UNITED STATES DISTRICT COURT
MIDDLE DISTRICT ALABAMA

MARIA ESTELA TETLA MARTINEZ Petitioner, vs. SCOTT BYRD, *Sheriff, Coffee County Detention Center;* MELLISSA HARPER, *ICE New Orleans Field Office Director*; TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security* And PAMELA BONDI, *U.S. Attorney General.* Respondent.	CASE NO.: 1:26-cv-45

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATIVE AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This Petition challenges the current and impending unlawful detention of Petitioner, Maria Estela Tetla Martinez ("Petitioner"), by U.S. Immigration and Customs Enforcement (ICE) at Coffee County Detention Center, New Brockton, AL 36351. Although Petitioner's name does not appear in the ICE Locator system, this information has been confirmed by Petitioner's family member, who has provided details about her current location and detention. Petitioner is neither a flight risk nor a danger to the community. Petitioner's detention is unlawful under every conceivable statutory theory, trapping Respondents in a legal "Catch-22" of their own making. The detention is void *ab initio* because it began with an illegal warrantless arrest and is now perpetuated under a statute that has no application to

her. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the country, and Respondents satisfied neither.

2. The primary authority, 8 U.S.C. § 1226(a), unequivocally requires that an arrest be conducted **"[o]n a warrant** issued by the Attorney General," a warrant Respondents failed to obtain. The statute's narrow exception for a warrantless arrest, 8 U.S.C. § 1357(a)(2), is equally inapplicable, as it permits such an arrest only where an officer has reason to believe the individual is "likely to escape before a warrant can be obtained." It was factually impossible for Petitioner to pose such a risk, as she was already secured in local law enforcement custody when ICE assumed control. Compounding this illegality, Respondents now attempt to justify the detention by misclassifying Petitioner—a resident of the United States for over a decade—as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b). This argument fails as a matter of law. Section 1225(b) governs the inspection and detention of noncitizens at the border who are "seeking admission"; it does not apply to an individual like Petitioner, who was arrested long after entry and deep within the interior of the country. This leaves Respondents with no lawful basis for the initial seizure. Furthermore, offering a bond hearing now cannot cure this fundamental defect. A bond hearing under 8 U.S.C. § 1226(a) is a procedural safeguard that follows a *lawful* arrest under that same statute. It is not a remedy for an unlawful arrest that violated the statute's own warrant requirement from the outset. To hold otherwise would be to retroactively sanitize an illegal seizure, rendering the warrant requirement in § 1226(a) meaningless. The government

cannot violate the law to seize a person and then offer the procedures that would have followed a lawful seizure as a cure. Because the arrest itself was illegal, the entire detention is the fruit of a poisonous tree, and the only constitutionally sufficient remedy is immediate and unconditional release.

3. While Petitioner's initial arrest was by local police, she currently has an ICE hold, and while her criminal case will be dismissed on January 22, 2026, ICE is scheduled to take over her custody based on unlawful and unconstitutional reasons. The government's recent policy shift—reclassifying noncitizens who entered without inspection as "arriving aliens" subject to mandatory detention under 8 U.S.C. § 1225(b)—contradicts the statute, decades of established statutory interpretation, agency regulations and practice, and binding precedent. Petitioner, apprehended in the interior years after entry, is entitled to discretionary bond hearings under 8 U.S.C. § 1226(a), not mandatory detention without judicial review. This legal theory has been repudiated by a tidal wave of HUNDREDS of recent district court decisions nationwide. *See* Exhibit 1, all rejecting Respondents' position. Although this District's has not had similar cases, as far as undersigned counsel is aware, there are ample decisions from within the 11th Circuit that support Petitioner's position.

4. Despite being apprehended within the interior of the United States long after arrival rather than at the border, Petitioner is now deemed ineligible for bond due to an entry without inspection. This stems from a controversial policy shift by ICE in July 2025, which aligns with a recent Board of Immigration Appeals (BIA) decision. This decision disrupts decades of established legal precedent by

introducing a novel interpretation of the Immigration and Nationality Act (INA). This interpretation, which contradicts both the statute's clear language and constitutional principles, reclassifies all noncitizens who entered without inspection, including the Petitioner, as "arriving aliens" or "applicants for admission." Consequently, they are subject to mandatory detention under 8 U.S.C. § 1225(b), rendering them ineligible for bond hearings by immigration judges. However, this policy has now been VACATED under the Administrative Procedures Act (APA) through a final, binding court order yet Respondents still continue to follow that policy, despite a final, binding judgement. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). See below full discussion regarding this case and its implications.

5. While § 1225 mandates detention without bond for noncitizens apprehended at the border as "seeking admission," it does not apply to those like the Petitioner, who was detained within the United States long after arrival here. Therefore, the Petitioner seeks a declaratory judgment from this Court affirming that Petitioner's detention is governed by 8 U.S.C. § 1226(a). The Petitioner requests an order for Petitioner's immediate release due to the unlawful arrest. Additionally, Petitioner requests that Respondent be prohibited from re-detaining Petitioner unless there are changed circumstances warranting re-arrest as detailed below.

6. Respondent's actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution by depriving Petitioner of liberty without individualized assessment or a meaningful opportunity to be heard before a neutral decisionmaker. The agencies' interpretation also contravenes the INA and its implementing

regulations, the Administrative Procedure Act (APA), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions. Numerous federal courts have rejected the government's novel reading of the detention statutes, reaffirming that interior apprehensions are governed by § 1226(a) and entitled to bond review.

7. Petitioner seeks immediate habeas, declaratory, and injunctive relief, ordering Respondent to be directed to immediately release Petitioner from custody. A detailed statement of facts and procedural history follows, supporting Petitioner's claims for relief.

II. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

8. This Court has jurisdiction under several legal provisions, including 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus, and 28 U.S.C. § 1331, which provides for federal question jurisdiction. Jurisdiction over habeas claims is conferred by 28 U.S.C. § 2241, while non-habeas claims for declaratory and injunctive relief arise under 28 U.S.C. § 1331, the APA, and the Declaratory Judgment Act.

9. Additionally, jurisdiction is supported by Article I, § 9, cl. 2 of the Constitution, known as the Suspension Clause, and Article III, Section 2, which addresses the Court's authority to hear constitutional issues raised by the Petitioner. Petitioner seeks immediate judicial intervention to address ongoing violations of constitutional rights by the Respondent. This action is grounded in the United States Constitution, the Immigration & Nationality Act of 1952, as amended (INA), 8 U.S.C. § 1101 *et seq.*, and the APA, 5 U.S.C. § 551 *et seq*. Furthermore, the Court

may also exercise jurisdiction under 28 U.S.C. § 1331, as the action arises under federal law, and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

10. The Court has authority to issue a declaratory judgment and to grant temporary, preliminary, and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202. Additionally, the Court can utilize the All Writs Act and its inherent equitable powers to provide such relief. Furthermore, the Court has the authority to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

11. This Court possesses federal question jurisdiction under the APA to "hold unlawful and set aside agency action" deemed "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," as outlined in 5 U.S.C. § 706(2)(A). In the absence of a specific statutory review process, APA review of final agency actions can proceed through "any applicable form of legal action," which includes actions for declaratory judgments, writs of prohibitory or mandatory injunction, or habeas corpus, in a court of competent jurisdiction, as specified in 5 U.S.C. § 703.

