IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

Maria Fabiola DIAZ PATINO, Petitioner, v. **Marcello Villegas,** Warden, Bluebonnet Detention Facility; **Joshua JOHNSON,** Acting Director of Dallas Field Office, U.S. Immigration and Customs Enforcement; **Todd LYONS,** Acting Director of Immigration and Customs Enforcement; **Kristi NOEM,** Secretary of the U.S. Department of Homeland Security; **Pam BONDI,** Attorney General of the United States; in their official capacities. Respondents.	Case No. 1:25-cv-276 **PETITION FOR WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Maria Fabiola Diaz Patino is in the physical custody of Respondents at the Bluebonnet Detention Facility in Anson, Texas. She now faces unlawful detention because the Department of Homeland Security (DHS) and the Department of Justice (DOJ) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without inspection (i.e. without being admitted or paroled). 8 U.S.C. § 1182(a)(6)(A)(i). Based on this allegation, Respondents have concluded that they do not have jurisdiction to provide Petitioner a bond hearing.

3. On July 8, 2025, the DHS, in collaboration with the DOJ, issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

4. Before this new policy was announced, the Executive Office for Immigration Review (EOIR), which administers the Immigration Courts, through the Board of Immigration Appeals (BIA), components of the DOJ, had already started laying the groundwork for this abrupt policy change. On May 15, 2025, the BIA issued a decision in which it held that a person who enters without inspection and is arrested and detained without a warrant while arriving in the United States and subsequently placed in removal proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and is ineligible for any subsequent release on bond.

5. Later on September 5, 2025, the BIA finished building the edifice of Respondents' unprecedented and illegal mandatory detention scheme by turning the DHS policy into binding precedent by issuing a decision which ruled that the Immigration Judges of the EOIR did "not have the authority" to hear any bond case for anyone who had entered the United States without inspection.

6. Because of these BIA decisions and the DHS policy, Petitioner cannot request a bond hearing before the Immigration Court of the EOIR. An Immigration Judge has no jurisdiction to hear the case.

7. The Respondents have concluded that notwithstanding Respondents allowing Petitioner to enter the United States to apply for asylum and his four years of residing in the United States, she is nevertheless an "applicant for admission" who is "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A).

8. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

9. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice which applied § 1226(a) to people like Petitioner.

10. Accordingly, Petitioner seeks a writ of habeas corpus requiring his immediate release from custody or, in the alternative that he be provided a bond hearing under § 1226(a)

within seven days in which DHS bears the burden of establishing the necessity of Petitioner's continued detention.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Bluebonnet Detention Facility in Anson, Texas.

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Northern District of Texas, the judicial district in which Petitioner currently is detained.

15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Northern District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

16. 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).

17. 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

18. Petitioner is a citizen of Venezuela who has been in immigration detention since December 4, 2025. Prior to being detained, she was living in Plano, Texas. After arresting Petitioner, ICE did not set a bond. However, because of Respondents' new policies and case decisions, Petitioner also cannot request a bond hearing before an Immigration Judge. Petitioner has resided in the United States since December 2021.

19. Respondent Marcello Villegas is the Warden of Bluebonnet 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. Respondent Villegas is a legal custodian of Petitioner.

20. Respondent Joshua Johnson is sued in his official capacity as the Acting Director of the Dallas Field Office of the Enforcement and Removal Operations of the U.S. Immigration and Customs Enforcement. Respondent Johnson is a legal custodian of Petitioner and has authority to release her.

21. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As such, Respondent Lyons is a legal custodian of Petitioner and is

responsible for Petitioner's detention, release and/or removal. He is named in his official capacity.

22. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. 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. Respondent Noem is a legal custodian of Petitioner.

23. Respondent Pam 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. In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review, which administers the Immigration Courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Petitioner.

LEGAL FRAMEWORK

24. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally 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).

26. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

27. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

28. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

29. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

31. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

32. On May 15, 2025, the BIA issued a decision in which it held that a person who enters without inspection and is arrested and detained without a warrant while arriving in the United States and subsequently placed in removal proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and is ineligible for any subsequent release on bond. *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

33. Then on July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended (i.e. at the border or in the interior of the United States), and affects those who have resided in the United States for months, years, and even decades.

34. On September 5, 2025, the BIA published a decision that adopts this same position and binds it on all Immigration Courts. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Matter of Yajure-Hurado*, the BIA explicitly held that "Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *Id.* In complete contradiction of decades of precedent, the Board stripped Immigration Judges of jurisdiction over bond for anyone who has entered the United States without inspection.

35. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after Immigration Judges in Tacoma, Washington,

stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025).

36. Since then, federal courts throughout the United States have agreed with the Western District of Washington and granted preliminary injunctive relief for petitioners who entered the United States without inspections. *See Padron Covarrubias v. Vergara*, 5:25-CV-112 (S.D. Tex. Oct. 8, 2025) (citing an extensive list of federal courts coming to the same conclusion as the Western District of Washington).

