
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Lidia ESCOBAR MAYA

Plaintiff-Petitioner,

Case No. 3:26-cv-161

vs.

KRISTI NOEM, Secretary of the United
States Department of Homeland Security;

PAMELA BONDI, Attorney General of
the United States;

MARY DE ANDA-YBARRA, Field
Office Director of Enforcement and
Removal Operations, El Paso Field
Office; and

CURTIS TAYLOR,
Commanding General, Fort Bliss Military
Base, *in their official capacities*

PETITION FOR WRIT OF
HABEAS CORPUS

Defendant-Respondents.

INTRODUCTION

1. Petitioner Lidia Escobar Maya, , is in the physical custody of Respondents at the El Paso Camp East Montana ICE detention facility, in El Paso, Texas. She now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded that Petitioner is subject to mandatory detention.

2. The Petitioner has remained detained since January 12, 2026, consistent with a DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE)

employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

3. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for release on bond.

4. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people, like Petitioner, who are charged as inadmissible for having entered the United States without inspection.

5. Respondents' legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

6. Furthermore, on November 25, 2025, the U.S. District Court for the Central District of California issued an order in *Maldonado Bautista v. Santacruz*, certifying a nationwide class and extended declaratory judgment to the certified class. This applies to those who are in immigration detention and are denied access to a bond hearing based on DHS's allegation that they entered the United States without admission or inspection. The Court defined the certified class as follows:

All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) have entered or will enter the United States without inspection; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)

7. On December 18, 2025, the Court entered an additional judgment in favor of members of the bond eligible class. It was found that class members are detained under 8 U.S.C. § 1226(c) and are not subject to mandatory detention under 1225(b)(2), which entitles them to consideration of release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. The additional judgment also served to vacate DHS's policy to consider anyone who entered without admission or inspection as inadmissible.

8. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite her clear entitlement to consideration for release on bond as a Bond Eligible Class member.

9. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

10. Because Respondents arrested the Petitioner without a warrant and detained her in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that within one day, Respondent DHS must release the Petitioner.

11. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the El Paso Camp East Montana ICE detention facility, in El Paso, Texas.

13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

14. 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

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioner currently is detained.

16. 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, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

17. Habeas corpus is “perhaps the most important writ known to 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). The right to challenge the legality of a person’s confinement “through a petition for a writ of habeas corpus . . . extends to those persons challenging the lawfulness of immigration-related detention.” *Demore v. Kim*, 538 U.S. 510, 517 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Tran v. Mukasey*, 515 F.3d 478, 482 (5th Cir. 2008).

18. The Court must grant the petition for 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, Respondents must file a return “within three days unless, for good cause, additional time, not exceeding twenty days, is allowed.” *Id.*

19. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*.

PARTIES

20. Petitioner **Lidia Escobar Maya** is a 49-year-old citizen of Mexico who has been in immigration detention since January 12, 2026. After arresting Petitioner in Hamel, Minnesota, without a warrant, ICE did not set bond, and Petitioner is unable to obtain review of her custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

21. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA) and oversees ICE, which is responsible for the Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

22. Respondent **Pamela Bondi** is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

23. Respondent **Mary De Anda-Ybarra** is the Field Office Director for El Paso ICE. As such, De Anda-Ybarra is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

24. Respondent **Curtis Taylor** is the Commanding General at the Fort Bliss Military Base, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

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

26. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Section 1226(a) provides that “[o]n a *warrant* issued by the Attorney General, an alien may be arrested and detained.” (emphasis added). Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested,

charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

27. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

28. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

29. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

30. 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, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

31. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered 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. 10312, 10323 (Mar. 6, 1997).

32. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). 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)).

33. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

34. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without inspection shall now be subject to the mandatory detention provision 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, and even decades.

35. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

36. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

37. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

apprehended upon arrival in the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

38. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.

Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

39. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

40. 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].”

41. 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 Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

42. 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.

43. 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). Indeed, the Supreme Court has explained 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." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

44. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

FACTS

45. Ms. Escobar Maya is a 49-year-old Mexican Citizen who has resided in the United States since April 2003. Before her detention, she was living in Hamel, Minnesota, which is a small community with a population of about 6,000, and is located about 20 miles west of Minneapolis, Minnesota.

