UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

TELMA GONZALEZ, *Petitioner*, v. PAMELA BONDI, United States Attorney General; KRISTI NOEM, Secretary of the United States Department of Homeland Security; TODD M. LYONS, Director of United States Immigration and Customs Enforcement; JOEL GARCIA, ICE Field Office Director for U.S. Immigration and Customs Enforcement; ANGEL GARITE, Warden, El Paso Processing Center, *Respondents*.	§	Civ. No. 3:25-cv-725 DHS File Number: [redacted] **PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

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PRELIMINARY STATEMENT

This petition challenges the unlawful civil immigration detention of Petitioner Telma Gonzalez ("Ms. Gonzalez"), age 47, a long-time resident of the United States, a mother, and a worker who has lived in this country for approximately twenty-seven years. Ms. Gonzalez last entered the United States without inspection in 1998 and has remained here ever since. Since that time, she has worked steadily in agricultural jobs in Oxnard, California, and has two children she is raising and has built a life centered on her family and community. She is the mother of two U.S.-citizen sons, Jose, age 25, and M[redacted] age 16, both reside with her in Oxnard.

On or about July 2025, she was working near Oxnard, California, when ICE swept in and arrested hundreds of workers.[1] Petitioner was taken to the El Paso Processing Center in El Paso Texas, where she has been held ever since. ICE issued her a Notice to Appear, charging her under 8 U.S.C. §1182(a)(6)(A)(i), entered without inspection or parole. She filed a bond motion through counsel, and on August 19, 2025, the El Paso immigration judge (IJ) granted her a bond of $3500. Exh. 1. (IJ Pleters bond grant). However, before she could be released, on Sept. 19, 2025, the IJ issued a new decision denying bond, stating: "Bond is denied for lack of jurisdiction. Previous grant of bond is revoked." Exh. 2, Order revoking bond. The IJ found he was bound by intervening agency case law, namely *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA Sept. 5, 2025). Ms. Gonzalez has no criminal history. She has a master calendar hearing scheduled for February 10, 2026, in the detained El Paso court. She is being held in civil detention without a meaningful opportunity to obtain release while she pursues relief in her removal proceedings, Cancellation of Removal. Exh. 3 (EOIR Automated Case Information). DHS's unilateral classification of

[1] https://www.lemonde.fr/en/international/article/2025/06/29/in-california-protests-grow-against-raids-targeting-undocumented-farmworkers_6742821_4.html

Petitioner under § 1225(b)(2) has thus foreclosed access to immigration-judge bond review, leaving habeas corpus as her only meaningful avenue to challenge her confinement. This underscores the urgency and necessity of this habeas petition, as this Court is not bound by *Matter of Yajure-Hurtado* and may interpret in the first instance the federal immigration statutes.

The family consequences are severe. She herself suffers from hypertension disorder, and generalized anxiety disorder. Her two sons, both U.S. citizens, are struggling to make ends meet for the family without her. They depend on their sole parent for emotional, practical, and financial support.

DHS's attempt to impose mandatory detention under § 1225(b)(2) on a long-term resident like Petitioner, arrested in the interior after decades of residence and work, is inconsistent with the structure and text of the Immigration and Nationality Act and violates basic due process principles. Congress created a distinct detention framework in 8 U.S.C. § 1226(a) for noncitizens like Petitioner, which provides for discretionary release on bond and custody review by an immigration judge. *Matter of Yajure Hurtado* cannot erase that statute. The Constitution, the INA, and basic principles of fairness do not permit the DHS's position.

Accordingly, Petitioner seeks a writ of habeas corpus under 28 U.S.C. § 2241 ordering her immediate release from custody. In the alternative, she requests that this Court require Respondents to provide her with a prompt custody redetermination hearing under 8 U.S.C. § 1226(a) before a neutral decision-maker, at which the Government must bear the burden of proving by clear and convincing evidence that her continued detention is necessary.

Petitioner further seeks an order prohibiting Respondents from relocating her outside the Western District of Texas or deporting her from the United States during the pendency of this litigation. Finally, Petitioner requests that Respondents be required to file with this Court a

complete copy of her administrative file maintained by the Department of Justice and the Department of Homeland Security.

