

Cristina Zambrano, Esq.  
Texas State Bar No. 24079625  
The Law Office of Mark Kinzler, P.C.  
PO Box 684309  
Austin, TX 78768  
(512) 402-7999  
cristina@kinzlerimmigration.com  
Attorney for Petitioner

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

---

**MAYLIN IZQUIERDO GONZALEZ,** )  
 )  
 )  
 *Petitioner,* )  
 )  
 )  
 )  
 v. )  
 )  
 )  
 **FRANCISCO VENEGAS,** Warden, )  
 El Valle Detention Facility; )  
 )  
 )  
 **MIGUEL VERGARA,** Acting/Director )  
 of the San Antonio Field Office U.S. )  
 Immigration and Customs Enforcement; )  
 )  
 )  
 **TODD LYONS,** Acting Director, )  
 Immigration and Customs Enforcement )  
 )  
 )  
 **KRISTI NOEM,** Secretary of the U.S. )  
 Department of Homeland Security; and )  
 )  
 )  
 **PAMELA BONDI,** Attorney General )  
 of the United States, in their official capacities, )  
 )  
 )  
 *Respondents.* )  

---

Case No. 1:25-cv-322  
**PETITION FOR WRIT OF  
HABEAS CORPUS**

## INTRODUCTION

1. Petitioner Maylin Izquierdo Gonzalez is in the physical custody of Respondents at the El Valle Detention Facility in Raymondville, Texas. Petitioner was first detained and released in June 2022 under DHS's discretionary detention authority under 8 U.S.C. § 1226. Over three years later, in late October 2025, Department of Homeland Security (DHS) arrested her in or around McAllen, Texas when she and her husband drove through an immigration checkpoint. She has remained detained since that date.
2. DHS insists that its authority to detain her stems from 8 U.S.C. § 1225(b) and that she is therefore ineligible for a bond hearing. This assertion is legally incorrect. Nevertheless, the Executive Office for Immigration Review (EOIR) has validated this position in contravention of the plain text of the statute, decades of statutory interpretation and agency practice, and Respondents' own prior treatment of Petitioner.
3. Federal district courts across the nation have reached a clear consensus: Section 1225(b) does not apply to Petitioner's circumstances, and Respondents' reliance on this inapplicable statute renders her detention unlawful. Because Petitioner cannot be detained under Section 1225(b)(1) or Section 1225(b)(2), the only lawful basis for continued detention would be Section 1226—which provides for individualized bond determinations. However, Respondents do not assert they are detaining Petitioner under Section 1226. By detaining Petitioner under a statute that does not authorize her detention while simultaneously refusing to apply the statute that does, Respondents hold her in unlawful custody. Petitioner is therefore entitled to immediate release.
4. The present petition filed on behalf of the Petitioner is one of a number of recent lawsuits with similar facts challenging the federal government's authority to detain noncitizens

during the pendency of removal proceedings under 8 U.S.C. § 1225(b). Overwhelmingly, federal district courts have ruled in favor of Petitioners. *See e.g Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *PUERTO-HERNANDEZ, v. LYNCH*, No. 1:25-CV-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at \*3 (N.D. Cal. Sept. 18, 2025); *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at \*21 (D. Ariz. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *PÉREZ PINA, v. STAMPER*, No. 2:25-CV-00509-SDN, 2025 WL 2939298 (D. Me. Oct. 16, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at \*5 (N.D. Ill. Oct. 16, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025).

5. Accordingly, to preserve Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a Writ of Habeas Corpus for the reasons stated *infra*. Absent an order from this Court, Petitioner will continue to suffer an unconstitutional deprivation of her right to liberty, as well as extreme irreparable harm given the personal facts of her situation. Petitioner asks this Court to find that her detention is unconstitutional and order immediate release from detention.