12. In *I.N.S. v. St. Cyr*, the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). 533 U.S. 289 (2001). Consequently, section 2241 habeas review remains available to Petitioner.

13. The U.S. Supreme Court has recognized district courts' jurisdiction to entertain

habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law. Even though the government may detain individuals during removal proceedings, *Demore v. Kim*, 538 U.S. 510 (2003) (although that case involved detention under §1226(c) of certain criminal aliens), there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government's power to detain noncitizens. It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Courts must review immigration procedures and ensure that they comport with the Constitution.

14. Federal courts have retained the statutory authority to grant writs of habeas corpus since enactment of the Judiciary Act of 1789. In *Felker v. Turpin*, 518 U.S. 651 (1996), the Supreme Court declined to find a repeal of § 2241 by implication as to its original habeas corpus jurisdiction. See also *Boumediene v. Bush,* 553 U.S. 723 (2008). In addition to the Supreme Court in many cases, all Circuit Courts of Appeals have recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law.

15. In this case, Petitioner asserts substantial constitutional violations—including deprivation of liberty without due process, arbitrary and capricious agency action, violations of the *Accardi* doctrine, and other injuries without notice or opportunity to be heard. These claims fall squarely within the scope of habeas review preserved

by statute and recognized by controlling precedent. Accordingly, this Court has both the authority and the obligation to adjudicate the constitutional and statutory claims presented in this Petition and to grant appropriate relief to remedy ongoing violations of Petitioner's rights.

B. The INA's Jurisdictional-Channeling Provisions Are Inapplicable

16. Petitioner's claims challenge only her civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)'s channeling provision. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (detention challenges are not "questions of law or fact arising from" removal proceedings). Consistent with that framing, any injunctive relief sought here is strictly as-applied to Petitioner—for example, directing Petitioner's release under § 1226(a) or barring application of § 1225 as to Petitioner —and does not "enjoin or restrain the operation" of any statute within § 1252(f)(1)'s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).

17. Section 1252(f)(1) does not bar the individualized injunctive relief sought here. That provision limits lower courts' authority to "enjoin or restrain the operation" of the INA's detention and removal provisions on a class-wide or programmatic basis but expressly preserves injunctive relief "with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1); *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as-applied relief tailored to Petitioner —e.g.,

directing Petitioner's release under § 1226(a) or precluding DHS from enforcing the "arriving alien" definition of § 1225 toward Petitioner. That relief neither halts the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)'s carveout.

18. Section 1252(g) is likewise inapplicable. It is a "narrow" jurisdictional bar that applies only to three discrete decisions or actions: "to commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS's use of an unlawful interpretation to nullify the plain language of the INA and its regulations as applicable to these agencies. Such detention related claims and challenges to custody procedures fall outside § 1252(g). *See id.* at 482–83; cf. *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (§ 1252(b)(9) does not channel detention claims).

19. Section 1252(e)(3) is likewise inapplicable as it is narrowly tailored to channel systemic or facial challenges to the validity of the expedited removal "system" or its implementing regulations and written policies to the U.S. District Court for the District of Columbia, and only within 60 days of implementation. It does not bar as-applied, individualized habeas challenges to the legality or constitutionality of a particular noncitizen's detention under § 1225(b)(2) or whether § 1225 governs Petitioner's detention or § 1226. The text of § 1252(e)(3) is explicit: it covers "[c]hallenges on the validity of the system" and review of "whether such a regulation, or a written policy directive, written policy guideline, or written

procedure ... is not consistent with applicable provisions of this title or is otherwise in violation of law." It does not preclude review of the legality of detention as applied to a specific individual, nor does it bar habeas review of constitutional claims or claims that the government is misapplying the statute in a particular case.

20. **To prevent ouster of this Court's habeas jurisdiction, the Court should, pursuant to 28 U.S.C. § 1651(a) (All Writs Act) and 28 U.S.C. § 2241, issue an immediate limited order prohibiting Respondent from transferring Petitioner outside the court's District or otherwise changing Petitioner's immediate custodian without prior leave of Court while this action is pending**. Such relief is necessary in aid of jurisdiction because habeas is governed by the district-of-confinement/immediate-custodian rule, and transfer can frustrate effective review. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004); *Ex parte Endo*, 323 U.S. 283, 307 (1944); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966).

III. VENUE

21. Venue is proper in the United States District Court for the Middle District of Alabama because Petitioner is currently detained at the Coffee County Detention Center, Alabama, under the custody of the Department of Homeland Security (DHS). Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events

or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, the Respondents are officers of United States agencies, the Petitioner resides within this District, and there is no real property involved in this action.

IV. PARTIES

22. Petitioner Maria Estela Tetla Martinez is a 47-year-old noncitizen who has resided in the United States since February 2002, after entering the country without inspection. She resides in Enterprise, Alabama, and is the mother of 3 U.S. Citizen children, ages 22, 19, and 17. She is currently detained at the Coffee County Detention Center. The Petitioner poses no danger to the community nor risk of flight.

23. Respondent Scott Byrd is the Sheriff of the Coffee County Detention Center in New Brockton, Alabama. As such, Respondent Byrd is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Scott Byrd has immediate physical custody of the Petitioner and is sued in his official capacity.

24. Respondent Mellissa Harper is the New Orleans Field Office Director (FOD) for ICE. As such, Respondent Harper is responsible for the oversight of ICE operations throughout Alabama. Respondent Harper is being sued in her official capacity. She

is the head of the ICE office that will arrest Petitioner. She is sued as the immediate *legal* custodian of Petitioner.

25. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.

26. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Noem is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

27. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as her designees at the Executive Office for Immigration Review (EOIR).

28. Petitioner name certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA's waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner,

ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

29. Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as "habeas respondents." Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive relief, and to direct agency action to those with actual authority to implement it. Should the Court find these officials improper as respondents to the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as respondents for the non-habeas claims. Maintaining these officials as parties is necessary to ensure that, if relief is granted, the responsible agency officials cannot simply re-arrest Petitioner or otherwise frustrate the Court's order by invoking their erroneous interpretation of the INA. This approach is consistent with *Padilla* and ensures that the Court's orders are both effective and enforceable.

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

30. Petitioner Maria Estela Tetla Martinez is a 47-year-old noncitizen who has resided in the United States since February 2002, for nearly 24 years, after entering the country without inspection. She has never been encountered by immigration

authorities upon entry and has never been the subject of removal proceedings, a prior removal order, or any immigration petition. Petitioner resides in Enterprise, Alabama and is the mother of 3 U.S. Citizen children, ages 22, 19, and 17. She has no criminal history, and this incident constitutes her first arrest. One of her children has joined the Marines and has a pending family-based immediate relative application for her, as well as an application for Parole-In-Place, which, if granted, can lead to Lawful Permanent Resident Status.

31. On October 25, 2025, Maria Estela Tetla Martinez was arrested at her residence in Enterprise, Alabama, in connection with an alleged domestic violence incident. At the time of her arrest, there was no outstanding immigration detainer or prior removal order against her, and she had no criminal history beyond minor traffic-related infractions.

32. Following her arrest, she was taken into custody at the Coffee County Jail, where she remains detained. At no point during or after the arrest was she served with a Notice to Appear (NTA), nor was she formally placed into removal proceedings. ICE has not yet issued a warrant for her arrest, only a hold. Additionally, there is no record of prior encounters with U.S. immigration authorities, including ICE, at the time of her entry into the United States.