I. JURISDICTION AND VENUE

1. Petitioner is detained in civil immigration custody at the El Paso Processing Center, in El Paso, Texas. *See* Exh. 4. She has been detained since on or about July 2025.
2. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.
3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and where applicable Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). 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.
4. Venue is proper in the Western District of Texas, El Paso Division, under 28 U.S.C. § 1391, because at least one Respondent is in this District, Petitioner is detained in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodians of Petitioner reside in this District.

II. REQUIREMENTS OF 28 U.S.C. § 2243, WRIT OF HABEAS CORPUS ISSUANCE, RETURN, HEARING, AND DECISION

5. The Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within three days" unless this Court permits additional time for good cause, which is not to exceed twenty days. 28 U.S.C. § 2243.

6. 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). The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time. *Rhueark v. Wade*, 540 F.2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

III. PARTIES

7. Petitioner Telma Gonzalez is a 47-year-old citizen of Mexico. She last entered the United States in or about 1998 without inspection and has resided here continuously for over 27 years.
8. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. She is responsible for the administration of the Executive Office for Immigration Review ("EOIR"), including policies that bear on immigration judges' jurisdiction over custody.
9. Respondent Kristi Noem is named in her official capacity as Secretary of the United States Department of Homeland Security ("DHS"). DHS is the department charged with administering and enforcing federal immigration laws. Secretary Noem is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement ("ICE") and is a legal custodian of Petitioner.
10. Respondent Todd M. Lyons is named in his official capacity as Director of U.S. Immigration and Customs Enforcement. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.

11. Respondent Joel Garcia is named in his official capacity as ICE Field Office Director for U.S. Immigration and Customs Enforcement. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

12. Respondent Angel Garite is named in his official capacity as Warden of the El Paso Processing Center. He has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

13. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

IV. FACTUAL ALLEGATIONS

14. Petitioner Telma Gonzalez is a noncitizen who last entered the United States without inspection on or about 1998. She has continuously resided in the United States since that time.

15. Since her entry in 1998, Petitioner has lived and worked in California. She has been employed at agricultural jobs in Oxnard, California since approximately 1998, maintaining steady work and supporting herself and her family.

16. Petitioner is the mother of one adult and one child, both U.S. citizens. She has raised them as a single mother.

17. On or about July 2025, ICE raided her workplace and arrested hundreds. They have detained her at the El Paso Processing Center ever since, without bond. An IJ set a bond of $3500 for her after analyzing flight risk and danger factors, on August 19, 2025, but then revoked it due to the BIA's newly announced agreement with ICE's mandatory detention policy for longtime residents in the interior of the U.S.

18. Petitioner is in removal proceedings before the Immigration Court and has a master calendar hearing scheduled for February 10, 2026. Exh. 2. She is pursuing relief in the form of Cancellation of Removal in those proceedings, and her detention directly impairs her ability to prepare for and meaningfully participate in that hearing. She is eligible for Cancellation of Removal because she has resided in the United States for over 10 years, has a U.S. citizen child who she will show will suffer exceptional and extremely unusual hardship if she is removed, she has no disqualifying criminal history, and can show she has good moral character for the last 10 years.
19. An IJ ruled in her case that she is not eligible for bond, and that under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the court lacked jurisdiction to grant bond to a person who entered without inspection and is deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Exh. 3. Under the government's new interpretation, no immigration judge has authority to consider her release on bond under 8 U.S.C. § 1226(a).
20. Petitioner has no criminal history. Her detention is based solely on her immigration status and DHS's decision to classify her custody under 8 U.S.C. § 1225(b)(2), rather than the discretionary detention framework of 8 U.S.C. § 1226(a).
21. As a result of DHS's position and the Board's decision in *Matter of Yajure-Hurtado*, Petitioner remains detained at the El Paso Processing Center with no meaningful opportunity to seek release on bond before an immigration judge. This outcome is contrary to the statutory text, constitutional protections, and longstanding administrative practice. Under the agency's current interpretation, any further administrative attempts to secure a bond hearing are futile, leaving this Court as the only forum capable of providing effective relief from her unlawful detention.

22. Detention also impedes Petitioner's ability to defend against removal, including gathering hardship evidence and coordinating with counsel and witnesses. As the matriarch of her family, she is the central source of information and organization, and her absence significantly hinders preparation of her case.

