



2. ICE asserts mandatory detention under INA §1225, relying on Matter of Yajure Hurtado to label Petitioner an “applicant for admission.”
3. That theory is statutorily incorrect, constitutionally infirm, and non-binding on this Court and the Fifth Circuit.
4. Because the arrest itself was unlawful, Petitioner seeks immediate injunctive relief and issuance of the writ.

## **II. JURISDICTION AND AUTHORITY**

6. Jurisdiction lies under 28 U.S.C. § 2241 and 28 U.S.C. § 1331.
7. The Fifth Circuit recognizes habeas jurisdiction over challenges to the fact and legality of immigration detention, including constitutional claims. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Pierre v. United States*, 525 F.2d 933 (5th Cir. 1976).
8. This Court has authority to issue a TRO to halt ongoing constitutional violations. *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012).

## **III. STATEMENT OF FACTS**

9. Petitioner is a thirty-five year old female native and citizen of Cuba. *See attached, Exhibit A: Petitioner's Identification.* She first entered the United States on or about October 9, 2021 after fleeing Cuba to escape threats and violence directed against her and her family. Petitioner fears that, if returned to Cuba, she would face serious harm and substantial risk of persecution or torture on account of her membership in a particular social group.
10. On October 9, 2021, Petitioner entered the United States without inspection.
11. On October 7, 2025, Petitioner was detained by ICE officers and charged with being an alien present in the United States without being admitted or paroled.
12. Following her arrest, Petitioner was processed and held at the Montgomery Processing Center, located at 806 Hilbig Road, Conroe, Texas 77301.
13. Petitioner's removal proceedings are currently pending before the Conroe Immigration Court where she is scheduled for a hearing on January 30, 2026.
14. Petitioner previously filed an asylum application on July 11, 2022, which remains pending. *See attached, Exhibit B: Form I-589 Receipt Notice.*
15. Petitioner has requested custody and bond redetermination from the Conroe Immigration Court. On December 4, 2025, the Court denied bond to Petitioner, citing lack of jurisdiction. *See attached, Exhibit C: Order of Immigration Judge.*
16. The government has not been able to articulate any meaningful reason why Petitioner should continue to remain in detention pending the outcome of her removal proceedings. The petitioner poses no threat to the community.

17. Petitioner, through Counsel, now submits the present Petition for Writ of Habeas Corpus to this Honorable Court, and respectfully requests the Court to order Respondents to effect her immediate release.

#### **IV. LEGAL STANDARD FOR TRO**

14. A TRO is warranted where the movant shows:

- likelihood of success on the merits,
- irreparable harm,
- balance of equities in the movant's favor,
- consistency with the public interest.

*See* Winter v. NRDC, 555 U.S. 7 (2008); Opulent Life Church, 697 F.3d at 295.

15. The Fifth Circuit holds that loss of liberty constitutes irreparable harm. *See* Texas v. United States, 809 F.3d 134, 155–56 (5th Cir. 2015).

#### **V. LIKELIHOOD OF SUCCESS ON THE MERITS**

##### **A. Fourth Amendment — Unlawful Seizure**

16. The Fourth Amendment applies to civil immigration arrests inside the United States.

17. Warrantless seizures are unreasonable absent probable cause and lawful statutory authority. *See* *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975); *Melendres v. Arpaio*, 695 F.3d 990, 1000–01 (9th Cir. 2012).
18. The Fifth Circuit recognizes that civil detention unsupported by statutory authority violates the Fourth Amendment. *See* *Vega v. United States*, 881 F.3d 1146, 1153 (5th Cir. 2018).
19. Because INA §1225 does not apply, ICE lacked lawful authority—rendering the seizure *per se* unreasonable.

**B. INA §1225 Does Not Apply to Interior Residents**

20. Section 1225 governs inspection and detention of arriving aliens.
21. Congress separately addressed interior detention under INA §1226, confirming §1225’s limited scope.
22. The Fifth Circuit has repeatedly distinguished arriving aliens from those already present in the United States. *See* *Gisbert v. U.S. Attorney General*, 988 F.2d 1437, 1441–42 (5th Cir. 1993).
23. Petitioner was not seeking admission and therefore cannot be detained under §1225.

