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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

4 **THI MY TY PHAN,**
5 Petitioner, V.
6 **Pamela J. Bondi,** Attorney General of the United States
7 **Reynaldo Castro,** Warden, South Texas Ice Processing Center;
8 **Sylvester Ortega,** Field Office Director, ICE;
9 **Todd M. Lyons,** Director, Ice;
10 **Kristi Noem,** Secretary, Department of Homeland Security.
11 **Daren K. Margolin,** Director of the
12 Executive Office for Immigration Review

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§ No. 5:26-cv-00197
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§ DHS No. 
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13 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND**
14 **COMPLAINT FOR PRELIMINARY INJUNCTIVE RELIEF**

15 Petitioner Thi My Ty Phan (“Petitioner” or “Ms. Phan”), A#  by and through
16 undersigned counsel, respectfully petitions this Court for a writ of habeas corpus to remedy her
17 unlawful and prolonged civil immigration detention and for related declaratory and injunctive
18 relief.

19 **I. INTRODUCTION**

- 20 1. “Freedom from imprisonment—from government custody, detention, or other forms of
21 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
22 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
- 23 2. Petitioner is currently detained at the Dilley Immigration Processing Center in Dilley,
24 Texas. The Dilley Immigration Processing Center lies within the San Antonio Division of
25 the Western District of Texas.
- 26 3. Petitioner is being held without access to a bond hearing and under a categorical no-bond
27 theory, even though Petitioner previously was released from ICE custody in 2024 on
28 parole.

- 29 4. Petitioner is in removal proceedings and has a pending Individual Hearing (“IH”) before
30 the Immigration Court. Even if the Immigration Judge were to deny relief at the IH,
31 Petitioner retains a statutory right to appeal to the Board of Immigration Appeals (“BIA”),
32 and removal would not be executable while administrative review is pending.
- 33 5. Petitioner cannot lawfully be detained for the entire duration of removal proceedings and
34 any ensuing appeal, especially where the Government denies Petitioner any meaningful
35 custody process and makes no individualized findings that Petitioner is a danger or a flight
36 risk.
- 37 6. This District has recently granted habeas relief where DHS asserted a no-bond detention
38 theory under 8 U.S.C. § 1225 against a noncitizen already present in the United States and
39 in regular removal proceedings, ordering immediate release and enjoining further detention
40 under the asserted § 1225 authority. *Brallan Escar Sierra-Linarez v. Bondi*, No.
41 1:25-CV-2154-RP (W.D. Tex. Jan. 14, 2026) (Order Granting Petition for Writ of Habeas
42 Corpus).
- 43 7. Petitioner’s detention presents the same core defects and demands the same result: release,
44 or at minimum a prompt, meaningful custody determination before a neutral adjudicator
45 with authority to release Petitioner, consistent with the INA and due process.

46 II. JURISDICTION AND VENUE

- 47 8. This action arises under the Constitution and laws of the United States, including 28 U.S.C.
48 § 2241; 28 U.S.C. § 1331; the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et
49 seq.; and, to the extent applicable, 5 U.S.C. § 701 et seq.

50 9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) because
51 Petitioner is in federal immigration custody within this District.

52 10. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because Petitioner raises
53 federal questions, including constitutional claims and statutory claims under the INA.

54 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,
55 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

56 12. Venue is proper in the Western District of Texas, San Antonio Division, because Petitioner
57 is detained within this Division, and Petitioner's immediate custodian (the facility
58 administrator/warden) exercises custody within this District.

59 13. A substantial part of the events giving rise to these claims occurred in this District, where
60 Petitioner is physically detained and where Respondents' unlawful custody determination
61 is being implemented.

62 **III. REQUIREMENTS OF 28 U.S.C. § 2243 (PROMPT RETURN, HEARING, AND**
63 **DECISION)**

64 14. Under 28 U.S.C. § 2243, the Court must either grant the writ or issue an order directing
65 Respondents to show cause why the writ should not be granted.

66 15. If an order to show cause issues, Respondents must make a return "within three days"
67 unless the Court allows additional time for good cause, not exceeding twenty days. 28 U.S.C. §
68 2243. Habeas corpus is "perhaps the most important writ known to the constitutional law . . .
69 affording as it does a swift and imperative remedy in all cases of illegal restraint or
70 confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

71 16. Petitioner respectfully requests expedited consideration as necessary and practicable for justice,
72 given the ongoing unlawful deprivation of physical liberty.

