UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

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| YAZMIN AIDEE MENDOZA MEDINA,<br><br>*Petitioner*,<br><br>*v.*<br><br>PAMELA BONDI,<br>United States Attorney General;<br><br>KRISTI NOEM,<br>Secretary of the United States Department of Homeland Security;<br><br>TODD M. LYONS,<br>Director of United States Immigration and Customs Enforcement;<br><br>SYLVESTER ORTEGA<br>Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement,<br><br>JOSE RODRIGUEZ JR., Warden,<br>South Texas Family Residential Center<br><br>*Respondents.* | §<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§ | Civ. No. 25-1834<br><br>DHS File Number: [redacted]<br><br>**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, PETITION FOR WRIT OF HABEAS CORPUS** |

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## I. INTRODUCTION

1. Petitioner, Yazmin Mendoza Medina, age 19, a citizen of Mexico, is in the physical custody of Respondents at the South Texas Family Residential Center in Dilley, Texas. She now faces unlawful detention because the Department of Homeland Security (DHS), in concert with the Executive Office for Immigration Review (EOIR), has concluded contrary to law that she is subject to mandatory detention.

2. Petitioner entered the United States at age 13 on October 30, 2019, with her parents and three other siblings after applying for admission at the Laredo, Texas port of entry. The DHS released them on paroles, see 8 U.S.C. §1182(d)(5), and paroled them in to the United States pending removal proceedings on October 30, 2019, under 8 U.S.C. § 1182(d)(5)(A). Exh. 1, Parole stamp, CBP Form I-94A, indicating paroled "pending 240 hearing." The DHS also issued the each a Notice to Appear (NTA), Form I-862. Her NTA charges her under 8 U.S.C. § 1182(a)(7)(A)(i), noncitizen not in possession of a valid visa at the time she applied for admission at a port of entry. Exh. 2, Notice to Appear. She began living in San Antonio, Texas with her family. She completed high school in San Antonio. Her parents applied for asylum with the San Antonio Immigration Court within one year of their entry, and included the children on the asylum application. On April 6, 2021, Petitioner through counsel filed her separate application for asylum, withholding of removal, and relief under the Convention Against Torture with the San Antonio Immigration Court. It is pending.

3. ICE arrested her without a warrant on November 16, 2025, in San Antonio, Texas. ICE raided a food truck eatery on San Pedro Avenue where approximately 143 individuals were

taken.[1] She was subsequently transferred to the South Texas Family Residential Center, where she remains detained without bond. She has no criminal arrests or convictions, nor any connection to any organized criminal group anywhere in the world.

4. Respondents have not followed the applicable statutory and regulatory requirements to revoke Petitioner's parole. If Respondents did not follow the applicable statutory and regulatory requirements to properly revoke her previously granted parole, then they did not have the authority to arrest and detain her, "unless there [wa]s some other valid reason to arrest [him]." *Mata Velasquez*, 794 F. Supp. 3d at 145; *cf. Norfolk S. Ry. Co. v. U.S. Dep't of Lab.*, No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures required by its own regulations should be set aside" (citation omitted)); *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 545 (6th Cir. 2004) ("It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,]...[and] '[a]n agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.' " (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998))). Respondents do not claim that they had any reason to arrest and detain Petitioner other than her status as a noncitizen. Indeed, Respondents now argue, since July 8, 2025, and in similar re-arrest habeas cases, that *any noncitizen*, regardless of whether they are already present and residing in the United States, is "an alien seeking admission" subject to mandatory detention under § 1225. This Court and other courts

[1] https://sanantonioreport.org/san-antonio-leaders-demand-answers-on-evidence-behind-major-raid/ (last checked Dec. 20, 2025).

