

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

**GABRIELA ALEJANDRA LOZANO  
SOUSA**

*Petitioner,*

v.

**GARRETT RIPA**, Field Office Director of  
Enforcement and Removal Operations, Miami  
Field Office, Immigration and Customs  
Enforcement;

**KRISTI NOEM**, Secretary, U.S. Department  
of Homeland Security;

**PAMELA BONDI**, U.S. Attorney General;

**SCOTTY RHODEN**, Sheriff of Baker  
County Detention Center;

*Defendants.*

**Case No.: 3:25-cv-1617**

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**PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION AND MEMO IN SUPPORT**

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## **I. INTRODUCTION**

Petitioner, Gabriela Alejandra Lozano Sousa, is a Venezuelan national who lawfully entered the USA in April of 2023 with a pre-authorized 2-year grant of parole. She has admittedly overstayed her grant of parole, but in the meantime, she married a U.S. citizen and has established a life here. Through her habeas petition, Petitioner is challenging (1) DHS's improper use of Section 1225(b)(2) to detain her without bond hearing, (2) detaining her with an improper use of 287(g) MOA, and (3) denying her the ability to make medical appointments as required to adjust her status to permanent resident. She seeks immediate injunctive relief to protect her from ongoing and imminent harm caused by Respondents' actions.

First—on April 19, 2026 she will become subject to a 10-year bar on reentry under 8 U.S.C. § 1182(a)(9)(B) if she ultimately has to leave the country to process her green card at a consulate abroad. If she was not detained she would readily file her application for adjustment of status and would not have to be concerned about unlawful presence under § 1182(a)(9)(B) as that punishment only triggers upon departure, and she is eligible for a green card through her US citizen husband without departing. But for reasons explained below, her adjustment of status is not feasible while she is unlawfully detained. She asks this Court to pause her accrual of unlawful presence so she can keep the status quo while she litigates her detention.

Second—and as important if not more, she seeks a restraining order to prevent DHS from moving her during the pendency of this matter in an attempt to pry jurisdiction from this Court and thwart her attempts to litigate her unlawful detention.

## **II. LEGAL BACKGROUND**

This case turns on whether a noncitizen who lawfully entered the United States pursuant to a grant of parole, was not issued a Notice to Appear (“NTA”) at entry, and resided in the United

States for a substantial period before an NTA was later issued is subject to discretionary detention under INA § 1226(a), which permits bond, or mandatory detention under INA § 1225(b)(2), which does not.

Immigration law has long distinguished between noncitizens who are “seeking admission” at the border and those who are already present within the United States after entry. *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958). Reflecting this dichotomy, the Immigration and Nationality Act (“INA”) authorizes mandatory detention of certain noncitizens seeking admission under 8 U.S.C. § 1225(b), and discretionary detention of noncitizens already in the United States pending removal proceedings under 8 U.S.C. § 1226. *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). A noncitizen cannot be subject to both detention schemes simultaneously. *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 485 (S.D.N.Y. 2025).

The INA establishes three principal detention frameworks relevant to removal proceedings. First, § 1226 governs detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a. Under § 1226(a), detention is discretionary and accompanied by an individualized custody determination and the opportunity for a bond hearing, while § 1226(c) mandates detention for a limited category of noncitizens with specified criminal or terrorism-related histories. Second, § 1225(b)(1) and (b)(2) mandate detention of recent arrivals and applicants for admission who are apprehended at or near the border and are not clearly entitled to admission. Third, § 1231 governs detention following a final order of removal. This case concerns only the boundary between §§ 1225(b)(2) and 1226(a).

Section 1225(b)(2)(A) requires detention only where an examining immigration officer determines that a noncitizen is (1) an applicant for admission, (2) presently seeking admission, and (3) not clearly and beyond a doubt entitled to be admitted. *Lopez Benitez*, 795 F. Supp. 3d at 487.

The statute's text and structure make clear that it applies to individuals at the threshold of entry—those undergoing inspection at the border or its functional equivalent. *Jennings*, 583 U.S. at 287. With the narrow exception of temporary humanitarian or public-interest parole under 8 U.S.C. § 1182(d)(5)(A), noncitizens detained under § 1225(b) may not be released. *Id.* at 300.

