

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

BETTY YADIRA CONTENTO ANDRADE,  
Petitioner,

v.


PETER BERG, in his official capacity as the  
St. Paul Field Office Director for U.S.  
Immigration and Customs Enforcement;  
TODD LYONS, in his official capacity as  
Acting Director, U.S. Immigration and  
Customs Enforcement; KRISTI NOEM, in  
her official capacity as Secretary of the  
United States Department of Homeland  
Security, and PAMELA BONDI, Attorney  
General of the United States,  
Respondents.

Case No. \_\_\_\_\_

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**Expedited Hearing Requested**

**INTRODUCTION**

1. As a member of  Ecuador, Petitioner, Betty  
Yadira Contento Andrade, was physically targeted not only by teachers in school  
and other students but was also a victim of a sexual assault by a member of her  
family suffering severe injuries. She fled Ecuador to seek protection in the United  
States.
2. Petitioner was released into the United States on or about January 22, 2022,  
by Respondents.



3. On July 25, 2022, Respondents commenced removal proceedings against Petitioner in immigration court. Petitioner applied for asylum, withholding of removal, and protections under the Convention Against Torture before the immigration court on September 22, 2023, entitling Petitioner to present her claim with the due process rights under 8 U.S.C. § 1229a.
4. Released on her own recognizance from immigration custody nearly four years-ago by Respondents, Petitioner has complied with every request, demand and requirement imposed by Respondents, in addition to complying with all the court and legal timelines for her asylum case. Despite compliance with the legal process, upon information and belief, on January 7, 2026, Petitioner was arrested and detained by Respondents without reason.
5. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing Petitioner's transfer out of this district.
6. Pending the adjudication of his Petition, Petitioner seeks an order restraining the Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to- day operations of U.S. Customs and Immigration's ("ICE") Fort Snelling, Minnesota of the Office of Enforcement and Removal Operations in the

State of Minnesota.

### **JURISDICTION**

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
8. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

### **VENUE**

10. Venue is proper because Petitioner is in Respondents' custody in St. Paul<sup>2</sup>, Minnesota. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

### **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional

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<sup>2</sup> Upon information and belief at the time of this writing, Petitioner is being held at the Fort Snelling, Minnesota detention facility.

time, not exceeding twenty days, is allowed.” Id.

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

13. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

#### **PARTIES**

14. Petitioner Betty Yadira Contento Andrade resides in Minneapolis, Minnesota and, on information and belief, is currently detained at the Fort Snelling, Minnesota immigration detention center.

15. Respondent Peter Berg is the Field Office Director of the St. Paul Field Office, Immigration and Customs Enforcement, Respondent Berg is a legal custodian of Petitioner and has authority to release her.

16. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Peter Berg and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

17. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the

component agency responsible for Petitioner's arrest and detention. Respondent is a legal custodian of Petitioner.

18. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.
19. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.
20. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.
21. This action is commenced against all Respondents in their official capacities.

### **LEGAL FRAMEWORK**

22. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
23. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).
24. The Immigration and Nationality Act (INA) establishes various procedures through which individuals may be detained pending a decision on whether the

noncitizen is to be removed. 8 U.S.C. § 1226(a).

25. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C. § 1229a.
26. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).
27. The “motivation for the enactment of the Refugee Act” was the United Nations Protocol Relating to the Status of Refugees, “to which the United States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory meaning to our national commitment to human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
28. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA. 26. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular

social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

29. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).

30. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

31. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

32. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

33. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the

individual's release when the facts and circumstances warrant it. Revocation and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

### FACTUAL BACKGROUND

34. Petitioner is a citizen and national of Ecuador.

35. As a [REDACTED] Petitioner was physically targeted not only by teachers in school and other students but was also a victim of a sexual assault by a member of her family suffering severe injuries. She fled to seek protection in the United States.

36. On or about January 15, 2022, Petitioner came to or near the port of entry at or near Presidio, Texas to seek asylum. Respondents arrested and detained Petitioner. On information and belief, based on the individualized facts of Petitioner's case, Respondent DHS released Petitioner from its custody on an Order of Release on Recognizance pursuant to 8 U.S.C. § 1226(a).