23. In sum, the misapplication of 8 U.S.C. § 1225(b), the binding effect of *Matter of Yajure-Hurtado* on the immigration judge, and the futility of BIA review leave habeas corpus as the only meaningful remedy. Petitioner's continued detention not only contravenes the INA and Due Process but also devastates her family and undermines her ability to defend against removal. Judicial intervention is urgently required to restore her rights and permit her return to her family and community.

V. LEGAL FRAMEWORK

A. Due Process

24. The Fifth Amendment's Due Process Clause applies to "all persons" within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Id.* at 690. In the immigration context, detention is constitutionally justified only to prevent flight or protect the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

B. Statutory Scheme

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

26. 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 detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Noncitizens arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

27. 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 under § 1225(b)(2).

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

VI. ARGUMENT

A. Text, Practice, and Precedent Confirm § 1226(a) Applies to Interior Arrests

29. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

30. Congress enacted §§ 1226(a) and 1225(b)(2) in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Pub. L. No. 104–208, div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Congress most recently amended § 1226 in the Laken Riley Act. Pub. L. No. 119-1, 139 Stat. 3 (2025).

31. After IIRIRA, EOIR promulgated regulations clarifying that, in general, people who entered without inspection and were placed in § 240 proceedings are detained under § 1226(a), not § 1225. Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

32. For decades thereafter, noncitizens who entered without inspection and were placed in standard removal proceedings received bond hearings unless covered by § 1226(c). That practice aligned with earlier law in which non-arriving noncitizens were entitled to a

custody hearing before an immigration judge or other officer. *See* 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting § 1226(a) "restates" prior detention authority).

33. In *Jennings v. Rodriguez*, DHS acknowledged that individuals already in the United States who are not apprehended near the border or immediately after entry fall under § 1226(a), not § 1225(b). *See* Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (No. 15-1204) (Solicitor General confirming that those not detained within 100 miles or within 14 days are held under § 1226(a) and receive bond hearings). Having prevailed while advancing that position, DHS's new litigation stance to the contrary lacks persuasive force.

34. On July 8, 2025, ICE announced new "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[2] reversing longstanding understanding and practice.

35. That guidance asserts that all persons who entered without inspection are subject to § 1225(b)(2)(A) mandatory detention regardless of when or where apprehended and even after years of residence. *See* Todd M. Lyons, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025).

36. On September 5, 2025, the BIA adopted the same position in *Matter of Yajure-Hurtado*, holding that noncitizens who entered without admission or parole fall under § 1225(b)(2)(A) and are ineligible for immigration-judge bond hearings. 29 I. & N. Dec. 216 (B.I.A. 2025).

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

37. A "tsunami" of federal courts have rejected this new interpretation and have declined to follow *Yajure-Hurtado* where it conflicts with the INA's text and structure. [3] 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. *See Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (preliminary injunction holding that § 1226, not § 1225(b)(2), governs custody for interior arrests because a broad reading of § 1225(b)(2) would render § 1226 superfluous); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 1226 process and enjoining re-detention without notice and a pre-deprivation hearing); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025) (TRO requiring a prompt § 1226 bond hearing with the Government bearing the burden, or release if no hearing is set); *Santiago-Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588

[3] *See, e.g., 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, (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025); *Alvarez-Chavez v. Kaiser*, 25-cv-06984-LB 2025 WL 2909526 (N.D. Cal., Oct. 9, 2025); *Cerritos-Echevarria v Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Padron-Covarrubias v. Vergara*, 5:25-cv-00112, (S.D. Tex. Oct. 8, 2025); *Santiago-Santiago v. Bondi*, EP-25-CV-361-KC, 2025 WL 2792588, (W.D. Tex. Oct. 2, 2025); *Cardin-Alvarez v. Rivas*, CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Ariz. Oct. 7, 2025); *Buenrostro-Mendez v. Bondi, et al.*, No. CV H-25-3726, 2025 WL 2886346, (S.D. Tex. Oct. 7, 2025); *Hernandez Lucero v. Bondi*, No. 4:25-cv-03981 (S.D. Tex Oct. 23, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (W.D. Tex. Oct. 15, 2025). *But see Chavez v. Noem*, 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025 ("by the plain language of § 1225(a)(1) the petitioners are "applicants for admission" and thus subject to the mandatory detention provisions of "applicants for admission" under § 1225(b)(2)[.]"); *Vargas-Lopez v. Trump, et al.*, 8:25CV526 2025 WL 2780351 (D. Neb. Sept. 29, 2025) (the petitioner is an alien within the "catchall" scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a, per 8 U.S.C. § 1225(b)(2)).