Parole under § 1182(d)(5)(A) allows DHS to temporarily permit a noncitizen's physical entry into the United States on a case-by-case basis. Such parole is temporary and may terminate automatically upon expiration, departure, or upon written notice, including service of an NTA. Upon termination, the statute provides that the noncitizen is returned to the custody from which she was paroled and that her case proceeds as that of any other applicant for admission. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e). Regulations further specify that the noncitizen is restored to the status held at the time of parole and that any further proceedings are conducted under either § 235 or § 240 of the INA. 8 C.F.R. § 212.5(e)(2). Critically, restoration to "applicant for admission" status does not itself establish that the individual is presently "seeking admission" within the meaning of § 1225(b)(2).

By contrast, § 1226 governs detention of noncitizens "inside the United States" who are awaiting a decision on removal. *Jennings*, 583 U.S. at 288. Under § 1226(a), DHS may detain or release a noncitizen on bond or conditional parole, but any decision to detain must be based on an individualized assessment of flight risk and danger to the community. 8 C.F.R. § 1236.1(c)(8). Noncitizens detained under § 1226(a) are entitled to review of custody determinations by an immigration judge. Section 1226(c) carves out a narrow class of noncitizens subject to mandatory detention based on enumerated criminal grounds, underscoring that § 1226(a) applies by default absent a specific statutory exception.

Federal courts increasingly reject attempts to extend § 1225(b)(2) to parolees who have already entered and resided in the United States. Courts have held that such individuals fall under § 1226(a) and are therefore eligible for bond hearings, particularly where detention follows a new, independent decision by DHS months or years after entry and parole. See, e.g., *Campbell v. Almodovar*, No. 1:25-cv-09509-JLR (S.D.N.Y. Dec. 10, 2025); *Munoz Materano v. Arteta*, No. 1:25-cv-6137 (S.D.N.Y. Sept. 9, 2025). These cases distinguish situations where detention is merely a continuation of a border encounter from those where DHS initiates custody long after a lawful parole entry without an NTA.

Section 1226 expressly applies to noncitizens charged as inadmissible, including those alleged to lack valid entry documents under 8 U.S.C. § 1182(a)(7). The inclusion of such individuals within § 1226—subject only to the specific mandatory-detention exceptions in § 1226(c)—confirms that inadmissibility charges do not automatically trigger § 1225(b) detention. See *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257; *Gomes v. Hyde*, 2025 WL 1869299, at \*7.

The government's current position is also inconsistent with its prior representations to the Supreme Court. In *Jennings v. Rodriguez*, DHS acknowledged that noncitizens who have effected an entry and are not apprehended within 100 miles of the border and within 14 days of entry are detained under § 1226(a), not § 1225(b). During oral argument, the Solicitor General confirmed that even individuals who entered unlawfully but lived in the United States for extended periods are entitled to bond hearings under § 1226(a). Having prevailed on that interpretation, the government is judicially estopped from advancing a contrary position now. *New Hampshire v. Maine*, 532 U.S. 742, 749–51 (2001).

In July 2025, ICE and DOJ issued new “Interim Guidance Regarding Detention Authority for Applicants for Admission,” asserting that all individuals who entered without inspection are

subject to mandatory detention under § 1225(b)(2) regardless of the length or circumstances of their residence in the United States. This guidance departs from decades of settled practice and statutory interpretation.

Agency action that exceeds statutory authority, conflicts with prior binding interpretations, or is adopted without required notice-and-comment rulemaking violates the Administrative Procedure Act (“APA”). 5 U.S.C. § 706. Courts routinely invalidate immigration enforcement policies that are arbitrary, capricious, ultra vires, or inconsistent with governing statutes and regulations. See *Judulang v. Holder*, 565 U.S. 42 (2011); *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Substantive rules that impose new detention obligations must undergo notice-and-comment procedures, and failure to do so renders them unlawful. 5 U.S.C. § 553.

Finally, Petitioner’s detention by the Baker County Sheriff’s Office (“BCSO”) is independently unlawful. DHS’s authority to enlist state and local law enforcement arises only through narrowly tailored 287(g) Memoranda of Understanding (“MOAs”), which are designed to facilitate custodial transfer to ICE at the conclusion of state criminal custody—not to authorize prolonged civil immigration detention. The BCSO MOA expressly limits delegated authority to serving immigration warrants at the time of release from criminal custody. Because Petitioner has never been arrested, charged, or held in criminal custody by BCSO, her detention exceeds the scope of authority delegated under the MOA and violates its express terms. Plus, ICE is exceeding its supervisory authority under the 287(b) MOA by refusing to allow the BCSO from following its normal procedures and protocols, which would typically allow them to transport detainees to and from offsite medical appointments.