### **JURISDICTION**

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution

(Suspension Clause).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
9. Here, Petitioner challenges the legality of her detention, asserting that she is held in violation of both the Constitution and federal immigration statutes. Such claims fall squarely within the habeas jurisdiction of federal district courts. None of the jurisdiction stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g) and § 1252(b)(9) apply.
10. Federal district courts have consistently held that these jurisdictional bars do not preclude habeas review of the proper application of INA detention provisions. *See Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at \*2-4 (W.D. Tex. Oct. 16, 2025) (finding a case 'falls squarely outside' the jurisdictional bars where Petitioner was only 'challenging whether certain INA provisions require her detention without a bond hearing'); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at \*4 (W.D. Tex. Sept. 22, 2025) (rejecting government's jurisdictional arguments); *Mo-Rales v. Thompson*, No. SA-25-CV-01391-JKP, 2025 WL 3470871, at \*2-4 (W.D. Tex. Nov. 21, 2025) (same); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*4 (D. Mass. July 7, 2025) (same); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at \*4 (N.D. Cal. Sept. 18, 2025) (same). As these courts have recognized, habeas jurisdiction exists to review whether the government is detaining a noncitizen under the correct statutory authority and with adequate procedural protections. That is precisely the question presented here.

**VENUE**

11. Venue is proper with this Court because Petitioner is detained at El Valle Detention Facility in Raymondville, Texas, which is within the jurisdiction of this District.

**REQUIREMENTS OF 28 U.S.C. § 2243**

12. The Court must grant the petition for Writ of Habeas Corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

**PARTIES**

14. Petitioner, Maylin Izquierdo Gonzalez is a citizen of Cuba. She is currently detained at El Valle Detention Facility in Raymondville, Texas. She is in the custody, and under the direct control, of Respondents and their agents.

15. Upon information and belief, Respondent Francisco Venegas, is the Warden of the El Valle Detention Facility and he has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

16. Respondent Miguel Vergara is sued in his official capacity as the Acting Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Vergara is a legal custodian of Petitioner and has authority to release her.
17. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
18. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.
19. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

#### **STATEMENT OF FACTS**

20. Petitioner is a 39-year-old native and citizen of Cuba. She entered the United States without inspection near Eagle Pass, Texas on June 27, 2022. **Exh. A, Form I-862 Notice to Appear.** That same day, she was encountered by DHS officials and taken into custody. Two days later, she was served with a Notice to Appear ("NTA") charging her with inadmissibility under INA 212(a)(6)(A)(i) and an Order of Release on Recognizance issued pursuant to 8 USC 1226(a) and was released from custody. **Exh. A, Form I-862**

**Notice to Appear, Exh. B, Form I-220A, Order of Release on Recognizance.** She proceeded to check-in with DHS repeatedly without incident.

21. On January 29, 2022, her NTA was docketed with the San Antonio Immigration Court to commence removal proceedings under 8 USC 1229a. On November 15, 2022, Mrs. Izquierdo Gonzalez timely filed a *pro se* I-589 application for asylum within a year of her arrival. **Exh. C, Form I-589, Application for Asylum.** Mrs. Izquierdo Gonzalez proceeded to obtain work authorization, a driver's license, and employment. She resided in North Carolina with her husband, Guillermo Martinez Banos, who is a Lawful Permanent Resident. **Exh. D, Marriage Certificate, Exh. E, LPR Card for Husband.**
22. In late October 2025, DHS arrested her in or around McAllen, Texas when she and her husband drove through an immigration checkpoint. She was taken to El Valle Detention Facility in Raymondville, Texas, where she remains. **Exh. I, Notice to EOIR.** On November 19, 2025, her husband filed an I-130 Petition for her. **Exh. F, I-130 Receipt Notice.**
23. On November 25, 2025, the U.S. District Court for the Central District of California issued an order in *Maldonado Bautista v. Santacruz*, certifying a nationwide class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the United States without admission or inspection (colloquially referred to as "entered without inspection" or "EWI"). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025). The Court granted declaratory relief to the entire class, holding that the government is unlawfully subjecting

them to mandatory (meaning no-bond) detention and that class members are eligible for release on bond under the immigration laws. *Id.*

