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(Pro Hac Vice Application Forthcoming)

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

Maria Graciela ROQUE ZHUILEMA,

*Petitioner,*

v.

Jonathan TUREK, Interim Superintendent of the Chittenden Regional Correctional Facility, in his official capacity; Patricia HYDE, Acting Field Office Director of the Boston Field Office, U.S. Immigration and Customs Enforcement; Todd LYONS, in his official capacity as acting Director of U.S. Immigration and Customs Enforcement, Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security, and Pamela BONDI, in her official capacity as U.S. Attorney General; Daren K. MARGOLIN, Director for Executive Office for Immigration Review,

*Respondents.*

**HEARING REQUESTED**


Case No.: 2:25-cv-00934

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**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

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**INTRODUCTION**

1. Petitioner Maria Graciela Roque Zhuilema (  ) is a native and citizen of Ecuador who has resided in the United States for around four years after entering the country without inspection. U.S. Immigration and Customs Enforcement (“ICE”) detained Ms. Roque Zhuilema in December 2025 after she and several family members were stopped at a checkpoint. She has no criminal history.

2. DHS has determined that Ms. Roque Zhuilema is detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), pursuant to a July 2025 policy and the Board of Immigration Appeals’ decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under this interpretation, Immigration Judges are stripped of jurisdiction to conduct custody redeterminations, and individuals like Ms. Roque Zhuilema are categorically denied bond hearings despite decades of contrary agency and judicial practice.

3. Ms. Roque Zhuilema’s detention under § 1225(b)(2)(A) violates the text and structure of the INA and its implementing regulations. That provision applies only to individuals apprehended while “seeking admission” at the border or immediately upon arrival. For decades, noncitizens present in the interior, like Ms. Roque Zhuilema, have been detained—if at all—under INA § 236(a), 8 U.S.C. § 1226(a), which expressly provides for conditional release on bond.

4. Federal courts across the country have rejected DHS’s new interpretation of § 1225(b)(2) and have held that detention of individuals apprehended in the interior is governed by § 1226(a). These courts recognize that applying § 1225(b)(2) to people who have lived in the United States for years misreads the statute and produces absurd results.

5. Most importantly, this Court has already found that individuals like Ms. Roque Zhuilema are eligible for bond because they are detained under § 1226. *See Acosta Yupangui v. Hale*, No. 2:25-cv-884, 2025 WL 3207070 (D. Vt. Nov. 17, 2025); *Gonzalez Lopez v. Trump*, 2:25-cv-863, 2025 WL 3264151 (D. Vt. Nov. 17, 2025).

6. Ms. Roque Zhuilema also falls within the Bond Eligible Class in the U.S. District Court for the Central District of California's holding in the class action lawsuit in *Maldonado Baustista v. Santaacruz*, 5:25-cv-01873, (C.D. Cal. Nov. 25, 2025). That class includes all individuals in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. *Id.* That order extended a grant of summary judgment to the Petitioners in that case to the entire Bond Eligible Class as a whole, finding that such individuals are detained pursuant to 8 U.S.C. § 1226 and therefore eligible for bond. *Id.* The district court then entered final judgment on December 18, 2025. *Maldonado Bautista v. Noem*, 5:25-cv-01873, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025)

7. Despite her eligibility for release under *Maldonado Bautista*, DHS and EOIR have refused to abide by the declaratory judgment issued on behalf of certified class members. Ms. Roque Zhuilema thus also brings this action to seek enforcement of her rights as a member of the Bond Eligible Class in *Maldonado Bautista*.

8. Respondents' new interpretation is arbitrary and capricious under the Administrative Procedure Act, because it abandons decades of consistent practice without explanation and was not adopted through required rulemaking procedures. Further, Ms. Roque

Zhuilema's prolonged civil detention without access to a bond hearing violates the Due Process Clause of the Fifth Amendment.