(W.D. Tex. Oct. 2, 2025) (granting habeas relief for a DACA recipient misclassified under § 1225(b)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas and holding that the automatic stay of an IJ's bond order violates due process); *Lopez-Arevelo v. Ripa*, No. 3:25-cv-00337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars and ordering a bond hearing with a clear-and-convincing burden on the Government); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (holding that even assuming § 1225(b) applies, *Mathews* requires an individualized bond hearing); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19 2025); *Zahid v. Garite*, No. 3:25-cv-00563-KC (W.D. Tex. Nov. 20, 2025).

38. Those decisions uniformly recognize that applying § 1225(b)(2) to long-resident interior arrests would render § 1226 superfluous and violate due process, and they order either immediate release or a prompt bond hearing at which the Government bears the burden.

39. Courts elsewhere in the Fifth Circuit, particularly in the Southern District of Texas, have reached the same conclusion and provided detailed reasoning that strongly supports Petitioner's position here. *See e.g. Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. 2025); *Hernandez Lucero v. Noem*, No. 4:25-cv-03981 (S.D. Tex. 2025); *Granados Gonzalez v. Bondi*, No. 4:25-cv-04756 (S.D. Tex. 2025); *Barrera Martinez v. Noem*, No. 5:25-cv-

00164 (S.D. Tex. 2025); *Lopez de Leon v. Harlingen Field Office of Immigration & Customs Enforcement and Removal Operations Div.*, No. 5:25-cv-00165 (S.D. Tex. 2025). The plain text confirms that outcome. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed." Hearings to decide inadmissibility or deportability occur under § 1229a.

40. Section 1226 also expressly addresses persons charged as inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Specific mandatory carve-outs confirm that, absent those exceptions, § 1226(a) governs and bond is available. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Gomes*, 2025 WL 1869299, at *7.

41. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.

42. By contrast, § 1225(b) addresses inspection at the border and recent arrivals who are "seeking admission." 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has described that mandatory detention scheme as operating "at the Nation's borders and ports of entry." *Jennings v. Rodriguez*, 583 U.S. 281, 287, 846 (2018). That is not this case.

43. Section 1226(a) is the default custody authority "pending a decision on whether the alien is to be removed," which describes § 240 proceedings like Petitioner's. 8 U.S.C. § 1226(a). Section 1226(c) then carves out narrow mandatory categories, some tied to inadmissibility. 8 U.S.C. § 1226(c). Reading § 1225(b)(2) to control here would render § 1226(a)'s bond framework and § 1226(c)'s carve-outs superfluous.

44. Section 1225(b)(2)(A) uses present-tense inspection language. It applies when an officer determines a person "is seeking admission" and "is not clearly and beyond a doubt entitled

to be admitted." 8 U.S.C. § 1225(b)(2)(A). *Jennings* confirms this scheme operates at the border. 583 U.S. at 287, 846.

45. Deference does not salvage Respondents' reading. After *Loper Bright*, courts do not defer to agency interpretations simply because a statute is complex. They apply the best reading. *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244, 2262–63 (2024). *Yajure-Hurtado* is unpersuasive because it treats anyone never "admitted" as forever "seeking admission," contrary to § 1225's present-tense text and § 1226's structure. 29 I. & N. Dec. at 221.

46. The constitutional backdrop points the same direction. Civil immigration detention is constrained by the Fifth Amendment. Persons facing significant restraints on liberty retain a protected interest and are entitled to meaningful process. At minimum, detention under § 1226 requires a prompt, individualized bond hearing with the Government bearing a clear and convincing burden. *See Zadvydas v. Davis*, 533 U.S. 678, 690–96 (2001); *Demore v. Kim*, 538 U.S. 510, 528–31 (2003); *Mathews v. Eldridge*, 424 U.S. 319, 333–35, 343–49 (1976).

47. The Court should hold that § 1226(a) governs Petitioner's custody and order her immediate release, or at minimum require a prompt § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden to prove flight risk or danger. *See* 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 297, 302–03; *Zadvydas*, 533 U.S. at 690–96.