24. On December 3, 2025, Petitioner moved for custody redetermination with EOIR requesting release on bond, pursuant to the District Court Order. **Exh. G, Motion for Custody Redetermination.** On December 5, 2025, the immigration judge denied the motion without a hearing. The immigration judge held “It is clear from the terms of the class certification that the partial order for summary judgment applies to all class members. See Order Certifying Class, 14. However, where this order is not a final judgment, the order does not yet have binding effect and may be revisited or revised by the Court at any time. Fed. R. Civ. Pro. R. 54(b)...Accordingly, the Court finds that *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), remains in effect and this Court does not have jurisdiction over these bond proceedings.” **Exh. H, Immigration Judge Order.**

25. Petitioner has been detained by ICE for over five weeks, and will not be released by DHS pursuant to the order asserting that the EOIR has no jurisdiction to release her.

#### **LEGAL FRAMEWORK**

26. Two statutes principally govern the detention of noncitizens pending removal proceedings: 8 U.S.C. §§ 1225 and 1226. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). Second, § 1225 applies to

“applicants for admission,” who are, as relevant here, noncitizens “present in the United States who [have] not been admitted.” 8 U.S.C. § 1225(a)(1). All applicants for admission must be inspected by an immigration officer. *Id.* § 1225(a)(3). DHS can elect to place “arriving” applicants for admission into expedited removal proceedings under § 1225(b)(1). *See* 8 U.S.C. § 1225(b)(1); *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108-09 (2020). In other cases, if the examining immigration officer determines that an applicant for admission that is “seeking admission” is not “clearly and beyond a doubt entitled to be admitted,” Section 1225(b)(2) provides that the applicant for admission “shall be detained for” standard removal proceedings under 1229a. 8 U.S.C. § 1225(b)(2)(A); *see Jennings v. Rodriguez*, 583 U.S. 281, 287-88 (2018). A noncitizen detained under Section 1225(b)(2) may be released only if she is paroled “for urgent humanitarian reasons or significant public benefit” under 8 U.S.C. § 1182(d)(5)(A). *Jennings*, 583 U.S. at 300 (“That express exception to detention implies that there are no other circumstances under which aliens detained under § 1225(b) may be released.”).

27. Whereas Section 1225(b) “authorizes the Government to detain certain aliens *seeking admission* into the country,” Section 1226 “authorizes the Government to detain certain *aliens already in the country* pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289 (emphases added). Section 1226(a) establishes a discretionary detention framework for noncitizens arrested and detained “[o]n a warrant issued by the Attorney General.” For such individuals, the Attorney General (1) “may continue to detain the arrested alien,” (2) “may release the alien on ... bond of at least \$1,500,” or (3) “may release the alien on ... conditional parole.” 8 U.S.C. §§ 1226(a)(1)-(2). The arresting immigration officer makes an initial custody determination, but noncitizens have the right

to request a custody redetermination (i.e., bond) hearing before an Immigration Judge. See 8 C.F.R. §§ 1236.1(c)(8), (d)(1).

28. In addition to bond, the government may release a noncitizen detained under Section 1226(a) on an Order of Recognizance, which is a form of conditional parole. See 8 U.S.C. § 1226(a)(2)(B); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747 (B.I.A. 2023) (“The respondents were ... released on their own recognizance pursuant to DHS’ conditional parole authority under ... 8 U.S.C. § 1226(a)(2)(B)[.]”); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) (“It is apparent that the [government] used the phrase ‘release on recognizance’ as another name for ‘conditional parole’ under § 1226(a).”); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011) (similar).
29. Section 1226(c) is the sole exception to Section 1226(a)’s discretionary detention framework. See 8 U.S.C. § 1226(a) (“Except as provided in subsection (c) ... the Attorney General ... may”); *id.* § 1226(c)(1) Section 1226(c) requires the detention of noncitizens who are inadmissible or deportable and who have been arrested, charged with, or convicted of certain crimes. See *id.* §§ 1226(c)(1)(A)-(D).
30. This case concerns the detention provisions at §§ 1226(a) and 1225(b) and specifically whether Petitioner is lawfully detained under Section 1225(b) as the government now contends, or is instead subject to discretionary detention under Section 1226(a), as the government represented in its initial custody determination in 2022.
31. The position of Respondents is that Mrs. Izquierdo Gonzalez is subject to mandatory detention without a bond hearing under the plain language of 8 U.S.C. § 1225(b), despite being released on her own recognizance and living in the U.S. for over three years.

