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6 **UNITED STATES DISTRICT COURT**
7 **FOR THE WESTERN DISTRICT OF OKLAHOMA**
8 **OKLAHOMA CITY DIVISION**

9 Gulzina Bekbolot kyzy

10 **Petitioner**

11 **v.**

12 Fred Figueroa, WARDEN OF THE
13 DIAMONDBACK CORRECTIONAL
14 FACILITY; Joshua Johnson, DIRECTOR,
15 ICE DALLAS FIELD OFFICE; Todd M.
16 Lyons, ACTING DIRECTOR,
17 IMMIGRATION AND CUSTOMS
18 ENFORCEMENT, Kristi Noem,
19 SECRETARY OF THE DEPARTMENT
20 OF HOMELAND SECURITY; Pam
21 Bondi, ATTORNEY GENERAL OF THE
22 UNITED STATES

23 **Respondents.**

CASE NO.

**PETITION FOR WRIT OF
HABEAS CORPUS AND
REQUEST FOR RELEASE FROM
DETENTION**

Expedited Hearing Requested

24 **PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

Petitioner Gulzina Bekbolot kyzy ("Petitioner"), by and through her attorney Harun Taskin, of the Kent Law Partners LLC, respectfully submits this Petition for a Writ of

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1 Habeas Corpus under 28 U.S.C. § 2241 to challenge her unlawful and prolonged
2 detention by the Department of Homeland Security (DHS) and Immigration and
3 Customs Enforcement (ICE). Specifically, although Petitioner sought a bond hearing
4 pursuant to the nationwide class action *Maldonado Bautista v. Santacruz*, the
5 Immigration Court declined to conduct a bond hearing, taking the position that it lacked
6 jurisdiction under *Matter of Yajure Hurtado*. As a result, Petitioner filed this habeas
7 petition to challenge her continued detention.

8 **I. INTRODUCTION**

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- 10 1. Petitioner Gulzina Bekbolot kyzy is a national and citizen of Kyrgyzstan who entered
11 the United States without inspection (EWI) on or about April 9, 2023, through the
12 United States-Mexico border. Upon her apprehension by border officials on that date,
13 Petitioner was processed and released under an Order of Release on Recognizance
14 (Form I-220A).
- 15 2. The Form I-220A expressly memorializes this discretionary release decision by
16 marking the box for "release on recognizance" and by imposing reporting and
17 compliance conditions, including requirements that the Petitioner report as directed by
18 DHS, comply with all laws, and refrain from changing residence without permission.
19 These conditions are legally significant and confirm that DHS elected to release
20 Petitioner under its discretionary detention authority pursuant to 8 U.S.C. § 1226(a)
21 rather than subjecting her to mandatory detention.
- 22 3. Further confirming this custody classification, Petitioner's Notice to Appear (Form I-

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1 862) demonstrates that DHS affirmatively declined to classify her as an "arriving
2 alien." DHS left blank the box labeled "You are an arriving alien" and instead marked
3 the category stating, "You are an alien present in the United States who has not been
4 admitted or paroled." This designation is legally determinative: Petitioner must be
5 considered under 8 U.S.C. § 1226(a), not § 1225(b). DHS's issuance of an Order of
6 Release on Recognizance and its charging document, taken together, foreclose any
7 attempt to treat Petitioner as an arriving alien subject to mandatory detention.

8 4. Following her release, the Petitioner was initially referred to the New York
9 Immigration Court at 26 Federal Plaza. During the proceedings, and as a result of her
10 relocation to Illinois, venue was transferred to the Chicago Immigration Court. In the
11 interim, the Petitioner filed an application for asylum. During the pendency of her case,
12 the Petitioner subsequently relocated to Ohio.

13 5. While awaiting her Master Calendar Hearing scheduled for September 3, 2026, the
14 Petitioner was detained by Immigration and Customs Enforcement (ICE) on January
15 10, 2026, during a nighttime traffic stop on Interstate 40 in Oklahoma while working
16 as a commercial truck driver, and was transferred to the David L. Moss Criminal Justice
17 Center in Tulsa, Oklahoma. On January 12, 2026, she was transferred to the Bluebonnet
18 Detention Facility in Texas, and thereafter, on January 24, 2026, she was transferred
19 again to the Diamondback Correctional Facility, Route 2, Watonga, Oklahoma 73772.

