IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Teodora M. Membreno-Vigil Petitioner v. Bret Bradford, Director, HOUSTON DHS-ICE Field Office & Warden Randy Tate, Montgomery Processing Center	Case no. 25-cv-5916 WRIT OF HABEAS CORPUS

TO THE HONORABLE COURT:

COMES NOW Teodora M. Membreno-Vigil , through the undersigned counsel, and most respectfully **STATES ND PRAYS** as follows:

I. INTRODUCTION

"Every statute has limits which are capable of being exceeded thus even under statutes granting an official the broadest discretion there will be some I'll be at fewer cases capable of arising under the statute which will present issues to which the court will have to apply the law." Abdelhamid v. Ilchert, 774 F 2d 1447, 1449 (CA9 1985) This court has the authority to ensure that the Executive Office for Immigration Review and the Board of Immigration Appeals, both federal agencies, do not act beyond the legislative intent of their enabling statute.

"Any hearing held by the agency must be fair, there must be no error of law, there must be evidence to support the findings of fact. If one of the elements mentioned is lacking the proceeding

is void and must be set aside." (Internal quotations omitted.) Kessler v. Strecker, 307 US 22, 34, 59 S. Ct. 694, 83 L. Ed. 1082 (1939).

This is a petition for a writ of Habeas Corpus challenging the illegal detention of petitioner Teodora M. Membreno-Vigil by Immigration and Customs Enforcement (ICE) under 28 USC §2241. He is currently held at the Montgomery Processing Center, 806 Hilbig Road, Conroe, TX 77301. Her A[redacted]

II. JURISDICTION AND VENUE

The district court has subject matter jurisdiction under 28 U.S.C. § 2241, AND under 28 U.S.C. § 1331 (federal question). The court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651 and Article I § 9, cl. 2 of the U.S. Constitution (Suspension Clause). See INS v. Cyr, 533 US 289 (2001) and Guerrero-Lasprilla v. Barr, 589 US 221, 140 S. Ct. 1062, 1067-73, 206 L. Ed. 2d 271.

This action arises under the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

Jurisdiction is proper as she is detained and the proceedings challenged took place within the jurisdiction of the court. Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004) Venue is proper under 18 USC §1391 (e) as he is currently detained within the jurisdiction of the court by the officers and agencies of the United States identified as defendants.

This is a challenge to "detention simpliciter" under § 2241—so the jurisdiction-stripping provisions of 8 USC § 1252 don't bar review of the immigration detention conditions and duration.

III. PARTIES

Bret Bradford is the Director of the Houston ICE (Immigration and Customs Enforcement) Field Office, located in 126 Northpoint Drive, Houston, Texas, 77060. He has responsibility over the detention facility or contract governing the detention facility where Petitioner is held.

Randy Tate is the warden and "immediate custodian" at the Montgomery Processing Center, 806 Hilbig Road, Conroe, TX 77301 where Petitioner is being held. He is who makes custodial decisions regarding non-citizens detained in immigration custody.

See Rumsfeld v. Padilla, 542 US 426, 439 (2004); 28 U.S.C. § 2242 and § 2243.

IV. AGENCY FINAL DECISION

The immigration court issued an order on December 2, 2025 denying Ms. Membreno-Vigil's request for bond for lack of jurisdiction. See **Exhibit 1**.

V. STATEMENT OF FACTS

Teodora M. Membreno-Vigil, A [redacted] is a citizen and national of El Salvador. She entered the United States 21 years ago, in 2004 before the birth of her first child, daughter Caterine L. Pelico-Membreno in Galveston, Texas, in 2006. She has two (2) other children born in Galveston, Texas, D [redacted] and L [redacted], both with last names [redacted] born in 2012 and 2016, respectively. She has never left the United States since her entry.

Ms. Membreno-Vigil was arrested and detained by ICE on November 18, 2025, while she was getting ready to open a restaurant owned by her partner and father of her children. She has no criminal record, no arrests, and no prior contact with law enforcement.

On November 25, 2025, Ms. Membreno-Vigil submitted a Motion for Bond Redetermination.

On December 2, 2025, the Immigration Judge (IJ) Chris Brisack denied bond because he lacked jurisdiction under the Board of Immigration Appeals (BIA) case *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). **Exhibit 1**.

She has been detained since her arrest by ICE on November 18, 2025.