### **C. Matter of Yajure Hurtado Is Not Binding**

24. Yajure Hurtado is a BIA decision.

25. The Fifth Circuit holds that agency interpretations do not bind Article III courts, particularly where constitutional rights are implicated. *See Texas v. United States*, 787 F.3d 733, 749–50 (5th Cir. 2015).

26. No Fifth Circuit precedent adopts Yajure’s expansion of §1225 to interior arrests.

27. ICE cannot rely on a non-binding agency opinion to justify warrantless detention.

### **D. Fifth Amendment — Procedural and Substantive Due Process**

28. Civil detention must be accompanied by meaningful process. *See Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

29. The Fifth Circuit recognizes that prolonged detention without a hearing raises serious due-process concerns. *See Hernandez v. Gonzales*, 424 F.3d 42, 42–43 (5th Cir. 2005).

30. Detention based on an incorrect statutory classification is arbitrary and punitive, violating substantive due process.

## **VI. IRREPARABLE HARM**

31. Each day of unlawful detention inflicts irreparable constitutional injury.
32. The Fifth Circuit recognizes that constitutional deprivations cannot be remedied by money damages. *See* *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

#### **VII. BALANCE OF EQUITIES & PUBLIC INTEREST**

33. The government has no legitimate interest in unlawful detention.
34. The Fifth Circuit holds that the public interest favors constitutional compliance. *See* *Jackson Women's Health Org. v. Currier*, 760 F.3d 448, 458 (5th Cir. 2014).

#### **VIII. REQUEST FOR RELIEF**

Petitioner respectfully requests that the Court:

- A. Grant a Temporary Restraining Order ordering immediate release;
- B. Enjoin Respondents from enforcing INA §1225 against Petitioner;
- C. Alternatively, order a bond hearing under INA §1226a within 7 days;
- D. Issue the writ of habeas corpus;
- E. Grant all other just relief.

#### **VII. VERIFICATION**

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

/s/ Matthew Mendez

Matthew Mendez

Attorney for Petitioner

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Attorney for Petitioner

**CERTIFICATE OF SERVICE**

On December 30, 2025, Counsel for Plaintiff served a copy of the attached Petition via USPS Certified Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, RANDY TATE, in his official capacity as Warden of the Montgomery Processing Center;** at the Immigration and Customs Enforcement (“ICE”) Montgomery Processing Center, located at 806 Hilbig Road, Conroe, TX 77301.

/S/Matthew Mendez

Matthew Mendez

Attorney for Petitioner

12/30/25

Date

**CERTIFICATE OF SERVICE**

On December 30, 2025, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Bret Bradford, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations Houston Field Office**, at (1) Office of the Field Office Director, Enforcement and Removal Operations, Houston Field Office, 126 Northpoint Drive, Houston, Texas 77060, and (2) to the United States at Civil Process Clerk, U.S. Attorney's Office, 1000 Louisiana Street, Suite 2300, Houston, Texas 77002.

/s/ Matthew Mendez  
Matthew Mendez  
Attorney for Petitioner

December 30, 2025  
Date

**CERTIFICATE OF SERVICE**

On December 30, 2025, Counsel for Plaintiff served a copy of the attached Petition via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Kristi Noem, in her Official Capacity as Director of U.S. Department of Homeland Security**, at (1) Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530; and (2) to the United States at Civil Process Clerk, U.S. Attorney's Office, 1000 Louisiana Street, Suite 2300, Houston, Texas 77002.

/s/ Matthew Mendez  
Matthew Mendez  
Attorney for Petitioner

December 30, 2025  
Date

**CERTIFICATE OF SERVICE**

On December 30, 2025, Counsel for Plaintiff served a copy of the attached Petition via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States**, at USATXS.CivilNotice@usdoj.gov.

/s/ Matthew Mendez  
Matthew Mendez

December 30, 2025  
Date