UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SUCEL VELAZQUEZ-REYGADA, Petitioner, v. KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; MIGUEL VERGARA, in his official capacity as Director of the San Antonio Field Office of ICE, Enforcement and Removal Operations; RAYMOND THOMPSON, Warden of the Karnes County Immigration Processing Center; and DAREN K. MARGOLIN, Director of the Executive Office for Immigration Review, Respondents.	Civil Action No. 5:25-cv-01694 Immigration No. [redacted] **PLAINTIFF'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Petitioner SUCEL VELAZQUEZ-REYGADA (A[redacted]), hereinafter referred to as "*Petitioner*" or "*Ms. Velazquez-Reygada,*" is a native and citizen of Cuba who has resided in the United States for nearly three and a half years. She is currently subject to indefinite detention after her apprehension by ICE in Texas and is detained at the Karnes County Immigration Processing Center in Karnes City, Texas. *See* Ex. 1., Proof of Detention in ICE Custody.

2. Ms. Velazquez-Reygada has been placed in removal proceedings under INA § 240 [8 U.S.C. § 1229a]. *See* Ex. 2, Documentation of Petitioner's Immigration Case.

3. In recent months, immigration judges have routinely denied requests for a bond hearing to individuals in situations substantially similar to that of Ms. Velazquez-Reygada, due to a perceived lack of jurisdiction. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. 3, Recent BIA Decisions on Bond. However, numerous federal district courts, including some from within the jurisdiction of the United States Court of Appeals for the Fifth Circuit, have made clear that similarly situated noncitizens, who are detained under 236(a) [8 U.S.C. § 1226(a)], are entitled to individualized bond hearings.

4. Despite this posture, immigration judges continue to refuse to provide noncitizens such as Ms. Velazquez-Reygada with an individualized custody redetermination hearing, asserting a lack of jurisdiction based on erroneous Board of Immigration Appeals precedent. The refusal to provide such a hearing violates the INA, the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act ("APA"), because detention in § 240 proceedings is governed by INA § 236(a) [8 U.S.C. § 1226(a)], which clearly provides that noncitizens are entitled to bond hearings. This is the case of Ms. Velasquez-Reygada, when Immigration Judge Meredith Tyrakoski determined that she did not have jurisdiction to conduct a custody redetermination hearing relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. 1.

5. Ms. Velazquez-Reygada therefore petitions this Court for habeas relief under 28 U.S.C. § 2241, and seeks immediate injunctive relief, including a Temporary Restraining Order ("TRO") directing Respondents to provide her an individualized custody hearing or release her under reasonable conditions without delay.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the DECLARATORY JUDGMENT ACT, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the ALL-WRITS ACT, 28 U.S.C. § 1651.

7. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seek class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

8. Venue is proper in this District, and in the San Antonio Division, because Petitioner is detained at the Karnes County Immigration Processing Center in Karnes City, Karnes County, Texas, within this Court's jurisdiction, whereas Petitioner's immigration detention is controlled by the San Antonio Office of ICE – Enforcement and Removal Operations. *See* Ex. 1.

III. PARTIES

9. Petitioner, Ms. Sucel Velazquez-Reygada, is a citizen and national of Cuba who has lived in the United States for nearly three and a half years, having arrived in the United States on or about July 26, 2022. On or about October 23, 2025, she was transferred to the Karnes County Immigration Processing Center, where she remains detained. *See* Ex. 1.

10. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is sued in her official capacity.

11. Respondent TODD LYONS is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

12. Respondent MIGUEL VERGARA is the Acting Director of the San Antonio Field Office of ICE – Enforcement and Removal Operations ("ERO"), and therefore, he oversees the Karnes Sub-Office of ERO San Antonio, which has jurisdiction over Petitioner. He is sued in his official capacity as Petitioner's local custodian and DHS's local decisionmaker.

13. Respondent, RAYMOND THOMPSON, Warden of the Karnes County Immigration Processing Center, is responsible for housing noncitizens from various regions of Texas in ICE custody pending the completion of their removal proceedings. The Karnes County Immigration Processing Center is located at 409 FM 1144, Karnes City, TX 78118. Respondent is sued in his official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

14. Respondent, DAREN K. MARGOLIN, is Director of the Executive Office for Immigration Review. As such, he is responsible for directing and coordinating policy for the United States Immigration Court system, including policies relating to immigration

bond applications and requests for custody redeterminations in immigration court. He is sued in his official capacity only.