20 6. Thereafter, jurisdiction over her removal proceedings was transferred from the Chicago
21 Immigration Court to the El Paso Immigration Court, where her case is currently

1 pending.

- 2 7. On November 20, 2025, the U.S. District Court for the Central District of California
3 granted partial summary judgment on behalf of individual plaintiffs, and on November
4 25, 2025, certified a nationwide class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-
5 01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista*
6 *v. Santacruz*, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). The declaratory judgment
7 held that the "Bond Denial Class" members are detained under 8 U.S.C. § 1226(a) and,
8 thus, may not be denied consideration for release on bond under § 1225(b)(2)(A).
- 9 8. Respondents, on information and belief, are charging Petitioner with having entered
10 the United States without admission or inspection under 8 U.S.C. § 1182(a)(6)(A)(i).
11 Despite Petitioner's explicit processing under non-mandatory detention guidelines and
12 the absence of any prior removal order, Respondents rely on DHS policy which
13 instructs ICE employees to consider any noncitizen inadmissible under that statute to
14 be ineligible for an immigration bond under 8 U.S.C. § 1225(b)(2)(A). See ICE Memo:
15 Interim Guidance Regarding Detention Authority for Applications for Admission,
16 issued July 8, 2025.
- 17 9. This position relies on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), a BIA
18 precedent holding that an IJ has no jurisdiction to consider bond requests for
19 noncitizens who entered without admission or inspection. However, Respondents'
20 legal interpretation is plainly contrary to the statutory framework and decades of
21 agency practice applying 8 U.S.C. § 1226(a).

1 10. Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2)(A) violates the plain
2 language of the Immigration and Nationality Act. That statute does not apply to
3 noncitizens like Petitioner, who entered the United States on April 9, 2023, and were
4 subsequently processed and released into the interior of the United States pursuant to
5 discretionary authority.

6 11. Although Petitioner did not seek a bond hearing before the Immigration Court, any
7 such request would have been futile. Under binding agency precedent, including *Matter*
8 of *Yajure Hurtado*, Immigration Judges have consistently declined to exercise custody
9 jurisdiction over similarly situated noncitizens, even where class action protections
10 apply. As a result, administrative relief is foreclosed and exhaustion is futile, leaving
11 habeas corpus as the only available mechanism to challenge the legality of Petitioner's
12 detention. Petitioner therefore respectfully requests that this Court find her detention
13 unlawful under 8 U.S.C. § 1225(b) and order her release or, in the alternative, compel
14 an individualized bond hearing under 8 U.S.C. § 1226(a).

15 II. PARTIES

16 12. Petitioner is a native and citizen of Kyrgyzstan who resided at [REDACTED]
17 [REDACTED] IN 46705, prior to her detention. Upon her entry, she was released into the
18 United States pursuant to a Form I-220A, Order of Release on Recognizance.

19 13. Respondents are the federal officials responsible for Petitioner's custody and the
20 enforcement of the immigration detention laws, including Fred Figueroa, Warden of
21 the Diamondback Correctional Facility; Joshua Johnson, Director of the ICE Dallas

1 Field Office; Todd M. Lyons, Acting Director of U.S. Immigration and Customs
2 Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; and
3 Pam Bondi, Attorney General of the United States.

4 III. JURISDICTION

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6 14. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which
7 authorizes federal courts to grant habeas relief to individuals who are “in custody in
8 violation of the Constitution or laws or treaties of the United States.”

9 15. Petitioner is currently detained within this District at Route 2, Watonga, Oklahoma
10 73772, and therefore, jurisdiction is proper in this Court. See *Rumsfeld v. Padilla*, 542
11 U.S. 426, 443 (2004) (a habeas petition must be filed in the district of confinement and
12 name the immediate custodian).

13 16. This action arises under the Constitution of the United States and the Immigration and
14 Nationality Act (INA), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration
15 Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, 110
16 Stat. 1570. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the
17 Suspension Clause of the Constitution because this action is a habeas corpus petition,
18 and under 28 U.S.C. § 1331 because this action arises under federal law, including the
19 INA, 8 U.S.C. § 1101, et seq., and the Administrative Procedure Act, 5 U.S.C. § 551,
20 et seq. In sum, this Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
21 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
22 Constitution (the Suspension Clause).