37. DHS's and DOJ's interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to individuals who entered the United States without inspection and were released into the interior to complete removal proceedings.

38. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

39. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves"

that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

40. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or at the U.S. border. The framework of § 1225(b)(2) is premised on inspections at the border of "applicant[s] for admission" who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Furthermore, the INA defines "admission," to mean "the lawful entry… into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). As courts have reasoned, even though an applicant for admission has not been "admitted" to the United States, it does not mean that they always continue to be actively seeking a lawful entry (i.e. seeking admission). *Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390, at *21 (D.N.H. Sept. 8, 2025). An applicant for admission can enter the country, and therefore no longer seek entry, lawfully or otherwise, but rather seek "a lawful means to remain here." *Id.* at *22. Therefore, § 1225(b)(2)(A) cannot apply to someone who has already entered the United States and has been residing here for a period of time.

42. That an applicant for admission can be allowed to enter the country and not seek admission is supported by the practice of DHS to release individuals on their own recognizance after a detention at the border. The Form I-220A, which is used by DHS to release an individual on their recognizance, explicitly states: "In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance..." Indeed, when a person is released on recognizance, even at the border, DHS necessarily makes a determination that the person falls under the INA detention and release scheme of § 1226(a), not § 1225(b). Many courts have agreed with this reasoning. *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025) (concluding that a noncitizen originally detained under § 1225(b) but released on conditional parole under § 1226 and later rearrested on a § 1226 warrant was entitled to bond hearing under § 1226 and its implementing regulations); *see also Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025).

43. Lastly, the BIA decision of *Matter of Q. Li* is also limited to individuals arriving at the border and seeking admission, and therefore cannot apply to a person who has entered the United States after DHS releases them on their own recognizance. Indeed, this BIA decision was premised on the fact that the noncitizen in the case was released on humanitarian parole under INA § 212(d)(5), not with a Form I-220A release. This type of parole is a legal fiction where the noncitizen is physically permitted to enter the country but is "treated," for legal purposes, "as if stopped at the border." *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139, 140 S. Ct. 1959, 207 L. Ed. 2d 427 (2020). Because she was legally still at the border (and, for the sake of argument but without

conceding, still arriving and seeking admission) when her parole was terminated, she was returned to the custody from which she was paroled which was detention under § 1225(b)(2). § 1182(d)(5)(A); *Q. Li*, 29 I. & N. Dec. at 70-71.

44. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered the United States after release by DHS and were residing in the United States for a period of time.

STATEMENT OF FACTS

45. Petitioner is a 25-year-old citizen of Venezuela. Ex. A. Petitioner entered the United States on December 1, 2021. Ex. B.

46. Upon her entry into the United States, Petitioner was processed by the DHS, was assigned an Alien (File) Number [redacted] and the DHS allowed Petitioner to enter the country by releasing her with a Form I-220A, Order of Release on Recognizance. Ex. C. She has resided in the United States since then and was living in Plano, Texas before her detention.

47. In order to apply to remain in the United States lawfully, Petitioner applied for asylum. Ex. F. On December 4, 2025, Petitioner was arrested by ICE. Petitioner is now detained at the Bluebonnet Detention Facility in Anson, Texas. Ex. D. DHS has placed Petitioner in removal proceedings before the Immigration Court pursuant to 8 U.S.C. § 1229a. Ex. B; Ex. E. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection (i.e. without being admitted or paroled). Ex. B.

48. Since living here in the United States, she has established community ties and has been lawfully employed. Her father-in-law is a U.S. citizen.

49. ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions. However, because of Respondents' policies, Petitioner cannot request a bond hearing before the Immigration Judge, because the BIA has stripped Immigration Courts of their jurisdiction, and her unlawful detention cannot be litigated before that body. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

50. As a result, Petitioner remains in detention. Without relief from this court, she faces the prospect of months, or even years, in immigration custody as she fights to win asylum in removal proceedings and remain in the United States.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

51. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country without inspection and have been residing in the United States after being released and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

53. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates the INA.

COUNT II

Violation of Due Process

54. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

55. 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 (2001).

56. Petitioner has a fundamental interest in liberty and being free from official restraint.

57. The government's detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process.

PRAYER FOR RELIEF

58. WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Declare that the actions of Respondents as set forth in this Petition violate the Fifth Amendment, of the United States Constitution, 28 U.S.C. § 2241, the APA, and the INA;

c. Issue a writ of habeas corpus requiring that Respondents release Petitioner or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days in which DHS bears the burden of establishing the necessity of Petitioner's continued detention and considers alternatives to detention that could mitigate flight risk;

d. Enjoin Respondents from denying Petitioner's bond under U.S.C. § 1225(b)(2);

e. Enjoin the Respondents from transferring Petitioner to another detention facility;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

DATED this 12th of December 2025.

Respectfully submitted,

/s/ Oscar Jesus Mendoza Esq.

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

I represent Petitioner, Maria Fabiola Diaz Patino, 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 12th of December 2025.

/s/ Oscar Jesus Mendoza Esq.

Oscar Jesus Mendoza