indicated that the Order for Expedited Removal was vacated pursuant to 8 CFR 208.30. *Id.* The same day, the Cleveland Immigration Court noticed Ms. Mejia Crespo for a master hearing on August 14, 2025.[6] Since then, Ms. Mejia Crespo has had three additional court dates before the Cleveland Immigration Court, with another court date on December 17, 2025.[7]

After almost six months of unlawful detention, Petitioner filed a Writ of Habeas Corpus before this Court asserting that Ms. Mejia Crespo is being unlawfully detained in violation of the Fifth Amendment's Due Process Clause, the Fourth Amendment, and the INA. [Doc. 1]. On

[5] The warrant is dated June 4, 2025, but the certificate of service indicates it was served on Ms. Mejia Crespo on June 5, 2025.
[6] See Exhibit 3, Notice of Hearing.
[7] See Exhibit 4, Notice of Hearing(s).

December 5, 2025, this Court issued an Order directing the Respondents to show cause, no later than 12/8/2025, why the writ should not be granted. [Doc. 4]. The Order further directed the parties to file a joint status report advising the Court whether the parties are seeking a hearing or prefer to brief the issue. *Id.* On December 8, 2025, Respondents filed a Motion to Dismiss and Response to Order to Show Cause. [Doc. 6]. On December 9, 2025, the parties submitted a Joint Status Report agreeing to waive a hearing and Petitioner's reply brief to be due on December 15, 2025. [Doc. 7].

LEGAL ISSUES

Petitioner Ms. Mejia Crespo maintains that she is being wrongfully detained in violation of the Due Process Clause of the Fifth Amendment of the United States Constitution and the Fourth Amendment of the United States Constitution. Petitioner also contends that the Government continues to unlawfully detain her in violation of the Immigration and Nationality Act.

Although the Government asserts in its Response that this Court lacks jurisdiction to review this petition, [Doc. 6, PageID# 37] this Court does not have a jurisdictional bar to review the issues set forth in the petition. As such, the Petitioner is eligible for Habeas relief pursuant to 28 U.S.C. § 2241.

STATUTORY AND REGULATORY FRAMEWORK

Under 28 U.S.C. § 2241(c)(3), the Court may grant the writ of habeas corpus when a person is "in custody in violation of the Constitution or laws or treaties of the United States." The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 2. As such, this includes individuals challenging unlawful and

unconstitutional detention in immigration-related matter. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025).

When Congress specifically mandates, administrative exhaustion is first required before a district court can decide the merits of a petition; [b]ut where Congress has not clearly required exhaustion, sound judicial discretion governs." *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1991) (internal citations omitted). Moreover, the Sixth Circuit has previously held that a due process challenge generally does not require exhaustion since the BIA lacks authority to review constitutional challenges. *See Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir, 2006). However, some courts have enforced prudential exhaustion—"a judge-made doctrine that enables courts to require administrative exhaustion even when the statute or regulations do not." *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019). Prudential exhaustion may be required if:

> (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review."

United States v. California Care Corp., 709 F.2d 1241, 1248 (9th Cir. 1983).

Federal courts have declined to require exhaustion altogether in some circumstances. *See McCarthy*, 503 U.S. at 145. "In determining whether exhaustion is required, federal courts must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion." *Id.* at 146. In other words, even if a Court would ordinarily enforce the exhaustion doctrine, it can exercise discretion and waive such requirement. *See Lopez-Campos v. Raycraft*, 2025 U.S. Dist. LEXIS 169423 at *9 (E.D. Mich. Aug. 29, 2025); *see also Reyes v. Raycraft*, 2025 U.S. Dist. LEXIS 175767 at *7 (E.D. Mich. Sept. 9, 2025).

8 U.S.C. §§ 1225 and 1226 govern the detention of noncitizens pending removal proceedings. Section 1225 focuses on the expedited removal of inadmissible *arriving* aliens and mandatory detention provisions; whereas Section 1226 focuses on the apprehension and subsequent discretionary detention of aliens already in the country pending removal proceedings.