throughout the country have rejected this argument. *See, e.g.*, *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 236 process and enjoining re-detention without notice and a pre-deprivation hearing); *Rodriguez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025)(granting TRO ordering a prompt bond hearing under § 1226, where the government bears the burden of showing danger or flight risk, or if no bond hearing is set ordering release); *Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (order granting preliminary injunction, holding that § 1226—not § 1225(b)(2)—governs custody for long-resident noncitizens arrested in the interior because reading § 1225(b)(2) to apply broadly would render § 1226 superfluous.); *Santiago-Santiago v. Bondi*, EP-25-CV-361-KC, 2025 WL 2792588, (W.D. Tex. Oct. 2, 2025)(granting habeas petition for a DACA recipient); *Reyes-Perez v. Bondi*, 5:25-cv-01302-XR, (W.D. Tex. Nov. 24, 2025); *Paredes-Quintero v. Bondi*, 5:25-cv-01697-JKP (W.D. Tex. Dec. 18, 2025) ("[D]espite Respondents' reliance on § 1225(b)(1), rather than § 1225(b)(2), this Court sees no material difference between the facts of this case and the numerous other habeas cases that raise the question of whether § 1225(b)(2) applies to all noncitizens who, like Petitioner, are already in the country but entered without inspection.); *Dominguez-Vega v. Thompson*, 25-CA-01439-XR (W.D. Tex Nov. 19, 2025); *Salgado Mendoza v. Noem*, No. 1:25-cv-1252, 2025 WL 3077589, at *6 (W.D. Mich. Nov. 4, 2025); *Ruiz Mejia v. Noem*, No. 1:25-cv-1227, 2025 WL 3041827, at *5–6 (W.D. Mich. Oct. 31, 2025); *De Jesus Ramirez v. Noem*, No. 1:25-cv-1261, 2025 WL 3039266, at *5 (W.D. Mich. Oct. 31, 2025); *Escobar-Ruiz v. Raycraft*, No. 1:25-cv-1232, 2025 WL 3039255, at *5 (W.D. Mich. Oct. 31, 2025); *Marin Garcia v. Noem*, No. 1:25-cv-1271, 2025 WL 3017200, at *5 (W.D. Mich. Oct. 29, 2025); *Cervantes Rodriguez v. Noem*, No.

1:25-cv-1196, 2025 WL 3022212, at *6 (W.D. Mich. Oct. 29, 2025); *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097, 2025 WL 3012033, at *9 (W.D. Mich. Oct. 28, 2025); *Rodriguez Carmona v. Noem*, No. 1:25-cv-1131, 2025 WL 2992222, at *6 (W.D. Mich. Oct. 24, 2025); *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025).

5. Immigration judges do not have jurisdiction to re-determine custody decisions of persons who are charged as arriving aliens. 8 C.F.R. § 1236.1(c)(11). However, a noncitizen who is granted parole at the border has a liberty interest in her conditional release and that such a parolee has an implicit right entitlement to remain at liberty if she complies with the conditions of her parole. *Fernandez Lopez v. Wofford*, 2025 WL 2959319, *4 (E.D. Ca. Oct. 17, 2025); *Rojas v. Almodovar*, 2025 WL 3034183, at *4 (S.D.N.Y., 2025) (granting release after re-arrest of a paroled noncitizen, and noting "a noncitizen who is neither admitted nor denied, but who is granted permission to live in the United States, is protected by the Due

Process Clause.") The Fifth Amendment's Due Process Clause extends to all persons, regardless of status. *See A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025). Thus, noncitizens, such as Petitioner, are entitled to its protections. *See id.*; *see also Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *3 (6th Cir. Jan. 18. 2023).

6. Petitioner is a noncitizen who Respondents released into the United States in 2019 and she thus has a right to due process of law. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Put simply, "all persons within the territory of the United States are entitled to the protection guaranteed by [the Fifth Amendment]," and "even aliens shall not be ... deprived of life, liberty, or property without due process of law." *Wong Wing v. United States*, 163 U.S. 228, 238 (1896). A non-admitted noncitizen is not precluded from seeking the protections of the Due Process Clause where they are granted limited status in the country by the Government and that status was revoked without notice. Put differently, a noncitizen who is neither admitted nor denied, but who is granted permission to live in the United States, is protected by the Due Process Clause. *See also Lopez Benitez v. Francis*, 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025); *Valdez v. Joyce*, 2025 WL 1707737, at *2 (S.D.N.Y. June 18, 2025); *Kelly v. Aldmodovar*, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025). *Rojas v. Almodovar*, 2025 WL 3034183, at *6 (S.D.N.Y., 2025)

7. Even those who face significant constraints on their liberty or those over whose liberty the government wields significant discretion retain a protected interest in their liberty. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019), *citing Young v. Harper*, 520 U.S. 143, 150 (1997). And the "essence" of procedural due process is that a person who is

at risk of losing their liberty be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time. *E.g.*, *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976).