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

3 18. Congress has stripped district courts of habeas jurisdiction in certain immigration-
4 related contexts, including through provisions such as 8 U.S.C. § 1252. Those
5 jurisdiction-stripping provisions, however, are inapplicable here. Although Congress
6 possesses the authority to limit habeas jurisdiction, that authority is subject to strict
7 construction. See *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S.
8 471, 482–83 (1999) (explaining that jurisdiction-stripping provisions should not be
9 read expansively to encompass claims beyond those expressly identified). See also
10 *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (noting that courts have
11 historically declined to apply overly literal readings to broad statutory language when
12 construing the scope of immigration statutes). Because the vast majority of jurisdiction-
13 stripping provisions do not expressly reference challenges to immigration detention,
14 they do not deprive this Court of habeas jurisdiction over Petitioner’s detention-based
15 claims.

16 19. Consistent with that principle, the Supreme Court has made clear that habeas
17 jurisdiction under 28 U.S.C. § 2241 remains available for statutory and constitutional
18 challenges to immigration detention unless Congress has spoken with unmistakable
19 clarity to eliminate such review. See *INS v. St. Cyr*, 533 U.S. 289, 305–14 (2001). The
20 jurisdiction-stripping provisions set forth in 8 U.S.C. § 1252(a)(2) are limited in scope
21 and address discrete categories of review, such as challenges to expedited removal

1 orders or certain forms of discretionary relief. Those provisions do not purport to
2 eliminate habeas jurisdiction over claims challenging the legality of immigration
3 detention itself. Accordingly, where a petitioner challenges the statutory and
4 constitutional basis of her continued detention—rather than the merits of a removal
5 order—§ 1252(a)(2) does not deprive this Court of jurisdiction to entertain a petition
6 for habeas corpus.

7 20. Section 1226(e) limits judicial review of discretionary judgments regarding the
8 detention or release of noncitizens. That provision, however, does not bar habeas
9 review of statutory or constitutional challenges to the legality of detention itself. See
10 *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (explaining that § 1226(e) does not
11 preclude challenges to the statutory framework governing detention). Accordingly,
12 where a petitioner contests whether the government is detaining her under a lawful
13 statutory authority, § 1226(e) does not deprive this Court of habeas jurisdiction.

14 21. The inapplicability of 8 U.S.C. § 1226(e) to habeas challenges is confirmed by the
15 statutory history of the INA. Prior to the Supreme Court's decision in *INS v. St. Cyr*,
16 the INA's jurisdiction-stripping provisions did not specifically reference habeas
17 corpus. See, e.g., 8 U.S.C. § 1252(a)(2)(A) (no express reference to habeas corpus).
18 The Supreme Court explained that, absent a clear statement from Congress, statutory
19 and constitutional challenges remained cognizable in habeas corpus proceedings. See
20 *INS v. St. Cyr*, 533 U.S. 289, 312–13 (2001).

21 22. At that time, Congress did not amend 8 U.S.C. § 1226(e) to include any reference to

1 habeas corpus, and it has not done so since. Compare, for example, 8 U.S.C. §
2 1252(a)(2)(A) (2005), which expressly references habeas corpus, with 8 U.S.C. §
3 1226(e) (2005) and 8 U.S.C. § 1226(e) (2020), both of which contain no reference to
4 habeas corpus. This statutory contrast supports the conclusion that Congress did not
5 intend § 1226(e) to eliminate habeas review. See also H.R. Rep. No. 109-72, at 175
6 (2005) (explaining that the amendments were designed to eliminate habeas review over
7 challenges to removal orders, while preserving habeas review over challenges to
8 detention independent of removal orders).

9 23. Canons of statutory construction support that conclusion. Courts presume that when
10 Congress amends a statute, the amendment is intended to have meaningful effect. See
11 *Stone v. INS*, 514 U.S. 386, 397 (1995) (citing *Reiter v. Sonotone Corp.*, 442 U.S. 330,
12 339 (1979), and *Moskal v. United States*, 498 U.S. 103, 109–11 (1990)). By contrast,
13 where Congress elects not to amend a statutory provision while amending related
14 provisions, that choice supports the inference that no change was intended.
15 Accordingly, Congress's decision to leave 8 U.S.C. § 1226(e) unchanged supports the
16 conclusion that habeas corpus jurisdiction over challenges to detention was preserved.