A. *8 U.S.C. § 1225*

Section 1225 provides that "an alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." All applicants for admission shall be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). Section 1225 governs detention for both expedited removal procedures and removal proceedings under Section 1229a (also known as "240 proceedings").

i. Expedited Removal

The Department of Homeland Security (DHS) may subject a noncitizen to expedited removal if the noncitizen (1) *is arriving* in the United States; (2) has not been admitted or paroled into the United States; **and** (3) has not established to the satisfaction of the immigration officer they have been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility. 8 U.S.C. § 1225(b)(1)(A)(i) and 8 C.F.R. § 235.3(b)(ii). Under expedited removal, if an immigration officer determines at the initial screening that the alien is inadmissible under 8 U.S.C. § § 1182(a)(6)(C)[8] or 1182(a)(7)[9], the immigration officer shall order the alien removed without further hearing or review unless the alien indicates an intention to apply for asylum or a fear of persecution, in which case the

[8] 8 U.S.C. § 1182(a)(6)(C) provides that "an alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible."

[9] 8 U.S.C. § 1182(a)(7)(I) provides that any immigrant at the time of application for admission is "not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document . . . is inadmissible."

immigration officer shall refer the alien to a credible fear interview by an asylum officer. 8 U.S.C. § 1225(b)(1)(A)(i), (b)(1)(A)(ii). Any noncitizen subject to expedited removal procedures under Section 1225 shall be detained pending a final determination of credible fear. 8 U.S.C. § 1225(b)(iii)(IV). Credible fear asylum interviews shall be conducted at a port of entry or other such place designated by the Attorney General. 8 U.S.C. § 1225(b)(1)(B)(i).

Historically, the expedited removal process applied to noncitizens "who are apprehended immediately proximate to the land border and [who] have negligible ties or equities in the [United States]." Designating Aliens for Expedited Removal, 69 Fed. Reg. 48877-01, 48879 (August 11, 2004). The Supreme Court has held that 1225(b) applies to aliens "seeking entry into the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). The Court recently reemphasized that "while aliens who have established connections in this country have due process rights in deportation proceedings . . . as a result, an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause." *DHS v. Thuraissigiam*, 591 U.S. 103, 107 (2020) (citing *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892). In *Thuraissigiam*, the Respondent challenged the limited judicial review process under expedited removal orders pursuant to Section 1225(b). *Id.* at 106. The Respondent in that case was apprehended 25 yards from the border and detained by DHS for expedited removal. *Id.* at 114. After a credible fear interview, the asylum officer found the Respondent lacked a credible fear of persecution. *Id.* An Immigration Judge affirmed this decision and returned the case to the Department for removal. *Id.* The Court rejected the Respondent's claim that the expedited removal process violates due process because it has been long-standing precedent that "an alien who is detained shortly after unlawful entry cannot be said to have effected an entry." *Id.* at 140 (quoting *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001)). In short, non-citizens seeking admission

into the country and are stopped at or near the border or a port of entry are subject to mandatory detention pursuant to Section 1225 unless paroled.

On January 21, 2025, however, the Government departed from this longstanding practice and expanded expedited removal to noncitizens apprehended anywhere in the United States and who have been continuously present in the United States for at least 14 days but for less than two years. *See* Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139, 8139-40 (Jan. 24, 2025). On August 1, 2025, a United States District Court for the District of Columbia stayed this application of expedited removal when applied to paroled individuals holding that DHS's agency actions exceeded its statutory authority and was arbitrary and capricious. *See Coal. for Humane Immigrant Rights, et al., v. Noem*, No. 25-cv-872, 2025 U.S. Dist. LEXIS 148615 (D.D.C. Aug. 1, 2025). Similarly, the D.C. District Court also stayed the 2025 Designation in *Make the Rd. New York v, Noem*, No. 25 Civ. 190 (JMC), 2025 U.S. LEXIS 169432 (D.D.C. Aug. 29, 2025), and in doing so highlighted the serious due process concerns for people now subjected to expedited removal under this new designation. *See id.* at 30-34. The Court held that because this expansive use of expedited removal subjects individuals who have "long since crossed the 'threshold' and effected entry into the country," adequate due process must be afforded. *Id.* at 33.

ii. Full Removal Proceedings (8 U.S.C. § 1229a)

Section 1225(b)(2)(A) is a mandatory detention provision that states "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." 8 U.S.C. § 1225(b)(2)(A). An applicant for admission includes noncitizens present in the United States who have not been admitted or paroled. 8 U.S.C. § 1225(a)(1). Although detention is mandated, 8 U.S.C. §

1182(d)(5)(A) provides for temporary admission of nonimmigrants through a process called parole. It states, in relevant part:

> (5)(A) The Secretary of Homeland Security may, except as provided in subparagraph (B) or in section 1184(f) of this title, in his discretion may parole into the United States temporarily under such conditions as he may prescribe on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

8 U.S.C. § 1182(d)(5)(A).

When a noncitizen is inspected at a porty of entry, their functional equivalent, or near the border, Section 1225(b)(2) also mandates detention until the noncitizen's full removal proceedings have concluded. "Section 1225(b)(2) plainly contemplates present affirmative conduct by 1) a noncitizen who is "seeking admission" and 2) and an inspecting immigration official who must determine whether that individual is entitled to admission to the United States." *Zumba v. Bondi*, 2025 U.S. Dist. LEXIS 190052 at * 23 (N.J. D.C. Sept. 26, 2025). As such, the Supreme Court and federal district courts have consistently held that Section 1225's detention authority is exercised at or near the port of entry.

B. 8 U.S.C. § 1226

When a noncitizen is arrested in the *interior* of the United States, 8 U.S.C. § 1226 governs the detention authority. The Supreme Court in *Jennings* has identified the clear distinction between the detention authority derived from § 1225(b)(1) or (b)(2) with § 1226. Section 1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c)." 583 U.S. at 289. Moreover, §

1226(a) authorizes the detention of a noncitizen "[o]n a warrant issued by the Attorney General" pending removal proceedings. 8 U.S.C. § 1226(a). The statute provides a discretionary framework in which the Attorney general "may continue to detain the arrested alien," "may release on a bond of at least $1,500" or "conditional parole." 8 U.S.C. § 1226(a)(1), (2)(A)(B). The arresting officer makes an initial custody determination and may release the noncitizen if the noncitizen can demonstrate they are not a danger to the community or a flight risk. 8 C.F.R. § 1236.1(c)(8). After such determination is made by the arresting officer, the noncitizen may request a custody redetermination before an Immigration Judge. *See* 8 C.F.R. § 1236.1(d)(1). In short, an officer must have a warrant to arrest and detain a noncitizen already in the country pursuant to 8 U.S.C. § 1226.

An immigration officer, however, has limited powers in which they do not need a warrant. 8 U.S.C. § 1357(a) authorizes the following powers without a warrant:

> (1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;
> (2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or removal of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation **and** is likely to escape before a warrant can be obtained for his arrest . . .
> (3) within a reasonable distance from any external boundary of the United States . . .
> (4) to make arrests for felonies . . ."

The Board of Immigration Appeals has explained that the "reason to believe" standard in 8 U.S.C. § 1357(a)(2) equates to probable cause. *Matter of Mariscal-Hernandez*, 28 I&N Dec. 666 (BIA 2022). If, however, none of these conditions are present and no such probable cause exists,

the immigration officer must seek a warrant to effectuate a lawful arrest in accordance with both the Constitution and the INA.

A Form I-94 is an Arrival/Departure Record ("Form I-94") issued by DHS to aliens who are "admitted to the United States, who are adjusting status while staying in the United States, or extending their stay."[10] The legal implications and status of an I-94 granted are significant. An I-94 is not issued to every alien paroled under 1182(d)(5)(a). *See also* CFR 235.1.

SUMMARY OF ARGUMENT

The Department of Homeland Security's decision to detain Ms. Mejia Crespo on June 5, 2025, was illegal, and their actions are both contrary to law and contrary to each other. First, Ms. Mejia Crespo was not eligible for expedited removal. Second, the Government asserts it had the lawful authority to mandatorily detain Ms. Mejia Crespo on June 5, 2025, under expedited removal, but the Warrant for Arrest of Alien was issued pursuant to Section 236 of the INA, which is not the expedited removal statute. Third, *Matter of Yajure Hurtado* is not applicable to Ms. Mejia Crespo because did not enter the United States without inspection, and this Court should not rule consistent with the BIA in that case; she was lawfully paroled and issued an I-94 allowing her to remain in the United States under a lawful status until at least September 20, 2025. As such, the Government egregiously abused their power and illegally detained Ms. Mejia Crespo on June 5, 2025, in violation of the Due Process Clause of the Fifth Amendment and the INA. Her continued detention is illegal and unjust. Moreover, there is no jurisdictional bar to reviewing this petition and granting the relief requested.