### **III. VERIFIED STATEMENT OF FACTS**

Petitioner is currently detained at the Baker County Detention Center in Macclenny, Florida by the Baker County Sheriff's Office ("BCSO") at the direction of U.S. Immigration and Customs Enforcement ("ICE"). **Exhibit 1.** She first entered the United States in April 2023 pursuant to a pre-authorized, two-year grant of parole. She was inspected and admitted at Miami International Airport, and no Notice to Appear ("NTA") was issued at the time of her entry.

**Exhibit 2.**

After her lawful parole entry, Petitioner established a life in the United States. She married a United States citizen on April 17, 2025, in Fort Lauderdale, Florida. Her husband subsequently filed a Form I-130, Petition for Alien Relative, on her behalf, which is currently pending before U.S. Citizenship and Immigration Services with a priority date of November 4, 2025. **Exhibit 3.**

In October 2025, Petitioner and her husband were involved in a domestic dispute in Broward County, Florida. Local police were contacted, and both spouses were arrested. The incident was later deemed a misunderstanding, and the State of Florida declined to file any charges against Petitioner. **Exhibit 4.** Although both spouses were released by local law enforcement, Petitioner was immediately transferred into DHS custody while her husband returned home.

Petitioner has remained in immigration detention since approximately November 14, 2025. A Notice to Appear was issued on November 17, 2025. Petitioner is being charged as removable for being an immigrant not in possession of documents. See 8 U.S.C. § 1182(a)(7)(A)(i)(I).

**Exhibit 5.**

ICE denied her release from custody on the ground that she is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for bond. ICE communicated this position to Petitioner's counsel on November 24, 2025, stating that because parolees are considered applicants for admission, Petitioner "shall" be detained during removal proceedings.

**Exhibit 6.** Shortly thereafter, ICE transferred Petitioner from the Broward Transitional Center (which was near her home and husband) to the Baker County Detention Center in Macclenny, Florida (5.5 hours drive away from home).

ICE issued an NTA on November 17, 2025, charging Petitioner as removable under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an immigrant not in possession of valid entry documents. Petitioner appeared for her initial hearing before the Immigration Court on December 6, 2025, at which time the Immigration Judge granted a two-week continuance to allow her to file a Form I-485, Application for Adjustment of Status, based on her marriage to a U.S. citizen.

Although Petitioner is otherwise prepared to file her I-485 application, ICE has effectively prevented her from doing so by blocking access to the required medical examination. Petitioner's counsel coordinated with a BCSO lieutenant to transport her to offsite medical appointments for the required examination, laboratory testing, and vaccinations, consistent with BCSO's standard procedures. Appointments were scheduled for December 15, 2025. On the day of the appointments, however, BCSO informed counsel that ICE had denied authorization for the transport. ICE later stated that all medical services would have to be conducted at the detention facility. **Exhibit 7.**

There are no feasible means to complete the required medical examination onsite. The only civil surgeon in the area willing to visit the detention facility charges approximately \$4,000 and can provide only a partial medical opinion, without administering required vaccines or conducting mandatory laboratory tests. Despite extensive efforts, neither Petitioner's husband nor counsel has been able to locate a pharmacist or laboratory willing to travel to the detention center to administer the required vaccinations or perform the necessary tuberculosis and syphilis testing.

As a result, ICE's detention decisions and restrictions have made it effectively impossible—or prohibitively expensive—for Petitioner to complete the medical examination required to file her adjustment-of-status application, thereby obstructing her ability to pursue lawful permanent residence based on her pending I-130 petition.

#### **IV. ARGUMENT**

To obtain temporary and preliminary injunctive relief, Petitioner must demonstrate that (1) she is likely to succeed on the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in her favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); When the government is a party, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Under the circumstances presented herein, no security bond is required under Federal Rule of Civil Procedure 65(c).

##### **A. Petitioner Is Likely to Succeed on the Merits.**

Petitioner is likely to prevail on each of her claims because Respondents are detaining her under the wrong statutory authority, denying her due process, acting inconsistently with positions previously adopted by the Government and accepted by the courts, exceeding the scope of authority delegated under the 287(g) Memorandum of Understanding (“MOA”), and enforcing ultra vires agency policies in violation of the Administrative Procedure Act (“APA”).