73 **IV. PARTIES**

74 17. Petitioner Thi My Ty Phan is a civil immigration detainee currently held at the Dilley
75 Immigration Processing Center in Dilley, Texas.

76 18. Respondent Pamela J. Bondi is sued in her official capacity as the Attorney General of the
77 United States.

78 19. Respondent Kristi Noem is sued in her official capacity as Secretary of the U.S. Department of
79 Homeland Security (“DHS”). DHS is tasked with administering and enforcing federal immigration
80 laws. 8 U.S.C. § 1103(a).

81 20. Respondent Todd M. Lyons is sued in his official capacity as Director of U.S. Immigration and
82 Customs Enforcement (“ICE”), the agency within DHS that manages immigration enforcement
83 and detention.

84 21. Respondent Sylvester Ortega is sued in his official capacity as the ICE Enforcement and
85 Removal Operations Field Office Director with responsibility for detention and removal operations
86 affecting Petitioner.

87 22. The Warden/Facility Administrator of the Dilley Immigration Processing Center is sued in their
88 official capacity and is Petitioner’s immediate physical custodian.

89 23. Respondent Daren K. Margolin is sued in his official capacity as Director of the Executive
90 Office for Immigration Review (“EOIR”), the agency responsible for the immigration courts
91 whose custody-redetermination framework is being applied to Petitioner.

92 **V. FACTUAL ALLEGATIONS**

93 24. Petitioner was detained by ICE on October 30, 2025 and still is currently detained at the Dilley
94 Immigration Processing Center, 300 El Rancho Way, Dilley, Texas 78017.

95 25. ICE records further reflect that Petitioner previously was released from ICE custody on
96 conditions (including Order of Supervision & Release on Own Recognizance), consistent with
97 parole previously granted in 2024.

98 26. Petitioner's removal case is pending before the Pearsall, Texas court. Petitioner is being denied
99 a bond hearing because DHS asserts a categorical "mandatory detention" / no-bond theory, relying
100 on the Government's revised "seeking admission" detention position and the BIA's decision in
101 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025).

102 27. **Petitioner's continued detention is not supported by individualized findings that**
103 **Petitioner is dangerous or a flight risk**, and it deprives Petitioner of any meaningful opportunity
104 to contest the Government's legal misclassification.

105 28. Detention also impairs Petitioner's ability to prepare for the IH, gather evidence, communicate
106 with witnesses, and meaningfully litigate the merits of Petitioner's defenses and applications for
107 relief.

108 29. Even if an Immigration Judge were to deny relief at the IH, Petitioner would retain a
109 statutory right to appeal to the BIA. A removal order is not executable while administrative review
110 is pending, and the Government may not use prolonged detention as a substitute for punishment or
111 as leverage during civil proceedings.

112 **VI. LEGAL FRAMEWORK: DUE PROCESS AND THE INA**

113 A. Due Process

114 30. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in
115 deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507
116 U.S. 292, 306 (1993)).

117 31. Due process requires “adequate procedural protections” to ensure the Government’s asserted
118 justification for confinement outweighs the individual’s liberty interest. *Zadvydas*, 533 U.S. at 690
119 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).

120 32. In the immigration context, the Supreme Court recognizes **only two** permissible purposes for
121 civil detention: preventing flight and mitigating danger to the community. *Zadvydas*, 533 U.S. at
122 690; *Demore*, 538 U.S. at 528.

123 33. “The fundamental requirement of due process is the opportunity to be heard at a meaningful
124 time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

125 34. Under *Mathews*, the Court considers: (1) the private interest affected; (2) the risk of erroneous
126 deprivation and the value of additional safeguards; and (3) the Government’s interests and burdens.
127 *Mathews*, 424 U.S. at 335.

128 35. Petitioner’s private interest is maximal: physical liberty and family integrity.

129 36. The risk of erroneous deprivation is severe where Respondents apply a categorical no-bond
130 theory and deny Petitioner any meaningful custody determination.

131 37. The Government’s legitimate interests can be satisfied through release on conditions,
132 supervision, or bond, rather than categorical, prolonged detention without neutral review.

133 B. Statutory Detention Authority Under the INA

134 38. The INA contains distinct detention authorities. As relevant here, the Government generally
135 detains noncitizens during removal proceedings under 8 U.S.C. § 1226, while § 1225 governs
136 detention associated with arriving noncitizens and certain expedited removal contexts.