[10] *See* "Form I-94, Arrival/Departure Record, Information for Completing USCIS Forms," *U.S. Citizenship and Immigration Services*, https://www.uscis.gov/forms/all-forms/form-i-94-arrivaldeparture-record-information-for-completing-uscis-forms (last visited December 15, 2025).

ARGUMENT

I. Jurisdiction and Exhaustion

Respondents argue that 8 U.S.C. Section 1252(b)(9) strips this Court of jurisdiction to review this habeas petition. However, Respondents' argument is meritless and is asking the Court to adopt an expansive reading of the statute that should be unequivocally rejected. 8 U.S.C. Section 1252(b)(9) governs the judicial review of **orders of removal**. More specifically, 1252(b) specifies the requirements for review of orders of removal. First, the crux of this habeas petition is not regarding a removal order nor is the Petitioner asking for a review of an order of removal. In fact, there is no removal order in this case for the Court to review; therefore, 8 USC Section 1252 is inapplicable. Furthermore, Petitioner is challenging the constitutionality of her re-detention and whether certain provisions of the INA require an individualized bond hearing and assessment to re-detain her and whether those provisions are being unconstitutionally applied to her. In other words, the Petitioner is not asking this Court to review why the Respondents did or did not issue a removal order but is instead asking this Court to review "'whether the way the Respondents acted was in accords with the Constitution and the laws of this country.'" *Mata Velasquez v. Kurzdorfer*, 2025 U.S. Dist. LEXIS 135986 at *16 (W.D.N.Y. 2025) (quoting *Torres-Jurado v. Biden*, 2023 U.S. Dist. LEXIS 193725 (S.D.N.Y. Oct. 29, 2023). As such, there is no jurisdictional bar in this case.

Furthermore, administrative exhaustion is not required before this Court can determine the merits of this petition. Here, no applicable statute or rule mandates administrative exhaustion. Moreover, Ms. Mejia Crespo's petition includes a due process challenge, and therefore, the Sixth Circuit has held that administrative exhaustion is not required. *See Sterkaj v. Gonzalez*, 439 F.3d

273, 279 (6th Cir, 2006). Furthermore, even if this Court would ordinarily enforce the exhaustion doctrine, waiver in this case is appropriate. Similar to *Lopez-Campos*, all three factors weigh against requiring exhaustion. 2025 U.S. Dist. LEXIS 169423 at *10. The issues raised are purely legal in nature and do not require agency expertise to generate a proper record, waiver would not bypass the administrative scheme because this petition involves a due process claim, and administrative review is not likely to allow the Respondents' to correct its own mistakes given that the Government has made clear its position that Section 1225(b)(2)(A) applies to Ms. Mejia Crespo. *See id.* Furthermore, if the Court refrained from deciding the issues set forth in this petition, Ms. Mejia Crespo would face significant hardship. *See, e.g. Reyes*, 2025 U.S. Dist. LEXIS 175767 at *7. Ms. Mejia Crespo was unlawfully arrested under the guise of expedited removal when she had lawful status until at least September 20, 2025. DHS should have never initiated expedited removal proceedings when she was lawfully in the United States on parole, and yet, she still passed a Credible Fear Interview. As a result, DHS then reissued an NTA almost identical to her first NTA, thereby placing Ms. Mejia Crespo back in the exact same position she was in when she appeared before the Chicago Immigration Court on June 5, 2025. However, now, she has been detained for six months with limited access to counsel as she is being forced to rush through her asylum process incarcerated. The Government's unlawful actions have already destroyed her life and separated her from her family—any additional delay at this point would be unjust and unreasonable considering that BIA bond appeals can take six months or more to resolve. *See id.* at *7. As such, if this Court finds that it must consider administrative exhaustion, it should ultimately waive such requirement for the reasons stated.

II. The Government's actions in re-detaining Ms. Mejia Crespo on June 5, 2025 was an egregious abuse of power and contrary to any law or regulation governing expedited removal and/or mandatory detention.

DHS's decision to dismiss Ms. Mejia Crespo's removal proceedings and effectuate an arrest under section 236 of the INA while simultaneously issuing an expedited removal order violated the law.