17 24. Furthermore, even if 8 U.S.C. § 1226(e) were construed to apply to petitions for habeas
18 corpus generally, it would not extend to Petitioner's specific claims. Section 1226(e)
19 limits judicial review only with respect to discretionary judgments regarding detention
20 or release. Administrative agencies lack discretion to act in violation of the
21 Constitution, and constitutional challenges therefore fall outside the scope of

1 discretionary determinations. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018).
2 Accordingly, as a matter of statutory interpretation, § 1226(e) does not preclude habeas
3 review of constitutional challenges to the legality of detention.

4 25. This Court has already recognized that habeas jurisdiction exists to review whether the
5 Department of Homeland Security is detaining a noncitizen under the correct statutory
6 authority. In *Rodriguez Hernandez v. Grant*, Case No. CIV-25-1525-SLP (W.D. Okla.
7 Jan. 23, 2026), this Court held that it retains jurisdiction to determine whether DHS has
8 unlawfully applied 8 U.S.C. § 1225(b)(2)(A) to a noncitizen who was already present
9 in the United States and not seeking admission. The Court rejected the government's
10 argument that 8 U.S.C. § 1252(g) deprived it of jurisdiction and concluded that
11 challenges to the statutory basis of detention are properly brought through habeas
12 corpus. The Court further held that detention of interior noncitizens is governed by 8
13 U.S.C. § 1226(a) rather than § 1225(b)(2)(A), and ordered the government to provide
14 an individualized bond hearing or release the petitioner. Accordingly, where, as here,
15 Petitioner challenges DHS's authority to detain her under § 1225(b) instead of §
16 1226(a), this Court has jurisdiction to adjudicate that claim.

17 26. Therefore, this Court has jurisdiction to review this habeas petition on behalf of
18 Petitioner.

19 IV. VENUE

20 27. The Western District of Oklahoma has confirmed that 8 U.S.C. § 1252(g) does not bar
21 judicial review when a petitioner seeks only release from unlawful detention, as in this

1 case, because such claims do not challenge the commencement or adjudication of
2 removal proceedings but instead contest the legality of custody itself.

3 28. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents
4 are employees, officers, and agencies of the United States, and because a substantial
5 part of the events or omissions giving rise to the claims occurred in the Western District
6 of Oklahoma.

7 29. The venue is therefore proper in this District, as the Petitioner is detained here, and the
8 immediate custodian responsible for her detention is located within this District.

9 **V. REQUIREMENTS OF 28 U.S.C. § 2243**

10 30. The Court must grant the petition for writ of habeas corpus or issue an order to show
11 cause (OSC) to the respondents “forthwith,” unless Petitioner is not entitled to relief.
12 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require
13 Respondents to file a return “within *three days* unless for good cause additional time,
14 not exceeding twenty days, is allowed.” *Id.* (emphasis added).

15 31. Courts have long recognized the significance of the habeas statute in protecting
16 individuals from unlawful detention. Habeas corpus is “perhaps the most important writ
17 known to constitutional law . . . affording as it does a swift and imperative remedy in
18 all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
19 (emphasis added). “The application for the writ usurps the attention and displaces the
20 calendar of the judge or justice who entertains it and receives prompt action from him
21 within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th

1 Cir. 2000) (citation omitted).

2 **VI. LEGAL FRAMEWORK**

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

5 33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
6 proceedings before an IJ (“IJ”). See 8 U.S.C. § 1229a. Individuals in § 1226(a)
7 detention are generally entitled to a bond hearing at the outset of their detention, see 8
8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged
9 with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. §
10 1226(c).

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

14 35. Lastly, the INA also provides for the detention of noncitizens who have been ordered
15 removed, including individuals in withholding-only proceedings, as seen in 8 U.S.C. §
16 1231(a)–(b).

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

18 37. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
19 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,
20 which was most recently amended earlier this year by the Laken Riley Act, Pub. L.
21 No.119-1, 139 Stat. 3 (2025).

