UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Carina JIMENEZ SANTIAGO, Petitioner, v. KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security, Respondents.	**Case No. 26-cv-10253** Hon. Judge: Magistrate Judge: **PETITION FOR WRIT OF HABEAS CORPUS** DETAINED – Detroit Field Office Agency Case No. A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed in jurisdictions across the country, including many in the Eastern District of Michigan. Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioner Carina JIMENEZ SANTIAGO has been unlawfully detained without the possibility of bond in furtherance of this policy. Petitioner came to the United States more than twenty-five years ago and has lived here ever since.

4. On November 11, 2025, while driving home from work, Petitioner was targeted and followed by a Border Patrol agent on I-75 in the area of Carleton, Monroe County, Michigan. Upon reaching the area of Brownstown, Michigan, two additional Border Patrol vehicles appeared and Petitioner was pulled over. No traffic citations were issued. She refused consent to search her person or her vehicle. She was detained and taken to the Gibraltar, Michigan, Border Patrol station. Petitioner was interviewed by an officer from the Detroit Field Office of Immigration and Customs Enforcement (ICE ERO). Petitioner was not granted bond. Petitioner is now detained at the Corrections Center of Northwest Ohio (CCNO) in Stryker, Ohio.

5. Respondents placed Petitioner in civil immigration removal proceedings, alleging under 8 U.S.C. § 1182(a)(6)(A)(i) that she had entered the

United States without inspection and alleging under 8 U.S.C. § 1182(a)(7)(A)(i)(I) that she is an immigrant not in possession of valid documentation.

6. Petitioner is currently in the physical custody of Respondents at the Corrections Center of Northwest Ohio (CCNO), in Stryker, Ohio, which falls under the purview of the Detroit Field Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration detention centers in Michigan and Ohio.

7. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioner is entitled to a bond determination. That statute expressly applies to people who, like Petitioner, are residing in the United States but are charged as inadmissible for having initially entered the United States without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) have for decades provided bond determinations and bond hearings to people like Petitioner who have been living in the United States but allegedly entered without inspection.

8. However, pursuant to a new governmental policy announced on July 8, 2025,[1] Petitioner is now being unlawfully detained without bond. The new policy

[1] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (Jul. 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

instructs all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioner to mandatory detention without bond under § 1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

9. Detaining Petitioner without bond is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioner. It also violates Petitioner's right to due process by depriving her of her liberty without any consideration of whether such a deprivation is warranted.

10. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be immediately released from custody immediately, or in the alternative that she be provided with a bond hearing under § 1226(a) within five days.

11. Petitioner is not challenging any discretionary denial of bond; she is challenging the legal determination that she is not eligible for bond under § 1226(a).

JURISDICTION

12. Petitioner is detained at the Corrections Center of Northwest Ohio (CCNO) in Stryker, Ohio. Although the warden or director of CCNO oversees the

day-to-day functions of the detention facility, Petitioner's detention remains under the control of the Field Office Director of Detroit ICE/ERO.

13. The Sixth Circuit holds "that although the warden of each detention facility technically has day-to-day control of alien detainees, the INS District Director for the district where the detention facility is located 'has the power over' alien habeas corpus petitioners." *Roman v. Ashcroft*, 340 F.3d 314, 319 (6th Cir. 2003). Thus, "[t]he writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody." *Roman*, 340 F.3d at 319, *quoting Braden v. 30th Judicial Circuit Ct. of Ky*, 410 U.S. 484, 494-95 (1973). Thus, it is the ICE Field Office Director is who holds Petitioner in unlawful custody. *Roman* held that wardens of INS detention facilities "act pursuant to INS Detention Standards and are considered agents of the INS District Director in their district. It is clear that the INS does not vest power over detained aliens in the wardens of detention facilities because the INS relies on state and local governments to house federal INS detainees. Whatever daily control state and local governments have over federal INS detainees, they have that control solely pursuant to the direction of INS." *Roman*, 340 F.3d at 320.