9. Ms. Roque Zhuilema respectfully requests that this Court: (a) declare that her detention is governed by § 1226(a) and that she is therefore eligible for bond; (b) order that within one day, Ms. Roque Zhuilema be released because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*.

### **JURISDICTION AND VENUE**

10. Ms. Roque Zhuilema is currently in the physical custody of Respondents at the Chittenden Regional Correctional Facility in South Burlington, Vermont.

11. This Court has jurisdiction under 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331 (*federal question*), 28 U.S.C. § 1651 (*All Writs Act*), 28 U.S.C. §§ 2201–2202 (*Declaratory Judgment Act*), 5 U.S.C. § 702 (*APA*), and Article I, Section 9, Clause 2 of the United States Constitution (*Suspension Clause*). Ms. Roque Zhuilema is presently in custody under color of the authority of the United States and challenges her custody as in violation of the Constitution, laws, or treaties of the United States.

12. Federal district courts have jurisdiction under § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. See, e.g., *Zadvydus v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). The Supreme Court has repeatedly upheld such jurisdiction, most recently in *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

13. Venue is proper in the U.S. District Court for the District of Vermont, pursuant to 28 U.S.C. §§ 1391 and 2241(d), because Petitioner is detained within this District at the Chittenden Regional Correctional Facility.

**PARTIES**

14. Petitioner Maria Graciela Roque Zhuilema is a native and citizen of Ecuador unlawfully detained at the Chittenden Regional Correctional Facility in South Burlington, Vermont. ICE has held her in custody since around December 2025. She is not subject to a final order of removal. Under DHS's July 2025 policy and the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, Immigration Judges no longer have jurisdiction to redetermine custody for individuals like Ms. Roque Zhuilema. As a result, she has been categorically denied access to a bond hearing.

15. Respondent Jonathan Turek is the interim supervisor of the Chittenden Regional Correctional Facility and controls the detention center where Petitioner is confined under the authority of ICE. Mr. Turek has direct physical custody of Petitioner and is her immediate custodian. Mr. Turek is sued in his official capacity.

16. Respondent Patricia Hyde is the Acting Director of ICE's Boston Field Office, which has jurisdiction over ICE detention facilities in Vermont, including the Chittenden Regional Correctional Facility. She exercises authority over Petitioner's detention and is sued in her official capacity.

17. Respondent Todd Lyons is the Acting Director of ICE. He is responsible for the overall administration of ICE and for the implementation and enforcement of the immigration laws, including immigrant detention. As such, Mr. Lyons is a legal custodian of Petitioner. He is sued in his official capacity.

18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). DHS is responsible for the administration of ICE, a component agency, and for the implementation and enforcement of the immigration laws. As such, Secretary Noem is a legal

custodian of Petitioner. She is sued in her official capacity.

19. Respondent Pamela Bondi is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals (BIA) and the Immigration Courts. The Attorney General shares responsibility for the implementation and enforcement of the immigration laws with Respondents Lyons and Noem. Attorney General Bondi is a legal custodian of Petitioner and is sued in her official capacity.

20. Respondent Daren K. Margolin is the Director of the Executive Office for Immigration Review (EOIR). He has ultimate responsibility for overseeing the operation of the immigration courts and the BIA, including the conduct of bond hearings. Director Margolin is sued in his official capacity.

### **FACTS**

21. Petitioner Maria Graciela Roque Zhuilema is a native and citizen of Ecuador who entered the United States without inspection around 2021. She was not apprehended upon her entry.

22. On or about December 2025, ICE officers arrested and detained Ms. Roque Zhuilema after she was apprehended at a roadblock in Vermont. She was subsequently transferred to the Chittenden Regional Correctional Facility, where she has remained in custody since that date.

23. Ms. Roque Zhuilema has no criminal history. She has never been convicted of any crime that would subject her to mandatory detention under INA § 1226(c). She is not subject to a final order of removal.

24. Historically, individuals like Ms. Roque Zhuilema—individuals apprehended in the interior of the United States and charged as inadmissible for entering without inspection—were

detained under INA § 236(a), 8 U.S.C. § 1226(a), which provides for release on bond or conditional parole.