8. When Respondents released Petitioner after her entry at age 13 into the country in 2019, they did so because they determined she was not a flight risk or a danger to the community. *See e.g.*, *Fernandez Lopez*, 2025 WL 2959319 at *4 (quoting 8 U.S.C. § 1182(d)(5)(A)). There can be no doubt that she is "experiencing [many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, ...lack of privacy, and, most fundamentally, the lack of freedom of movement." *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. May 21, 2025).

9. Respondents consider persons such as Petitioner whom they re-arrest as "applicants for admission" notwithstanding that they were paroled into the United States over six years ago. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected 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,"[2] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades. ("Todd M. Lyons memo").

10. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last checked Dec. 20, 2025).

without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. 29 I&N Dec. 216 (BIA 2025).

11. Petitioner, as a juvenile, along with her six immediate family members were granted parole into the United States to pursue asylum and timely did so after the government filed the Notices to Appear with the San Antonio Immigration Court and initiated removal proceedings.

12. The risk of erroneous deprivation is high. When Respondents released Petitioner after her entry into the country in 2022, they did so because they determined she was not a flight risk or a danger to the community. *See e.g.*, *Fernandez Lopez*, 2025 WL 2959319 at *4 (quoting 8 U.S.C. § 1182(d)(5)(A)).

13. Because the private interest in freedom from immigration detention is substantial, due process requires the government to bear the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger to the community before re-detaining her. *See e.g.*, *Fernandez Lopez*, 2025 WL 2959319 at *8; *J.S.H.M. v. Wofford*, 2025 WL 2938808, *16 (E.D. Ca. Oct. 16, 2025) (unpub); *Abduraimov*, 2025 WL 2912307 at *9; *Mata Velasquez v. Kurzdorfer*, --- F.Supp.3d ----, 2025 WL 1953796, *17 (W.D.N.Y. July 16, 2025) (detention of parolee without a reasoned explanation or changed circumstances and without a meaningful opportunity to be heard violates due process).

14. To terminate the previously granted parole, the agency must comply with the applicable regulatory and statutory requirements. As set forth in 8 C.F.R. § 212.5(e)(2)(i), which governs the "[t]ermination of parole,"

> In cases not covered by paragraph (e)(1) of this section,[3] upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the

[3] Paragraph (e)(1) provides for the automatic termination of parole without written notice where

> officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole.

8 C.F.R. § 212.5(e)(2)(i). That is, "[u]nder the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole." *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)). Respondents here have failed to follow the applicable statutory and regulatory provisions to terminate Petitioner's parole. *Cf. Coal. for Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (JMC), 2025 WL 2192986, at *2 (D.D.C. Aug. 1, 2025) (holding that the government failed to follow the applicable statutory and regulatory provisions and that paroled noncitizens cannot be subject to expedited removal proceedings); *Salgado Bustos v. Raycraft*, No. 25-13202, 2025 WL 3022294, at *5–7 (E.D. Mich. Oct. 29, 2025) (same); *E.V. v. Raycraft*, No. 4:25-cv-2069, 2025 WL 2938594, at *10 (N.D. Ohio Oct. 16, 2025) (same).

15. Petitioner was granted parole "pending 240 hearing." *See* Exh.1 (I-94 Parole Document). No final removal hearing in her case has taken place, and it is undisputed that she remains in "240" (8 U.S.C. 1229a) removal proceedings, and that her final removal hearing is set for February 6, 2026 at the Pearsall Immigration Court. The revocation clause in the parole statute gives the Secretary of Homeland Security the authority to revoke parole "when the purposes of such parole shall, in the opinion of the Secretary..., have been served." The

the noncitizen has either departed from the United States or at the expiration of time for which the parole was authorized. The Respondents have not suggested that either circumstance applies here.

parole statute (and its implementing regulation) require such a preconditional determination to be made.

16. The government's interest in re-detaining Petitioner without first following the regulation on revocation and providing reasons for its decision is minimal. *See e.g., Fernandez Lopez*, 2025 WL 2959319 at *6; *J.S.H.M.*, 2025 WL 2938808 at *18; *Noori*, 2025 WL 2800149 at *11 ("Respondents did not provide Petitioner individualized notice and reasoning prior to his arrest and detention on June 12, 2025 and have presented no legitimate reason for why those decisions were made. Any governmental interest of efficient administration of immigration laws . . . does not outweigh these first two factors.").