14. That the ICE Field Office Director with legal custody and control is located in Michigan and the contracted detention facility in Ohio is immaterial. *Roman* itself was a case that crossed state lines.

15. Other E.D. Mich decisions have followed *Roman* and rejected a Government challenge to jurisdiction when the Petitioner was not physically detained in this district: *Naresh v. Klinger*;[2] *Uljic v. Baker*;[3] and *Khodr v. Adduci*.[4] In fact, ICE has sought dismissal of facility wardens—arguing that the ICE Field Office Director is the immediate custodian. *See Garcia v. Raycraft*, 1:25-cv-01281 (W.D. Mich. Nov. 7, 2025). Other District Courts within the Sixth Circuit apply *Roman* and hold that the ICE Field Office Director is the proper respondent. *See* ***Appendix 1***. District Courts in this Circuit and nationwide have granted habeas in similar cases, finding both jurisdiction and that detention without bond under 8 U.S.C. § 1225(b)(2)(A) is unlawful. *See* ***Appendix 2***.

16. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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[2] No. 2:19-CV-12800, 2019 WL 5455469, at *2 (E.D. Mich. Oct. 24, 2019), supplemented, No. 2:19-CV-12800, 2019 WL 6486122 (E.D. Mich. Dec. 3, 2019), aff'd sub nom. *Kumar v. U.S. Dep't of Homeland Sec.*, No. 19-2404, 2020 WL 2904685 (6th Cir. June 1, 2020), and aff'd in part, appeal dismissed in part sub nom. *Kumar v. U.S. Dep't of Homeland Sec.*, No. 19-2404, 2020 WL 2904685 (6th Cir. June 1, 2020)

[3] No. 06-13106, 2006 WL 2811351, at *2 (E.D. Mich. Sept. 28, 2006)

[4] 697 F. Supp. 2d 774, 776 (E.D. Mich. 2010)

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

VENUE

18. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained in an immigration detention facility at the direction of, and is in the immediate custody of, Respondent Kevin Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

19. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, Petitioner resides in the Eastern District, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Eastern District.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for a writ of habeas corpus or order Respondents 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, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. 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) (citation omitted).

PARTIES

22. Petitioner is a citizen of Mexico who has resided in the United States since approximately April of 2002. She was detained near Brownstown, Michigan, on November 11, 2025, has been in immigration detention since that date, and is currently detained at the Corrections Center of Northwest Ohio. After taking custody of Petitioner, ICE did not set bond.

23. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

24. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of

the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

FACTS

Petitioner

25. Petitioner has resided in the United States since 2002 and lives in Detroit, Michigan. Petitioner is 45 years old. **Exhibit 1. ID.**

26. Respondent has two U.S. citizen children, ages 9 and 23, and one additional daughter aged 25. Petitioner is the sole supporter of her minor U.S. citizen child.

27. On November 11, 2025, while driving home from work, Petitioner was targeted and followed by a Border Patrol agent on I-75 in the area of Carleton, Monroe County, Michigan. Upon reaching the area of Brownstown, Michigan, two additional Border Patrol vehicles appeared and Petitioner was pulled over. She refused consent to search her person or her vehicle. She was detained and taken to the Gibraltar, Michigan, Border Patrol station. Petitioner was interviewed by an officer from the Detroit Field Office of Immigration and Customs Enforcement (ICE ERO). Petitioner was not granted bond. Petitioner is now detained at the Corrections Center of Northwest Ohio (CCNO) in Stryker, Ohio.