B. Section 1226(a) governs this interior arrest. DHS's § 1225(b) theory fails on the text and in practice.

48. Petitioner was arrested in the interior and is in § 240 proceedings. Section 1226(a) controls and supplies bond jurisdiction. *Jennings*, 583 U.S. at 297, 302–03.

49. Federal courts confronting DHS's new theory have rejected it and ordered relief, concluding that § 1226(a) governs noncitizens already in the country. *See*, e.g., *Rodriguez*

v. Bostock, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *11–16 (W.D. Wash. Apr. 24, 2025); *Martinez v. Noem*, No. 3:25-cv-430-KC, 2025 WL 2965859; *Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025).

50. The Laken Riley Act confirms that Congress preserved § 1226(a)'s discretionary bond regime for most inadmissible entrants arrested in the interior by adding a narrow new mandatory category under § 1226(c)(1)(E). If § 1225(b) already mandated detention for all inadmissible entrants, § 1226(c)(1)(E) would be redundant. *See Corley v. United States*, 556 U.S. 303, 314 (2009); *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress legislated against decades of practice applying § 1226(a) to interior arrests, and courts presume amendments harmonize with that practice. *Monsalvo v. Bondi*, 604 U.S. ___, 145 S. Ct. 1232, 1242 (2025).

51. *Yajure-Hurtado* does not compel a different result. *Jennings* construed statutory text and left open constitutional claims. 583 U.S. at 303. Post-*Loper Bright*, courts interpret the INA de novo. *Loper Bright*, 144 S. Ct. at 2262–63.

52. Longstanding agency materials confirm that interior encounters without admission were treated under § 236(a) and were "eligible for bond and bond redetermination." 62 Fed. Reg. at 10,323. DHS historically limited "applicant for admission" to encounters within a short time and distance from the border. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 121, 130 n.2 (2020) (describing the 14-day/100-mile policy).

53. Arrest authority reinforces the divide. Warrantless arrests are narrowly permitted under 8 U.S.C. § 1357(a). Otherwise, interior arrests proceed on warrant (Form I-200) and fall under § 236(a). *See Matter of Mariscal-Hernandez*, 28 I. & N. Dec. 666, 668–71 (B.I.A.

2022). Petitioner's interior arrest should have been, and on information and belief was, effectuated under an I-200 warrant, which places her within § 1226(a).

54. Statutes must be read in context and given effect to every clause and word. *Gundy v. United States*, 588 U.S. 128, 141 (2019). *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023). Respondents' view collapses §§ 1225 and 1226, nullifies § 1226(c), and contradicts the statues structure.

55. Because Petitioner was arrested in the interior and (on information and belief) under warrant authority, § 236(a) governs her detention. The DHS's attempt to shoehorn her into § 235(b)(2) is contrary to the statutory text, structure, and constitutional principles. She is entitled to release or, at minimum, a prompt bond hearing before an IJ applying the correct legal standard, or, alternatively, reinstating the IJ's original bond in this matter of $3500.

VII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
Violation of the Due Process Clause of the Fifth Amendment of the United States Constitution

56. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

57. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of her liberty.

58. Ms. Gonzalez's continued detention violates her right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

59. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "[n]o person shall…be deprived of life, liberty, or property without due process of law."

As a noncitizen who shows well over "two years" physical presence in the United States (indeed she has 27 years), Petitioner is entitled to Due Process Clause protections against deprivation of liberty and property. *See Zadvydas*, 533 U.S. at 693 ("[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."). Any deprivation of this fundamental liberty interest must be accompanied not only by adequate procedural protections, but also by a "sufficiently strong special justification" to outweigh the significant deprivation of liberty. *Id.* at 690.

60. Respondents have deprived Ms. Gonzalez of her liberty interest protected by the Fifth Amendment by detaining her since July 2025.

61. Petitioner's detention is improper because she has been categorically deprived of the opportunity for a meaningful bond hearing.[4] A hearing is, at its core, the right to be heard. Yet under *Matter of Yajure-Hurtado*, the Immigration Judge is bound to conclude, as he in fact did here, namely, on Sept. 19, 2025, that she is ineligible for bond as a foregone matter, without considering the law, the evidence of her equities, or entertaining counsel's arguments. This denial of a meaningful opportunity to be heard violates the INA and Due Process. As in the criminal context, habeas corpus is the proper and necessary remedy to vindicate these fundamental rights. *See Moore v. Dempsey*, 261 U.S. 86 (1923); *Johnson v. Zerbst*, 304 U.S. 458 (1938); *Burns v. Wilson*, 346 U.S. 137, 154 (1953). Moreover, exhaustion of administrative remedies will be futile.