17. Indeed, because Respondents argue in their new legal interpretation of July 8, 2025, that any noncitizen, regardless of whether they are already present and residing in the United States, is "an alien seeking admission" subject to mandatory detention under § 1225. Likewise, here, Respondents had no valid reason to re-detain Petitioner who was complying with all aspects of her parole.[4]

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1. [4]he Government has also taken an abrupt and improper about-face on this issue. Respondents should be judicially estopped from asserting their current interpretation of 8 U.S.C. § 1225(b)(2)(A) because they previously prevailed in litigation after asserting the opposite interpretation. *See New Hampshire v. Maine*, 532 U.S. 742 (2001) (judicial estoppel applies when a party assumes a position in a legal proceeding, succeeds in maintaining that position, and then adopts a contrary position in a later proceeding to gain an unfair advantage). Here, Respondents previously—and successfully—argued that individuals who entered the United States without inspection are detained under § 1226(a), not § 1225(b)(2)(A), and courts accepted that position. Respondents now reverse course and contend that such individuals are subject to mandatory detention under § 1225(b)(2)(A), thereby denying them bond hearings. This shift in position undermines the integrity of the judicial process and imposes an unfair detriment on petitioners who relied on the prior interpretation. Respondents should be estopped from asserting this inconsistent position.

18. The Government's own issuance of a parole declining to place Petitioner in custody and releasing her under a parole under 8 U.S.C. § 1182(d)(5)(A) confirms a discretionary, fact-based determination that she was not a danger to the community or a flight risk.

19. The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A). Then, "when the purpose of the parole has been served," § 1182(d)(5)(A) provides that "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

20. There is no indication that Respondents followed the applicable statutory and regulatory requirements to revoke Petitioner's parole. If Respondents did not follow the applicable statutory and regulatory requirements to properly revoke Petitioner's previously granted parole, then they did not have the authority to arrest and detain Petitioner,

21. "[I]t is well established that the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority" over which noncitizens may remain in the United States or be detained here. *Hernandez v. Sessions*, 872 F.3d 976, 990 n.17, citing *Zadvydas*, 533 U.S. 678, 695 (2001). The Due Process Clause protects Petitioner, a person within the United States, from unlawful detention resulting from the denial of adequate procedural protections. *See Zadvydas*, 533 U.S. at 693, cited in *Hernandez v. Wofford*, No. 25-CV-00986, 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025). Even those whose liberty is significantly constrained, or over whom the government wields substantial discretion, retain a protected liberty interest. See *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019), citing *Young v. Harper*, 520

U.S. 143, 150 (1997). The "essence" of procedural due process is that a person at risk of losing liberty receive notice and an opportunity to be heard in a meaningful manner and at a meaningful time. *See Mathews v. Eldridge*, 424 U.S. 319, 348 (1976).

22. *Noori v. Larose*, 2025 WL 2800149, *13 (S.D. Ca. Oct. 1, 2025) (unpub) (noting that a paroled non-citizen should not be returned to custody unless the purposes of the parole have been served); *Orellana v. Francis*, 2025 WL 2402780, *5 (E.D.N.Y. Aug, 19, 2025) (unpub) (noting that the purpose of parole was not satisfied when an asylum seeker had not completed the asylum process and granting the petitioner release because his re-detention violated the Administrative Procedure Act).

23. In this case, the private interest at stake is clearly weighty – Petitioner's liberty has been severely curtailed for three months as she has remained in ICE custody without the ability to seek release on bond from an immigration judge. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B); *Fernandez Lopez v. Wofford*, 2025 WL 2959319, *4 (E.D. Ca. Oct. 17, 2025) (unpub) (finding a non-citizen granted parole at the border has a liberty interest in her conditional release and that such a parolee has a implicit right entitlement to remain at liberty if she complies with the conditions of her parole); *Abduraimov v. Andrews*, 2025 WL 2912307, *6 (E.D. Ca. Oct. 14, 2025) (unpub) (finding that immigration parole has a "legitimate and reasonably strong private liberty interest"); *Noori*, 2025 WL 2800149 at *10 (parolee developed a private interest in remaining free in the one year he has resided in the United States since entry); *Munoz Materano v. Arteta*, 2025 WL 2630826, *13 (S.D.N.Y. Sept. 12, 2025) (unpub); *Ramirez Tesara v. Wamsley*, --- F.Supp.3d ----, 2025 WL 2637663, *3 (W.D. Wash. Sept. 12, 2025) (finding that parolee's liberty interest did not expire with his parole agreement); *see also Y-Z-L-H- v. Bostock*, --- F.Supp.3d ----, 2025 WL 1898025,