A. *Paroled individuals like Ms. Mejia Crespo are not eligible for expedited removal.*

Ms. Mejia Crespo was not eligible for expedited removal on June 5, 2025, and her arrest and detention on that date was unlawful and an abuse of power. Expedited removal is a process established by Congress to remove noncitizens deemed ineligible to enter or remain in the United States. There are two categories of noncitizens who may be subjected to expedited removal as outlined in 8 U.S.C. Section 1225(b)(1)(A)(i)-(iii) and 8 C.F.R. Section 235.3(b)(1)(i)-(ii). First, noncitizens "arriving in the United States," and second, noncitizens who have not been admitted or paroled into the United States and cannot affirmatively show they have been physically present in the United States continuously for the two-year period prior to the date of the determination of inadmissibility. *Id.* Moreover, the Government's own Designation did not authorize the expedited removal of parolees. At the time of her arrest, Ms. Mejia Crespo was in lawful status as shown on her I-94. The I-94 is a legitimate document establishing that she be "admitted" until September 20, 2025.[11] She was lawfully pending asylum before the Immigration Court when DHS abused their authority and dismissed her proceedings to place her in expedited proceedings. While the Government contends that the issuance of the Notice of Expedited Removal Order constituted written notice of the termination of Ms. Mejia Crespo's parole, this

[11] The precise language of Petitioner's I-94 states "Admit Until Date: 09/20/2025."

was not sufficient notice according to law. First, the issuance of the Notice of Expedited Removal Order itself was contrary to law because she was not eligible for expedited removal. Second, DHS must comply with the applicable regulatory and statutory requirements to terminate previously granted parole. Parole shall be automatically terminated if the alien either departs from the United State or at the expiration of the time for which parole was authorized. 8 C.F.R. § 212.5(e)(1)(i)-(ii). Neither circumstance applies here. Parole may also be terminated with written notice

> "upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien . . . . When a charging document is served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified."

8 C.F.R. § 212.5(e)(2)(i).

Here, it does not appear the purpose of the Petitioner's parole had been accomplished at the time of her arrest. She fled from Venezuela and entered the United States at a designated port of entry after having made an appointment through the United States Customs and Border Protection Mobile Application. She then applied for asylum in the Chicago Immigration Court, which remains pending. Thus, when Ms. Mejia Crespo was arrested and detained on June 5, 2025, she was still seeking asylum before the Immigration Court and the Government provided no notice or remote suggestion that the humanitarian reason or public benefit that justified her parole until September 20, 2025, no longer applies. Moreover, the Government's position that the issuance of the Notice of Expedited Removal Order automatically terminated Ms. Mejia Crespo's parole is meritless and contradictory to their own actions. When Ms. Mejia Crespo was initially processed at a port of entry, she was simultaneously issued an I-94 allowing her to stay in the United States

until September 20, 2025, and she was issued an NTA, which is a charging document. At no point has Ms. Mejia Crespo been provided written notice explaining or even suggesting that her grant of parole has been terminated and the purpose of that parole has been served. While the issuance of a charging document can suffice as written notice of termination parole, it is not automatic. Many district courts have found that termination of parole requires an individualized review and a case-by-case assessment to comply with the statute. *See e.g., Martinez v. Raycraft*, 2025 U.S. Dist. LEXIS 253165 at *11-13 (W.D. Mich. Dec. 8, 2025) (citing a plethora of other district court cases making this same finding). Such review was never conducted, and the Government instead abused its power by deliberately dismissing Ms. Mejia Crespo's proceedings to detain her under expedited removal with no legal authority to support that use of discretion.

On August 1, 2025, a United States District Court for the District of Columbia stayed this application of expedited removal when applied to paroled individuals holding that DHS's agency actions exceeded its statutory authority and was arbitrary and capricious. *See Coal. for Humane Immigrant Rights, et al., v. Noem*, No. 25-cv-872, 2025 U.S. Dist. LEXIS 148615 (D.D.C. Aug. 1, 2025). Similarly, the D.C. District Court also stayed the 2025 Designation in *Make the Rd. New York v, Noem*, No. 25 Civ. 190 (JMC), 2025 U.S. LEXIS 169432 (D.D.C. Aug. 29, 2025), and in doing so highlighted the serious due process concerns for people now subjected to expedited removal under this new designation. *See id.* at 30-34. The Court held that because this expansive use of expedited removal subjects individuals who have "long since crossed the 'threshold' and effected entry into the country," adequate due process must be afforded. *Id.* at 33. While the Government asserts that the actions of DHS which pre-date her current status are "irrelevant to the question before the Court," *all* of DHS's actions are relevant because their illegal actions started on June 5, 2025, and continue today. When the D.C. District Court stayed

DHS's authority to initiate expedited removal when applied to paroled individuals, Ms. Mejia Crespo was not yet back in full removal proceedings. Her second NTA was not served until August 14, 2025. She should have been released pursuant to the stay, but she was not. Instead, the order for expedited removal was not vacated until the issuance of the NTA.