[4] *See Jennings v. Rodriguez*, 583 U.S. 281, 298–99 (2018) (recognizing that prolonged detention without an individualized bond determination raises serious constitutional concerns); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (due process requires "adequate procedural protections" against arbitrary civil detention); *Rodriguez v. Robbins*, 804 F.3d 1060, 1074 (9th Cir. 2015), rev'd on other grounds sub nom. *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (holding that a bond hearing "must be more than a meaningless exercise").

62. Respondents' actions in detaining Petitioner without any legal justification violate the Fifth Amendment.

63. The government's detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to her community and family.

64. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION
Violation of Immigration and Nationality Act

65. Petitioner re-alleges and incorporates by reference the paragraphs above.

66. Petitioner was detained pursuant to "authority contained in section 236" of the INA. Section 236 is codified at 8 U.S.C. § 1226. Despite this, DHS finds that she is detained subject to 8 U.S.C. § 1225(b)(2) and the IJ lacks jurisdiction under *Matter of Yajure Hurtado* on the same basis.

67. 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. Mandatory detention does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

68. Respondents have wrongfully adopted a policy and practice of arguing all noncitizens, such as Petitioner, are subject to mandatory detention under § 1225(b)(2).

69. The unlawful application of § 1225(b)(2) to Petitioner violates the INA.

THIRD CAUSE OF ACTION
Fifth Amendment – Due Process
Denial of Opportunity to Contest Mis-Inclusion in Mandatory Category of Detention

70. Petitioner re-alleges and incorporates by reference the paragraphs above.

71. Petitioner has a vested liberty interest in preventing her removal because she is eligible for Cancellation of Removal relief, and is entitled to pursue that relief outside of detention by showing she is neither a danger to the community nor a flight risk. She is separated now from her children, notwithstanding the dictates of 8 U.S.C. §1226(a) that she may seek redetermination of her custody status with an IJ under § 236(a), and prove she is not a flight risk or danger.

72. For all of the above reasons, Respondents' attempts to detain Petitioner without a meaningful opportunity to be heard violate her Procedural Due Process rights under the Fifth Amendment.

FOURTH CAUSE OF ACTION
ADMINISTRATIVE PROCEDURE ACT

73. Petitioner re-alleges and incorporates by reference the paragraphs above.

74. Respondents' continued efforts to deny her bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution.

75. As set forth in Count Two and Three, federal regulations and case law provide the procedure for a respondent in removal proceedings like her to seek a bond redetermination by an immigration judge and be given a meaningful opportunity to present her claim.

76. In being denied the opportunity to return to her family, and pursue Cancellation of Removal in a non-detained court setting where she is free to gather the necessary hardship and good moral character evidence, Petitioner would be deprived of the right to freedom to lawfully pursue her rights in this civil matter. The Government's "no-review" provisions are a violation of her procedural and substantive due process and without any statutory authority. There is no time-frame or procedure for requesting DHS to itself review its custody decision, and removal proceedings in this case will proceed during that time while Petitioner remains in custody.

77. The actions by Respondents would improperly alter the substantive rules concerning mandatory custody status without the required notice-and-comment period and would be in violation of the INA and its regulations. These actions by Respondents violate the APA. Under the APA, this Court may hold unlawful and set aside an agency action which is "contrary to constitutional right, power, privilege or immunity." 5 U.S.C. § 706(2)(B). The regulations at 8 C.F.R. §§ 1003.19(h)(1)(B) and 1003.19(h)(2)(B) providing no review of DHS custody decision for arriving aliens in removal proceedings are in violation of substantive and procedural due process as guaranteed by the Fifth Amendment to the United States Constitution. It is ultra vires because it exceeds the authority granted ICE by Congress at 8 U.S.C. § 1226(a). For these reasons, this Honorable Court should hold that Petitioner is detained under § 236(a), not § 235(b), and order her immediate release or, in the alternative, direct the Immigration Court to conduct a custody redetermination hearing under § 236(a) in which Petitioner has a meaningful opportunity to show that she is not a danger or flight risk, or reinstate the $3500 bond granted by the IJ in August 2025. Any

contrary reliance on *Matter of Yajure-Hurtado* would unlawfully misapply the statute and deprive Petitioner of her rights under the INA, the APA, and the Due Process Clause.