32. Petitioner cannot be subject to 8 U.S.C. § 1225(b)(1), which is limited in application to those that are placed in expedited removal proceedings, and provides for a detailed, precise process that must be followed. *See* 8 U.S.C. § 1225(b)(1), 8 CFR § 235.3. When DHS apprehended Petitioner in May 2022, DHS had the option to place her in either expedited removal proceedings under 8 U.S.C. § 1225(b)(1), *or* full removal proceedings 8 U.S.C. § 1229a. It opted for the latter and as such, she plainly cannot be subject to 8 U.S.C. § 1225(b)(1). Furthermore, the provisions of 1225(b)(1) are limited to “arriving” aliens, which is not a class that Petitioner falls into. *See* 8 U.S.C. § 1225(b)(1), 8 CFR § 235.3. “In this case, Petitioner is not an “arriving” noncitizen but one that has been present in our country for over [three years]. This substantial amount of time indicates she is afforded the Fifth Amendment's guaranteed due process before removal.” *Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at \*10 (S.D. Cal. Oct. 1, 2025); *See also Yamataya v. Fisher*, 189 U.S. 86, 87 (1903) (finding a noncitizen was entitled to due process before removal despite having spent only four days in the US); *Make the Rd. New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL 2494908 (D.D.C. Aug. 29, 2025) (staying DHS guidance authorizing expansion of scope of expedited removal to noncitizens apprehended anywhere in the United States on the basis that it violates the Due Process); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at \*11 (W.D. Tex. Sept. 22, 2025) (“Because she spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in her freedom from detention.”)
33. Respondents’ alternative anticipated position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) is equally untenable. Respondents are likely to argue that Petitioner is subject to mandatory detention without a bond hearing under the

plain language of 8 U.S.C. § 1225(b)(2), despite being released on her own recognizance pursuant to 8 U.S.C. 1226 and living in the U.S. for over three years.

34. Respondent's position has been resoundingly and repeatedly rejected by federal district courts across the country, including courts in the Fifth Circuit and Texas District Courts. *See e.g. Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390, at \*10 n.9 (D.N.H. Sept. 8, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at \*5 (W.D. La. Sept. 11, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, (W.D. Tex. Sept. 22, 2025); *Becerra Vargas v. Bondi*, No. SA-25-CV-1023-FB (HJB), 2025 WL 3300446 (W.D. Tex. Nov. 12, 2025), report and recommendation adopted sub nom. *Becerra Vargas v. Bondi*, No. SA-25-CV-1023-FB, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025); *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Parada-Hernandez v. Johnson*, No. 3:25-CV-2729-K-BN, 2025 WL 3465958, (N.D. Tex. Oct. 29, 2025), No. 3:25-CV-2729-K-BN, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at \*8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions); *PUERTO-HERNANDEZ, Petitioner, v. LYNCH et al.*, No. 1:25-CV-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at \*3 (N.D. Cal. Sept. 18, 2025); *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at \*21 (D. Ariz. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *PÉREZ PINA, v. STAMPER*, No. 2:25-CV-00509-SDN, 2025 WL 2939298 (D. Me. Oct. 16, 2025);

*Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at \*5 (N.D. Ill. Oct. 16, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025).