B. The Government's assertion that the June 5, 2025, arrest was pursuant to expedited removal under §1225(b) is contrary to their own warrant.

The Government contends that Ms. Mejia Crespo was served with a Warrant for Arrest on June 5, 2025. [Doc. 6, PageID #36; Doc. 6-2, PageID #62]. They also contend she was issued a Notice and Order of Expedited Removal. *Id.* Notably, the Warrant for Arrest of Alien explicitly lists the statute which authorizes any immigration officer to serve warrants of arrest for immigration violations—section 236 of the INA, 8 U.S.C. §1226(a). As mentioned above, 8 U.S.C. §1226(a) provides that upon a warrant, an alien may be arrested and detained pending a decision on whether to be removed from the United States. That statute **explicitly** affords the alien the opportunity to seek release or bond. And yet here, the Government asserts that Ms. Mejia Crespo was detained under mandatory detention pursuant to §1225(b) and continues to be detained under §1225(b). This logic is completely contrary to the language used in their own warrant allegedly authorizing the arrest and re-detention of Ms. Mejia Crespo. Put plainly, the Government wants to have its cake and eat it too. However, their reasoning defies all logic, due process, and the plain language written on their own warrant.

III. Ms. Mejia Crespo is currently detained under 8 U.S.C. §1226(a) without any individualized assessment as to flight risk or danger in violation of the law.

At the time of her arrest, Ms. Mejia Crespo had lawful status. The Government did not terminate her parole according to the laws and regulations set forth in the INA and U.S.

Constitution. And yet, the Government detained Ms. Mejia Crespo pursuant to a Warrant authorized under §1226(a). Now, they assert she is subject to mandatory detention under §1225(b)(2). Remarkably, the Respondents argue that because "due process is flexible," Ms. Mejia Crespo, a noncitizen who maintained lawful status at the time of her arrest and re-detention, is only entitled to the minimal due process rights afforded to aliens arriving at the border. [Doc. 6, PageID #52]. However, she was not "arriving" at a port of entry or at the border at the time of her arrest. She did not enter the United States without inspection as the Government would like this Court to believe. She was lawfully paroled into the United States for two years, and without any meaningful notice or individualized assessment of her case, ICE arrested her and re-detained her.

A. *The Government's arrest of Ms. Mejia Crespo on June 5, 2025, was unreasonable and in violation of the Fourth Amendment to the U.S. Constitution.*

The Fourth Amendment of the U.S. Constitution secures the right of the people to be free from unreasonable seizures from the government. Ms. Mejia Crespo was detained by federal immigration officials when she first appeared at a port of entry in September 2023. The Government vetted her, took her fingerprints and biometric information, and used their discretion to parole her into the United States for a period of two years. The same officials simultaneously served her with an NTA charging her as removable under U.S. immigration law and gave her a court date of June 5, 2025, to answer to the allegation set forth in the NTA. Instead of allowing her to defend against the initial NTA and present her pending asylum case, the Government dismissed her removal proceedings to reserve her a warrant of arrest. In that warrant, it states that "biometric confirmation of the subject's identity and a records checks of federal databases affirmatively indicate . . . that the subject either lacks immigration status or notwithdstanding

such status is removable under U.S. immigration law." [Doc. 6-2, PageID #62]. In other words, the Government dismissed the allegation and charge against Ms. Mejia Crespo in the first NTA to issue a warrant for her arrest alleging the *same allegation*. The government lacked reliable information of changed exigent circumstances that would justify her arrest after federal immigration authorities already decided she could pursue her claim for relief at liberty. Her re-arrest based solely on the fact that she is subject to removal proceedings is completely unreasonable and violates the Fourth Amendment. The Government did not gain any new information about the Petitioner when it created the warrant for arrest on June 4, 2025. It did not gain any new information or have any change in circumstances on June 5, 2025. Instead, the Government intentionally violated the law and the Petitioner's due process rights by attempting to illegally circumvent the removal proceeding process by dismissing her case, arresting her on a warrant pursuant to 1226, initiating expedited removal proceedings, to then reinitiate the **same** removal proceedings she was in while out of custody for almost two years. However, now, the Government asserts the detention is mandatory without any reliable information providing a change in circumstances that would warrant the re-detention of Ms. Mejia Crespo. Her re-arrest on June 5, 2025, was completely unreasonable and in clear violation of the Fourth Amendment to the U.S. Constitution.