FIFTH CAUSE OF ACTION
STAY OF REMOVAL CLAIM

78. Petitioner re-alleges and incorporates by reference the paragraphs above.

79. The denial of a bond hearing, followed by removal of Petitioner from the United States would cause her irreversible harm and injury because she is mis-classified by the Government as subject to mandatory detention.

80. The Court should grant the stay of Petitioner's removal to protect her statutory rights under the INA and the APA. In attempting to assert her rights, the Government has railroaded her and deprived her of freedom and liberty to contest her removal while free on bond, or at the very least, of her ability to prove she is not subject to mandatory detention and that she merits release on bond.

SIXTH CAUSE OF ACTION
SUSPENSION CLAUSE CLAIM

81. Petitioner re-alleges and incorporates by reference the paragraphs above.

82. If 8 U.S.C. § 1252 stripped the Court jurisdiction from this matter, it would be unconstitutional as applied because it would deny Ms. Gonzalez the opportunity for meaningful review of the unlawfulness of her detention and removal.

83. To invoke the Suspension Clause, a petitioner must satisfy a three-factor test: "(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner's

entitlement to the writ." *Boumediene v. Bush*, 553 U.S. 723, 766 (2008). Ms. Gonzalez satisfies these three requirements and may invoke the Suspension Clause.

84. First, although Ms. Gonzalez is not a U.S. citizen or resident, she has lived here for over 27 years, and she qualifies under the INA to seek Cancellation of Removal, because she has no disqualifying criminal history, because she has lived here longer than ten continuous years, because she can show ten years' good moral character, and because she can show her U.S. citizen child will suffer exceptional and extremely unusual hardship if she were removed to Mexico. Petitioner has significant family connections in the United States, including residence for 27 years and her U.S. children and successful work history. All of which establishes a substantial legal relationship with the United States.

85. Ms. Gonzalez satisfies the second factor because she was apprehended by DHS and remains detained in the United States.

86. Finally, there are no serious, practical obstacles to resolving this present matter. This Court is equipped to deciding whether Ms. Gonzalez is entitled to the writ.

87. There is no adequate alternative to a habeas petition. The refusal of the immigration court to grant Ms. Gonzalez the right to show she is mis-classified and that she is not subject to mandatory detention, such that she may return to her family and pursue cancellation, without proper notice or due process, deprives her of her constitutional rights. The BIA cannot adequately and expeditiously review these issues.

VIII. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Declare that ICE's July 2025, apprehension and detention of Ms. Gonzalez was an unlawful exercise of authority because the ICE officer provided no reason that she presents a danger to the community or is flight risk;

(3) Issue an order directing Respondents to show cause why the writ should not be granted;

(4) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;

(5) Retain jurisdiction over this Petition notwithstanding any change in Petitioner's place of detention or immediate custodian and, pending final resolution of this case, direct Respondents to refrain from transferring Petitioner outside the Western District of Texas without prior leave of Court and to ensure that the Court can effectuate any relief ultimately granted, including by returning Petitioner to this District if necessary;

(6) Grant the writ and order Petitioner's immediate release on recognizance, parole, or reasonable supervision; or, in the alternative, order a prompt custody redetermination under § 1226(a) before an Immigration Judge within three days, with the Government bearing a clear-and-convincing burden of flight risk or danger on the record and with findings consistent with *Matter of Guerra* and *Matter of Siniauskas*; and, if Respondents continue to assert mandatory detention, order a Joseph-type hearing to test the legal and factual predicates, with release if such hearing is not held by the deadline, or, alternatively, reinstate her $3500 bond set by the IJ in August 2025 that was revoked, and allow her to pay it;

(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 such other and further relief as the Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner and her children, depriving them of their mother's care, stability, and support. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and her family's well-being.

Respectfully submitted, Dec. 22, 2025,

/s/ Stephen O'Connor
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Telma 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 22nd day of December, 2025.

/s/ Stephen O'Connor
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