VI. CLAIMS FOR RELIEF

We ask the court to order the immediate release of petitioner from detention and:

1. Find that the IJ incorrectly determined he lacked jurisdiction to conduct bond redetermination hearings.
2. Find that Petitioner's detention without a bond hearing constitutes a violation of due process and of immigration statutes that establish a respondent's right to have a detention hearing under INA §236, 8 USC §1226.

VII. APPLICABLE LAW

Habeas review depends upon the circumstances of the case, including the thoroughness of procedures provided during the underlying administrative proceedings. Boumediene v. Bush, 553 US 723, 781, 128 S. Ct. 2229, 171 L. Ed. 2d 41 (2008)

In Exhibit 1, the IJ determined he lacked jurisdiction for a bond redetermination hearing under the BIA precedential decision in *Matter of Hurtado*, ante. Petitioner's detention is under INA § 236, 8 USC §1326, as she was apprehended inside the United States, more than 21 years since her initial entry into the country.

This is a refusal to exercise bond jurisdiction because of the BIA's *Matter of Yajure Hurtado*, supra, which stripped the immigration courts from jurisdiction to conduct bond redetermination hearings during the pendency of immigration proceedings. The decision addresses detention under §236 and found that the IJ "did not have authority over the bond request because

aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings". *Id*, p. 20. This §235, 8 USC §1225, is the mandatory detention statue, whereas §236 is the discretionary detention statute, and they are applied to distinct groups of respondents in immigration proceedings. See Jennings v. Rodriguez, 583 U.S. 281, 288–89 (2018). Petitioner belongs to the category of aliens already present in the United States and who *may* be detained pending removal proceedings, with certain exceptions for certain criminal offenses and terrorism. *Id,* at p. 303. Even the BIA, as recently as June 30, 2025, in *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025), had stated that a noncitizen present in the U.S. without inspection or admission was in custody pursuant to§ 236(a), not§ 235. *Matter of Hurtado* changed that.

The structure of the order citing lack of jurisdiction to conduct such a redetermination follows *Matter of Hurtado*, which have been repeatedly found to be contrary to the black letter of the immigration law in this Southern District of Texas. See Fuentes v. Lyons, 5:25-cv-00153, Dkt. No. 15 (S.D. Tex. Oct. 16, 2025); Buenrostro-Mendez v. Bondi, 2025 WL 2886346, at *3 & *3 n.3, *4 (S.D. Tex. Oct. 7, 2025); and Espinoza Andres v. Noem, No. H-25-5128, slip op. at 8–11 (S.D. Tex. Dec. 2, 2025).

It is clear that §1226 (a) applies to Ms. Membreno-Vigil, and not §1225 (b)(2), therefore, her detention without a bond is unlawful.

CORRECT BOND REDETERMINATION PROCEDURE

Because Petitioner was arrested inside the US, after 21 years we may add, the IJ had to consider her bond request and engage in the proper evaluation of the evidence under the standard

found in *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). The case holds that, in determining the need for and amount of bond, the following, non-exclusive factors should be considered:

- stable employment history.
- length of residence in the community.
- family ties.
- record of nonappearance at court.
- prior criminal or immigration law violations.

Because he decided he lacked jurisdiction, the IJ denied Petitioner the right to have the court review the merits of her Bond motion and evidence under the correct standard of law.

VIII. ORDERING A FURTHER DETENTION HEARING IS FUTILE

Matter of Cerda Reyes, 26 I&N Dec. 528 (BIA 2015) holds that the filing rules for bonds in 8 C.F.R. § 1003.19(c) are about venue, not subject-matter jurisdiction, and confirms that the IJ's bond authority derives from INA § 236 via 8 C.F.R. § 1236.1(d)(1). This IJ had jurisdiction to consider the bond request.

However, the new BIA precedent *Matter of Hurtado,* supra, at p. 227-228, restricts the immigration courts' jurisdiction for those "present without admission", This means that even if the IJ was ordered to conduct a bond redetermination hearing the BIA precedent in would mean that the IJ would now have to deny the availability of a hearing based on lack of jurisdiction. That precedent is legally wrong because the Board holds that any noncitizen present in the U.S. "without admission" is an "applicant for admission" under § 235(a)(1) and therefore must be detained under § 235(b)(2)(A), not § 236(a). See 29 I&N Dec. 216, 223–25.