137 39. Section 1226(a) authorizes discretionary detention “pending a decision on whether the alien is
138 to be removed,” and it allows for release on bond or conditional release.

139 40. Section 1225(b) addresses detention of “applicants for admission” in specified circumstances
140 and has historically been applied to individuals “seeking admission” at or near entry, not long-term
141 interior residents already in removal proceedings.

142 41. The Supreme Court has recognized this structural distinction: §1225 addresses noncitizens
143 “seeking admission into the country,” while §1226 addresses noncitizens “already in the country.”
144 *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

145 42. Respondents’ categorical theory seeks to treat noncitizens encountered in the interior as if they
146 are perpetually “seeking admission” under §1225 in order to eliminate bond jurisdiction, even
147 when the person is in regular removal proceedings and the Government cannot point to a lawful
148 basis to apply §1225.

149 43. Courts addressing this issue have explained that when Respondents argue detention is
150 “mandatory” and “no one, including the [immigration judge], can review the detention issue,”
151 requiring administrative exhaustion would be futile.

152 44. In *Brallan Escar Sierra-Linarez*, the Western District of Texas held the petitioner was
153 unlawfully detained under the Government’s asserted §1225 authority and ordered immediate

154 release and an injunction against further detention under the asserted § 1225 basis.

155 45. That Order recognized that Respondents' own actions can demonstrate the weakness of a §
156 1225 theory: when DHS previously released a person under §1226, that is inconsistent with
157 mandatory detention under §1225.

158 46. *Jennings* confirms that § 1225 contains an express parole exception, implying there are no
159 other circumstances under which persons detained under § 1225 may be released. *Jennings*, 583
160 U.S. at 283.

161 47. Here, ICE records reflect that Petitioner previously was released from ICE custody on
162 conditions consistent with parole/release rather than treated as categorically subject to mandatory
163 no-bond custody.

164 48. Petitioner is therefore entitled to habeas relief where Respondents misapply § 1225 to impose
165 categorical no-bond detention, contrary to the INA's structure and due process.

166 VII. JURISDICTIONAL AND REVIEWABILITY ARGUMENTS (NO § 1252 BAR)

167 49. Respondents cannot evade habeas review by invoking 8 U.S.C. § 1252's "no review"
168 provisions where Petitioner challenges unlawful detention rather than seeking direct review of a
169 removal order.

170 50. Section 1252(g) bars jurisdiction only over challenges to three discrete actions: commencement
171 of removal proceedings, adjudication of removal proceedings, and execution of removal orders.
172 *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

173 51. Petitioner challenges ongoing detention incident to removal proceedings, not the
174 commencement, adjudication, or execution of removal. Thus § 1252(g) does not bar jurisdiction.

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176 52. Section 1252(b)(9) does not swallow detention challenges. The Supreme Court rejected an
177 “expansive interpretation” of § 1252(b)(9) as “absurd” and producing “staggering results.”
178 *Jennings*, 583 U.S. at 293–94.

179 53. Because Petitioner challenges only ongoing detention during proceedings, § 1252(b)(9)
180 presents no jurisdictional bar.

181 54. Section 1252(e)(3) does not strip jurisdiction where Petitioner challenges unlawful detention
182 without a bond hearing and does not bring a systemic challenge to the overall expedited removal
183 scheme.

184 55. For these independent reasons, this Court retains jurisdiction to adjudicate Petitioner’s
185 statutory and constitutional detention claims.

186 **VIII. CLAIMS FOR RELIEF**

187 COUNT I: Violation of the Due Process Clause of the Fifth Amendment

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

189 57. Respondents have deprived Petitioner of physical liberty without a meaningful opportunity to
190 be heard before a neutral decision-maker with authority to release Petitioner.

191 58. Respondents’ categorical no-bond detention theory creates an unconstitutional risk of
192 erroneous deprivation of liberty and is not accompanied by adequate procedural safeguards.
193 *Mathews*, 424 U.S. at 333–35; *Zadvydas*, 533 U.S. at 690.

194 59. Respondents have not made individualized findings establishing that Petitioner poses a danger
195 to the community or presents a flight risk, and continued detention is not narrowly tailored to any
196 legitimate civil purpose.

197 60. Petitioner's ongoing detention therefore violates substantive and procedural due process under
198 the Fifth Amendment.

