

1 WILLIAM BAKER, SBN 157 906  
Moreno & Associates Law Firm, APC  
2 2082 Otay Lakes Road, Ste. 102  
Chula Vista, CA 91913  
3 619-422-4885  
william.baker@morenoandassociates.com

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5 Attorney for petitioner

6 UNITED STATES DISTRICT COURT  
7 Southern District of California  
8

9 SHARON SORIA VILLA,

10 Petitioner,

11 v.

12 CHRISTOPHER J. LaROSE, Senior Warden  
13 Otay Mesa Detention Center; PAMELA BONDI,  
United States Attorney General; KRISTI NOEM,  
14 Secretary of the Department of Homeland  
Security; PATRICK DIVVER, ICE San Diego  
15 Field Office Director, in their official capacities,

16 Respondents.  
17


) Case Number: '25CV3575 RSH SBC

) VERIFIED PETITION FOR WRIT OF  
HABEAS CORPUS

) Oral Argument Requested

18  
19 Petitioner alleges:

20 INTRODUCTION

21 1. Petitioner SHARON SORIA VILLA  is subjected to unlawful  
22 immigration detention at the Otay Mesa Detention Center. Respondents recently re-detained  
23 petitioner without any explanation. The judges at Otay Mesa conclude there is no jurisdiction to  
24 even consider setting a bond based *Matter of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025). The  
25 BIA and immigration judge interpretation of the Immigration and Nationality Act is plainly contrary  
26 to the statutory framework and decades of agency practice. Petitioner seeks an order compelling  
27 respondents to immediately release her from custody or for the immigration judge to accept  
28 jurisdiction and afford her a bond decision on the merits.

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**JURISDICTION**

2. This action arises under the Constitution of the United States; the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq.*; and the Administrative Procedures Act (“APA”), 5 U.S.C. § 500, *et seq.*

3. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 5 U.S.C. § 701 *et seq.* (APA); and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

4. The court may grant relief under the habeas corpus statutes, the Declaratory Judgment Act, and the All-Writs Act, 28 U.S.C. § 1651.

**VENUE**

5. Venue is proper because Petitioner is detained at the Otay Mesa Detention Facility, in San Diego, California, which is within the jurisdiction of this District.

6. Venue is also proper in this judicial district pursuant to 28 USC §1391(e) because at least one federal respondent is in this District; and a substantial part of the events or omissions giving rise to the claims in this action took place in this District. No real property is involved.

**REQUIREMENTS OF 28 U.S.C. § 2243**

7. The Court must grant the habeas corpus petition 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.*

8. 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).

**PARTIES**

9. Petitioner SHARON SORIA VILLA (“Petitioner”) is a 42-year-old citizen of Mexico. She is detained by the Respondents at the Otay Mesa Detention Center.



1           16.     The “usual removal process” involves an evidentiary hearing before an immigration  
2 judge. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020). Proceedings are initiated  
3 under 8 U.S.C. § 1229(a), also known as “full removal,” by filing a Notice to Appear with the  
4 Immigration Court. *Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 520 (BIA 2011). Section § 1226  
5 provides that while removal proceedings are pending, a noncitizen “may be arrested and detained” and  
6 that the government “may release the alien on ... conditional parole.” § 1226(a)(2); *accord*  
7 *Thuraissigiam*, 591 U.S. at 108 (during removal proceedings, applicant may either be “detained” or  
8 “allowed to reside in this country”).

9           17.     When a person is apprehended under § 1226(a), an ICE officer makes the initial  
10 custody determination. *Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citing 8 C.F.R. §  
11 236.1(c)(8)). A noncitizen will be released if he or she “demonstrate[s] to the satisfaction of the  
12 officer that such release would not pose a danger to property or persons, and that the alien is likely  
13 to appear for any future proceeding.” *Id.* (citing 8 C.F.R. § 236.1(c)(8)). “Federal regulations  
14 provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.”  
15 *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (citing 8 CFR §§ 236.1(d)(1)). If, at this hearing,  
16 the detainee demonstrates by the preponderance of the evidence that he or she is not “a threat to  
17 national security, a danger to the community at large, likely to abscond, or otherwise a poor bail  
18 risk,” the IJ will order his or her release. *Diaz*, 53 F.4th at 1197 (citing *Matter of Guerra*, 24 I. & N.  
19 Dec. 37, 40 (B.I.A. 2006)).