35. Respondents' own documents and actions, the plain text of the statute, traditional canons of statutory construction, and DHS' longstanding practices all establish that 1226(a) governs Petitioner's detention.
36. When Petitioner was initially detained and released in June 2022, the Order of Release on Recognizance authorizing her release provided that she was released "[i]n accordance with section 236 of the [INA] and the applicable provisions of Title 8 of the Code of Federal Regulations." **Exh. B, Form I-220A**. While 8 U.S.C. § 1226(a) authorizes release on recognizance, § 1225(b) prohibits it. She was then re-detained on November 3, 2025, while residing in the United States.
37. The "government's treatment of Petitioner since her arrival in the United States in [June 2022], establishes that Petitioner was detained pursuant to the government's discretionary authority under § 1226(a)." *See J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765, at \*5 (E.D.N.Y. Sept. 29, 2025).
38. The plain text of Section 1225(b) and Section 1226(a) also clearly establishes 1225(b) does not apply to noncitizens like Petitioner who are arrested while residing in the U.S. Following a noncitizen's arrest and detention and pending the completion of removal proceedings, Section 1226(a) provides that the Attorney General: (1) "may continue to detain the arrested alien"; (2) "may release the alien on ... bond"; or (3) "may release the alien on ... conditional parole." 8 U.S.C. §§ 1226(a)(1), (a)(2)(A), (a)(2)(B). "The thrice-used permissive word 'may' indicates Congress's intent to establish a discretionary,

rather than mandatory, detention framework for noncitizens arrested on a warrant.” *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*6 (D. Mass. July 7, 2025)

39. As district courts across the country have repeatedly concluded, Respondents’ “interpretation of the statute (1) disregards the plain meaning of § 1225(b)(2)(A); (2) disregards the relationship between §§ 1225 and 1226; (3) would render a recent amendment to § 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice.” *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at \*5 (N.D. Ill. Oct. 16, 2025) (citing *Alejandro v. Olson*, 2025 WL 2896348, at \*6 (S.D. Ind. Oct. 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at \*8 (S.D.N.Y. Aug. 13, 2025) (“[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens ‘seeking admission into the country,’ whereas section 1226 governs detention of non-citizens ‘already in the country.’”) (cleaned up) *Diaz Martinez v. Hyde*, 2025 WL 2084238, at \*8 (D. Mass. July 24, 2025) (“The idea that a different detention scheme would apply to non-citizens ‘already in the country,’ as compared to those ‘seeking admission into the country,’ is consonant with the core logic of our immigration system.”) (cleaned up) (citing *Jennings*, 583 U.S. at 289).

40. In addition, “CBP’s decision to conditionally parole [Petitioner] under Section 1226(a) is consistent with its longstanding practice of conditionally paroling noncitizens arrested near the border. *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*3, f.7 (D. Mass. July 7, 2025) (citing Transcript of Oral Argument, at 44:24-45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) (Solicitor General representing that “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.”).

41. Finally, Respondents’ actions implicate constitutional due process. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). “To determine whether a civil detention violates a detainee’s due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).” *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at \*2 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.
42. As to the first element, “[t]he interest in being free from physical detention’ is ‘the most elemental of liberty interests.’ ” *Martinez v. Noem*, 2025 WL 2598379, at \*2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)). Petitioner possesses a cognizable interest in her freedom from detention because she spent over three years at liberty in the United States. *See Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at \*11 (W.D. Tex. Sept. 22, 2025) (“Because she spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in her freedom from detention.”)
43. Under the second *Mathews* factor, the Court considers “whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to

which alternative procedures could ameliorate these risks.” *Martinez v. Noem*, 2025 WL 2598379, at \*3 (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)). Because the immigration judge declined to exercise jurisdiction over Petitioner's bond request, without even providing her a hearing. The summary decision “did not in fact provide ... an opportunity to contest the existence, nature, or significance of [any] supervision violations’ or otherwise make an individualized assessment of the need to re-detain [her].” *Lopez-Arevelo*, 2025 WL 2691828, at \*11 (citing *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at \*11 (E.D. Cal. Sept. 5, 2025). Further, given “the BIA's interpretation of mandatory detention in *Yajure Hurtado* [and *Q. Li*], that appeal is almost certainly a futile exercise. “ *Id.* “Thus, there is a high risk that [Petitioner] has been and will continue to be erroneously deprived of her liberty.” *Id.*