33. Notably, the Petitioner is an applicant for immigration-related benefits, stemming from having adult U.S. citizens children, which demonstrates her eligibility for lawful immigration relief and weighs strongly against continued detention.

34. Petitioner's detention is based solely on ICE's erroneous classification of similar noncitizens as an "arriving alien" or "applicant for admission", subject to

mandatory detention under 8 U.S.C. § 1225(b). Petitioner was apprehended in the interior of the United States several years after entry, and therefore, Petitioner's detention should be governed by 8 U.S.C. § 1226(a), which allows for discretionary release on bond or recognizance.

35. Because Respondents continue to treat Petitioner as detained under § 1225(b), any request for bond redetermination before an Immigration Judge would be futile, as the Immigration Court has already disclaimed jurisdiction over such requests. Accordingly, habeas relief is the only available and effective remedy to secure Petitioner's release or a lawful custody hearing.

36. Petitioner is neither a danger nor a flight risk. Less-restrictive alternatives remain available and adequate such as release on recognizance or posting a low bond.

37. Any detention under these circumstances imposes unnecessary hardships on the Petitioner and her family, depriving them of financial and emotional support, and violating the Petitioner's right to due process and freedom from arbitrary detention.

38. Upon information and belief, as of the time of filing of this Writ of Habeas, Petitioner remains confined at the Coffee County Detention Center, New Brockton, AL, solely because of ICE's invocation of its new interpretation that Petitioner is an "arriving alien" or "applicant for admission" and is therefore subject to mandatory detention. Even if Petitioner was to file for a bond redetermination with the immigration judge, they would deny it pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216. All Respondents consider that all noncitizens who entered without inspection are detained pursuant to 8 U.S.C. § 1225(b)(2). Accordingly, it would be futile for Petitioner to request a bond for release from an IJ. Due to the

binding nature of *Matter of Yajure Hurtado*, all immigration courts known to counsel are denying bond requests for similarly situated noncitizens, making habeas the only effective remedy. Similarly, even in cases an IJ would grant bond, ICE would appeal it which would leave Petitioner incarcerated through the appeal, which would take months and end up dismissed based on *Yajure Hurtado.*

VI. EXHAUSTION OF REMEDIES

39. **No statutory exhaustion requirement applies to habeas cases,** and the recent interpretations by DHS and EOIR have effectively closed all administrative avenues for securing release for noncitizens, like Petitioner, who entered the U.S. without inspection. ICE's internal policy from July 2025, coupled with the EOIR's Board of Immigration Appeals (BIA) precedent, mandates that immigration judges deny bond to the Petitioner and similarly situated noncitizens, rendering any further administrative steps futile. An administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it as noted in *Gibson v. Berryhill*, 411 U. S. 564, 575, n. 14 (1973). Requiring Petitioner to seek reconsideration with ICE or a bond hearing with an immigration judge "would be to demand a futile act" as no relief would be granted while Petitioner languishes in detention, as highlighted in *Houghton v. Shafer*, 392 U.S. 639, 640 (1968). Moreover, even if any remedies were available, the habeas statute does not require Petitioner to exhaust them.

40. Furthermore, even if applied, the doctrine of exhaustion of administrative remedies would have been futile on claim attacking constitutionality of ICE's actions and ICE's and EOIR's current interpretations of the mandatory detention provisions.

Administrative hearings cannot address the constitutional claims at issue, rendering further proceedings ineffective. Moreover, where ICE seeks to quickly remove noncitizens like Petitioner even to third countries, without due process, particularly under the current administration's policies, underscores the inadequacy of administrative remedies. *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992) (futility exception to exhaustion applies where administrative remedies are inadequate or unavailable). Thus, pursuing such remedies would be an exercise in futility, as they fail to provide any meaningful opportunity to address the constitutional violations at hand.

41. Petitioner has exhausted administrative remedies to the extent required by law, and Petitioner's only remedy is by way of this judicial action.

VII. PETITIONER'S ARREST AND DETENTION ARE UNLAWFUL *AB INITIO*

42. Petitioner's detention is unlawful from its very inception because her arrest by ICE violated the clear and restrictive statutory framework established by Congress. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the United States. The primary authority, 8 U.S.C. § 1226(a), explicitly requires that an arrest be conducted **"[o]n a warrant** issued by the Attorney General". The statute provides a narrow exception to this rule in 8 U.S.C. § 1357(a)(2), which permits a warrantless arrest only where an officer has reason to believe the individual is unlawfully present and is "likely to escape before a warrant can be obtained." Respondents satisfied neither of these statutory requirements, rendering the seizure of Petitioner a legal nullity from the

outset.

43. The warrantless seizure of Petitioner was statutorily invalid because Respondents could not possibly meet the exigency requirement of 8 U.S.C. § 1357(a)(2). The "likely to escape" determination is a mandatory prerequisite, not mere surplusage. See *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 878 (S.D. Ohio 2016). Here, it was a factual impossibility for Petitioner to pose a risk of escape, as she is secured in the custody of other law enforcement. Since the exception for a warrantless arrest is inapplicable, Respondents' only remaining authority was 8 U.S.C. § 1226(a), which required a warrant that Respondents did not possess. Having failed under both statutory provisions, the arrest was void ab initio.

44. Because the arrest was fundamentally unlawful, the only constitutionally sufficient remedy is immediate and unconditional release. A subsequent administrative bond hearing is wholly inadequate, as it cannot cure the initial violation of Petitioner's liberty. The government's continued custody of Petitioner is the direct "fruit of the poisonous tree"—the poisonous tree being the illegal arrest itself. *See Wong Sun v. United States*, 371 U.S. 471, 484–88 (1963); *Silverthorne Lumber Co. v. United States*, 251 U.S. 385, 392 (1920). Allowing subsequent proceedings, like a bond hearing, to continue would improperly legitimize a detention that never had a lawful basis. Ordering such a hearing would treat the detention as if it were lawfully initiated under 8 U.S.C. § 1226(a), rewarding Respondents for bypassing the statute's explicit warrant requirement. As other courts have concluded, where detention is based on an unlawful arrest and derivative evidence is suppressed, the

appropriate remedy is immediate release. *See Rosado v. Figueroa*, No. CV-25-02157-PHX DLR, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Law and justice require restoring the liberty that was unlawfully taken

45. Petitioner's detention is thus unlawful under any statutory theory Respondents could possibly advance. Petitioner's detention was initiated under 8 U.S.C. § 1225, a statute this Court has repeatedly found inapplicable to interior apprehensions in dozens of cases involving similarly situated petitioners. Yet, even if Respondents had attempted to detain her under the correct statute for interior apprehensions, 8 U.S.C. § 1226(a), the arrest would still be void because they failed to obtain the prerequisite warrant that the statute unequivocally requires. These are not mere procedural missteps; an arrest conducted without any statutory authority is an unreasonable seizure that violates the Fourth Amendment. Because the initial seizure and subsequent detention are unlawful *ab initio* under either statutory scheme, the only appropriate and constitutionally sufficient remedy is the one that restores the liberty that was illegally taken: immediate and unconditional release. A bond hearing under § 1226(a) is an inadequate remedy because it presupposes a lawful arrest under that statute—a condition that does not exist here.

VIII. LEGAL FRAMEWORK AND ARGUMENT

A. Foundational Constitutional Protections and Habeas Jurisdiction

46. Although undersigned counsel is not aware of any similar cases in the Middle District of Alabama, dozens of courts within the 11th Circuit and hundreds nationwide have granted habeas relief to similarly-situated individuals, establishing a clear path for this Court to follow.