*14 (D. Ore. July 9, 2025) (finding detention of a parolee who had not completed his asylum process to be arbitrary and capricious and ordering immediate release).

24. Accordingly, Petitioner seeks a writ of habeas corpus ordering her immediate release, as the government has already determined that she is neither a danger to the community nor a flight risk.

## II. JURISDICTION

25. Petitioner is in the physical custody of Respondents. Petitioner is detained at the South Texas Family Residential Center in Dilley, Texas.

26. 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).

27. 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.

## III. VENUE

28. 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 Western District of Texas, the judicial district in which Petitioner currently is detained.

29. 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 Southern District of Texas.

## IV. REQUIREMENTS OF 28 U.S.C. § 2243

30. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

31. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

## V. PARTIES

32. Petitioner Yazmin Aidee Mendoza Medina is a citizen of Mexico who has been in immigration detention since November 16, 2025. She is currently detained at the South Texas Family Residential Center. She was granted release on a significant public interest or humanitarian parole in October 2019 under 8 U.S.C. §1182(d)(5)(A), pending removal proceedings, and she is a derivative on asylum applications filed by her non-detained parents. Her proceedings are still pending, and her next removal hearing—a final hearing—is February 5, 2026 before the Pearsall Immigration Court.

33. Respondent Pamela Bondi is the Attorney General of the United States. She leads the Department of Justice, which includes the Executive Office for Immigration Review and the immigration courts. She is sued in her official capacity.

34. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality

Act and oversees ICE, which is responsible for Petitioner's detention. She has ultimate custodial authority over Petitioner and is sued in her official capacity.

35. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. In that role, he is responsible for ICE's immigration enforcement and detention operations and is a legal custodian of Petitioner. He is sued in his official capacity.

36. Respondent Sylvester Ortega is the Field Office Director for the San Antonio Field Office of ICE. He is responsible for enforcement of the immigration laws within this district and for overseeing ICE officials' compliance with agency policies and procedures. He is a legal custodian of Petitioner and is sued in his official capacity.

37. Respondent Jose Rodriguez, Jr. is the warden of the South Texas Residential Center, operated by CoreCivic, Inc. He has immediate physical custody of Petitioner pursuant to an agreement with ICE and is a legal custodian of Petitioner. He is sued in his official capacity.

## VI. FACTS

38. Petitioner, age 19, has resided in the United States since approximately October 30, 2019, and is currently detained at the South Texas Family Residential Center in Dilley, Texas.

39. Upon her entry into the United States, DHS released Petitioner and her family on significant public benefit or humanitarian interest paroles (8 U.S.C. §1182(d)(5)(A) pending a removal hearing under 8 U.S.C. §1229a. Exh. 1, parole document.

40. Late in 2020, DHS filed its Notice to Appear ("NTA") with EOIR-San Antonio, alleging that Petitioner was not in possession of an unexpired immigrant visa at the time she applied

for admission to the United States with her family. *See* Exh. 2 (Form I-862, Notice to Appear).

41. Petitioner timely filed her Form I-589 application for asylum with the Immigration Court on April 8, 2021, she was 15 years old, and shortly after removal proceedings had been initiated by DHS. The San Antonio Immigration Court (a non-detained court) had scheduled her next individual calendar hearing for February 3, 2027, with her other six immediate family members, where she is a derivative on her parents' asylum applications; however, now that she is detained, the Pearsall Immigration Court has conducted several hearings in her matter, and has scheduled her for a final individual hearing, alone, on February 5, 2026 at the Pearsall Immigration Court. She has long had employment authorization from DHS, and she has graduated from high school in San Antonio, Texas. Exh. 3 (Employment Authorization Document).