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1 38. Following the enactment of the IIRIRA, EOIR drafted new regulations clarifying that,
2 in general, individuals who entered the country without inspection were not considered
3 detained under § 1225 and were instead detained under § 1226(a). See Inspection and
4 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
5 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

6 39. Thus, in the decades that followed, most people who entered without inspection and
7 were placed in standard removal proceedings received bond hearings, unless their
8 criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice
9 was consistent with many more decades of prior practice, in which noncitizens who
10 were not deemed “arriving” were entitled to a custody hearing before an IJ or other
11 hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1,
12 at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority
13 previously found at § 1252(a)).

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

17 41. The new policy, entitled “Interim Guidance Regarding Detention Authority for
18 Applicants for Admission,” claims that all persons who entered the United States
19 without inspection shall now be subject to mandatory detention provision under §
20 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and
21 affects those who have resided in the United States for months, years, and even decades.

1 42. On September 5, 2025, the BIA adopted this same position in a published decision,
2 Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025). There, the BIA held that
3 all noncitizens who entered the United States without admission or parole are subject
4 to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

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

8 44. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma,
9 Washington, and Houston – Greenspoint immigration court stopped providing bond
10 hearings for persons who entered the United States without inspection and who have
11 since resided here. There, the U.S. District Court in the Western District of Washington
12 found that such a reading of the INA is likely unlawful and that § 1226(a), not §
13 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
14 States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

15 45. Subsequently, court after court has adopted the same reading of the INA's detention
16 authorities and rejected ICE and EOIR's new interpretation. See, e.g., *Gomes v. Hyde*,
17 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Rosado v.*
18 *Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
19 2025), report and recommendation adopted.

20 46. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies
21 the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of

1 the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people
2 like Petitioner.

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

6 48. The text of § 1226 also explicitly applies to people charged as being inadmissible,
7 including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E).
8 Subparagraph (E)’s reference to such people makes clear that, by default, such people
9 are afforded a bond hearing under subsection (a). As the Rodriguez Vazquez court
10 explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability,
11 it ‘proves’ that absent those exceptions, the statute generally applies.” Rodriguez
12 Vazquez, 779 F. Supp. 3d at 1257 (citing Shady Grove Orthopedic Assocs., P.A. v.
13 Allstate Ins. Co., 559 U.S. 393, 400 (2010)); see also Gomes, 2025 WL 1869299, at
14 *7.

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

18 50. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
19 entered the United States. That statute’s entire framework is premised on inspections
20 at the border of people who are “seeking admission” to the United States. 8 U.S.C. §
21 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention

1 scheme applies “at the Nation’s borders and ports of entry, where the Government must
2 determine whether a [] [noncitizen] seeking to enter the country is admissible.”
3 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

7 52. That interpretation conflicts with the text, structure, and purpose of the INA. Section
8 1225(b) applies only to individuals “seeking admission” and is premised on inspections
9 conducted at the border or immediately upon entry. See 8 U.S.C. § 1225(b)(2)(A).

10 53. The Supreme Court has confirmed that § 1225(b)’s mandatory detention regime applies
11 at the Nation’s borders and ports of entry, where the government determines
12 admissibility in the first instance. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

13 54. By contrast, § 1226(a) applies broadly to noncitizens “pending a decision on whether
14 the alien is to be removed from the United States”, including individuals charged as
15 inadmissible and placed into § 1229(a) proceedings.

16 VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

17 55. Exhaustion of administrative remedies is not required in this case. 28 U.S.C. § 2241
18 contains no statutory exhaustion requirement, and courts apply only a prudential
19 exhaustion doctrine in immigration habeas matters. See *McCarthy v. Madigan*, 503
20 U.S. 140, 144 (1992) (exhaustion not required where not mandated by statute);

21 *Hernandez v. Gonzales*, 424 F.3d 42, 49 (1st Cir. 2005) (no exhaustion required for
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1 challenges to detention authority). Where, as here, a petitioner challenges the statutory
2 and constitutional authority for detention; exhaustion is not required because
3 administrative agencies cannot adjudicate constitutional claims and lack the power to
4 grant habeas relief. See *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006) (BIA
5 lacks authority to decide constitutional issues).

6 56. Moreover, exhaustion would be futile because neither the IJ nor the Board of
7 Immigration Appeals can review DHS's claim that Petitioner is subject to mandatory
8 detention under 8 U.S.C. § 1225(b), nor can they order release where DHS invokes that
9 statute. Administrative procedures, therefore, cannot provide the relief sought, release
10 from unlawful detention. See *McCarthy*, 503 U.S. at 146–49 (exhaustion excused
11 where agency remedies are inadequate or would cause irreparable injury).