47. It is a bedrock principle of constitutional law that the Fifth Amendment's Due Process Clause protects all "persons" within the United States from deprivation of liberty without due process, a protection that extends to all noncitizens, regardless of whether their presence is "lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also Landon v. Plasencia*, 459 U.S. 21, 32 (1982); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690.

48. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of civil immigration detention. *See Zadvydas*, 533 U.S. at 687; *I.N.S. v. St. Cyr*, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As "perhaps the most important writ known to the constitutional law," habeas corpus is an equitable tool that empowers this Court not just to review custody, but to "dispose of the matter as law and justice require" under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963). That power explicitly includes ordering a petitioner's immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008).).

B. Respondents' Detention of Petitioner is Unlawful Under the Plain Text and Structure of the INA

49. Petitioner's detention is unlawful because Respondents have misapplied the Immigration and Nationality Act (INA), subjecting her to a detention statute that

has no application to Petitioner. The INA creates two distinct detention frameworks: 8 U.S.C. § 1225 governs the inspection and mandatory detention of noncitizens at the border who are "arriving" or "seeking admission," while 8 U.S.C. § 1226 governs the discretionary detention of noncitizens apprehended in the interior of the United States. Petitioner, a long-term resident apprehended deep within the interior, falls squarely within the latter category.

(1) ***The Plain Language and Statutory Definitions Show § 1225 Does Not Apply to Petitioner.***

50. An analysis of the INA's plain text, structure, and definitions confirms that § 1225 is exclusively a border statute. The provision is titled "Inspection of applicants for admission." Heading of a section are "tools available for the resolution of a doubt about the meaning of a statute" and can provide important cues about congressional intent, especially where the operative text is ambiguous or subject to competing interpretations. See *Yates v. United States*, 574 U.S. 528, 539–40 (2015); *Almendarez–Torres v. United States*, 523 U.S. 224, 234 (1998); *Trainmen v. Baltimore & Ohio R. Co.*, 331 U.S. 519, 528–29 (1947). The heading of INA § 1225—"**Inspection of applicants for admission**"—signals that Congress intended this section to govern the process of inspecting individuals who are seeking entry into the United States **at a designated inspection point**, such as a border crossing or port of entry, not those who entered years ago and are apprehended in the interior.

51. The INA's definitional and structural clues are powerfully confirmed by the plain text of the specific provision Respondents invoke, 8 U.S.C. § 1225(b)(2)(A), which definitively forecloses its application to Petitioner. The statute reads:

> "[I]n the case of an alien who is an applicant for admission, if the **examining immigration officer determines** that an

> alien **seeking admission** is not clearly and beyond a doubt **entitled to be admitted**, the alien shall be detained..."

This language describes a specific and singular scenario: a formal inspection at a physical port of entry. The function of an "**examining immigration officer**" making a real-time determination about whether an individual is "**entitled to be admitted**" occurs exclusively at the border, an airport, or a seaport during the inspection process. It is a term of art for the threshold screening of a person who is literally and physically "seeking admission" into the country.

52. The statute's operative terms are consistently temporal and geographical, focused on the moment of entry. An "arriving alien" is defined by regulation as "an applicant for admission coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1.2. The use of the present participles "arriving," "coming," and "seeking" demonstrates that this status applies only to those at the threshold of entry. As the court in *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025), explained, "'seeking admission' implies action–something that is currently occurring, and in this instance, would most logically occur at the border upon inspection."

53. The term "admission" is defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). "Entry" has long been understood to mean "a crossing into the territorial limits of the United States." *Matter of Ching and Chen*, 19 I&N Dec. 203, 205 (BIA 1984) (citing *Matter of Pierre*, 14 I & N Dec. 467, 468 (BIA 1973)).

54. The statute's focus on the present tense—using terms like "arriving" and "seeking admission"—is consistent with the long-standing "entry fiction," which applies only

at the border. Once an individual has entered the United States and established presence, they are no longer "arriving" or "seeking admission" in the present sense. Respondents' recent attempt to reclassify long-term residents as perpetual "arriving aliens" ignores this plain, present-progressive meaning of the term and the statutory context in which it appears. To interpret it otherwise would distort both the ordinary meaning of the language and the entire statutory structure Congress enacted.

55. Petitioner, having entered the United States in 2002, is not "seeking admission." As one court poignantly articulated in rejecting the government's theory, someone who has already entered a movie theater without a ticket is described as being "already present there," not as "seeking admission." *Lopez Benitez v. Francis*, —— F.Supp.3d at ——, 2025 WL 2371588, at *7. Petitioner was never brought before an "examining immigration officer" to determine if she was "entitled to be admitted" because that process occurs only at the border. She is already here.

56. Moreover, an "application for admission" refers to the physical act of requesting entry, not to the act of contesting removability years later. See *Jose Alejandro v. Olson*, No. 1:25-cv-02027-JPH-MKK, 2025 WL 2896348 (S.D. Ind., October 11, 2025) (rejecting the government's argument that a petitioner is "seeking admission" merely because he has not agreed to depart or conceded removability).

57. The statutory definition in 8 U.S.C. § 1101(a)(4) makes clear that the term "application for admission" refers **specifically to the act of seeking entry into the United States at a physical border or port of entry, and not to the process of applying for an immigrant or nonimmigrant visa abroad**. The statute provides: "The term 'application for admission' has reference to the application for admission

into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa." This language underscores that Congress intended "applicant for admission" to mean individuals who are at the threshold of entry, **actively seeking to be inspected and admitted by immigration authorities**. It does not encompass those who entered the country unlawfully years ago and have since established residence in the interior.

58. Furthermore, Petitioner is statutorily barred from "seeking admission" due to her unlawful presence, which triggers a 10-year bar to reentry if she departs. *See* 8 U.S.C. § 1182(a)(9)(B)(i)(II). The relief Petitioner intends to seek, Cancellation of Removal under 8 U.S.C. § 1229b(b), is available only to those already present in the U.S. and is distinct from seeking admission.

59. The Ninth Circuit in *Torres v. Barr*, 976 F.3d 918 (9th Cir. 2020), held unequivocally that an "application for admission" is a discrete, temporal event, not a continuous status that attaches to a person indefinitely after entry. *Id.* at 926. The court clarified that while 8 U.S.C. § 1225(a)(1) may "deem" certain individuals as applicants for admission for procedural purposes, this legal fiction does not transform their status for substantive purposes like mandatory detention. *Id.* at 928. Similarly, the Fifth Circuit in *Marques v. Lynch*, 834 F.3d 549 (5th Cir. 2016), held that inadmissibility and related detention provisions do not apply retroactively to long-term residents apprehended in the interior. *Id.* at 553–54.

(2) ***Respondents' Interpretation Renders § 1226 and Other INA Provisions Superfluous.***

60. Respondents' novel interpretation violates the fundamental canon of statutory construction that courts must "give effect, if possible, to every clause and word of a statute." *Duncan v. Walker*, 533 U.S. 167, 174 (2001). If, as Respondents contend,

every person who entered without inspection is perpetually an "applicant for admission" subject to mandatory detention under § 1225, then the INA's carefully crafted detention scheme collapses into incoherence.