37. On or about July 25, 2022, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a.

38. Respondents alleged that Petitioner was inadmissible to the United States under 8 U.S.C. § 1182(a)(6)(A)(i) and commanded that Petitioner appear for a hearing in immigration court.

39. Petitioner applied for asylum before the Fort Snelling Immigration Court in Minnesota on or about September 22, 2023.
40. Petitioner has complied with all legal obligations including her hearings and deadlines scheduled for Petitioner by the Court.
41. On information and belief, as Petitioner was arrested by ICE agents when she was on her way to work, pursuant to a valid employment authorization card, this morning, January 7, 2026 at around 6 a.m. in Minneapolis, Minnesota.
42. Petitioner is the mother to a United Citizen son who is about one-and-a-half-years-old. She is currently breastfeeding him multiple times per day. She has never been separated from him for long periods of time.
43. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.
44. On information and belief, Respondents are detaining and seeking to transfer Petitioner regardless of the individual facts and circumstances of his case.

45. On information and belief, Respondents are using the immigration detention system, including extra-territorial transfer and detention, as a means to punish individuals for asserting rights under the Refugee Act.
46. On information and belief, Petitioner has no criminal history.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

**Violation of the Administrative Procedure Act – 5 U.S.C. §  
706(2)(A) Abuse of Discretion  
Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

47. Petitioner restates and realleges all paragraphs as if fully set forth here.
48. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
49. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” Nat’l Ass’n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 658 (2007) (quoting Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)).
50. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” Dep’t of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).
51. By categorically revoking Petitioner’s release and seeking to transfer her away

from the district without consideration of her individualized facts and circumstances, Respondents have violated the APA.

52. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to her facts or circumstances since the agency made its initial custody determinations that support the revocation of her release from custody.

53. Respondents have already considered Petitioner's facts and circumstances and determined that she was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of her release on her own recognizance. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider her, on an individualized basis, to be a danger to the community or a flight risk.

### **COUNT TWO**

#### **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority**

#### **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

54. Petitioner restates and realleges all paragraphs as if fully set forth here.

55. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

56. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may

revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”

57. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).

58. On information and belief, Respondents have revoked or are revoking Petitioner’s prior custody determination as a result of a categorical policy prepared by and implemented by unidentified government officials in Washington, not through the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

59. Because Petitioner’s revocation of release from custody has been made or will be categorically directed by government officials not authorized by law to make this determination, Respondents’ detention of Petitioner is not in accordance with law

and in excess of statutory authority.

**COUNT THREE**  
**Violation of Fifth Amendment Right to Due Process**  
**Procedural Due Process**

60. Petitioner restates and realleges all paragraphs as if fully set forth here.
61. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; accord *Flores*, 507 U.S. at 306. 55. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
62. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.
63. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether she is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents’ revocation of Petitioner’s release violates her right to procedural due process.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Declare that Petitioner's revocation of parole from custody was made in violation of statute and regulation;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval and during the pendency of this Petition;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Dated: January 7, 2026

/s/ Magdalena Metelska, Esq.  
**Magdalena B. Metelska, Esq.**  
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Attorney for Petitioner

### VERIFICATION OF PETITION

Pursuant to 28 U.S.C. § 2242 I, Magdalena Metelska, declare as follows:

1. I am an attorney licensed to practice law and am counsel of record for Petitioner, Betty Yadira Contento Andrade, in this action.
2. I have drafted the foregoing Petition for Writ of Habeas Corpus on behalf of Petitioner.
3. Petitioner was detained by U.S. Immigration and Customs Enforcement (“ICE”) on or about January 7, 2026, and due to the immediacy of her detention, Petitioner has not yet had a meaningful opportunity to review or verify the Petition personally.
4. The factual allegations in the Petition are based upon information provided to me by her relative, as well as my review of available records and information obtained in the course of my representation of Petitioner in her removal proceedings at the Fort Snelling, Immigration Court.
5. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 7th day of January, 2026.

/s/ Magdalena Metelska, Esq.  
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