44. On the final factor, Respondents cannot identify any meaningful countervailing interest, other than perhaps their generalized interest in enforcing the INA as they interpret it. “But the decision to release [Petitioner] on her own recognizance [over three] years ago, in and of itself, ‘reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.’” *Lopez-Arevelo*, 2025 WL 2691828, at \*11 (citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd* 905 F.3d 1137 (9th Cir. 2018)). Mrs. Izquierdo Gonzalez diligently pursued relief and complied with all conditions of release. Nor has she committed any crimes or endangered anyone during her three years at liberty in the United States.
45. Overwhelmingly, federal courts have sided with immigrant detainees challenging their detention in cases involving comparable circumstances, on statutory and constitutional grounds, including courts in the Fifth Circuit and Texas District Courts. *See e.g.*

*Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *PUERTO-HERNANDEZ, Petitioner, v. LYNCH et al.*, No. 1:25-CV-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at \*3 (N.D. Cal. Sept. 18, 2025); *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at \*21 (D. Ariz. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *PÉREZ PINA, v. STAMPER*, No. 2:25-CV-00509-SDN, 2025 WL 2939298 (D. Me. Oct. 16, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at \*5 (N.D. Ill. Oct. 16, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025); *Becerra Vargas v. Bondi*, No. SA-25-CV-1023-FB (HJB), 2025 WL 3300446 (W.D. Tex. Nov. 12, 2025), report and recommendation adopted sub nom. *Becerra Vargas v. Bondi*, No. SA-25-CV-1023-FB, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025); *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Parada-Hernandez v. Johnson*, No. 3:25-CV-2729-K-BN, 2025 WL 3465958, (N.D. Tex. Oct. 29, 2025), No. 3:25-CV-2729-K-BN, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).

46. “The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to status quo ante, i.e., the last uncontested status which preceded the pending controversy.” *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at \*21 (D. Ariz. Oct. 7, 2025). “With regard to the specifics of the relief that

might be ordered, in recent weeks many federal district courts” –including Texas District Courts– “have ordered the immediate release of immigration habeas petitioners held in custody in violation of their due process rights.” *Id.*; *See also Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588 (W.D. Tex. Oct. 1, 2025); *See also J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025). *See also Galdamez Martinez, v. Noem*, No. SA-25-CV-01373-JKP, 2025 WL 3471575, at \*6 (W.D. Tex. Nov. 26, 2025) (ordering immediate release) (“Because Petitioner cannot be detained under § 1225(b)(2), further detention is permissible only if there is a valid source of lawful detention. However, Respondents do not assert any other basis for detaining Petitioner.”); *Aguinaga Trujillo v. Noem*, No. 5:25-CV-1266-JKP, 2025 WL 3471572 (W.D. Tex. Nov. 24, 2025) (same); *Mo-Rales v. Thompson*, No. SA-25-CV-01391-JKP, 2025 WL 3470871 (W.D. Tex. Nov. 21, 2025) (same).

47. Alternatively, the court should order a bond hearing as a habeas remedy where the burden is on the government. Indeed “as of 2020, the ‘vast majority’—an ‘overwhelming consensus’—of courts granting immigration detainees’ habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.” *Lopez-Arevelo*, 2025 WL 2691828, at \*12 (citing *Velasco Lopez*, 978 F.3d at 855 n.14 (citations omitted). “Allocating the burden in this manner reflects the concern that ‘[b]ecause the alien's potential loss of liberty is so severe ... she