61. First, it would render § 1226(a)'s discretionary bond framework, which the Supreme Court has called the "default" detention provision, almost entirely superfluous. *Jennings*, 583 U.S. at 288. There would be no clear circumstances under which it would apply, aside from the small subset of noncitizens who overstayed a visa. There is no indication Congress intended § 1226 to have such a narrow reach. *See Lopez Benitez*, 2025 WL 2371588, at *8.

62. Second, it would make the mandatory detention provision for certain criminals in § 1226(c) redundant. Congress would not have needed to create a specific list of criminal offenses that trigger mandatory detention if all individuals who entered without inspection—criminal or not—were already subject to mandatory detention under § 1225. Likewise, the 2025 Laken Riley Act, which expanded the categories of crimes under § 1226(c), would have been a pointless legislative exercise if Respondents' theory were correct. The existence and amendment of § 1226(c) only make sense if there is a large population of noncitizens, including those who entered without inspection, who are otherwise eligible for a bond hearing under § 1226(a).

63. Third, it would nullify the distinction between separate grounds of inadmissibility. The INA has long distinguished between inadmissibility for entry without inspection under 8 U.S.C. § 1182(a)(6) and inadmissibility for lack of valid documents at a port of entry under 8 U.S.C. § 1182(a)(7). The existence of these separate charges reflects Congress's intent to treat border cases and interior

apprehensions differently.

C. The Very Structure of 8 U.S.C. § 1226 Forecloses Respondents' Interpretation and Confirms Discretionary Release Is the Default

64. The architecture of 8 U.S.C. § 1226, the statute titled "Apprehension and detention of aliens," provides the clearest rebuttal to Respondents' legal theory. The relationship between its subsections demonstrates a deliberate legislative choice by Congress: discretionary, individualized bond review is the default for noncitizens apprehended in the interior, while mandatory detention is the narrow exception. Respondents' attempt to erase this distinction not only defies the statute's plain text but also violates fundamental principles of statutory construction.

65. First, **§ 1226(a) establishes discretionary detention and a presumption of liberty**. It expressly states that, pending a removal decision, the Attorney General *may* continue to detain an arrested noncitizen or *may* release them on bond or conditional parole. This use of permissive language reflects a deliberate legislative choice to create a system of individualized custody determinations based on flight risk or danger to the community, not a system of automatic detention.

66. Second, **§ 1226(c) is the narrow exception that proves the rule**. In sharp contrast to the discretionary framework of § 1226(a), subsection (c) *mandates* detention ("The Attorney General *shall* take into custody..."). However, it does so only for a meticulously defined subset of noncitizens with specific criminal convictions or security-related grounds. This proves that Congress knows precisely how to require mandatory detention when it so intends. By creating a specific, limited list of criminal noncitizens subject to mandatory detention, Congress implicitly confirmed that all other noncitizens apprehended in the interior—including non-criminal

individuals who entered without inspection like Petitioner—fall under the discretionary framework of § 1226(a).

67. Third, **Respondents' theory renders § 1226(c) superfluous, violating a core canon of statutory interpretation**. If, as Respondents argue, every noncitizen who entered without inspection is already subject to mandatory detention under § 1225, then the detailed categories of criminal aliens subject to mandatory detention in § 1226(c) would be largely redundant and meaningless. Congress does not enact superfluous legislation. This structural argument is reinforced by the recent passage of the Laken Riley Act, which expanded the categories of mandatory detention under § 1226(c). Congress would not have bothered to amend and expand this narrow category if a much broader rule already subjected all of these individuals to mandatory detention under § 1225.

68. Finally, **this statutory structure dictates that the government must bear the burden of proof to justify detention**. Because § 1226(a) establishes a framework where release is the default, it is both logical and constitutionally required for the government—the party seeking to deprive an individual of their fundamental liberty—to bear the burden of proving that detention is necessary. Placing the burden on the government to prove dangerousness or flight risk ensures that detention is an exception justified by specific, individualized findings, rather than the default. This is essential to safeguard due process and give meaning to the statutory promise of individualized review.

D. The Government's New Policy is an Unlawful Reversal of Decades of Settled Law and Agency Practice

69. Respondents' reinterpretation of § 1225 is not a clarification of existing law but a

radical departure from over 70 years of consistent agency practice, legislative history, and judicial interpretation. Historically, noncitizens apprehended in the interior were afforded individualized bond hearings before an Immigration Judge to determine flight risk and dangerousness.

70. Following the enactment of the IIRIRA in 1996, the government itself confirmed this understanding. In an interim rule, the agency explained that, "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination" under § 1226. *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). For decades, this remained the "longstanding practice." *Rosado v. Figueroa*, No. CV-25-02157 PHX DLR (CDB), 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025).

71. This established framework was abruptly dismantled in mid-2025. First, in July 2025, ICE issued a "stealth" internal memorandum, without public notice or comment, directing that all noncitizens who entered without inspection be treated as "applicants for admission" subject to mandatory detention under § 1225(b)(2). The clandestine nature of this policy shift suggests the agency recognized it was a controversial reinterpretation, not a faithful application of the law.

72. Then, on September 5, 2025, the Board of Immigration Appeals (BIA) adopted this flawed reasoning in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In that decision, the BIA overturned decades of its own precedent (e.g., *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)) and held that all individuals who entered without inspection are subject to mandatory detention, stripping Immigration

Judges of jurisdiction to conduct bond hearings for them. In so doing, the BIA itself acknowledged that for years it had done the opposite. *Yajure Hurtado*, 29 I&N Dec. at 225, n.6. This new, binding administrative precedent makes any attempt by Petitioner to seek a bond hearing from an Immigration Judge an exercise in futility.

E. Respondents' Interpretation Creates an Unconstitutional and Unworkable System of Indefinite Detention

73. Even if this Court were to entertain Respondents' flawed statutory interpretation for the sake of argument, its application would be unconstitutional. The government's theory—that § 1225(b) mandates detention for all noncitizens who entered without inspection—creates a system of prolonged, indefinite detention without any individualized bond hearing. This result collides with the bedrock Fifth Amendment principle that prolonged civil detention without an individualized assessment of flight risk or dangerousness is an arbitrary deprivation of liberty forbidden by the Due Process Clause.

74. The Supreme Court's reasoning in *Demore v. Kim*, 538 U.S. 510 (2003), established that even the congressionally mandated detention of *criminal* aliens under § 1226(c) becomes constitutionally suspect when it is prolonged without an individualized hearing. That principle applies with even greater force to the detention of non-criminals like Petitioner. While the Supreme Court in *Jennings v. Rodriguez* interpreted the statutory text of § 1225(b), it did not—and could not—bless a system of indefinite mandatory detention that offends core constitutional protections.

75. The unconstitutional consequences of Respondents' theory are not hypothetical; they are a certainty. Given the immigration court system's backlog of millions of

cases and multi-year wait times for appeals, "brief" detention is an impossibility. Under the government's reading, countless long-term residents with deep ties to the United States—the vast majority of whom are non-criminals—would be subject to mandatory, unreviewable imprisonment for the entire multi-year duration of their legal proceedings. Such an outcome is not only constitutionally indefensible but reveals the inherent absurdity of the government's position. Congress did not intend to create a system that mandates the mass, multi-year detention of non-dangerous people, and this Court should reject an interpretation that leads to such an unworkable and fundamentally unjust result.