12 57. The United States District Court for the Western District of Oklahoma has likewise
13 rejected DHS's attempt to reclassify interior noncitizens as subject to mandatory
14 detention under 8 U.S.C. § 1225(b). In *Rodriguez Hernandez v. Grant*, Case No. CIV-
15 25-1525-SLP (W.D. Okla. Jan. 23, 2026), the court held that DHS had unlawfully
16 applied § 1225(b)(2)(A) to a noncitizen who was already present in the United States
17 and not seeking admission. The court rejected the government's argument that 8 U.S.C.
18 § 1252(g) stripped it of jurisdiction and concluded that challenges to the statutory basis
19 of detention are properly brought through habeas corpus. The court further held that
20 detention of noncitizens apprehended in the interior is governed by 8 U.S.C. § 1226(a)
21 rather than § 1225(b) and ordered DHS to provide an individualized bond hearing or

1 release the petitioner. Accordingly, § 1225(b) is limited to individuals at the border or
2 seeking admission and cannot be extended to noncitizens who, like Petitioner, have
3 already entered the country and are residing in the interior.

4 58. The government's reliance on Matter of Yajure Hurtado and Matter of Q. Li to justify
5 mandatory detention under 8 U.S.C. § 1225(b) is legally unsustainable. In Rodriguez
6 Hernandez v. Grant, Case No. CIV-25-1525-SLP (W.D. Okla. Jan. 23, 2026), the court
7 considered a petitioner who was denied a bond hearing based on the binding effect of
8 Matter of Yajure Hurtado. The court rejected the government's statutory interpretation
9 and held that § 1226(a), not § 1225(b)(2)(A), governs the detention of noncitizens
10 apprehended in the interior of the United States.

11 59. The court further concluded that challenges to the statutory basis of detention are
12 properly brought through habeas corpus and ordered the government to provide an
13 individualized bond hearing or release the petitioner. Accordingly, DHS may not rely
14 on Matter of Q. Li or Matter of Yajure Hurtado to transform discretionary detention
15 under § 1226(a) into mandatory detention under § 1225(b) for noncitizens who are
16 already present in the United States. This persuasive authority supports Petitioner's
17 position that DHS's invocation of § 1225(b) is ultra vires and unlawful.

18 60. Because the administrative process cannot remedy Petitioner's unlawful and
19 unconstitutional detention, and because delay would result in continued unlawful
20 custody and irreparable harm, prudential exhaustion is properly excused.

21 **VIII. CLAIMS FOR RELIEF**

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CLAIM ONE

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

61. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

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

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

64. 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.

65. 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.”

66. 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).

67. 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.

CLAIM TWO

Detention Violates the Immigration and Nationality Act (INA)

68. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

69. The government is unlawfully detaining Petitioner pursuant to 8 U.S.C. § 1225(b), despite the fact that § 1225(b) applies only to individuals seeking admission at the border or apprehended shortly after entry. Petitioner is not such an individual; rather, she entered the United States on April 9, 2023, and has since resided continuously in the interior of the United States for a prolonged period. The statutory framework and decades of established agency practice make clear that individuals who entered long ago and were not apprehended at or near the border are detained, if at all, under 8 U.S.C. § 1226, which allows for discretionary custody and provides the right to a bond hearing.

70. The government's effort to classify Petitioner as an "applicant for admission" subject to mandatory detention under § 1225(b) is contrary to the plain language of the statute, congressional intent, and longstanding legal interpretation. Nothing in the INA authorizes DHS to treat long-term residents as recent entrants for purposes of mandatory detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018) (mandatory detention applies in the context of individuals "seeking admission"); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (attempting to expand § 1225(b) detention, currently being rejected nationwide). Federal courts have repeatedly held that § 1226, not § 1225(b), governs the detention of individuals long residing in the United States.