15. Respondents Noem and Lyons, who represent DHS and ICE, are properly included herein as the executives of federal agencies within the meaning of the APA.

IV. FACTUAL BACKGROUND

16. Ms. Velazquez-Reygada is a citizen and national of Cuba, born on [redacted] 1999. She has lived continuously in the United States since her initial entry on or about July 26, 2022, when she was processed by immigration officials at the southern border in Texas and released on recognizance. *See* Ex. 2, Documentation of Petitioner's Immigration Case. Since that time, she has continuously resided in Texas and married her spouse, Jorge Rene Valdes Fontaine, who is a U.S. Permanent Resident and Petitioner for Ms. Velazquez-Reygada's pending I-130 Form, Petition for Alien Relative. *See* Ex. 4, Receipt Notice of Petitioner's I-130 Form.

17. In addition, Ms. Velazquez-Reygada filed an application for asylum and withholding of removal (Form I-589) through the Immigration Court on October 25, 2022, within six months after initially entering the United States. At present, her asylum application remains pending. *See* Ex. 5, Petitioner's File Stamped Form I-589 Application.

18. Since her release from immigration custody in July 2022, Petitioner has fully complied with all conditions of her supervision. She has reported regularly to the ICE Field Office as directed. Each appointment was completed without incident, and Petitioner was advised to return on future dates.

19. On or about October 21, 2025, Petitioner dutifully appeared for her scheduled ICE appointment. She expected a routine compliance check-in, having no criminal record or

pending violations. *See* Ex 6, Texas Criminal Records Search. Without warning or explanation, ICE officers detained Petitioner and refused to release her. ICE officers informed Ms. Velazquez-Reygada that she would now be detained, despite her history of appearing at ICE check-ins while in removal proceedings for the previous years.

20. Ms. Velazquez-Reygada was transferred to the Karnes County Immigration Processing Center in Karnes City, Texas. The facility is operated under contract with the Karnes Sub-Field Office of the San Antonio Field Office of ICE – Enforcement and Removal Operations ("ERO"). The ICE Detainee Locator confirms Petitioner's custody in Karnes City, Texas, as of December 9, 2025. *See* Ex. 1.

21. As of November 17, 2025, Petitioner discovered that she is currently pregnant and is expected to deliver her child on July 2, 2026. See Ex. 6, Medical Report Dated November 17, 2025. The medical report taken on that day indicates that Petitioner faces increased risks due to previous conditions. *Id.*

22. Until her recent transfer into a remote immigration facility in Karnes City, Texas, Ms. Velazquez-Reygada had lived and worked in both Florida and Texas for many years, where she developed close ties to her community. Ms. Velazquez-Reygada has no history of violence and no criminal record whatsoever that would justify treating her as a danger to society—no arrests, convictions, or citations—since entering the United States. See Ex. 7, Texas Criminal History Search. To the contrary, she has demonstrated continuous residence, stable employment, and strong family and community ties. Ms. Velazquez-Reygada's detention was not the result of any criminal act or immigration violation but rather a routine compliance visit that ICE converted into an arbitrary arrest.

23. As of the filing of this petition, Petitioner remains detained at the Karnes County Immigration Processing. *See* Ex. 1. Although ICE filed its Notice to Appear with EOIR, Ms. Velazquez-Reygada is ineligible for any bond hearing or opportunity for review under INA § 236(a) [8 U.S.C. § 1226(a)] under the current policies of ICE and EOIR. The government's arbitrary arrest of Ms. Velazquez-Reygada, coupled with agency policy, renders her detention *ultra vires*, indefinite, and constitutionally infirm. She has been held for nearly two months, contrary to the immigration statutes, and without being afforded judicial oversight or administrative review.

24. Given Respondents' failure to provide Petitioner with a bond hearing or justify continued custody, Petitioner respectfully seeks a Temporary Restraining Order and Preliminary Injunction ordering her immediate release, or alternatively, requiring Respondents to promptly provide her with an individualized custody determination before an immigration judge.