F. Federal Courts Nationwide Have Uniformly Rejected Respondents' New Interpretation

76. Since Respondents adopted this unlawful policy, they have been rebuked by a tidal wave of federal court decisions. Dozens, if not hundreds, of district courts across the country have rejected the government's new interpretation and granted habeas relief, holding that § 1226(a), not § 1225, governs the detention of long-term residents apprehended in the interior.

77. The consensus is overwhelming. These courts have consistently ordered the immediate release of petitioners, finding that a bond hearing is an inadequate remedy for a detention predicated on a baseless legal theory. *See, e.g., Savane v. Francis*, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Ye v. Maldonado*, No. 25-CV-6417, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025); *Ibarra v. Warden of the*

Federal Detention Center Philadelphia, No. 25-cv-6312, 2025 WL 3294726 (E.D. Pa. Nov. 25, 2025); *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Penn. Dec. 9, 2025); *Quijaba Cordoba v. Knight*, --- F.Supp.3d ----, 2025 WL 3228945 (D. Id., Nov. 19, 2025). (See also additional cases at Exhibit 1). This nationwide judicial repudiation confirms that Respondents' position is contrary to law.

IX. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

A. Habeas Jurisdiction

78. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of civil immigration detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *I.N.S. v. St. Cyr*, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As "perhaps the most important writ known to the constitutional law," habeas corpus is an equitable tool that empowers this Court not just to review custody, but to "dispose of the matter as law and justice require" under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Schlup v. Delo*, 513 U.S. 298, 319 (1995). That power explicitly includes ordering a petitioner's immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008). This Court's jurisdiction is secure, as the concept of "custody" is broad, attaching at the time of filing and persisting despite subsequent release due to the significant ongoing restraints on Petitioner's liberty. *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973).

79. The Court must grant the petition for writ of habeas corpus or order Respondent to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

80. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000).

B. The Administrative Procedure Act (APA)

81. Petitioner's detention is predicated on two agency actions—ICE's July 2025 "Interim Guidance" and the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—that are subject to this Court's review. These policies represent the "consummation of the agency's decisionmaking process" and are the direct cause of Petitioner's unlawful confinement, qualifying them as reviewable "final agency action" under the APA. See *Bennett v. Spear*, 520 U.S. 154, 178 (1997); 5 U.S.C. § 704.e.

82. Both the ICE memo referenced herein and *Matter of Yajure Hurtado* led ICE to detain Petitioner in violation of due process rights under the Constitution, statutes, and regulations.

C. The *Accardi* Doctrine Requires Agencies to Follow Their Own Rules

83. Respondents' actions also violate the bedrock principle of administrative law that agencies are bound by their own rules. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). This doctrine is not limited to formal regulations but extends to internal procedures and instructions that affect individual rights. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974); *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). By abandoning their long-standing regulations and practices that have historically afforded bond hearings for interior apprehensions, Respondents have acted unlawfully, and their actions must be set aside. *See U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969).

X. PETITIONER'S DETENTION IS UNLAWFUL UNDER THE BINDING FINAL JUDGMENT IN *MALDONADO BAUTISTA*

84. Petitioner's detention is unlawful for another simple, dispositive reason: she is being held by the same government Respondents who are subject to a binding nationwide Final Judgment that expressly **VACATES** the very policy they are using to confine her. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) (*Maldonado Bautista*) a federal court entered a Final Judgment under Federal Rule of Civil Procedure 54(b) that:

    a. **DECLARED** that noncitizens like Petitioner—who entered without inspection and were apprehended in the interior—are subject to discretionary bond hearings under 8 U.S.C. § 1226(a), not mandatory detention under 8 U.S.C. § 1225(b); and

    b. **VACATED** the July 2025 ICE "Interim Guidance" policy as "unlawful under the APA" .

85. As a member of the certified nationwide "Bond Eligible Class" in that action, Petitioner's rights have already been adjudicated. Respondents are collaterally estopped from relitigating the central legal issue—the illegality of their detention policy—against her.

86. The court's **vacatur** of the ICE policy is the critical point. A vacated agency policy is a legal nullity. It is void. Respondents cannot lawfully detain Petitioner based on authority that a federal court has already nullified. Their continued detention of Petitioner is not just an unlawful interpretation of the INA; it is an act of defiance against a binding Final Judgment entered specifically to "eliminate any doubt regarding [their] legal obligations" after they demonstrated widespread noncompliance with the court's earlier orders.

87. This definitive ruling mandates **immediate release**, not a bond hearing. A bond hearing is a remedy for a detention that was lawfully initiated. It is not a remedy for a detention that was unlawful from its inception (*ab initio*). Here, the detention is based on a void policy and is therefore illegal at its core. A subsequent administrative hearing cannot cure this fundamental violation. To order a bond hearing would be to reward Respondents' non-compliance by prolonging an illegal detention and treating it as if it had a lawful basis. When a person's liberty is taken without legal authority, the only just remedy is to restore that liberty before the unlawful action occurred.

88. This individual habeas petition is the precise vehicle required to enforce the rights declared in *Maldonado Bautista*. As the Supreme Court clarified in *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), the INA's jurisdictional rules at 8 U.S.C. § 1252(f)(1) prevent class actions from yielding coercive, class-wide release orders .

Instead, the statutory scheme contemplates a two-step process: (1) a class-wide declaratory judgment establishes the illegality of a government policy, and (2) individual habeas petitions, which are protected by the Suspension Clause, provide the "necessary and distinct vehicle" to enforce that declaration and secure release. *See Jennings v. Rodriguez*, 583 U.S. 281, 309 (2018); *Hamama v. Adducci*, 912 F.3d 869, 879 (6th Cir. 2018).

89. Therefore, neither claim preclusion nor exhaustion bars this petition. This action seeks a coercive remedy (release) that was statutorily unavailable in the class action. The declaratory judgment in *Maldonado Bautista*, which has "the force and effect of a final judgment or decree" under 28 U.S.C. § 2201(a), serves as a predicate for this Court to grant relief, not a bar to it. *See Calderon v. Ashmus*, 523 U.S. 740, 747 (1998) ; *Henglein v. Colt Indus. Operating Corp.*, 260 F.3d 201, 211–12 (3d Cir. 2001) ; *Allard v. DeLorean*, 884 F.2d 464, 466 (9th Cir. 1989). Because the Rule 23(b)(2) declaratory relief in *Maldonado Bautista* "operates uniformly across the class," it definitively establishes the unlawfulness of Petitioner's detention. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 361–62 (2011). This Court should enforce that final judgment by granting the only remedy that cures an illegal detention: immediate and unconditional release.

XI. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE
Unlawful Arrest in Violation of the Fourth Amendment and the INA (8 U.S.C. §§ 1226(a), 1357(a)(2))

90. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

91. Petitioner's seizure and detention are unlawful *ab initio* because her arrest violated the clear statutory framework established by Congress and the Fourth Amendment's prohibition on unreasonable seizures. The primary authority for a civil immigration arrest in the interior of the United States requires that it be conducted "**[o]n a warrant**." 8 U.S.C. § 1226(a). The narrow exception for a warrantless arrest under 8 U.S.C. § 1357(a)(2) demands a showing that the individual is "likely to escape before a warrant can be obtained".

92. Respondents failed to meet either requirement. It was a factual impossibility for Petitioner to be "likely to escape" in that situation as described in the facts and procedural history above. Having failed to satisfy the statute's mandatory exigency requirement, Respondents' only lawful path to arrest Petitioner was to obtain a warrant under 8 U.S.C. § 1226(a), which they have failed to do.