42. On or about November 16, 2025, in San Antonio, Texas, Petitioner was arrested in an ICE raid on San Pedro Ave. at a food truck eatery where approximately 143 individuals were taken. She was subsequently transferred to the South Texas Family Residential Center, where she remains detained. She has no criminal arrests or convictions. DHS has not provided its reasons for re-detaining her to date.

43. DHS moved in October 2025 to put Petitioner instead of the non-detained San Antonio court now before the Pearsall Immigration Court. The Pearsall immigration judge has already sustained the DHS's charge that she is inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i) for not being in possession of an unexpired visa when she applied for admission at the Laredo, Texas port of entry in 2019 at age 13.

44. She remains detained and in Respondents' view, subject to mandatory detention. Absent relief from this Court, she faces the prospect of months or even years in immigration custody—despite the government's prior finding that she is neither a danger nor a flight risk when she was granted parole and released under the government's discretion on October 30, 2019 – and while her individual hearing and her pending asylum application remain unresolved—based solely on Respondents' unlawful and novel arrest of her without reason or without revocation of her parole.

## VII. LEGAL FRAMEWORK

45. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

46. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *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).

47. 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).

48. Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). However, "applicants for admission may be temporarily released on parole [into the United States]

'for urgent humanitarian reasons or significant public benefit,' " as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A). Then, "when the purpose of the parole has been served," § 1182(d)(5)(A) provides that "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

49. 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).

## VIII. ARGUMENT

50. This case concerns a violation of due process when an agency fails to follow statute and regulation and re-arrests a parolee living in the United States since she was 13 without reason or purpose.

51. On July 8, 2025, ICE—"in coordination with" DOJ—issued the "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the "Todd M. Lyons memo"), abruptly abandoning this long-settled regime. The memo asserts that all individuals who entered without inspection are now subject to § 1225(b)(2)(A)'s mandatory-detention provision, regardless of when or where they are apprehended, even if they have lived in the United States for years. [5]

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[5] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.(last checked Dec. 20, 2025).

52. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. 29 I&N Dec. 216 (BIA 2025).

53. Since Respondents adopted their new policies, a wave of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same new reading of the statute as ICE.

54. In this District, courts have repeatedly rejected Respondents' new reading of the detention statutes and held that § 1226(a)—not § 1225(b)(2)—governs custody for long-resident noncitizens arrested in the interior, including those charged with entry without inspection or without proper documents. *See Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 236 process and enjoining re-detention without notice and a pre-deprivation hearing); *Reyes-Perez v. Bondi*, 5:25-cv-01302-XR, (W.D. Tex. Nov. 24, 2025); *Paredes-Quintero v. Bondi*, 5:25-cv-01697-JKP (W.D. Tex. Dec. 18, 2025) ("[D]espite Respondents' reliance on § 1225(b)(1), rather than § 1225(b)(2), this Court sees no material difference between the facts of this case and the numerous other habeas cases that raise the question of whether § 1225(b)(2) applies to all noncitizens who, like Petitioner, are already in the country but entered without inspection.

55. Outside this Circuit, a growing number (indeed, about a thousand) of federal courts have likewise rejected ICE and EOIR's expanded interpretation of § 1225(b)(1) and (2), holding that § 1226(a) governs detention for noncitizens who have entered the interior and lived in the community. *See*, e.g., *Rakhmatov v. Raycraft*, 1:25-cv-1651, 2025 WL 3550798 (W.D.

Mi. Dec. 11, 2025); *Kelly v. Almodovar*, 25 Civ. 6448 (AT), 2025 WL 2381591 (S.D. NY Aug. 15, 2025).

56. Section 1225(b) is structurally and textually tied to inspections "at the Nation's borders and ports of entry," where the Government must determine whether a person "seeking to enter" is admissible. *Jennings*, 583 U.S. at 287; 8 U.S.C. § 1225(b)(2)(A). However, a person who falls under §1225(b) may be paroled into the United States for significant public benefit or humanitarian reasons, and such parole may not be revoked until the purpose of the parole has been served. Here, the DHS paroled her in order for her to apply for asylum "pending a 240 hearing," i.e., to attend removal proceedings under 8 U.S.C. § 1229a.