##### **1. Petitioner Is Likely to Prevail on Her Claim That Her Detention Is Unlawful Under the INA**

The central question is whether Petitioner’s detention is governed by INA § 1225(b)(2), which mandates detention without bond for certain noncitizens “seeking admission,” or by INA § 1226(a), which provides for discretionary detention with an individualized bond hearing. The statutory text, structure, and controlling precedent compel the conclusion that § 1226(a) applies.

Although Petitioner remains an “applicant for admission” because parole does not constitute an admission, see 8 U.S.C. § 1182(d)(5)(A), she was not “seeking admission” at the time of her 2025 arrest. She had already lawfully entered the United States in April 2023 pursuant to a pre-authorized parole, had lived in the United States for years, married a U.S. citizen, and was arrested in the interior of the country—not at or near the border. Courts interpreting § 1225(b)(2) uniformly hold that “seeking admission” refers to present-tense efforts to enter the United States at the border or its functional equivalent. See *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 488–89 (S.D.N.Y. 2025); *J.G.O. v. Francis*, 2025 WL 3040142, at \*3 (S.D.N.Y. Oct. 28, 2025).

Applying § 1225(b)(2) to Petitioner would violate the canon against surplusage by collapsing the distinct statutory terms “applicant for admission” and “seeking admission” into one. It would also render superfluous the mandatory detention provisions of § 1226(c), including the recent amendments enacted in the Laken Riley Act, which Congress clearly intended to have independent operative effect. See *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013).

Petitioner’s detention was not a continuation of a border encounter. No NTA was issued at entry, and no proceedings were pending during her parole period. Instead, DHS made an independent decision to detain her months after her parole expired, in connection with a new NTA issued on November 17, 2025. Courts have consistently held that such detentions fall under § 1226(a). See *Campbell v. Almodovar*, No. 1:25-cv-09509-JLR (S.D.N.Y. Dec. 10, 2025).

Petitioner is aware of the *Luis Gonzalo Duenas Garcia v. ICE* case from this district (2:25-cv-1004) in which a habeas petitioner was denied relief on the basis of his being a parolee, but the matter at hand is distinguishable from that case. Namely, the petitioner in that other case entered the U.S. illegally and was issued a Notice to Appear at the time of his apprehension and then released on parole. But in the matter at hand, the Petitioner entered the U.S. lawfully with a pre-approved grant of parole and was never detained or issued a Notice to Appear at the time of her entry into the country.

This distinction is salient because there were no proceedings pending against the Petitioner in this matter during her period of parole. No NTA was issued when she was paroled into the United States in 2023. That means that her 2025 detention was “*not simply a continuation of [her] initial border encounter following the termination of [her] parole. It was an independent decision to detain*” made after her parole expired and in connection with a new NTA. (quoting *Campbell v. Almodovar*, 1:25-cv-09509-JLR (SDNY December 10, 2025)). This independent decision to detain is in line with 1226 discretionary detention as applied to aliens already in the United States.

Because § 1226(a) governs, Petitioner is entitled to an individualized custody determination and a bond hearing. Respondents’ refusal to provide one violates the INA and its implementing regulations, including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

## **2. Petitioner Is Likely to Prevail on Her Fifth Amendment Due Process Claims**

### *a. Substantive Due Process*

Freedom from physical restraint lies at the core of the liberty protected by the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner lawfully entered the United States, established family ties to a U.S. citizen, and has no criminal convictions. DHS’s categorical

denial of any bond hearing—based solely on an erroneous statutory classification—deprives her of liberty without adequate justification and violates substantive due process.

*b. Procedural Due Process*

DHS has also violated Petitioner’s procedural due process rights by preventing her from completing the mandatory medical examination, laboratory testing, vaccinations, and biometrics required to apply for adjustment of status. Although an Immigration Judge granted Petitioner time to file her I-485, ICE blocked BCSO from transporting her to medical appointments consistent with BCSO’s own policies. By doing so, DHS has effectively foreclosed her access to a statutory form of relief for which she is eligible, without notice or a meaningful opportunity to be heard.\

*b. “As Applied” Due Process*

Petitioner, who legally entered the United States, has a fundamental interest in liberty and being free from official restraint. Courts across the nation are recognizing that noncitizens who are not at the threshold of entry, like Petitioner, have “a due process right to an individualized bond hearing, and neither the legislature nor the executive can strip him of that right by classifying him as detained under § 1225.” *Destino v. Tatum*, 1:25-cv-374 (New Hampshire District Court).