93. An arrest conducted without any statutory authority is an unreasonable seizure in violation of the Fourth Amendment. Because the initial seizure was void, the government's custody over Petitioner's person is the direct "fruit of the poisonous tree" and is incurably tainted. A subsequent bond hearing cannot remedy a detention that never had a lawful beginning. The only proper remedy for this fundamental statutory and constitutional violation is immediate and unconditional release.

COUNT TWO
Unlawful Detention in Violation of a Binding Final Judgment

94. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

95. Petitioner is a member of the nationwide class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25,

2025). As a class member, Petitioner's rights have been adjudicated by a Final Judgment which **DECLARES** that Petitioner's detention is governed by 8 U.S.C. § 1226(a) and **VACATES** the very DHS policy that Respondents rely on to detain her.

96. Respondents' continued detention of Petitioner based on a vacated policy and in direct defiance of a binding Final Judgment is independently unlawful. This conduct renders Petitioner's detention illegal and warrants her immediate release as the proper enforcement of the rights adjudicated in her favor.

COUNT THREE
Statutory Violation of the Immigration and Nationality Act, Agency Regulations And the Accardi Doctrine

97. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

98. Petitioner's detention is the direct result of a cascade of unlawful agency actions that violate the plain text of the Immigration and Nationality Act (INA), contravene decades of binding agency regulations, and therefore constitute a flagrant violation of the *Accardi* doctrine. Respondents are unlawfully detaining Petitioner by misclassifying her as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b) when the statutes and the agency's own rules unambiguously require Petitioner's case to be processed under 8 U.S.C. § 1226(a), which provides for discretionary release on bond.

99. First, Respondents' actions defy the clear statutory scheme established by Congress. The INA creates two distinct detention frameworks: § 1225 governs the inspection and mandatory detention of aliens "arriving in the United States," while § 1226(a) governs the discretionary detention of aliens arrested "in the United States" on a warrant. Petitioner, a long-term resident apprehended in the interior, falls squarely

within the latter category. By applying the "arriving alien" framework to her, Respondents unlawfully erase this critical statutory distinction.

100. Second, Respondents' actions violate their own binding regulations and long-standing practice. For over two decades, agency regulations have implemented the statutory distinction by explicitly providing for bond eligibility for interior apprehensions. After Congress amended the INA in 1996, the agency issued an interim rule clarifying that noncitizens "present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under 8 U.S.C. § 1226. This policy is enshrined in regulations such as 8 C.F.R. §§ 236.1 and 1236.1. The new policy articulated in the July 2025 ICE memorandum and the *Yajure Hurtado* decision represents a radical and unlawful departure from these established rules.

101. Finally, by defying their own statutes and regulations, Respondents have violated the *Accardi* doctrine, a bedrock principle of administrative law that commands that federal agencies are bound by their own rules. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The *Accardi* doctrine applies with full force not only to formal regulations but also to internal policies and guidance that confer "important procedural benefits upon individuals," such as the right to a bond hearing. *Am. Farm Lines v. Black Ball Freight Serv.*, 397 U.S. 521, 538 (1970); *see also Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).

102. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service (now DHS) issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and

Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] **who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination**." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

103. This is not a mere procedural error; it is a fundamental breach of the rule of law. Respondents cannot simply ignore decades of their binding procedures to achieve a policy goal of mass mandatory detention. Because Respondents' actions were taken in direct contravention of the INA and their own established rules, those actions are invalid, rendering Petitioner's resulting detention unlawful and requiring this Court to set it aside.

COUNT FOUR
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process

104. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

105. Petitioner's detention is a profound offense to the Fifth Amendment, violating her rights to both substantive and procedural due process. It is axiomatic that the Due Process Clause applies to all persons within the United States, regardless of immigration status, and that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Respondents' actions trample upon this fundamental right.

106. **Substantive Due Process:** The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the community. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 846 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner's mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore arbitrary deprivation of liberty, excessive, and unconstitutional.

107. **Procedural Due Process:** Even if a legitimate purpose for detention existed, the procedures used to effectuate it are constitutionally rotten. Due process demands a "meaningful opportunity to be heard at a meaningful time and in a meaningful manner" before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme—whereby Respondents unilaterally subject Petitioner to mandatory detention based on an unlawful policy—entirely lacks these fundamental safeguards and fails the three-part balancing test set forth in *Mathews*:

108. **The Private Interest**: Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is "without question, a weighty one." *Landon v. Plasencia*. Petitioner

is being held in jail in the same conditions as criminal inmates, unable to work and is far from family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.

109. **The risk of erroneous deprivation** of liberty is extreme. The system lacks any neutral adjudicator, as ICE is acting as both prosecutor and judge, a structural defect that creates a constitutionally intolerable risk of wrongful deprivation, as highlighted in *Marcello v. Bonds*, 349 U.S. 302, 305-306 (1955). Respondents are effectuating prolonged detention based on their own self-serving interpretation of the law, with no check on their power. This risk is exacerbated by the coordinated actions of both DHS and EOIR, which operate under a unified approach that effectively denies bond to noncitizens in Petitioner's situation, thereby unilaterally depriving them of their liberty.

110. **The Government's Interest**: The government's interest in enforcing its detention policy is minimal, if not entirely illegitimate. There is no valid government interest in enforcing an interpretation of the law that is contrary to the plain text of the INA, that conflicts with its own regulations providing for bond hearings under 8 U.S.C. § 1226(a), and that is based on a policy (*Matter of Yajure Hurtado*) that has been judicially declared untenable. The government has no cognizable interest in violating the law or wasting taxpayer resources on the unnecessary detention of individuals who are neither dangerous nor flight risks.

111. All three *Mathews* factors weigh decisively in Petitioner's favor. The current scheme is fundamentally unfair, unconstitutional, and deprives Petitioner of liberty without the process that is, and has always been, due.

XII. REMEDIES

THE ONLY CONSTITUTIONALLY SUFFICIENT REMEDY IS IMMEDIATE AND UNCONDITIONAL RELEASE

112. When a person's liberty is taken without any lawful authority, the only effective and constitutionally sufficient remedy is to restore that liberty immediately and unconditionally. A subsequent bond hearing cannot cure a detention that was void from its inception (ab initio). Federal courts possess broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when the government's custody is illegal. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Here, law and justice demand nothing less than Petitioner's release, as her detention is a legal nullity built upon a foundation of statutory and constitutional violations.

113. Petitioner's detention is unlawful at its core because the arrest itself was executed in open defiance of the Immigration and Nationality Act's clear commands. Whether viewed as an arrest under 8 U.S.C. § 1225 or 8 U.S.C. § 1226(a), the seizure was illegal. Respondents claim authority under § 1225, but that statute applies to arriving aliens at the border, not long-term interior residents like Petitioner. The correct statute for an interior apprehension, § 1226(a), unequivocally requires that an arrest be made **"[o]n a warrant**." Respondents had no such warrant.

