UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Sandra Jessenia RAMON PONCE,

Petitioners,

v.

LaDeon FRANCIS, in his official capacity as Acting Field Office Director of New York, Immigration and Customs Enforcement; Kristi NOEM in her official capacity as Secretary of Homeland Security; Pam BONDI, in her official capacity as Atttorney General.

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Sandra Ramon Ponce is an asylum seeker who challenges her sudden and arbitrary detention by Respondents which lackd both lawful basis and sufficient process. Ms. Ramon Ponce was released from Respondents' custody just a year and a half ago, and has since filed an application for asylum and been scheduled for a future immigration court date. Yet Respondents jailed her at a routine check-in appointment at 26 Federal Plaza, seemingly as part of a broad campaign to drive up their detention numbers by targeting noncitizens with pending proceedings or applications. She is now detained under Respondents' recently concocted—yet overwhelmingly rejected—legal theory that individuals like Petitioner must be summarily and indefinitely detained under 8 U.S.C. § 1225(b)(2).

Petitioner's confinement is unlawful, as confirmed by the growing body of caselaw that has uniformly concluded as much. She brings this Petition seeking immediate and unconditional release. She also asks this Court to enjoin her transfer out of the New York City area.

PARTIES

1. Petitioner Sandra Ramon Ponce is a citizen of Ecuador who lives in New York. She is currently detained at 26 Federal Plaza in New York, New York.

2. Respondent LaDeon Francis is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Francis's address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

3. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Southern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, District of Columbia 20528.

4. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of New York and is legally responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, she is the custodian of Petitioner. Respondent Bondi's office

is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

JURISDICTION

5. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner was detained by Respondents on September 25, 2025.

6. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

VENUE

7. Venue is proper in this Court because Petitioner is detained by Respondents in Manhattan at the time of filing.

SPECIFIC FACTS ABOUT PETITIONER

8. Petitioner Sandra Ramon Ponce is a citizen of Ecuador and a resident of New York. On information and belief, she originally entered the United States in or around April 2024 and was detained and subsequently released into the country with instructions to appear in immigration court. She has filed an application for asylum.

9. Ms. Ramon Ponce's removal proceedings were docketed in the immigration court on September 15, 2025, and she is scheduled for a court hearing in 2026.

10. On December 10, 2025, Respondents summarily detained Petitioner at a routine ICE check-in. No notice or process whatsoever was provided to Petitioner prior to her detention.

11. Petitioner has no criminal convictions in this country.

12. On the same day that Petitioner was detained, Respondents detained numerous other female asylum seekers also called in to 26 Federal Plaza for appointments.

LEGAL FRAMEWORK

13. The INA provides for removal proceedings to be the "sole and exclusive" procedures for removing people from the United States, subject to a few narrow exceptions. 8 U.S.C. 1229a. Section 1229a(a)(3) states that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States."[1]

14. Petitioner is, or will be placed, in removal proceedings under section 1229a.

15. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). For individuals who are "arriving" in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b). For individuals who are in removal proceedings following entry without inspection and who are not subject to mandatory detention based on criminal history, detention is normally authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).

[1] "Attorney General" in Section 1254a now refers to the Secretary of the Department of Homeland Security. *See* 8 U.S.C. § 1103; 6 U.S.C. § 557.

16. In May 2025, the Board of Immigration Appeals held that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)." *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025).

17. On July 8, Respondents promulgated an internal memo directing ICE attorneys to argue for an even more expansive interpretation of who is subject to mandatory detention. This memo, now leaked to the public, states that "effective immediately, it is the position of DHS that [any noncitizens who have not been admitted to the country] are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)] parole. These [noncitizens] are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration just and may not be released for the duration of their removal proceedings absent a parole by DHS."

18. In late July, the U.S. Attorney's Office in the Southern District began to adopt Respondents' reasoning and changed its prior legal position to now argue in petitions before this Court that detention of individuals who entered the U.S. without inspection is pursuant to 8 U.S.C. § 1225(b) and therefore mandatory, despite arguments to the contrary as recently as June 2025.

19. In September 2025, the Board of Immigration Appeals adopted this legal interpretation as well. *See Matter of Yajure Furtado,* 29 I&N Dec. 216 (BIA 2025). As a result, immigration judges cannot and will not grant noncitizens like Petitioner release on bond pursuant to 8 U.S.C. § 1226(a).

20. Respondents' position on their statutory detention authority contradicts decades of settled precedent that individuals who entered the U.S. without inspection is governed by 8 U.S.C. § 1226(a). Regulations promulgated nearly thirty years ago provide that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under Section 1226. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Until recently, Respondents consistently adhered to this interpretation. *See, e.g., Matter of Garcia-Garcia*, 25 I&N. Dec. 93 (BIA 2009); *Matter of D-J-*, 23 I&N. Dec. 572 (A.G. 2003); *see also* Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) ([Solicitor General]: "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.").