46. Ms. Escobar Maya has three children: Ariadna Sanchez Escobar (24), who is a DACA recipient; Alexis Sanchez Escobar (21), who is a U.S. citizen serving in the U.S Army National Guard; and  (12), who is a U.S. citizen as well. She has been married to the father of her three children for 29 years. Except for two traffic tickets in Minnesota, Ms. Escobar Maya has never had any contact with the police. She is a well-known and active member at the Saint Alphonsus Catholic Church in Brooklyn Center, Minnesota, for going on 17 years.

47. Ms. Escobar Maya submitted an I-131 Application for Military-Related Parole in Place as her U.S. citizen son is serving in the Army National Guard. The application has been pending since March 14, 2025, at the National Benefits Center with Receipt Number No.

 (Ex. A). Ms. Escobar Maya had submitted a thorough application, which included detailed biographic information, copies of all identity documents, proof of relationship to her son, proof of her son's membership in the National Guard, and many letters of support (Ex. C). She also attended a biometrics appointment at the USCIS Application Support Center in St. Paul, Minnesota, on April 8, 2025 (Ex. B).

48. Ms. Escobar Maya was planning to file a "One-step" application once her Military Parole in Place was approved. A One-step application consists of an I-130 Parent Petition, an I-485 Application for Adjustment of Status (permanent residence), an I-765 Application for Employment Authorization, and an I-864 Affidavit of Support. Since she had entered without inspection, she needed to be paroled into the United States to qualify for a One-step application. If she is not paroled, she will be forced to return to Mexico for ten years before she can return because she does not have a spouse or parent who is a United States Citizen to qualify for the I-601A Waiver; she only has a U.S. Citizen son who is over 21.

49. Ms. Escobar Maya had no contact with ICE until January 12, 2026. That day, Ms. Escobar Maya was detained by ICE officers, less than a block from her home in Hamel, Minnesota, as she drove to work very early in the morning. Apparently, the ICE officers had her home staked, and they had come for her.

50. When ICE officers stopped her, three vehicles surrounded her vehicle, one in front and the other two behind. The ICE vehicle in front quickly slowed, forcing her to stop her vehicle. The ICE agents, all wearing masks, surrounded the Petitioner's vehicle. The agent at the

driver's window asked for her Driver's License, which she showed them. Then, they took a picture of her. The agent then told Ms. Escobar Maya to get out of the vehicle. She asked why, and he then aggressively said, "Get out of the car!" Ms. Escobar Maya was terrified and exited her vehicle compliantly. Then, they told her they were going to put handcuffs on her, and she asked why, but they did not answer.

51. Ms. Escobar Maya asked to call her son, but the ICE officers said no. She had been on the phone with her husband as a safety precaution when she drove away from her home, as they had been doing since the surge in Minnesota started ramping up. Her husband must have alerted her son because her son arrived at the scene. Her son alerted the agents that she was applying for Military Parole in Place because he is in the Army National Guard (Ex. A, B, C). They told him they were detaining her to speed up her application process, which was not true.

52. The ICE officers took Ms. Escobar Maya to a local Lutheran Church parking lot near her home in Hamel, Minnesota, where there were about 20 ICE agents in various vehicles. They held her in the back of the ICE vehicle for about two hours. Eventually, she asked to use the restroom, and a female agent brought her into the Lutheran Church and stood in the single bathroom with her while she used the toilet.

53. Next, the ICE agents transported Ms. Escobar Maya to Fort Snelling, Minnesota, at the Henry Bishop Whipple Building. There, again, Ms. Escobar Maya informed the agents that she is applying for Military Parole in Place through her son, who is serving in the U.S. Army National Guard, and they did not seem to care (Ex. A, B, C). She was held in a cell with about 20 other women. There was a bench, but many of the detainees had to sit on the floor because there was not enough room on the bench. There was a toilet with no privacy and a sink for them to use. They were provided a ham sandwich and a cup to drink from the sink.

54. That afternoon, ICE transported Ms. Escobar Maya along with the other detainees to the airport. She was in full shackles on her wrists, ankles, and waist. They gave her a sandwich, chips, and water on the plane, but it was difficult to bring her hands up to her mouth to eat and drink because of the shackles. Ms. Escobar Maya was transported to ERO El Paso Camp East, Montana (Ex. E). That night, she slept in a room with about 80 other women.