25. In July 2025, however, the Department of Homeland Security (DHS) adopted a new policy instructing that all noncitizens inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) are to be detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), and deemed ineligible for bond.

26. On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting DHS's position and holding that noncitizens present in the United States without inspection are "applicants for admission" subject to mandatory detention under § 235(b)(2)(A).

27. As a result of this policy and decision, Immigration Judges lack jurisdiction to conduct custody redeterminations for individuals like Ms. Roque Zhuilema. She has been categorically denied the opportunity to seek bond, despite having no criminal history and connections to her community.

28. Federal district courts across the country, including this Court, have rejected DHS's new interpretation of § 235(b)(2), finding instead that detention of individuals like Ms. Roque Zhuilema must proceed under § 236(a). Nonetheless, ICE continues to hold her without access to a bond hearing.

29. On November 20, 2025, a district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D.

Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). That court entered final judgment in favor of the Petitioners on December 18, 2025.

30. The Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

31. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite her clear entitlement to consideration for release on bond as a Bond Eligible Class member.

32. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

### **LEGAL FRAMEWORK**

33. Under 8 U.S.C. § 1226(a), individuals are generally entitled to discretionary bond determinations when detained. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). Certain noncitizens who are arrested, charged with, or convicted of specified crimes are subject to mandatory detention until removal proceedings are concluded under 8 U.S.C. § 1226(c).

34. By contrast, 8 U.S.C. § 1225(b) applies to noncitizens encountered at the border or immediately upon arrival. Section 1225(b)(1) governs certain individuals subject to expedited

removal, while § 1225(b)(2) applies to those “seeking admission” at a port of entry or just after entry.

35. Following enactment of these statutes, the Executive Office for Immigration Review issued regulations clarifying that individuals who entered the country without inspection but who were apprehended in the interior were not detained under § 1225, but instead under § 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled...will be eligible for bond and bond redetermination.”). For nearly three decades, this was the consistent practice.

36. In July 2025, DHS abruptly adopted a new interpretation requiring detention under § 1225(b)(2)(A) for all noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting DHS’s view and holding that noncitizens present in the United States without admission are “applicants for admission” subject to mandatory detention under § 1225(b)(2)(A). As a result, individuals like Ms. Roque Zhuilema, who have lived in the United States for years, are categorically denied bond hearings.

37. This Court recently determined that individuals like Ms. Roque Zhuilema were detained pursuant to § 1226(a) and therefore eligible for bond, thus ordering bond hearings in those cases. See *Acosta Yupangui v. Hale*, No. 2:25-cv-884, 2025 WL 3207070 (D. Vt. Nov. 17, 2025); *Gonzalez Lopez v. Trump*, 2:25-cv-863, 2025 WL 3264151 (D. Vt. Nov. 17, 2025). In *Acosta Yupangui*, a court in this district found that the phrase “an applicant for admission” who is “seeking admission” did not extend to people like Ms. Roque Zhuilema who were apprehended

inside the country and years after their entry and instead applied to those presenting themselves at the border or who had not yet effected entry. *Acosta Yupangui*, 2025 WL 3207070, at \*4-5. That court found that the Respondents' position rendered several provisions of the INA surplusage in violation of the canon against surplusage. *Id.* at \*5. That court thus ordered a bond hearing with the alternative that the Respondents release the petitioner. *Id.* at \*8. A different judge from this district reached the same conclusion in *Gonzalez Lopez*.