21. Since this shift, a growing number of courts have rejected Respondents' contention that entrants without inspection previously released pursuant to § 1226(a) are now subject to mandatory detention under § 1225(b). *See* Appendix A, *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13 (S.D.N.Y. Nov. 26, 2025) (collecting cases); *e.g. Lopez Benitez v. Francis*, 1:25-cv-05937-DEH, 2025 WL 2267803, slip. op. at *10-18 (S.D.N.Y. August 8, 2025) (ECF No. 14) ("*Lopez Benitez*"); *Savane v. Francis*, No. 1:25-CV-6666-GHW, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *4 (D. Mass. July 24, 2025). *Gomes v. Hyde*, No. 25 Civ. 11571 (JEK), 2025 WL 1869299, at *5-9 (D. Mass. July 7, 2025); *Rodriguez v. Bostock,* No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *14 (W.D. Wash. Apr. 24, 2025).

22. Although civil immigration detention is authorized by statute, that detention serves only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

23. DHS makes initial custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody *only* "if they demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." *See Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) ("8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination"); *see also Lopez Benitez* at *20.

24. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires process sufficient to mitigate the risk of erroneous deprivation of a liberty interest. Revocation of conditional release from confinement, even civil immigration confinement, infringes on a protected liberty interest. The liberty interest in even conditional release is well-established in the context of parole; probation; and freedom from civil immigration confinement. *See Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (finding immigration petitioner's "liberty interest is clearly established"); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (applying case law from the probation and parole contexts to conclude that the non-citizen petitioner had a "liberty interest in remaining out of [immigration] custody").

25. As to process, at a minimum, in the context of revocation of civil release, "an individual whose release is sought to be revoked is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing." *Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022).

26. Despite these baseline requirements, Respondents now regularly re-detain individuals notwithstanding an earlier determination to release them and do so without according any notice or process whatsoever. These redetentions violate noncitizens' right to due process. *See Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931 at *3 (S.D.N.Y. July 13, 2025) (ordering the immediate release of a petitioner redetained by ICE because she "poses a risk of flight or a danger to the community" and her sudden redetention violated her right to due process); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 at *4 (S.D.N.Y. June 18, 2025) (ordering the release of petitioner redetained after an immigration court hearing and concluding "Respondents ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights.").

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION (Redetention)

27. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

28. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v.*

Flores, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

29. Petitioner's detention violates the both the substantive and procedural components of the Due Process Clause. Petitioner was determined not to pose danger or flight risk when she was released from custody in April 2024. There is no reason to now conclude Petitioner poses a danger or flight risk. She was not accorded sufficient process prior to her sudden re-detention by ICE on December 10, 2025. Petitioner did not receive notice or an opportunity to be heard as to whether a change in custody status was warranted. *See Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at *12 (S.D.N.Y. June 12, 2018) ("Petitioner's re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment"); *see also Chipantiza-Sisalema*, 2025 WL 1927931, at *3; *Valdez*, 2025 WL 1707737, at *4.

30. Respondents will also now contend that Petitioner is ineligible for bond under *Matter of Yajure Furtado*, 29 I&N Dec. 216 (BIA 2025). But that determination is contradicted by Respondents' prior determinations in Petitioner's case and the text and structure of the detention statutes. Mandatory detention without access to a bond hearing violates Petitioner's right to due process.

31. Respondents' actions also violate Petitioner's right to substantive due process as there is no reason to conclude she poses either a danger or a flight risk and therefore no lawful basis to detain her. *See Zadvydas*, 533 U.S. at 690–91 (noting that immigration detention aims to ensure the detainee's appearance at immigration proceedings and protect the community from dangerous individuals).

32. Respondents' actions violate Petitioner's right to due process.

COUNT TWO
VIOLATION OF THE FOURTH AMENDMENT
(Redetention)

33. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

34. Petitioner was detained by federal immigration officials as removable when she entered the United States. The government exercised its discretion under the Immigration and Nationality Act to release Petitioner while she litigated that charge in immigration court. At the time of Petitioners' arrest, she had been living at liberty pursuant to that determination by federal immigration authorities.

35. The government lacked reliable information of changed or exigent circumstances that would justify Petitioner's arrest on the same basis after federal immigration authorities previously decided they could pursue her claims for immigration relief at liberty.

36. Petitioner's re-arrest based solely on the fact that she may be subject to removal proceedings—which was also the predicate for her initial detention— is unreasonable and therefore violates the Fourth Amendment.

COUNT THREE
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

37. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

38. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious. 5 U.S.C. § 706(2)(A).

39. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence

before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). An agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

40. Respondents' decision to detain Petitioner as part of their coordinated campaign and policy of detaining individuals attending immigration court or routine ICE check-ins, irrespective of the individual circumstances in their case, and then to subject them to mandatory detention, is arbitrary and capricious.

COUNT FOUR
RELEASE PENDING ADJUDICATION

41. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

42. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

43. Petitioner presents substantial claims. Moreover, extraordinary circumstances are also present, given the unjustified nature of her current confinement.

44. Petitioner requests immediate release pending adjudication of the instant petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Enjoin Petitioner's transfer out of the New York City area;
3. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the Immigration and Nationality Act and implementing regulations;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody without restraints on their liberty beyond those that existed prior to her redetention on December 10, 2025;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
7. Grant such further relief as this Court deems just and proper.

Dated: December 11, 2025

/s/ Paige Austin
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CERTIFICATE OF SERVICE

I certify that on December 11, 2025, I electronically filed the attached the foregoing Petition for Writ of Habeas Corpus and accompanying Exhibits with the Clerk of the Court for the United States District Court for the Southern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

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