1 71. Significantly, the United States District Court for the Western District of Oklahoma
2 has likewise confirmed that applying 8 U.S.C. § 1225(b)(2)(A) mandatory detention to
3 noncitizens already present in the United States is unlawful. In *Rodriguez Hernandez*
4 *v. Grant*, Case No. CIV-25-1525-SLP (W.D. Okla. Jan. 23, 2026), the court held that
5 DHS misapplied § 1225(b)(2)(A) to a noncitizen who had already entered the United
6 States and was not seeking admission at the time of detention. The court rejected the
7 government's contention that § 1225(b) governed the petitioner's custody and
8 concluded that detention of noncitizens apprehended in the interior is governed by 8
9 U.S.C. § 1226(a), not § 1225(b). Accordingly, the court granted habeas relief and
10 ordered DHS to provide an individualized bond hearing at which the government bears
11 the burden, or to release the petitioner. This persuasive authority confirms that DHS
12 may not lawfully invoke § 1225(b) to detain noncitizens who, like Petitioner, are
13 already present in the United States.

14 72. Because Petitioner is not subject to detention under § 1225(b), her continued detention
15 without access to a custody redetermination hearing violates the INA, exceeds DHS's
16 statutory authority, and is unlawful. Petitioner is entitled to habeas relief, including
17 immediate release, or in the alternative, a constitutionally compliant bond hearing
18 under 8 U.S.C. § 1226(a).

19 CLAIM THREE

20 Violation of the Due Process Clause of the Fifth Amendment

21 73. Petitioner incorporates by reference the allegations set forth in the preceding

1 paragraphs.

2 74. Petitioner's continued detention without a bond hearing or an individualized
3 determination of flight risk or danger violates the Due Process Clause of the Fifth
4 Amendment. The government asserts that Petitioner is subject to mandatory detention
5 under 8 U.S.C. § 1225(b), even though she has resided in the United States in the
6 interior for a prolonged period, is deeply embedded in her community, and was not
7 apprehended at or near the border. Treating Petitioner as an "applicant for admission"
8 and subjecting her to indefinite, mandatory detention without procedural safeguards is
9 arbitrary, punitive, and contrary to the basic guarantees of due process.

10 75. "Freedom from bodily restraint has always been at the core of the liberty protected by
11 the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Even where
12 the government has authority to detain for immigration purposes, detention must bear
13 a reasonable relation to its purpose and must be accompanied by adequate procedural
14 protections. *Demore v. Kim*, 538 U.S. 510, 531 (2003). Here, Petitioner's detention is
15 not reasonably related to any legitimate immigration purpose because she is not a recent
16 entrant, has longstanding ties, and DHS cannot justify treating her as if she arrived
17 yesterday in an expedited removal context.

18 76. Moreover, this Court has recently confirmed that detaining a noncitizen under §
19 1225(b)(2) when they are already present in the United States constitutes an unlawful
20 application of the statute. In *Lorenzo Cardenas Perez v. Noem*, this Court held that §
21 1225(b)(2) was "misapplied" and "unlawfully applied" where the petitioner was not

"seeking admission" at the time of detention. The Court emphasized that because the petitioner was arrested while within the United States, he could not be subject to mandatory detention under § 1225(b)(2). That rationale applies squarely here. Respondents are detaining Petitioner "while exceeding [their] statutory authority," just as they attempted in Lorenzo Cardenas Perez, resulting in detention without process which the Supreme Court has condemned. See *Zadvydas*, 533 U.S. at 690–92.

77. Accordingly, Petitioner's continued detention violates the Fifth Amendment, and this Court should grant habeas relief and order Petitioner's immediate release, or, at a minimum, a prompt bond hearing with the government bearing the burden to justify continued detention by clear and convincing evidence.

CLAIM FOUR

Violation of the Suspension Clause of the U.S. Constitution

78. Petitioner incorporates by reference all preceding paragraphs. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, guarantees that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." Petitioner's continued detention, without access to judicial review or a mechanism to challenge the legality of custody, violates this constitutional guarantee. By asserting mandatory detention authority under 8 U.S.C. § 1225(b) and denying Petitioner any opportunity to seek release or a bond hearing, the government has effectively extinguished the core function of the writ, to test the legality of restraint on personal liberty.