199 COUNT II: Violation of the Immigration and Nationality Act (Ultra Vires Detention)

200 61. Petitioner repeats and incorporates by reference all allegations above as if fully set forth herein.

201 62. Respondents are detaining Petitioner under an unlawful no-bond theory and/or an inapplicable
202 detention provision, improperly treating Petitioner as if subject to § 1225 rather than the
203 discretionary detention framework that governs noncitizens already present in the country and in
204 regular removal proceedings. *Jennings*, 583 U.S. at 289.

205 63. As in *Brallan Escar Sierra-Linarez*, Respondents' asserted § 1225 detention authority is
206 unlawful where Petitioner is not an "arriving" noncitizen subject to mandatory no-bond detention
207 under the Government's theory, and Respondents' detention exceeds statutory authority.

208 64. Respondents' continued detention of Petitioner is therefore *ultra vires* and contrary to the INA.

209 COUNT III: Administrative Procedure Act (To the Extent Applicable)

210 65. Petitioner repeats and incorporates by reference all allegations above as if fully set forth herein.

211 66. To the extent Respondents' categorical no-bond approach reflects an agency action or practice
212 that is "not in accordance with law" or "contrary to constitutional right," it is unlawful under the
213 Administrative Procedure Act. 5 U.S.C. § 706(2)(A), (B).

214 67. Respondents' detention policy/practice, as applied to Petitioner, is arbitrary, capricious,
215 contrary to the INA's structure, and unconstitutional.

216 COUNT IV: Suspension Clause

217 68. Petitioner repeats and incorporates by reference all allegations above as if fully set forth herein.

218 69. If Respondents' reading of § 1252 were accepted to foreclose habeas review of Petitioner's
219 detention misclassification and categorical no-bond custody, it would raise serious Suspension
220 Clause concerns because Petitioner would be deprived of meaningful review of unlawful physical
221 restraint.

222 IX. REQUEST FOR RELIEF

223 70. WHEREFORE, Petitioner respectfully requests that this Court:

- 224 1) Assume jurisdiction over this matter.
- 225 2) Issue an order directing Respondents to show cause why the writ should not be granted,
226 consistent with 28 U.S.C. § 2243.
- 227 3) Declare that Respondents' continued detention of Petitioner under the asserted no-bond / §
228 1225 theory is unlawful.
- 229 4) Grant the writ of habeas corpus and order Respondents to immediately release Petitioner
230 from custody under conditions no more restrictive than those in place prior to the detention
231 at issue, consistent with the relief ordered in all similar cases out of this District and the
232 Districts nationwide. See *Brallan Escar Sierra-Linarez v. Bondi*, No. 1:25-CV-2154-RP
233 (W.D. Tex. Jan. 14, 2026).
- 234 5) In the alternative, if the Court does not order immediate release, compel Respondents to
235 provide Petitioner a prompt, meaningful custody determination before a neutral adjudicator
236 with authority to release Petitioner under the correct statutory framework.

- 237 6) Enjoin Respondents from transferring Petitioner outside the Western District of Texas
238 while this matter is pending, and enjoin removal while this Court adjudicates this Petition,
239 to protect this Court's jurisdiction and prevent irreparable harm.
- 240 7) Order Respondents to provide a status report detailing compliance with any release/custody
241 order, as the Court deems appropriate.
- 242 8) Grant such other and further relief as the Court deems just and proper.

243 Respectfully submitted this 15th day of January 2026.

244 /s/ *Georgia Santos Laurent*
245 Georgia Santos Laurent
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249 Email: georgia@sanlaurentlaw.com
250 Counsel for Petitioner

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

261 I represent Petitioner Thi My Ty Phan and submit this verification on Petitioner's behalf. I verify
262 that the factual statements made in the foregoing Petition are true and correct to the best of my
263 knowledge, information, and belief, based on consultation notes, communications with Petitioner
264 and/or Petitioner's family, and the available records referenced herein, including ICE detention
265 information and EOIR case information.

266 Dated: January 15, 2026

267 /s/ *Georgia Santos Laurent*
268 Georgia Santos Laurent
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CERTIFICATE OF SERVICE

286 I certify, in accordance with the rules of this Court, I filed the foregoing via the Court's CM/ECF
287 system, which will send notice to all registered counsel of record.

288 January 16, 2026.

289 
290

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