20           18.     Once released, the noncitizen’s bond is subject to revocation. Under 8 U.S.C. §  
21 1226(b), “the DHS has authority to revoke a noncitizen’s bond or parole ‘at any time,’ even if that  
22 individual has previously been released.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal.  
23 2019). However, if an immigration judge has determined the noncitizen should be released, the  
24 DHS may not re-arrest that noncitizen absent a change in circumstance. *See Panosyan v. Mayorkas*,  
25 854 F. App’x 787, 788 (9th Cir. 2021) Where the release decision was made by a DHS officer, not  
26 an immigration judge, the Government’s practice has been to require a showing of changed  
27 circumstances before re-arrest. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal.  
28 2017).

1           19. While “§ 1226 applies to *aliens already present in the United States*,” U.S.  
2 immigration law also “authorizes the Government to detain certain *aliens seeking admission into the*  
3 *country* under §§ 1225(b)(1) and (b)(2),” a process that provides for expedited removal. *Jennings*,  
4 583 U.S. at 303 (2018) (emphasis added). Under § 1225, a noncitizen “who has not been admitted  
5 or who arrives in the United States” is considered “an applicant for admission.” 8 U.S.C. §  
6 1225(a)(1). For certain applicants for admission, 8 U.S.C. § 1225 authorizes “expedited removal.” §  
7 1225(b)(1).

8           20. Respondents’ central argument is that petitioner is subject to mandatory detention  
9 pending removal proceedings under 8 U.S.C. § 1225(a)(1), 1225(b)(2)(A). Respondents rely on the  
10 BIA’s recent decision in *Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025), affirming the  
11 government’s new interpretation of § 1225.

12           21. As a threshold matter, the BIA decision *Yajure Hurtado* is entitled to little or no  
13 deference by the District Court. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024)  
14 (observing that while “agencies have no special competence in resolving statutory ambiguities,”  
15 “[c]ourts do”).

16           22. Multiple District Courts across the entire United States have recently concluded that  
17 the government’s proposed interpretation of the statute (a) disregards the plain meaning of section  
18 1225(b)(2)(A); (b) disregards the relationship between sections 1225 and 1226; (c) would render a  
19 recent amendment to section 1226(c) superfluous; and (d) is inconsistent with decades of prior  
20 statutory interpretation and practice. The following quote is a representative example:

21           “The Court follows other decisions in this Circuit finding that “seeking admission  
22 requires an affirmative act such as entering the United States or applying for status,  
23 and that it does not apply to individuals who, like [Petitioner], have been residing in  
24 the United States and did not apply for admission or a change of status.” *Mosqueda*  
25 *v. Noem*, No. 25-CV-2304 CAS (BFM), 2025 WL 2591530, at \*5 (C.D. Cal. Sept. 8,  
26 2025); *see, e.g., Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL  
27 2676082, at \*11–16 (D. Nev. Sept. 17, 2025); *Rodriguez*, 2025 WL 2782499, at \*1  
28 (“Every district court to address this question has concluded that the government’s

1 position belies the statutory text of the INA, canons of statutory interpretation,  
2 legislative history, and longstanding agency practice.”); *Guzman v. Andrews*, No. 25-  
3 CV-1015-KES-SKO (HC), 2025 WL 2617256, at \*4–5 (E.D. Cal. Sept. 9, 2025)  
4 (finding that petitioner who was released on bond and rearrested was entitled to a  
5 bond hearing under § 1226); *Garcia*, 2025 WL 2549431, at \*8 (providing petitioner  
6 with an individualized bond hearing under § 1226(a)); *Valdovinos v. Noem*, No. 25-  
7 CV-2439 TWR (KSC), slip op. at 9 (S.D. Cal. Sept. 25, 2025) (same).”  
8 *Esquivel-Pina v. LaRose*, No. 25-CV-2672, 2025 WL 2998361 at 8 (S.D. Cal. Oct. 24,  
9 2025).