38. Hundreds of federal district courts across the country have agreed, holding that detention of long-term residents apprehended in the interior is governed by § 1226(a), not § 1225(b)(2). See, e.g., *Diaz v. Hyde*, Civ. No. 25-11613, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rodriguez Vazquez v. Bostock*, Civ. No. 3:25-cv-05240, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, Civ. No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025), *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025); *Rosado v. Bondi*, Civ. No. 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez-Benitez v. Francis*, Civ. No. 25-5937, 2025 WL 2371588, ---F. Supp.3d ---- (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Lyons*, Civ. No. 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, Civ. No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Escalante v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025); *O.E. v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2235056 (D. Minn. Aug. 3, 2025); *Arrazola-Gonzalez v. Noem*, Civ. No. 5:25-cv-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, Civ. No. 25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 15, 2025); *Mayo Anicasio v. Kramer*, Civ. No. 4:25-cv-3158, 2025 WL 2374224 (D. Neb. Aug 14, 2025); *Rodriguez de Oliveira v. Joyce*, Civ. No. 2:25-cv-00291, 2025 WL 1826118 (D. Me. July 2, 2025); *Leal-Hernandez v. Noem*, Civ. No. 1:25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, Civ. No. 2:25-cv-12486, 2025

WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civ. No. 25-11631, --- F. Supp. 3d ---, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Doe v. Moniz*, Civ. No. 1:25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Herrera Torralba*, Civ. No. 2:25-cv-01366, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Kostak v. Trump*, Civ. No. 3:25-1093, 2025 WL 2473136 (W.D. La. Aug. 27, 2025); *Simpiao v. Hyde*, Civ. No. 1:25-cv-11981-JEK, 2025 WL 2607925 (D. Mass. Sept. 9, 2024); *Garcia Cortes v. Noem*, Civ. No. 1:25-cv-02677, 2025 WL 2652990 (D. Colo. Sept. 16, 2026); *Jimenez v. Warden*, Civ. No. 25-cv-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Cuevas Guzman v. Andrews*, Civ. No. 1:25-cv-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Velasquez Salazar v. Dedos*, Civ. No. 1:25-cv-00835, 2025 WL 2676729 (D.N.M. Sept., 17, 2025); *Hasan v. Crawford*, Civ. No. 1:25-cv-1408, 2025 WL 2682255 (E.D. Va., Sept. 19, 2025); *Singh v. Lewis*, Civ. No. 4:25-cv-96, 2025 WL 2699219 (W.D.Ky., Sept. 22, 2025); *Beltran Barrera v. Tindall*, Civ. No. 3:25-cv-541, 2025 WL 2690565 (W.D.Ky., Sept. 19, 2025); *Chogllo Chafra v. Scott*, 2025 WL 2688541, (D.Me., Sept. 21, 2025); *Chiliquinga Yumbillo v. Stamper*, Civ. No. 2:25-cv-00479 (D.Me., Sept. 19, 2025).

39. The government's interpretation defies the INA's text and structure. As this Court found in *Acosta Yupangui* and *Gonzalez Lopez*, section 1226(a) explicitly applies to individuals charged as inadmissible after entry without inspection. Congress reinforced this point in 2025 by amending § 1226(c) through the Laken Riley Act to exclude from bond eligibility certain noncitizens who entered without inspection and committed crimes. If Congress had intended all such individuals to be subject to mandatory detention under § 1225(b)(2)(A), it would not have needed to create these specific carve-outs. Construing § 1225(b)(2)(A) as the government suggests renders § 1226(c)(1)(E) superfluous, in violation of the canon against surplusage. See *Corley v. United States*, 556 U.S. 303 (2009).

40. Section 1225(b), on the other hand, is limited to those arriving at ports of entry or apprehended immediately upon entry. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board explained that § 235(b) applies to individuals arrested without a warrant “while arriving in the United States.” The Board distinguished between those apprehended “just inside the southern border” on the same day they crossed, who fall under § 235(b), and those “already present in the United States” who are detained by warrant, who fall under § 236(a). *Id.* at 69–70. Ms. Roque Zhuilema—detained in Vermont years after her entry and hundreds of miles from the southern border—is plainly in the latter category.

41. The Supreme Court has likewise recognized that mandatory detention under § 1225(b) applies “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is inadmissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

42. Therefore, the mandatory detention provisions of § 1225(b)(2) do not apply to Ms. Roque Zhuilema, who entered the United States years ago and was apprehended hundreds of miles from the southern border. She is detained under § 1226(a) and is eligible for a bond hearing.