114. A bond hearing is a wholly inadequate remedy for such a fundamental violation. The purpose of a bond hearing is to assess the propriety of *continued* detention following a *lawful* arrest. It presupposes that the government's custody was, at some point, legitimate. That is not the case here. To order a bond hearing would be to retroactively sanitize an illegal seizure and give the government a "pass for not securing a warrant." *Javier De Jesus Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind., Nov. 25, 2025). As that court correctly reasoned when ordering immediate release under similar facts, "[t]he simple matter is this: the government has not established a lawful basis for detention... and the government must live by the rules that Congress has instituted." *Id.*

115. Granting a bond hearing would not only fail to cure the violation, it would compound the harm. It would force Petitioner to languish in unlawful custody for weeks longer while awaiting a hearing, spend additional money on a bond (if one is even granted, as bonds grants are diminishing even after habeas grants) all while Respondents have failed to produce a single shred of evidence that Petitioner is a flight risk or a danger to the community. This Court should not reward the government's disregard for the law by prolonging the very illegal detention it created. When the government's custody over a person is the "fruit of the poisonous tree"—the poisonous tree being the illegal arrest itself—the only just remedy is to sever the connection by ordering immediate and unconditional release.

116. Finally, to ensure the remedy of release is not rendered illusory, the Court must explicitly ENJOIN Respondents from immediately substituting physical custody with another form of unlawful restraint: electronic monitoring. There is a now-

common agency practice of subjecting virtually every noncitizen released from custody to GPS ankle monitoring—a blanket policy applied without the individualized assessment of flight risk required by due process. This reflects a de facto agency policy of imposing GPS monitoring, even after an immigration judge has made a finding that a bond is sufficient to mitigate flight risk. This practice allows the agency to unilaterally subvert a judicial release order by replacing one form of custody with another. To provide a truly meaningful remedy and prevent Petitioner from being forced to return to this Court to challenge these new custody-like restraints, the Court should exercise its broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require." Accordingly, Petitioner requests that the Court's order specify that her release is unconditional and enjoin Respondents from imposing any conditions of supervision, such as electronic monitoring, unless they first demonstrate to this Court, with five days' advance notice, that significantly changed circumstances and a new, particularized assessment of risk justify such a severe restraint on Petitioner's libs.

If Court Grants Bond Hearing – Ensure Burdens Are Met

117. Should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. There is a troubling trend of immigration judges denying bond after a habeas grant based on rote assertions of flight risk or danger, often without the government presenting any actual evidence. To counteract this and ensure Petitioner is afforded a constitutionally adequate hearing so we do not have to return to this Court, this Court should follow the sound reasoning of other Circuit

Courts. The 11th Circuit has not yet addressed this question specifically in relation to noncitizens detained pursuant to § 1226(a), however, the circuits who have addressed it, all stated that the government bears the burden to prove that detention is warranted, i.e., that the noncitizen is either a danger to the community or a flight risk. No circuit court to have addressed the issue has placed the burden on the noncitizen to prove that they are *not* a flight risk or a danger. The Ninth Circuit has ruled that noncitizens detained under § 1226(a) are "entitled to release on bond unless the government establishes that they are a flight risk or will be a danger to the community," as seen in *Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022), where the court emphasized that they have a right to contest their custody before an immigration judge, at which time the government bears the burden to prove that detention is justified (both require clear and convincing evidence). The Second Circuit in *Velasco Lopez v. Decker*, 978 F.3d 842, 853–56 (2d Cir. 2020), also held that the government must prove a noncitizen is a danger to the community or a flight risk to deny bond under § 1226(a) (**both require clear and convincing evidence**). Furthermore, the First Circuit in *Hernandez-Lara v. Lyons,* 10 F.4th 19 (1st Cir. 2021), stated that a noncitizen must be released under § 1226(a) if the government cannot meet its burden of proving they are a danger or flight risk (the only difference is the standard: clear and convincing evidence for dangerousness or preponderance of the evidence for flight risk determinations). In any event, the government has not claimed that Petitioner is a danger nor a flight risk, let alone proved it. "Circuit courts considering the standard of proof in the immigration bond context have also adopted the clear and convincing standard. See *Lopez*, 2020 U.S.

App. LEXIS 33752, 2020 WL 6278204, at *9-10 ("[C]lear and convincing standard was appropriate [at subsequent bond hearing]."); *Singh*, 638 F.3d at 1203 ("[T]he government must prove by clear and convincing evidence that an alien is a flight risk . . . to justify denial of bond . . . ."). This Court will do the same." *J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga 2020). The Court should follow the burden of proof outlined in this case and the 3 circuit courts who have decided the issue and determine that the **government must prove, by clear and convincing evidence, that Petitioner is not a flight risk or danger**. The reason for that is the Congress's assumption was that for non-criminal noncitizens who are detained pursuant to § 1226(a) the default is release, not detention (in contrast to § 1226(c) that deals with mandatory detention for criminal aliens). **Therefore, to prevent a perfunctory and meaningless hearing that would only prolong Petitioner's unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary**.

XIII. CONCLUSION AND PRAYER FOR RELIEF

118. The continued detention of Petitioner violates due process rights. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty, loss of employment, and separation from family. These injuries cannot be remedied by monetary damages and will continue absent immediate judicial intervention. The balance of equities and the public interest

strongly favor expedited consideration and equitable relief, including immediate release or a prompt bond hearing. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

119. Given the egregious constitutional and statutory violations underlying Petitioner's arrest and continued detention, the only effective and constitutionally sufficient remedy is immediate and unconditional release. Federal courts possess broad authority under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when detention is found to be unlawful. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987).

(1) WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm: **Grant the Petition for Writ of Habeas Corpus** and, pursuant to its authority under 28 U.S.C. § 2243, order Respondents to **immediately and unconditionally release** Petitioner from custody, because her detention is unlawful *ab initio* under both 8 U.S.C. § 1225 (misclassification as an "arriving alien") and 8 U.S.C. § 1226(a) (failure to obtain the statutorily required warrant for an interior arrest), and rests solely on agency actions that are contrary to the INA, ultra vires, arbitrary and capricious, and adopted and applied in violation of the Accardi doctrine, as set forth in the APA/Accardi claim.

(2) **In the alternative**, should the Court decline to order immediate

unconditional release, issue an order directing Respondents to provide Petitioner with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) and its implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1 within forty-eight (48) hours of the Court's order, and further specifying that at any such hearing: (a) the **government bears the burden** of proving that Petitioner is either a flight risk or a danger to the community; and (b) the government must satisfy that burden by **clear and convincing evidence**, consistent with circuit precedent adopting this standard in the immigration bond context (including *Diaz, Lopez* and *Lara*), in order to prevent the recurring problem of perfunctory bond denials based on unsupported assertions of risk rather than actual evidence;

(3) **Enjoining Respondents**, upon Petitioner's release, from subjecting Petitioner to any form of electronic monitoring, GPS ankle bracelet, ISAP enrollment, or other alternative-to-detention program that functions as a custody-like restraint, absent prior leave of this Court. Respondents shall be prohibited from imposing such conditions unless, at least five (5) days in advance, they file notice with this Court and demonstrate—based on a new, particularized assessment of significantly changed circumstances and a concrete, evidence-based showing of flight risk or danger—that such conditions are necessary, and the Court expressly authorizes them pursuant to its authority under 28 U.S.C. § 2243 to dispose of the matter as law and justice require.

(4) **Issue an Order to Show Cause** directing Respondents to file a return within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

(5) **ENJOIN** Respondents from re-detaining Petitioner in the future under 8 U.S.C. § 1225 or the DHS policy vacated by the *Maldonado Bautista* court;

(6) **Award** Petitioner reasonable attorney's fees and costs; and

(7) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 21st Day of January, 2026.

/s/ Karen Weinstock
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 21st Day of January 2026.

/s/ Karen Weinstock
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