B. *The Government's arrest of Ms. Mejia Crespo on June 5, 2025, and her continued detention blatantly violated her due process rights.*

The Due Process Clause applies to all 'persons' within the United States regardless of whether their presence is lawful, unlawful, temporary, or permanent. *Zadvydas*, 533 U.S. at 693. At the time of her arrest, Ms. Mejia Crespo had a lawful, albeit temporary, status under parole until September 20, 2025. She also was pending asylum before an immigration court. Even

though the warrant cites §1226 as the authority to detain, the Government argues the Petitioner was and is currently detained under §1225(b). Many federal district courts have disagreed with the Respondents interpretation of Section 1225. The word "arriving" indicates that Section 1225 governs noncitizens arriving at a port of entry or the border, *presently* seeking admission. *Pizzaro Reyes*, 2025 U.S. Dist. LEXIS 175767 at *13. Furthermore, Footnote 2 of *Department of Homeland Security v. Thuraissigiam* notes that in 2004, DHS treated aliens as applicants for admission only if they were encountered within **14 days of entry without inspection and within 100 air miles of the border.** This demonstrates that the label "applicant for admission" has not always been applied to every non-citizen present without admission; it was historically limited by time and geography. DHS's current position that everyone present without admission must be treated under § 1225 contradicts that history and the principle that new laws should be interpreted in harmony with longstanding practices. As such, this Court should continue to not adopt the Respondents' senseless interpretation of § 1225. Moreover, the cases the Government cites in its Response differ substantially from the facts and circumstances in this case. To be clear, Ms. Mejia Crespo **did not** enter without inspection. §1225(b) is titled "Inspection of Aliens Arriving In the United States and Certain Other Aliens Who Have Not Been Admitted or Paroled." Ms. Mejia Crespo was lawfully paroled into the United States after she arrived at a port of entry because the United States Government gave her an appointment through CBP One. The Government further argues that this Court should rule consistently with *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). However, *Matter of Yajure Hurtado* is not applicable to this case, nor should this Court find the BIA's interpretation of §1225(b) to be persuasive. In that case, the Respondent entered the United States without inspection and was charged as removable for being present in the United States without admission or parole. *Id.* at 217. Ms.

Mejia Crespo's lawful status did not expire until September 20, 2025. The Government continues to assert throughout their Response that it would present a "legal conundrum" to propose that an individual residing in the interior of the United States without lawful status is no longer seeking admission. But here, Ms. Mejia Crespo had lawful status. Not only did she have lawful status, which was never appropriately terminated, but her warrant explicitly states she was arrested pursuant to §1226. It is completely contradictory for the Government to then assert that Ms. Mejia Crespo does not have due process rights beyond those provided in §1225 when the authority to arrest her derived from §1226. DHS's issuance of administrative warrants is under Form I-200, which places non-citizens in § 240 removal proceedings under § 1226(a) not § 1225(b). It is utterly disingenuous for the Government to both simultaneously argue that a lawful warrant was effectuated to arrest Ms. Mejia Crespo under § 1226(a) but she is to be mandatorily detained under § 1225(b) without any individualized assessment or bond hearing being conducted prior to her re-detention.

Moreover, at the time of the issuance of the second NTA, Ms. Mejia Crespo was not still "seeking admission." *See, e.g., Zumba,* 2025 U.S. Dist. LEXIS 190052 at * 23. Furthermore, prior to this Administration, DHS historically would serve a noncitizen present inside the United States with an NTA without taking them into custody under Section 1225. In fact, there are hundreds of thousands of Respondents in removal proceedings in immigration court with the exact same allegations that Ms. Mejia Crespo has in her NTA and none of them are in custody. In fact, the Petitioner *was* one of those hundreds of thousands of Respondents in removal proceedings out of custody on June 5, 2025, when the Government abused its power to dismiss those proceedings, place her in expedited removal, to only then place her *back* into those same removal proceedings but now assert she must be mandatorily detained. Again, this defies all

logic and violates both substantive and procedural due process, both of which Ms. Mejia Crespo is entitled to under the Constitution.