25. On or about July 26, 2022, immigration officials apprehended Ms. Velazquez-Reygada upon her entry into the United States through the Texas border. Following this, the Department of Homeland Security ("DHS") served Ms. Velazquez-Reygada with a Notice to Appear ("NTA"), formally charging her as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] for entry without inspection near Del Rio, Texas before she was eventually released on recognizance on or about July 28, 2022. *See* Ex. 2, Documentation of Immigration History.

26. Although ICE filed the NTA with the immigration court after serving it on Ms. Velazquez-Reygada, placing her into INA § 240 [8 U.S.C. § 1229a] removal proceedings, ICE's detention of Ms. Velazquez-Reygada ignores her lengthy history in this country, as

well as the fact that she has avenues for removal relief. For this reason, Ms. Velazquez-Reygada is entitled to the full panoply of due process guaranteed by the INA, including a hearing on relief from removal and a bond hearing under INA § 236(a) [8 U.S.C. § 1226(a)], and not merely a summary expulsion.

27. Despite this case history, current immigration policy treats Ms. Velazquez-Reygada, for bond purposes, as though she were subject to the harshest form of "*arriving alien*" detention, even though she has been properly placed in INA § 240 [8 U.S.C. § 1229a] proceedings. Instead of being allowed to seek release on bond before an immigration judge, an immigration judge has categorically denied her any chance to demonstrate that she is neither a danger to the community nor a flight risk since the immigration judge in charge of hearing her custody redetermination hearing indicated that she did not have jurisdiction based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

28. This blanket denial is not based on any individualized finding, but on the government's insistence on applying the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Those decisions—issued without notice-and-comment rulemaking, and in direct tension with the plain language of the statute—purport to strip immigration judges of authority to hold bond hearings for individuals like Ms. Velazquez-Reygada.

29. As a result of this, as well as ICE's arbitrary arrest and transfer of Ms. Velazquez-Reygada into the immigration detention apparatus, Ms. Velazquez-Reygada now finds herself isolated at the Karnes County Immigration Processing Center in Karnes, Texas, a remote facility over a hundred miles from her community. *See* Ex. 1. She is held under conditions indistinguishable from those reserved for dangerous criminals, despite the

absence of any criminal conviction that would bar her release under Section 236(c) [8 U.S.C. § 1226(c)] of the INA. Each day of confinement exacerbates the harm suffered by Petitioner. Petitioner is separated from her family and community support, impeded in her ability to consult with counsel, and suffered the psychological strain that prolonged and unnecessary detention inevitably produces.

30. In sum, Ms. Velazquez-Reygada has deep roots in the United States, a strong claim for political asylum and humanitarian protection, eligibility for family-based relief through her spouse, and no disqualifying criminal record. Her detention has placed her into indefinite civil detention based solely on the government's reliance on recent, non-binding BIA decisions that contravene the plain language of the INA and the recent decisions of multiple federal district courts. Ms. Velazquez-Reygada's continued detention, absent the possibility of an individualized bond hearing, is unlawful, arbitrary, and profoundly unjust.

V. LEGAL FRAMEWORK

31. Immigration detention is governed primarily by two provisions of the INA: Section 235(b) [8 U.S.C. § 1225(b)] and Section 236(a) [8 U.S.C. § 1226(a)]. Whereas Section 236(a) of the INA authorizes the Attorney General to release noncitizens on bond pending removal proceedings, in contrast, Section 235(b) applies to certain categories of "arriving aliens" and mandates detention pending completion of expedited or threshold screening.

32. Congress designed INA § 236(a) [8 U.S.C. § 1226(a)] to govern the detention of individuals who, like Petitioner, are in regular removal proceedings under INA § 240 [8 U.S.C. § 1229a]. The statutory text expressly provides for release on bond, subject only to conditions ensuring appearance and protecting the community.