should not have to share the risk of error equally.” (citing *German Santos*, 965 F.3d at 214). “And the consensus appears to be holding, with many courts in recent days ordering a bond hearing, at which the Government bears the burden of justifying the immigration habeas petitioner’s continued detention by clear and convincing evidence.” *Id.*; *Velasquez Salazar v. Dedos*, No. 25-cv-835, 2025 WL 2676729, at \*9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo*, No. 24-cv-221, 2025 WL 2653707, at \*1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-cv-4987, 2025 WL 2614688, at \*1 (S.D.N.Y. Sept. 10, 2025); *Espinoza*, 2025 WL 2581185, at \*14; *Arostegui-Maldonado v. Baltazar*, 2025 WL 2280357, at \*12 (D. Colo. Aug. 8, 2025). *Escobar-Arauz v. Noem*, No. EP-25-CV-00619-DB, 2025 WL 3543648 (W.D. Tex. Dec. 10, 2025); *Espinoza v. Noem*, No. EP-25-CV-00618-DB, 2025 WL 3543646 (W.D. Tex. Dec. 10, 2025).

## **CAUSES OF ACTION**

### **COUNT ONE**

#### **Violation of 8 U.S.C. § 1226(a)**

#### ***Unlawful Re-detention after being released under 8 U.S.C. 1226(a)***

48. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
49. The mandatory detention provision at 8 U.S.C. § 1225(b) does not apply to noncitizens residing in the United States who have already been determined by DHS to be subject to discretionary detention under 8 U.S.C. 1226(a). The application of § 1225(b) to detain Petitioner and bar her from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

### **COUNT TWO**

#### ***Violation of Fifth Amendment Right to Due Process***

50. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
51. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).
52. Petitioner has a fundamental interest in liberty and being free from official restraint.
53. The government’s arbitrary subjection of Petitioner to mandatory detention pursuant to 8 U.S.C. 1225, after affording her three years of release on her own recognizance under § 1226 without affording her any opportunity to contest her detention within the agency violates her right to Due Process pursuant to the Fifth Amendment.

### **PRAYER FOR RELIEF**

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents’ compliance with any order this Court may issue;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the INA and the Due Process clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner, or, in the alternative, provide a custody redetermination hearing before an

impartial Immigration Judge within 2 days where the Government bears the burden to prove by clear and convincing evidence that the detainee poses a danger or flight risk;

(5) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Cristina Zambrano  
Cristina Zambrano, Esq.  
Texas State Bar No. 24079625  
The Law Office of Mark Kinzler, P.C.  
PO Box 684309  
Austin, TX 78768  
(512) 402-7999  
cristina@kinzlerimmigration.com  
Attorney for Petitioner

Dated: December 11, 2025

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

I represent Petitioner, Maylin Izquierdo Gonzalez, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 11th day of December, 2025.

/s/ Cristina Zambrano  
Cristina Zambrano, Esq.  
Texas State Bar No. 24079625  
Attorney for Petitioner

CERTIFICATE OF SERVICE  
Izquierdo-Gonzalez v. Venegas et al  
Case No. 1:25-cv-322

I hereby certify that on December 11, 2025, the Respondents stated below were named and notified by Electronic Filing about the Petition for Writ of Habeas Corpus in the CM/ECF habeas corpus filing with the Southern District of Texas court.

Civil Process Clerk, United States Attorney's Office  
1000 Louisiana St., Suite 2300  
Houston, Texas 77002

Francisco Venegas  
Warden at El Valle Detention Facility  
1800 Industrial Drive  
Raymondville, TX 78580

Miguel Vergara  
San Antonio Field Office Director of Enforcement and Removal Operations  
1777 NE Loop 410  
Floor 15  
San Antonio, TX 78217

Todd M. Lyons  
Acting Director of Immigration Customs Enforcement  
500 12th St SW  
Washington, DC 20536

Secretary of Homeland Security Kristi Noem  
2707 Martin Luther King Jr., Ave., SE  
Washington, DC 20528-0485

U.S. Attorney General Pamela Bondi  
950 Pennsylvania Ave NW  
Washington, DC 20530

/s/ Cristina Zambrano