IV. The balancing test in *Matthews v. Eldridge* requires that Ms. Mejia Crespo is afforded more due process than she has been currently provided by the Government.

Petitioner's detention, without *any* individualized review, is unreasonable under *Matthews v. Eldrige*, 424 U.S. 319 (1976). *Matthews v. Eldrige* applies a three-part balancing test to determine whether a civil detention violates a detainee's due process rights. Ms. Mejia Crespo's current detention still violates due process. The factors to assess are 1) the private interest of the detained; 2) the risk of erroneous deprivation of that interest; and 3) the government's interest. *Id.* at 335. Here, all three factors weigh in favor of immediately releasing Ms. Mejia Crespo or otherwise ordering a bond hearing be conducted. To be free from imprisonment is the most fundamental liberty interest and is exactly what the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690. Ms. Mejia Crespo has been detained at the Grayson County Detention Center without any bond hearing or individualized assessment warranting her re-detention for the past six months. There is no foreseeable end date to her current detention and proceedings. She has been stripped of her liberty, her ability to move freely, and her ability to have meaningful access to her family and counsel. Even with a court date set for December 17, 2025, this is just one of several court dates she has had throughout her rushed removal process since she has been detained. If she is successful on her asylum claim before the Immigration Judge, she could still be detained pending any appeal by DHS. Likewise, if she is unsuccessful on her asylum claim before the Immigration Judge, she will remain detained pending that appeal. This will lead to her continued prolonged detention without any assessment as to flight risk or danger. As such, it is clear the first *Matthews* factor weighs strongly in favor of Ms. Mejia

Crespo. The second factor also weighs in favor of Ms. Mejia Crespo. The risk of erroneously depriving her of her freedom is high if she is never provided a proper redetermination assessing risk of flight and dangerousness. The third factor also weighs in favor of Ms. Mejia Crespo. She has no criminal history and has availed herself to DHS at every point in the process. The Government cannot show it has a significant interest in her continued detention. As such, Ms. Mejia Crespo's continued detention is in violation of her Due Process rights under *Matthews*.

CONCLUSION

Ms. Mejia Crespo applied for admission into the United States through CBP, she was invited to an appointment on September 22, 2023, at the Brownsville, Texas port of entry, and she was subsequently vetted and paroled into the United States for two years. DHS simultaneously commenced removal proceedings against her and gave her a court date of June 5, 2025. From September 22, 2023 until June 5, 2025, Ms. Mejia Crespo remained out of custody, obeyed all laws and the conditions of her status, and worked with the express authorization of the United States Government. She filed an asylum application before the Immigration Court and was awaiting the opportunity to be heard on the merits of her claim. Instead of allowing her to proceed on her asylum case in removal proceedings, DHS dismissed her case on June 5, 2025. They subsequently issued a Warrant for Arrest pursuant to 1226 and a Notice of Expedited Removal pursuant to 1225. She was illegally held without any individualized assessment as to bond or the termination of her parole status which was not set to expire until September 20, 2025. Upon passing a credible fear interview despite being ineligible for expedite removal, the Government reinitiated the same removal proceedings she was in before the immigration court on June 5, 2025. This time, however, the Government asserts she can be detained indefinitely without bond or any assessment as to her re-detention. Ms. Mejia Crespo is not subject to

mandatory detention under Section 1225 and the Respondents' misuse of the statute is an egregious abuse of discretion and flagrant disregard of longstanding historical practices regarding mandatory and discretionary immigrant detention in the United States. She has been held for six months without due process, and the Government's illegal actions are contradictory to the very documents they have provided this Court. This abuse of power cannot stand. Ms. Mejia Crespo did nothing to violate the laws of this country, and her arrest and re-detention are contrary to both the Constitution and the INA. As such, this Court should GRANT the Petitioner's petition and order her immediate release from custody.

Respectfully Submitted,

Adriana Harris

Adriana Harris
ATTUM LAW OFFICE
500 West Jefferson Street, Ste 1515
Louisville, KY 40202
502 230 2366
adriana@attumlaw.com
Attorney for the Petitioner

CERTIFICATE OF SERVICE

A true and accurate copy of this pleading and all attached documents were served upon opposing counsel via electronic filing, CM/ECF on December 15, 2025.

Adriana Harris

Adriana Harris