33. The Supreme Court has confirmed the distinction between these statutory schemes. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (explaining differences between § 235(b) [8 U.S.C. § 1225(b)] mandatory detention and INA § 236(a) [8 U.S.C. § 1226(a)] discretionary custody). The Board of Immigration Appeals itself recognized for decades that individuals in INA § 240 proceedings after entry without inspection were eligible for custody redeterminations. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

34. Despite this clear statutory scheme, DHS has invoked recent BIA decisions (*i.e.*, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)) to strip immigration judges of bond authority in cases such as those of Petitioner. Those decisions, however, cannot override the plain language of the statute.

35. In recent weeks, multiple district courts in 2025 have directly addressed the Government's efforts to expand INA § 235(b)(2)(A) [8 U.S.C. § 1225(b)(2)(A)] beyond its intended scope by assessing habeas petitions for noncitizens in similar circumstances and have repeatedly concluded that the clear and unambiguous language of INA § 236(a) [8 U.S.C. § 1226(a)] permits noncitizens who arrived without inspection—persons in precisely the same legal circumstances as Ms. Velazquez-Reygada —are eligible to request bond hearings before the immigration court.

36. For example, in *Santos v. Noem*, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sept. 15, 2025), the court emphasized that habeas relief is proper to correct statutory misclassification and to preserve the petitioner's due process rights. In *Kostak v. Trump*, 2025 U.S. Dist. LEXIS 167280 (W.D. La. Aug. 27, 2025), the court ordered bond eligibility under INA § 236(a) [8 U.S.C. § 1226(a)], rejecting the Government's assertion that INA § 235(b) [8 U.S.C. § 1225(b)] applied. Likewise, in *Salazar v. Dedos*, 2025 U.S. Dist. LEXIS

183335 (D.N.M. Sept. 17, 2025), the district court ordered an individualized bond hearing under 8 U.S.C. § 1226(a) within seven days, holding that prolonged detention without such a hearing violates the Fifth Amendment's Due Process Clause.

37. Additionally, Petitioner's position is reinforced by the recent decision in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr et al*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), where the federal court granted partial summary judgment in favor of petitioners, holding that mandatory detention without individualized bond hearings violates due process and exceeds statutory authority under INA § 236(a). In that class action, the Court rejected the government's expansive interpretation of INA § 235(b) [8 U.S.C. § 1225(b)] and emphasized that noncitizens in regular removal proceedings are entitled to custody review. This ruling, supported by multiple amicus briefs, underscores the growing judicial consensus against blanket denial of bond hearings. *Cf.* Maldonado Bautista, Order of Nov. 20, 2025 (granting partial summary judgment).

38. Similarly, recent decisions from district courts within the Fifth Circuit, such as *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368 (N.D. Tex. 2025), and *Lopez-Arevelo v. Ripa*, 2025 U.S. Dist. LEXIS 188232 (S.D. Tex. 2025), further confirm that courts are rejecting agency efforts to apply 8 U.S.C. § 1225(b)(2)(A) to individuals who are properly subject to INA § 236(a) [8 U.S.C. § 1226(a)]. *See also Buenrostro-Mendez v. Bondi*, No. 4:25-cv-3726, slip op. at 3 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112, slip op. at 3-4 (S.D. Tex. Oct. 8, 2025) (reviewing new detention policy). This Court should follow suit.

39. These holdings reflect a growing consensus that federal district courts retain jurisdiction to intervene where detention rests on a statutory misapplication and results in

ongoing constitutional harm. The cumulative weight of these decisions underscores that Ms. Velazquez-Reygada is entitled to bond consideration under INA § 236(a) [8 U.S.C. § 1226(a)].

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

40. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

41. Respondents' refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and the recent decisions of multiple federal district courts from around the country, including courts within the Fifth Circuit.

42. INA § 236(a) [8 U.S.C. § 1226(a)], provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and that the Attorney General "may continue to detain the arrested alien" or "may release the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole."

43. By its plain text, Section 236(a) [8 U.S.C. § 1226(a)] applies to all noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 236(c) [8 U.S.C. § 1226(c)] applies.

44. In interpreting the plain language of Section 236(a) [8 U.S.C. § 1226(a)], various federal district courts confirmed that noncitizens detained under Section 236(a) are statutorily eligible for individualized bond determinations before an immigration judge. Thus, the Attorney General must consider bond applications by detained aliens pending the

outcome of their removal proceedings, since immigration judges retain jurisdiction to conduct custody redetermination hearings under that provision.