1 79. The Supreme Court has long held that habeas relief remains available to noncitizens
2 seeking to challenge unlawful executive detention. See *INS v. St. Cyr*, 533 U.S. 289,
3 301 (2001) (“At the absolute minimum, the Suspension Clause protects the writ as it
4 existed in 1789.”). The writ cannot be withdrawn where, as here, the Executive detains
5 an individual without statutory authority and without due process safeguards. See
6 *Boumediene v. Bush*, 553 U.S. 723, 797 (2008) (inadequate substitutes cannot replace
7 habeas; detainees must have a meaningful opportunity to challenge detention).

8 80. The government’s position, that Petitioner is mandatorily detained and cannot seek
9 release, denies her a meaningful forum to challenge the legality of her detention and
10 would suspend the constitutional right to judicial review.

11 81. Because Petitioner’s detention without access to meaningful judicial review of her
12 custody constitutes an effective suspension of the writ of habeas corpus, this Court must
13 exercise jurisdiction and grant relief. Petitioner respectfully requests an order directing
14 her immediate release, or, in the alternative, a prompt individualized custody hearing
15 at which the government must justify continued detention by clear and convincing
16 evidence.

17 CLAIM FIVE

18 Entitlement to Attorneys’ Fees and Costs

19 82. Petitioner incorporates all preceding paragraphs as if fully set forth herein.

20 83. Petitioner respectfully asserts her entitlement to attorneys’ fees and costs incurred in
21 litigating this action. Under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412,

1 a prevailing party in litigation against the United States may recover fees and costs
2 unless the government's position was substantially justified. Petitioner brings this
3 habeas action to remedy unlawful detention, enforce constitutional protections, and
4 vindicate fundamental statutory rights. The government's detention of Petitioner under
5 8 U.S.C. § 1225(b), despite her longstanding residence and eligibility for custody
6 review under § 1226(a), is contrary to established law, lacks a reasonable legal basis,
7 and has been rejected by federal courts, including within this District.

8 84. Given that Petitioner has been forced to seek judicial relief solely due to the
9 government's unlawful and unconstitutional conduct, and because the government
10 lacks a substantial justification for its position, Petitioner is entitled to reasonable
11 attorneys' fees and costs pursuant to EAJA, as well as any other applicable authority.
12 Additionally, equitable principles support an award of fees in order to ensure that
13 Petitioner is made whole and that no barriers deter similarly situated individuals from
14 asserting their constitutional and statutory rights.

15 85. Petitioner therefore respectfully requests that, should she prevail in this action, this
16 Court award attorneys' fees and costs as permitted by law.

17 **IX. PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner respectfully requests that this Court:
19

- 20 1. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;
21

2. Issue an emergency order prohibiting Respondents from transferring Petitioner outside this Court's jurisdiction during the pendency of this action, in order to preserve this Court's jurisdiction and prevent irreparable harm;
3. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner Gulzina Bekbolot kyzy from immigration detention;
4. In the alternative, order that Petitioner be provided a prompt, individualized custody hearing before a neutral adjudicator, at which the government bears the burden of establishing by clear and convincing evidence that continued detention is necessary to ensure her appearance or protect the community;
5. Enjoin Respondents from re-detaining Petitioner absent lawful statutory authority and constitutionally sufficient procedures;
6. Declare that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b) and is entitled to custody review under 8 U.S.C. § 1226(a);
7. Award reasonable attorneys' fees and costs as permitted by law; and
8. Grant such other and further relief as the Court deems just and proper in equity and under the circumstances.

Respectfully submitted on January 26, 2026.

/s/ Harun Taskin

Harun Taskin, Esq.
Illinois State Bar # 6342748
Kent Law Partners LLC
1701 E Woodfield Rd. Suite 820
Schaumburg, IL 60173
Phone: 312-724-5555

PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 26

Fax: 312-724-5555

haskin@kentlawpartners.com

ATTORNEY FOR PETITIONER

PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 27

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 reviewed the relevant documentation of the events described in this Petition that was reasonably available to me prior to and at the time of filing. Based on those documents and on discussions with individuals whom the Petitioner authorized to speak on her behalf, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Respectfully submitted on January 26, 2026.

/s/ Harun Taskin

Harun Taskin, Esq.

Illinois State Bar # 6342748

Kent Law Partners LLC

1701 E Woodfield Rd. Suite 820

Schaumburg, IL 60173

Phone: 312-724-5555

Fax: 312-724-5555

htaskin@kentlawpartners.com

ATTORNEY FOR PETITIONER