28. Respondents placed Petitioner in civil immigration removal proceedings, alleging under 8 U.S.C. § 1182(a)(6)(A)(i) that she had entered the

United States without inspection and alleging under 8 U.S.C. § 1182(a)(7)(A)(i)(I) that she is an immigrant not in possession of valid documentation. **Exhibit 2. NTA.**

29. Following the initiation of removal proceedings, Petitioner requested a custody redetermination hearing before an immigration judge (IJ), which was held on December 30, 2025. At that hearing, the IJ denied Petitioner's request for lack of jurisdiction. **Exhibit 3. Bond denial.**

30. Petitioner is neither a flight risk nor a danger to the community, as demonstrated by the following:

- Petitioner has no criminal history.
- Petitioner is not a danger or national security risk.
- Petitioner is not a flight risk, as she wishes to remain in the United States lawfully with her three children.
- Petitioner has two U.S. citizen children, one a 9-year-old minor of whom she is the sole parent and financial support.
- Petitioner has pending potential relief from removal for which she is *prima* facie eligible in the form of 42B Cancellation of Removal for Certain Nonpermanent Residents and a scheduled merits hearing before the IJ in April of 2026 at which she intends to present her claim for cancellation—her legal path to remaining in the U.S. **Exhibit 4.**

31. Petitioner's next scheduled immigration hearing is April 1, 2026. **Exhibit 5**.

32. Without relief from this court, Petitioner faces the prospect of months—or even years—in immigration custody, separated from family, friends and community.

LEGAL FRAMEWORK

33. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to seek release on bond.[5] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been

[5] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Petitioner here.

applied to people like Petitioner who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

35. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

36. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

37. This case challenges Respondents' erroneous decision that Petitioner is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

38. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 582–583, 585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

39. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] 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.").

40. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

41. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-

established understanding of the statutory framework and reversed decades of agency practice.

42. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, decades, or even since infancy.

43. In decision after decision, federal courts—both nationwide and here in the Eastern District of Michigan—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g., Lopez-Campos v. Raycroft*, 2025 WL 2496379, Case No. 25-12987, (E.D. Mich. October 17, 2025); *Contreras-Cervantes v. Raycraft*, 25-cv-13073 (E.D. Mich. October 17, 2025); *Gimenez Gonzalez v U.S. Immigration and Customs Enforcement*, No. 25-13094, (E.D. Mich. October 27, 2025). For fuller list, please see ***Appendix 3***.

44. The list at Appendix 3 is undoubtedly incomplete. As the media has reported, the government's new no-bond policy has "led to dozens of recent rulings from gobsmacked judges who say the administration has violated the law and due

process rights .... The pile up of decisions is growing daily." Kyle Cheney and Myah Ward, *Trump's New Detention Policy Targets Millions Of Immigrants. Judges Keep Saying It's Illegal*, Politico (Sept. 20, 2025, at 4:00 PM ET), https://www.politico.com/ news/2025/09/20/ice-detention-immigration-policy-00573850.

45. In recent months, the Eastern District of Michigan has repeatedly rejected Respondents' interpretation of the INA and granted writs of habeas corpus to detained noncitizens to whom Respondents denied a bond hearing. On August 29, 2025, Judge Brandy McMillion granted a writ of habeas corpus to an identically situated petitioner, concluding that "There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for . . . years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border." *Lopez-Campos*, --- F.Supp.3d. ---, 2025 WL 2496379, at *8. And on November 11, 2025, Judge Robert White issued the same relief to another identically situated petitioner, reasoning that "the legislative history and agency guidance . . . in conjunction with the statutory interpretation" clearly entitles the petitioner to a bond hearing under § 1226(a). *Pizarro Reyes*, No. 25-cv-12546, 2025 WL 2609425, at *8. More recent decisions holding the same include: *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025); *Diaz-Sandoval v.*

Raycraft, No. 25-cv-12987 (E.D. Mich. Oct. 17, 2025); *Pacheco Mayen v. Raycraft*, 25-cv-13056 (E.D. Mich. Oct. 17, 2025); *Contreras-Lomeli v. Raycraft*, No. 25-cv-129826 (E.D. Mich. Oct. 21, 2025); *Casio-Mejia v. Raycraft*, 25-cv-13032 (E.D. Mich. Oct. 21, 2025); *Santos Franco v. Raycraft*, 25-cv-13199 (E.D. Mich. Oct. 21, 2015).

46. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an IJ.

47. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal district courts are not bound by agency interpretations of statutes—the BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation." *Pizarro Reyes*, 2025 WL 2609425, at *7. *See also Sampiao*, 2025 WL 2607924, at *8 n.11 (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Beltran Barrera*, No. 25-CV-541, 2025 WL 2690565, at *5 (same); *Chogllo Chafla*, No. 25-CV-00437, 2025 WL 2688541, at *7-8 (same).

48. In a highly analogous case, certified as a class action, the U.S. District Court for the Central District of California issued a Motion for Summary Judgment (MSJ) Order which held that for individuals such as Petitioner, apprehended and detained in the interior of the country long after their entry, "that § 1226(a) is the governing authority and that they are not 'applicants for admission.'" *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.*, No. 5:25-cv-01873 (C.D. Cal. November 25, 2025), ECF81 PageID.1444. That ruling rejected the Board of Immigration Appeals' reasoning in both *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and the predecessor July 8, 2025, ICE "Interim Guidance Regarding Detention Authority for Applicants for Admission" applying § 235(b)(2)(A) detention without bond to all persons who entered without admission/inspection. Also on November 25, 2025, the Court also issued a nationwide Class Certification Order which made clear that, "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista*, No. 25-01873, ECF82 PageID.1459. Subsequently, on December 18, 2025, the *Maldonado Bautista* Court clarified that "[a]lthough the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable." *Maldonado Bautista*, No. 25-01873, ECF92 PageID.1726 (emphasis added).

49. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

50. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

51. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

52. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is

premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). *See Jennings*, 583 U.S. at 287 (explaining that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.").

54. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioner's detention without eligibility for bond is unlawful.

55. Petitioner seeks relief from this Court because any months-long appeal to the BIA of an IJ's decision denying bond would be futile. A new request for a bond hearing is likewise futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the *Yajure Hurtado* decision. Further, the new governmental policy was issued "in coordination with DOJ," which oversees the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, *see* 8 C.F.R. § 1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioner are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical

habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See, e.g.,* Resp. to Pet., *Lopez Campos v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 9, 2025), Dkt. 9; Resp. to Pet., *Pizarro Reyes v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 27, 2025), Dkt. 4.

56. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *Rodriguez*, 779 F. Supp. 3d at 1245, and in many cases roughly a year, *id.*—the harm of Petitioner's unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable.

57. Third, neither IJs nor the BIA have the authority to decide constitutional claims. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006). Here, Petitioner claims not only that Respondents are unlawfully detaining her without a bond hearing under an inapplicable statute, but also that such detention violates Petitioner's constitutional right to due process if the government seeks to deprive her of her liberty.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

58. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

59. Respondents are unlawfully detaining Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

60. Section 1225(b)(2) does not apply to Petitioner, who previously entered the country and has long been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

61. Instead, Petitioner should be subject to the detention provisions of § 1226(a) and are therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

62. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner results in Petitioner's unlawful detention without the opportunity for a bond hearing and violates the INA.

COUNT II

Violation of Due Process

63. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

64. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—

from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

65. Petitioner has a fundamental interest in liberty and being free from official restraint.

66. The government's detention of Petitioner without an opportunity for a custody determination or bond hearing to decide whether she is a flight risk or danger violates Petitioner's right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody unless the Petitioner is provided with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 5 days;

c. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;

d. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Petitioner's detention and eligibility for bond because Petitioner is not a recent arrival "seeking admission" to the United States, and instead was already

residing in the United States when apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

e. Award Petitioner fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 23rd day of January, 2026.

/s/ GLENN ERIC SPROULL
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Certificate of Service

I certify that on January 23, 2026, I electronically filed the foregoing *PETITION FOR WRIT OF HABEAS CORPUS* with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted this 23rd day of January, 2026.

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