57. The DHS's decision to release her is not a ministerial act, it is a formal, quasi-judicial determination of custody status that reflects DHS's decision that there is a significant public benefit or purpose to her parole. The agency must follow its own regulations to invoke any revocation of parole. To terminate the previously granted parole, the agency must comply with the applicable regulatory and statutory requirements. As set forth in 8 C.F.R. § 212.5(e)(2)(i), which governs the "[t]ermination of parole."

58. The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A). Then, "when the purpose of the parole has been served," § 1182(d)(5)(A) provides that "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

59. None of that was done here. Instead, Respondents insist that as a person who is present in the U.S. without status, she is mandatorily subject to detention, a novel view that has been reversed since July 2025 in over one thousand federal district courts considering the issue.

60. Respondents have violated Petitioner's due process. Petitioner argues that her detention violates the Fifth Amendment's Due Process Clause. 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).

61. The INA "establishes the framework governing noncitizens' entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance." *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132 (D. Or. 2025). "Noncitizens who arrive at a port of entry without a visa or other entry document, like Petitioner, are deemed 'inadmissible' under 8 U.S.C. § 1182(a)(7)" due to their lack of entry documents. *Id.* at 1132 & n.7 (noting that "[d]epending on the circumstances, other categories of inadmissibility may also apply, but § 1182(a)(7) applies for noncitizens without proper documentation"). Once a noncitizen is deemed inadmissible, "the immigration officer must order the noncitizen's removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution." *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)). The government may place the noncitizen into expedited removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or the government may place the noncitizen into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)).

62. Respondents have failed to follow the applicable statutory and regulatory provisions to terminate Petitioner's parole. *Cf. Coal. for Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (JMC), 2025 WL 2192986, at *2 (D.D.C. Aug. 1, 2025) (holding that the government failed to follow the applicable statutory and regulatory provisions and that paroled noncitizens cannot be subject to expedited removal proceedings); *Salgado Bustos v. Raycraft*, No. 25-13202, 2025 WL 3022294, at *5–7 (E.D. Mich. Oct. 29, 2025) (same); *E.V. v. Raycraft*, No. 4:25-cv-2069, 2025 WL 2938594, at *10 (N.D. Ohio Oct. 16, 2025) (same).

63. When Petitioner was recently arrested and detained in November 2025 , Petitioner was still seeking asylum. Moreover, the humanitarian reason or public benefit that justified her parole still applies absent any showing to the contrary. Indeed, Respondents have yet to make an argument about whether the requirements for termination of parole in § 1182(d)(5)(A) and its regulations have been satisfied

64. Even if Respondents counter arguing that Petitioner is entitled to no further process at this time, because she is an arriving alien, and she is receiving the precise procedures Congress provided—including notice, counsel, and a hearing before an immigration judge, that argument misapprehends the Constitutional and statutory issues before the Court.

65. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citation omitted). The Fifth Amendment's Due Process Clause extends to all persons, regardless of status. *See A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1367 (2025). Thus, noncitizens, such as Petitioner, are

entitled to its protections. *See id.*; *see also Chavez-Acosta v. Garland*, No. 22-3045, 2023 WL 246837, at *3 (6th Cir. Jan. 18. 2023).

66. District courts that have addressed the termination of § 1182(d)(5)(A) parole "have found that just as a grant of parole requires an individualized review, revocation of parole requires a case-by-case assessment to comply with the statute." *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner's motion for preliminary injunction and ordering that the petitioner be released); *see, e.g.*, *Y-Z-L-H*, 792 F. Supp. 3d at 1137–47 (addressing this issue, and granting the petitioner's habeas petition and ordering that the petitioner be released from custody); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025) (same); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025) (addressing this issue, and granting the petitioner's request for a preliminary injunction and ordering the petitioner's release from custody); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025) (addressing the issue in the context of a motion for reconsideration filed by the respondents, and affirming the court's grant of habeas relief to the petitioner and the court's order to release the petitioner).

67. "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) (cleaned up). The three factors to consider 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 (cleaned up).

68. Here, Petitioner's interest is substantial—freedom from physical restraint is an interest that "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

69. The government's interest in detaining noncitizens during deportation proceedings is to effectuate removal. As to noncitizens with viable legal defenses, this interest is diminished. In Petitioner's case, for example, she is 19 and has been present in the United States and in removal proceedings for over six years asserting her asylum claim. Thus, the likelihood that the government will be legally permitted to remove her is reduced.