Petitioner is and has been inside the United States since 2023, freely living her life. She is not currently seeking admission. In non-admission contexts such as this, which do not directly implicate the executive’s sovereign prerogative, the Due Process Clause protects liberty interests that may accrue regardless of statutory allowances. Liberty interests may spring from lives lived, connections fostered, and promises made or implied. “Thus, even without disturbing the metaphysical ‘entry fiction’ that may obstruct, in some senses, our ability to admit that a non-citizen is really ‘here,’ one can still constitutionally recognize [a petitioner’s] actual life in this

country—his years as part of our community—not so easily set aside.” Id. quoting *Tenemasa-Lema*, 2025 WL 3280555, at \*4. In short, regardless of how Petitioner is categorized by the DHS, her detention without a bond hearing is an “as applied” violation of the Fifth Amendment based on the fact that she has accrued a liberty interest by way of her lawful entry into the United States in 2023.

### **3. Petitioner Is Likely to Prevail on Her Claim of Judicial Estoppel**

The Government is judicially estopped from asserting that Petitioner is subject to mandatory detention under § 1225(b)(2). In *Jennings v. Rodriguez*, the Government successfully argued to the Supreme Court that noncitizens who have entered the United States and are not apprehended within a narrow temporal and geographic window are detained under § 1226(a), not § 1225(b). *Jennings v. Rodriguez*, Tr. of Oral Arg. at 7–8 (Nov. 30, 2016). Courts accepted that position.

Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), the Government cannot now reverse course to gain an unfair advantage by denying bond hearings to similarly situated individuals. Allowing such a reversal would undermine the integrity of the judicial process.

### **4. Petitioner Is Likely to Prevail on Her Tenth Amendment and 287(g) Claims**

BCSO’s continued detention of Petitioner exceeds the authority delegated under its 287(g) MOA, which contemplates detention and transfer to ICE only for individuals arrested within BCSO’s jurisdiction and released from its criminal custody. **Exhibit 8**. Petitioner has never been arrested or charged in Baker County and was transferred there solely as an ICE detainee from another jurisdiction, effectively transforming BCSO into an overflow immigration detention

facility—an arrangement not authorized by the MOA and therefore prohibited by the Tenth Amendment. See *Printz v. United States*, 521 U.S. 898 (1997).

ICE has also exceeded its supervisory authority under the MOA by preventing BCSO from following its own inmate policies permitting offsite medical appointments. **Exhibit 9.** By compelling BCSO to violate its own standards, ICE has unlawfully commandeered state officials in violation of the Tenth Amendment.

### **5. Petitioner Is Likely to Prevail on Her APA Claims**

The December 5 and December 12, 2025 USCIS Policy Alerts effectively create a new rule barring detained arriving aliens from adjusting status by making biometrics and medical compliance practically impossible. The 12/5/2025 Policy Alert (PA-2025-28) states that USCIS will deny applications where the subject does not appear at their biometrics appointment, and that *USCIS will no longer cooperate with ICE to attain biometrics* from detained individuals whose applications are under USCIS jurisdiction, e.g., arriving aliens like Petitioner. The 12/12/2025 Policy Alert (PA-2025-29) states that USCIS will require new biometrics appointments for all applications for adjustment of status.

Under the combined effects of these two policy alerts, arriving aliens in detention are procedurally prevented from being able to adjust their status in a manner that offends the Administrative Procedures Act (“APA”). First, because they essentially create an *ultra vires* new requirement that arriving aliens cannot adjust if in ICE detention. USCIS and ICE are both sub agencies of the DHS. To permit this *ultra vires* new requirement would allow DHS’s left hand to blame the right for the deprivation of Petitioner’s ability to adjust status. Second, because in addition to being *ultra vires* these are actually regulatory rules that were not promulgate through

notice and comment period as required by the APA. This new eligibility restriction is absent from 8 U.S.C. § 1255 and is ultra vires. See *Succar v. Ashcroft*, 394 F.3d 8 (1st Cir. 2005).

Because these policies impose new substantive requirements and were not promulgated through notice-and-comment rulemaking, they are invalid under the APA. 5 U.S.C. §§ 553, 706. DHS's reliance on these policies is arbitrary, capricious, and not in accordance with law.