55. As of Saturday, January 17, when her attorney in Anoka, Minnesota, was finally able to speak to her, she reported that she had asked to see a doctor because she had significant pain in her back due to an accident that she had been in in 2005, but they had not provided her any medical care. At home, she has supplements that she takes that help her cope with her pain. She had asked for a second blanket because she is cold at night, but they have not given it to her. As of Saturday, January 17, she was still wearing the same clothes in which she had arrived. She had only been able to contact her family through a three-minute phone call.

56. Being an extremely devout Catholic and a servant leader in her faith community, she is passing the time in her room with about 80 other women by leading prayer circles and Bible studies.

57. Ms. Escobar Maya remains detained at the ERO El Paso Camp East Montana, which is 1400 miles away from her husband, three children, home, church, work, and her attorney (Ex. E).

58. Petitioner is neither a flight risk nor a danger to the community. Petitioner has been married for 29 years, and she has two U.S. citizen sons: Alexis Sanchez Escobar, who is 23 years old, and , who is 12 years old. She also has a daughter, Ariadna Yuritzi Sanchez Escobar, who is a DACA recipient and recently became a mother. Petitioner has lived in the

same house for the past 12 years, and she has no criminal record. She had been leading a consistently stable life.

59. The facts show that the ICE officers have not identified a valid statutory basis for the Petitioner's detention, nor have they attempted to satisfy the warrant requirement of § 1226(a). Following Petitioner's arrest and transfer to the El Paso Camp East Montana ICE detention facility, ICE has failed to issue a custody redetermination to either provide an opportunity to post bond or be released on other conditions. As far as we know, ICE has not served her with a Notice to Appear, which commences the removal process (Ex. D).

60. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider a bond request for the Petitioner. As a result, Petitioner remains in detention. Without relief from this court, she faces the prospect of months or even years in immigration custody, separated from her family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA: Request for Relief Pursuant to *Maldonado Bautista*

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

62. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a) (Ex. F).

63. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members (Ex. F).

64. The order granting class certification in *Maldonado Bautista* further orders 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,” (Ex. F)

65. Respondents are parties to *Maldonado Bautista* and bound by the Court’s declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). (Ex. F)

66. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner’s statutory rights under the INA and the Court’s judgment in *Maldonado Bautista*.

COUNT II

Violation of the INA

67. Petitioner incorporates by reference the allegations of fact outlined in the preceding paragraphs.

68. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States before being apprehended and placed in removal proceedings by the Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

69. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates the INA.

COUNT III

Violation of the Bond Regulations

70. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

71. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service 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.

72. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

73. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT IV

Violation of Due Process

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

75. 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).

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

77. The government’s detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates her right to due process.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Western District of Texas or the District of Minnesota during the pendency of this action;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Declare that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and enjoins Respondents from denying release or other relief on the basis that she is subject to such mandatory detention;
- e. Issue a Writ of Habeas Corpus requiring that Respondents release the Petitioner immediately. Further detention absent a warrant violates 8 U.S.C. § 1226(a);

- f. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within three days;
- g. Declare that Petitioner's detention is unlawful;
- h. Award Petitioner attorney's 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
- i. Grant any other and further relief that this Court deems just and proper.

Date: January 26, 2026

Respectfully Submitted:



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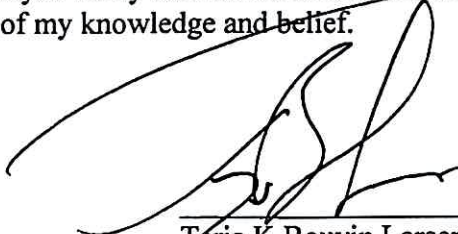
And

Terja K Bouvin Larsen
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(*pro hac vice to be filed*)

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VERIFICATION

I, Terja K Bouvin Larsen, being duly sworn upon oath, hereby state: I represent the Petitioner in these habeas corpus proceedings. The Petitioner, Lidia Escobar Maya, is currently being held at the El Paso Camp East Montana ICE detention facility, and she is not able to appear in my office to sign the Verification. I have reviewed the record of the removal proceedings and discussed this matter with the Petitioner and her family. I verify that the information contained in the foregoing Petition is true and correct to the best of my knowledge and belief.


Terja K Bouvin Larsen
Attorney for Petitioner