70. Absent judicial relief, Petitioner will likely spend over a year in detention. Petitioner's counsel estimates that whether Petitioner is denied her asylum claim at her final hearing on February 6, 2026, shje would file an appeal of that decision, and whether she is successful in her asylum claim, the government will appeal it. It will take at least six months to receive a decision from the BIA and, if necessary, several more months to appeal that decision to the Fifth Circuit.

71. Petitioner's detention and her lack of flight risk and danger, and the failure of Respondents to consider alternatives to detention such as community or electornic monitoring, render her confinement unreasonable. She is 19 years old, graduated high school recently in San Antonio, and supports her family who are suffering terribly due to her recent arrest.

## IX. CLAIMS FOR RELIEF

### COUNT I

**Violation of the INA and Implementing Regulations**

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

73. Petitioner entered the United States at a port of entry and was subsequently paroled into the United States under 8 U.S.C. § 1182(d)(5)(A). To terminate the previously granted parole, the agency must comply with the applicable regulatory and statutory requirements. The regulation set forth in 8 C.F.R. § 212.5(e)(2)(i) governs the "[t]ermination of parole." Thus parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole." *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)).

74. Her arrest and de facto revocation of parole violates the Immigration and Nationality Act and the implementing regulations.

**COUNT II**
**Violation of the Bond Regulations and Parole Regulations**

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

76. Respondents reasoning in re-arresting Petitioner violates its own detention regulations. The Petitioners on July 8, 2025 interpreted the statutes to find all persons present without lawful status to be subject to mandatory detention. Their view disregards that in 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained 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." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who entered without documents and were apprehended and released for removal proceedings were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

77. Nonetheless, pursuant to *Matter of Yajure Hurtado*, both EOIR as well as ICE have a policy and practice of applying § 1225(b)(1) and/or (2) to individuals like Petitioner. Indeed, that is the rationae decidendi for their arrest of her now. The Respondents disregard their own regulations that require a case by case reasoned decision-making in revoking a significant public benefit or humanitarian parole.

78. Their view that 8 U.S.C. § 1225(b) mandates her continued detention and violates 8 C.F.R. § 212.5(e)(2)(i).

**COUNT III**
**Violation of Due Process**

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

80. 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).

81. By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE has the authority, however, is proscribed by the Due Process Clause because it is well-

established that individuals released from incarceration have a liberty interest in their freedom.

82. At a minimum, in order to lawfully re-arrest Petitioner, the government must first establish, by clear and convincing evidence and before a neutral decision-maker that she is a danger to the community or a flight risk, such that her re-incarceration is necessary. Here the government has already determined she is neither a danger nor a flight risk. ICE's re-arrest of Petitioner on November 16, 2025, violated these regulations, laws, and due process.

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

84. The government's re-detention of Petitioner without bond to violates her right to due process.

## X. PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred outside the Western District of Texas while this habeas petition is pending;

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

(4) Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner within three days;

(5) Declare that Petitioner's detention is unlawful;

(6) Grant the writ of habeas corpus ordering Respondents to release Petitioner again on her own recognizance, parole, or reasonable conditions of supervision.

(7) Award costs and, if permissible, attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, preserving Petitioner's position that EAJA may apply in habeas

notwithstanding *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023), and noting contrary authority, including *Vacchio v. Ashcroft*, 404 F.3d 663, 670–72 (2d Cir. 2005); *In re Petition of Hill*, 775 F.2d 1037, 1040–41 (9th Cir. 1985); *Daley v. Ceja*, No. 24-1191, — F.4th —, 2025 WL 3058588 (10th Cir. Nov. 3, 2025) (holding that habeas actions challenging immigration detention are unambiguously "civil actions" within EAJA's "any civil action" language and affirming an EAJA award where the habeas petition materially altered the parties' legal relationship by securing a bond hearing and release); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W.D. Pa. 2024); and *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (D. Colo. 2023).

(8) Grant any other and further relief that this Court deems just and proper.

DATED this 20th day of December, 2025.

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

I represent Petitioner, Yazmin Aidee Mendoza Medina, 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 20th day of December, 2025.

**s/ Stephen J. O'Connor**
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