45. Petitioner was served an NTA indicating her placement into removal proceedings under Section 240 of the INA [8 U.S.C. § 1229a]. Ms. Velazquez-Reygada remains detained at the Karnes County Immigration Processing Center. Because Petitioner has been detained for removal proceedings, and because she has now lived in the United States for several years and applied for asylum affirmatively and has family-based relief, her custody is governed by § 236(a) [8 U.S.C. § 1226(a)], not § 235(b) [8 U.S.C. § 1225(b)].

46. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a) [8 U.S.C. § 1226(a)], Respondents have acted contrary to statutory authority requiring consideration of such a bond application. Given that Petitioner submitted a motion for custody redetermination, yet the Immigration Judge refused to hold a custody redetermination hearing by relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), it is clear that seeking bond before the immigration courts has become a futile endeavor. Petitioner's continued detention without access to an individualized custody redetermination violates the INA and must be corrected through habeas relief.

47. Accordingly, this Court should grant the writ and order that Petitioner receive an individualized bond hearing under INA § 236(a) [8 U.S.C. § 1226(a)], as recently made clear by the decisions of multiple federal district courts to examine these issues around the country.

Count II – Fifth Amendment Due Process Violation

48. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

49. Petitioner's continued detention without access to an individualized custody redetermination hearing also violates the Due Process Clause of the Fifth Amendment. Prolonged detention without bond review is arbitrary, punitive, and unconstitutional.

50. The Supreme Court has long recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is civil in nature, but it nonetheless implicates this fundamental liberty interest.

51. Because Petitioner is detained by ICE at the Karnes County Immigration Processing Center, she is categorically barred from presenting evidence that she is not a danger to the community and that she poses no flight risk. The blanket denial of access to a bond hearing strips Petitioner of the individualized determination required by due process and by the plain language of Section 236(a) [8 U.S.C. § 1226(a)].

52. Unlike noncitizens subject to mandatory detention for serious criminal offenses under INA § 236(c) [8 U.S.C. § 1226(c)], Petitioner has no qualifying convictions that justify a categorical denial of release. The government has no legitimate basis to insist that Petitioner's detention be mandatory, yet she remains confined with no opportunity for release.

53. Denying Petitioner any access to a bond hearing deprives her of procedural protections guaranteed by the Due Process Clause of the Constitution. Moreover,

prolonged detention without meaningful review violates the substantive limits of due process, as articulated in *Zadvydas* and *Demore v. Kim*, 538 U.S. 510 (2003).

54. By adopting a policy refusing to provide Petitioner with an individualized bond hearing that comports with INA § 236(a) [8 U.S.C. § 1226(a)], Respondents have acted contrary to statutory authority requiring consideration of such a bond application.

55. Petitioner is a long-time resident of the United States, with nearly three and a half years of continuous presence. She has strong family and community ties in Texas. There has been no finding that she is a danger to the community or a flight risk. Yet, solely because of recent, erroneous BIA decisions—decisions not binding in the Fifth Circuit—she has been categorically denied the process to which she is entitled. This amounts to an arbitrary deprivation of liberty in violation of the Fifth Amendment.

56. Accordingly, the Court should grant habeas relief on constitutional grounds and order that Petitioner be afforded an immediate bond hearing, or that she be released from custody pending the final outcome of her Section 240 [8 U.S.C. § 1229a] removal proceedings.

Count III – Unlawful Agency Action (APA)

57. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

58. Respondents' continued detention of Petitioner without affording her a bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706. The abrupt departure from longstanding precedent without reasoned explanation violates the Administrative Procedure Act.

59. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a) [8 U.S.C. § 1226(a)], including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). That framework allowed for individualized custody determinations consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to the community and flight risk as factors for immigration bond requests);
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony that he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "*arriving alien*");
- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had DACA alleged he had entered without inspection but had been misclassified as "*arriving alien*");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

60. In 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that certain noncitizens who entered without inspection are subject to mandatory detention under INA § 235(b) [8 U.S.C. § 1225(b)]. These decisions abruptly stripped immigration judges of bond authority

for a large class of detainees, including Petitioner, without notice-and-comment rulemaking and without reasoned explanation for abandoning prior precedent.