**B. Petitioner Has Suffered and Will Continue to Suffer Irreparable Harm Absent Injunctive Relief.**

Parties seeking preliminary injunctive relief must also show they are “likely to suffer irreparable harm in the absence of preliminary relief.” *Winter*, 555 U.S. at 20. Irreparable harm is harm for which there is “no adequate legal remedy, such as an award of damages.” *Ariz. Dream Act. Coal. v. Brewer (Ariz. I)*, 757 F.3d 1053, 1068 (9th Cir. 2014); see also *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013).

Petitioner is currently suffering irreparable harm as a result of Respondents' unlawful detention and obstruction of her adjustment-of-status process. As detailed above, Respondents are detaining her without a bond hearing, separating her from her U.S. citizen husband, and preventing her from completing the medical requirements necessary to file her I-485. These actions have caused and continue to cause irreparable harm in the form of loss of liberty, prolonged family separation, emotional distress, and the effective denial of access to statutory immigration relief. See Exhibits 3–6.

Courts consistently recognize that unlawful detention, deprivation of liberty, and interference with access to immigration relief constitute irreparable harm. See *Hernandez v. Sessions*, 872 F.3d 976, 994–96 (9th Cir. 2017); *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011).

Absent injunctive relief, Respondents will continue to detain Petitioner without bond and block her ability to adjust status. Petitioner will remain incarcerated, unable to regularize her status despite eligibility, and separated from her spouse. These harms cannot be remedied after the fact. For these reasons, Petitioner has demonstrated irreparable harm.

**C. The Balance of Hardships and Public Interest Weigh Heavily in Petitioner’s Favor.**

When the Government is the opposing party, the balance of hardships and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, Petitioner faces severe hardships: continued unlawful detention, deprivation of liberty, denial of medical access, interference with statutory adjustment-of-status rights, and separation from her U.S. citizen husband. If she continues to accrue unlawful presence while this case is pending, then as of April 2026 she will have over 1-year of unlawful presence and her departure would trigger a 10-year bar on reentry. This raises the stakes of her case because if she is not successful, DHS could use time as leverage to pressure her into ceding early instead of litigating the case on the merits.

Respondents, by contrast, face no cognizable hardship. Releasing Petitioner on bond or parole, or allowing access to medical appointments, imposes at most minimal administrative burdens. The Government “cannot suffer harm from an injunction that merely ends an unlawful practice.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

The public interest strongly favors ensuring that immigration statutes are applied correctly, that constitutional rights are respected, and that agencies act within the bounds of their delegated authority. See *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992). Granting injunctive relief here serves—not undermines—the public interest.

**V. CONCLUSION**

For the foregoing reasons, Petitioner requests that the Court grant temporary restraining order and/or preliminary injunctive relief by:

- (1) Pausing the Petitioner's accrual of unlawful presence as counted in 8 U.S.C. § 1182(a)(9)(B) while this writ is pending using the authority of 5 U.S.C. § 705 so that Petitioner doesn't risk becoming subject to a 10-year bar on reentry if she ultimately has to leave the country;
- (2) Enjoining Respondents from moving Petitioner outside of this jurisdiction for the pendency of this action;
- (3) Enjoining Respondents from continuing to operate beyond the authorities provided in the relevant 287(g) MOA, such as denying the Sheriff's office the ability to take Petitioner to and from offsite medical appointments; and
- (4) Enjoining Respondents from continuing to detain Petitioner under the erroneous claim of mandatory detention.

Respectfully submitted,

DATED: December 29, 2025

**Respectfully Submitted,**

/s/ Taymoor M. Pilehvar  
**Taymoor M. Pilehvar**  
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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Gabriela Alejandra Lozano Sousa, and submit this verification on her behalf. I have conducted an appropriate inquiry into the circumstances of this case, and I believe that all factual allegations contained in the Petition for Writ of Habeas Corpus and accompanying Motion for Temporary Restraining Order and Preliminary Injunction are true. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and accompanying Motion for Temporary Restraining Order and Preliminary Injunction are true and correct to the best of my knowledge.

/s/ Taymoor M. Pilehvar

**CERTIFICATE OF SERVICE**

I certify that on the 29th day of December, 2025 I electronically filed the foregoing document and attachments with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is/are being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Taymoor M. Pilehvar



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## Facility Page

Detention Information For:

**GABRIELA ALEJANDRA LOZANO SOUSA**

Country of Birth: Venezuela

A-Number:

Current Detention Facility:

BAKER COUNTY FACILITY  
1 SHERIFF'S OFFICE DRIVE  
MACCLENNY, FL 32063

Visitor Information: (904) 259-2231

MORE INFORMATION >



## ERO Office Information