Therefore, this Petitioner can show that the new precedent in *Matter of Yajure Hurtado* renders further referral for a bond hearing futile.

IX. ARGUMENT

The government's reading would invert the statute and violate basic canons of construction. Section 1226(a) begins "[e]xcept as provided in subsection (c)," making clear that § 1226(c) is the exclusive exception to the discretionary bond regime for noncitizens "already in the country." Allowing § 1225(b)(2) to operate as an unstated, global bar to bond for any non-admitted alien—no matter how long resident, and no matter that he was taken into custody on a § 1226 warrant—would both nullify the "seeking admission" limitation in § 1225(b)(2) and render the careful structure of § 1226(a)/(c) pointless.

In Cardona-Lozano v. Noem, No. 1:25-cv-01784 (W.D. Tex. Nov. 14, 2025), a long-time EWI resident detained in the interior was classified by DHS as subject to "mandatory" § 1225 detention and denied bond. The Western District of Texas rejected that position, holding that § 1225(b)(2) applies to recent "applicants for admission" at the border and that extending it to interior, long-resident detainees would effectively erase § 1226's role and render the specific mandatory-detention carve-out in § 1226(c) superfluous. The court ordered DHS to treat the detention as governed by § 1226(a) and to provide an individualized bond hearing. Similar results follow in Cerritos Echevarria v. Bondi, No. CV-25-03252-PHX (D. Ariz. Oct. 3, 2025); Loja Lema v. FCI Berlin, Warden, 25NH127P (D.N.H. Nov. 4, 2025); Dos Santos v. Noem, No. 25-12052-JEK (D. Mass. Aug. 14, 2025);); Buenrostro-Mendez v. Bondi, 2025 WL 2886346, at *3 & *3 n.3, *4 (S.D. Tex. Oct. 7, 2025); and Espinoza Andres v. Noem, No. H-25-5128, slip op. at 8–11 (S.D. Tex. Dec. 2, 2025).and related cases, all holding that DHS may not treat long-resident, interior arrestees in § 1229a proceedings as § 1225(b)(2) detainees to strip them of bond eligibility.

Petitioner falls squarely within § 1226(a). She was (1) placed into full removal proceedings under 8 U.S.C. § 1229a, (2) residing in the interior of the United States, and (3) arrested and

detained pursuant to an immigration warrant issued under § 1226, not held continuously since a border encounter. Once the government elected to proceed by warrant arrest under § 1226 and standard § 1229a proceedings, Petitioner's detention is governed by § 1226(a)'s discretionary framework, including access to a custody-redetermination (bond) hearing before an IJ. Nothing in the text of § 1225(b)(2) authorizes DHS to re-characterize an interior, warrant-based § 1226 detention as § 1225(b)(2) "mandatory" custody in order to avoid bond jurisdiction.

X. CONCLUSION

Because 8 USC §1226(a) applies, her detention without a bond hearing is unlawful. This Honorable Court should GRANT this petition and order her released so that the immigration courts can do their proper job and consider the merits of any application for relief she may file under the law.

WHEREFORE, we respectfully request the Most Honorable Court to:

- ORDER that Respondents immediately release Ms. Membreno-Vigil from custody, or

  in the alternative, provide her with a bond hearing under 8 U.S.C. § 1226(a) within five (5) days of the order of the court.
- If released, ORDER that Respondents must notify Ms. Membreno-Vigil' counsel of the exact time and location of her release *no less than three hours prior* to releasing her.
- ORDER that Respondents provide the Court with a status update on the outcome of any bond hearing conducted pursuant to this Order.
- ORDER that if no bond hearing is held, advise the Court as to the status of Ms. Membreno-Vigil' release from custody pursuant to this Order.

- ORDER that the parties should also notify the Court if the Government seeks a stay of any bond granted under 8 C.F.R. § 1003.19(i).

VERIFIED PETITION

I hereby declare, under penalty of perjury, that the information contained in this petition is true and correct and that I have personally verified its contents before signing and submitting it.

Signed on this 9th day of December, 2025, in Houston, Texas.

Julie Soderlund, Attorney

RESPECTFULLY SUBMITTED on this 9th day of December, 2025, in Houston, Texas.

S/. Julie Soderlund

Counsel for Petitioner
TX Bar 24119210
SD TX 3618878
PO Box 2083
Bellaire, TX 77402
courts.s.law@protonmail.com
Tel. (346) 505-9677