61. The APA requires agencies to engage in reasoned decision-making and prohibits arbitrary or capricious action. 5 U.S.C. § 706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016).

62. Although Petitioner did file a motion for custody redetermination after entering ICE custody on or about October 23, 2025, the Immigration Judge—Meredith Tyrakoski—explicitly refused to conduct the hearing, stating that she lacked jurisdiction to consider bond in light of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). As Judge Tyrakoski's written decision makes clear, *See* Ex. 1, immigration judges are categorically declining to exercise custody-redetermination authority for individuals in Petitioner's position. Accordingly, any additional bond application would be futile. By treating Petitioner as subject to mandatory detention under INA § 235(b) [8 U.S.C. § 1225(b)] rather than the discretionary custody framework of INA § 236(a) [8 U.S.C. § 1226(a)], Respondents are applying an unlawful and arbitrary interpretation of the statute that is inconsistent with its plain text and unsupported by reasoned analysis.

63. Accordingly, Respondents' refusal to provide Petitioner an individualized custody redetermination hearing constitutes unlawful agency action under the APA, and this Court should grant habeas relief to remedy the violation.

VII. REQUEST FOR INJUNCTIVE RELIEF

64. Petitioner respectfully requests that this Court issue a preliminary injunction directing Respondents to provide him with an immediate individualized custody redetermination hearing under INA § 236(a) [8 U.S.C. § 1226(a)] within seven (7) days, or, in the alternative, to release him under reasonable conditions of supervision. Petitioner intends to seek a Temporary Restraining Order through a separate motion that is forthcoming, and upon a final hearing, Petitioner asks for permanent injunctive relief as appropriate.

65. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009); *See Valentine v. Collierm* 956 F.3d 797 (5th Cir. 2020) (The four factors in *Nken* are applied to determine whether issuing a temporary restraining order is appropriate). As explained below, Petitioner satisfies each of these factors.

A. Ms. Velazquez-Reygada Is Likely to Succeed on the Merits of Her Petition.

66. Ms. Velazquez-Reygada has a strong likelihood of success on the merits of her claims. As explained more fully hereinabove, numerous district courts, including some from within the Fifth Circuit, have already determined that noncitizens in circumstances substantially similar to those of Ms. Velazquez-Reygada, who are detained under Section 236(a) [8 U.S.C. § 1226(a)], are entitled to individualized bond hearings before an immigration judge.

67. Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Ms. Velazquez-Reygada might file—due to the

Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of Section 236(a) [8 U.S.C. § 1226(a)]. This conclusion is further supported by the recent ruling in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), which invalidated similar policies denying bond hearings to noncitizens in regular removal proceedings.

68. Additionally, Ms. Velazquez-Reygada raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

69. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner's claim is exceptionally strong.

B. Ms. Velazquez-Reygada Wil Suffer Irreparable Harm If a TRO Does Not Issue.

70. If this Court does not grant immediate relief, Ms. Velazquez-Reygada will continue to suffer irreparable harm. The Supreme Court has recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Everyday Ms. Velazquez-Reygada remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

71. As of November 17, 2025, Petitioner is pregnant. *See* Ex. F, Medical Report, dated November 11, 2025. She is expected to deliver her child on July 2, 2026. *Id.* The medical report specifies that Petitioner is facing a high risk pregnancy due to a previous thyroid

disorder, cardiac conduction disorder, and gastroesophageal reflux symptoms. The report specifies that Petitioner will require stricter monitoring. Such risks will inevitably be exacerbated by Petitioner's current detention and will likely cause irreparable harm to her child due to the stress of detention and potential medical complications that may arise. *See* Ex. 8, Pregnant Women in U.S. Correctional Institutions.

72. Even if Ms. Velazquez-Reygada were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. *Nken* 556 U.S. at 435. Ms. Velazquez-Reygada 's ongoing imprisonment without a lawful hearing meets that standard.