10 23. District Courts have found, once immigration authorities “elect to proceed with full  
11 removal proceedings under § 1226, [they] cannot [ ] reverse course and institute § 1225 expedited  
12 removal proceedings.” *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at \*4  
13 (N.D. Cal. Aug. 21, 2025).

14 24. Moreover, given the time spent at liberty following an initial release from detention  
15 upon a determination that petitioner was not a flight risk or danger, as well as the government’s  
16 implicit promise that any custody redetermination would be based on those same criteria, petitioner  
17 has a protected “interest in remaining at liberty unless [he] no longer meets those criteria.” *Espinoza*  
18 *v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at \*13 (E.D. Cal. Sept. 5, 2025)  
19 (quoting *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at \*4 (N.D. Cal. July 24,  
20 2025).

21 **FACTUAL ALLEGATIONS**

22 25. Petitioner has lived in the United States since 1989. She is married. She has three  
23 children, ages 25, 23, and 17. The children are United States citizens. One child is in the U.S. Army.  
24 Petitioner’s mother is a lawful permanent resident.

25 26. Petitioner is employed cleaning houses. She has a minimal criminal record consisting  
26 of a 2001 petty theft and a 2010 DUI.

27 27. In July 2010, the DHS detained Petitioner and issued her a Notice to Appcar (NTA)  
28 for a removal hearing. The DHS released petitioner from detention on her own recognizance.



1 constitutes final agency action for purposes of the APA.

2 39. There are no other adequate available remedies.

3 40. Respondents' actions constitute an unlawful withholding of an agency action and  
4 unlawful agency action in violation of the APA.

5 **COUNT 3**

6 (Violation of the Due Process Clause)

7 41. Petitioner incorporates by reference the allegations set forth in paragraphs 1 to 40.

8 42. The DHS released petitioner from detention pending her removal proceeding, thus  
9 conceding that she was not a danger to the community or a flight risk. Since then, she has complied  
10 with all of the terms and conditions of her OR release. She attended all of her court hearings.

11 43. In October 2025, DHS agents detained petitioner without any explanation or change  
12 in circumstances after she attended a court hearing. The DHS agents sent her to the Otay Mesa  
13 Detention Center.

14 44. The re-detention of petitioner after her release on her own recognizance without any  
15 explanation or change in circumstances violates Ninth Circuit case law and the Due Process Clause  
16 of the Fifth Amendment to the United States Constitution

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

19 (1) Assume jurisdiction over this matter;

20 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition  
21 should not be granted within three days;

22 (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth  
23 Amendment, the INA, and the APA;

24 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or  
25 schedule a bond hearing on the merits before an immigration judge;

26 (5) Issue an order prohibiting respondents from continuing to detain petitioner on the basis  
27 that he is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2);  
28

1 (6) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (28  
2 U.S.C. § 2412), and any other applicable statute or regulation; and

3 (7) Grant any further relief this Court deems just and proper.

4 DATED: 12 December 2025

5 Respectfully submitted,

6 */s/ William Baker*

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9 William Baker (157 906)  
10 MORENO & ASSOCIATES  
11 2082 Otay Lakes Road, Suites 102  
12 Chula Vista, California 91913  
13 Telephone: (619) 422-4885  
14 william.baker@morenoandassociates  
15 Attorney for petitioner  
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**VERIFICATION**

**DECLARATION UNDER PENALTY OF PERJURY**

I declare under penalty of perjury under the laws of the United States that I am the petitioner; I have read the petition or had it read to me in a language I understand, and the information in the petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

**VERIFICACIÓN**

**DECLARACIÓN BAJO PENA DE PERJURIO**

Declaro bajo pena de perjurio según las leyes de los Estados Unidos que soy el peticionario; He leído la petición o me la han leído en un idioma que entiendo, y la información de la petición es verdadera y correcta. Entiendo que una declaración falsa de un hecho material puede servir como base para el enjuiciamiento por perjurio.



SHARON SORIA VILLA  
Petitioner/Peticionario