43. On November 20, 2025, a district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners’ Motion

for Partial Summary Judgment). The district court entered final judgment in favor of the Petitioners on December 18, 2025. *Maldonado Bautista v. Noem*, 5:25-cv-01873, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

44. The declaratory judgment held that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at \*11.

45. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite her clear entitlement to consideration for release on bond as a Bond Eligible Class member.

### **CLAIMS FOR RELIEF**

#### **COUNT I**

##### **Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond**

46. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

47. The mandatory detention provision of § 1225(b)(2) does not apply to noncitizens like Ms. Roque Zhuilema, who have been residing in the United States for years, were never apprehended at the border, and are not subject to other statutory grounds of inadmissibility. Such individuals are detained under § 1226(a) and are eligible for release on bond.

48. Respondents’ decision to detain Ms. Roque Zhuilema under § 1225(b)(2)(A) unlawfully denies her access to a bond hearing in violation of the INA.

**COUNT II**

**Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19**

49. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

50. For decades, both Congress and the agencies charged with implementing the INA have recognized that individuals who entered without inspection are detained under § 1226(a) and eligible for bond, as reflected in implementing regulations at 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

51. Despite this clear regulatory framework, Respondents have unlawfully detained Ms. Roque Zhuilema by misapplying § 1225(b)(2).

52. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires, including access to a bond hearing, her continued detention violates the INA, its implementing regulations, and the Due Process Clause of the Fifth Amendment.

**COUNT III**

**Violation of *Maldonado Bautista***

53. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

54. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

55. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

56. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

57. Respondents are parties to *Maldonado Bautista* and bound by the Court’s declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

58. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is subject to mandatory detention under § 1226(b)(2), Respondents violate the Petitioner’s statutory rights under the INA and the Court’s judgment in *Maldonado Bautista*.

#### **COUNT IV**

##### **Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy**

59. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

60. Mandatory detention under § 1225(b)(2) does not apply to long-time residents apprehended in the interior of the United States. Such noncitizens, including Ms. Roque Zhuilema, are detained under § 1226(a) and eligible for release on bond.

61. Respondents’ application of § 1225(b)(2) to Petitioner contradicts the statutory scheme and departs from decades of consistent agency interpretation. This policy is arbitrary, capricious, and not in accordance with law, in violation of the APA, 5 U.S.C. § 706(2)(A).

**COUNT V**

**Violation of the Fifth Amendment  
Due Process**

62. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

63. Under the Fifth Amendment of the Constitution, no person shall be deprived of liberty without due process of law. Freedom from imprisonment and government custody lies at the core of the liberty protected by the Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The protections of the Due Process Clause extend to all persons within the United States, regardless of immigration status. *Id.* at 693.

64. Respondents' detention of Ms. Roque Zhuilema under § 1225(b)(2), without the possibility of release on bond or a meaningful custody redetermination, violates her right to due process under the Fifth Amendment.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner Maria Graciela Roque Zhuilema prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
3. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
5. In the event the Court determines a genuine dispute of material fact exists regarding

Petitioner's entitlement to habeas relief, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243;

6. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
7. Declare that Petitioner's detention violates the INA;
8. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
9. Declare that Petitioner's detention is arbitrary, capricious, and in violation of the Administrative Procedure Act;
10. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
11. Grant such further relief as this Court deems just and proper.

Dated: December 27, 2025

Respectfully submitted,

/s/ Brian Scott Green  
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(Pro Hac Vice Application Forthcoming)

**VERIFICATION**

I, Brian Scott Green, counsel for Petitioner hereby verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations in this petition are true and correct to the best of my knowledge, information, and belief, based upon the records available and information provided by Petitioner.

Dated: December 27, 2025

Respectfully submitted,

/s/ Brian Scott Green  
Brian Scott Green