C. Balance of Equities Weighs in favor of Ms. Velazquez-Reygada .

73. The balance of equities tips decisively in Petitioner's favor. On her side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government's side, the only asserted interest is administrative convenience in applying the BIA's recent, and in this Circuit nonbinding, precedents.

74. There is no evidence that Petitioner poses a danger to the community or is a flight risk. Furthermore, Petitioner has no criminal history. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

75. Additionally, the undersigned Counsel for Petitioner has undertaken to contact Counsel for the Department of Homeland Security by emailing the Office of Principal

Legal Advisor and ICE – ERO San Antonio, Texas, as well as the U.S. Attorney's Office for the Western District of Texas, in a good faith effort to notify Respondents of Petitioner's intent to obtain a hearing on this TRO request as soon as practicable.

D. There Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

76. Finally, the public interest strongly supports the issuance of a TRO. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. *Nken,* 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

77. Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.

78. Each factor of the equitable test weighs heavily in Ms. Velazquez-Reygada's favor. She has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) [8 U.S.C. § 1226(a)] by various federal district courts and the Due Process Clause; she faces irreparable harm each day she remains detained without lawful process; the equities tilt overwhelmingly toward protecting her liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

79. For these reasons, this Court should issue a Temporary Restraining Order at the earliest possible opportunity, requiring Respondents to provide Ms. Velazquez-Reygada an immediate bond hearing or release.

VIII. PRAYER FOR RELIEF

80. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Issue a writ of habeas corpus ordering Respondents to provide Petitioner with an individualized bond hearing under INA § 236(a) [8 U.S.C. § 1226(a)] within seven (7) days of the Court's order;

b. Grant a temporary restraining order and preliminary injunction requiring such a hearing, or Petitioner's immediate release;

c. Issue a declaration that DHS may not initiate or pursue expedited removal against Ms. Velazquez-Reygada while her INA § 240 [8 U.S.C. § 1229a] removal proceedings remain non-final and while she seeks relief from removal before an Immigration Judge;

d. Issue a declaration that the plain language of INA § 236(a) [8 U.S.C. § 1226(a)] permits immigration judges to consider bond requests of noncitizens who are present without admission and are not classified as arriving aliens;

e. Grant permanent injunctive relief as appropriate;

f. Award Plaintiff reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

g. Grant such other relief as this Court deems just and proper.

(*Signature Block on Following Page*)

DATE: December 9, 2025.

Respectfully submitted,

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By: */s/ Roberto A. Campos*
Roberto A. Campos
Texas Bar No. 24116159
ATTORNEY FOR PETITIONER

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared JORGE R. VALDES FONTAINE ("AFFIANT"), known to me to be the person whose name is included in the foregoing document as Petitioner Sucel Velazquez-Reygada's husband, and who after being by me duly sworn, stated that he is above the age of twenty-one (21) years of age, is of sound mind, and is in all ways competent to execute this verification. Affiant acknowledged that he had read the substance of the foregoing document, that he has personal knowledge of the facts contained herein, and that the factual statements contained herein above are true and correct to the best of Affiant's knowledge and belief.

JORGE R. VALDES FONTAINE,
Affiant

(*Certificate of Interpretation and Notary Acknowledgment on following Page*)

CERTIFICATE OF INTERPRETATION FOR AFFIDAVIT OF

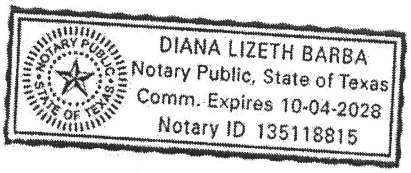
JORGE R. VALDES FONTAINE

I, Robert A. Wagner II, am competent to translate and interpret from Spanish into English, and I certify that I have read this entire document to the Affiant in Spanish, and that the Affiant stated that they understood the document before they signed the affidavit above.

(Signature of interpreter)

Robert A. Wagner II
(typed/printed name of interpreter)

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public, on this the 9th day of December, 2025.



NOTARY PUBLIC
In and for the State of Texas

CERTIFICATE OF SERVICE

I hereby certify that on December 9, 2025, a true copy of the above document was filed via the Court's CM/ECF and that a copy will be sent automatically to all counsel of record.

December 9, 2025

/s/Roberto A. Campos Garduno

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