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7 UNITED STATES DISTRICT COURT
8 Southern District of California

9 OLGA LIDIA ZAMORA RAMALES,)
10)

Petitioner,)

11 v.)

12)
13 CHRISTOPHER J. LaROSE, Senior Warden)
Otay Mesa Detention Center; PAMELA BONDI,)
14 United States Attorney General; KRISTI NOEM,)
Secretary of the Department of Homeland)
15 Security; PATRICK DIVVER, ICE San Diego)
Field Office Director, in their official capacities,)
16)

Respondents.)
17)
18)


Case Number: '26CV0501 JES DEB

VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS

Oral Argument Requested

19
20 Petitioner alleges:

21 INTRODUCTION

22 1. Petitioner OLGA LIDIA ZAMORA RAMALES  is subjected to
23 unlawful detention by Respondents at the Otay Mesa Detention Center. In February 1989 petitioner
24 arrived to the USA, fleeing persecution in Mexico. In 2007, the DHS started a removal proceeding
25 but allowed her to remain free on her own recognizance (OR) pending the removal proceeding,
26 which was later closed. In October 2025, respondents detained petitioner without explanation or any
27 change in circumstances. Petitioner seeks an order compelling respondents to immediately release
28 her from detention on the same terms and conditions as her original OR release.

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JURISDICTION

2. This action arises under the Constitution of the United States; the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101, *et seq*; and the Administrative Procedures Act (“APA”), 5 U.S.C. § 500, *et seq*.

3. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus; 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 5 U.S.C. § 701 *et seq*. (APA); and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

4. The court may grant relief under the habeas corpus statutes, the Declaratory Judgment Act, and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

5. Venue is proper because Petitioner is detained at the Otay Mesa Detention Facility, in San Diego, California, which is within the jurisdiction of this District.

6. Venue is also proper in this judicial district pursuant to 28 USC §1391(e) because at least one federal respondent is in this District; and a substantial part of the events or omissions giving rise to the claims in this action took place in this District. No real property is involved.

REQUIREMENTS OF 28 U.S.C. § 2243

7. The Court must grant the habeas corpus petition or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id*.

8. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

9. Petitioner OLGA LIDIA ZAMORA RAMALES (“Petitioner”) is a 55-year-old citizen of Mexico. She is detained by the Respondents at the Otay Mesa Detention Center.

1 initiated under 8 U.S.C. § 1229(a), also known as “full removal,” by filing a Notice to Appear with
2 the Immigration Court. *Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 520 (BIA 2011). Section
3 § 1226 provides that while removal proceedings are pending, a noncitizen “may be arrested and
4 detained” and that the government “may release the alien on ... conditional parole.” § 1226(a)(2);
5 *accord Thuraissigiam*, 591 U.S. at 108 (during removal proceedings, applicant may either be
6 “detained” or “allowed to reside in this country”).

7 17. When a person is apprehended under § 1226(a), an ICE officer makes the initial
8 custody determination. *Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citing 8 C.F.R. §
9 236.1(c)(8)). A noncitizen will be released if he or she “demonstrate[s] to the satisfaction of the
10 officer that such release would not pose a danger to property or persons, and that the alien is likely
11 to appear for any future proceeding.” *Id.* (citing 8 C.F.R. § 236.1(c)(8)). “Federal regulations
12 provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.”
13 *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (citing 8 CFR §§ 236.1(d)(1)). If, at this hearing,
14 the detainee demonstrates by the preponderance of the evidence that he or she is not “a threat to
15 national security, a danger to the community at large, likely to abscond, or otherwise a poor bail
16 risk,” the IJ will order his or her release. *Diaz*, 53 F.4th at 1197 (citing *Matter of Guerra*, 24 I. & N.
17 Dec. 37, 40 (B.I.A. 2006)).

18 18. While “§ 1226 applies to *aliens already present in the United States*,” U.S.
19 immigration law also “authorizes the Government to detain certain *aliens seeking admission into the*
20 *country* under §§ 1225(b)(1) and (b)(2),” a process that provides for expedited removal. *Jennings*,
21 583 U.S. at 303 (2018) (emphasis added). Under § 1225, a noncitizen “who has not been admitted
22 or who arrives in the United States” is considered “an applicant for admission.” 8 U.S.C. §
23 1225(a)(1). For certain applicants for admission, 8 U.S.C. § 1225 authorizes “expedited removal.” §
24 1225(b)(1).

25 19. Respondents’ central argument is that petitioner is subject to mandatory detention
26 pending removal proceedings under 8 U.S.C. § 1225(a)(1), 1225(b)(2)(A). Respondents rely on the
27 BIA’s recent decision in *Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025), affirming the
28 government’s new interpretation of § 1225.

1 20. As a threshold matter, the BIA decision *Yajure Hurtado* is entitled to little or no
2 deference by the District Court. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024)
3 (observing that while “agencies have no special competence in resolving statutory ambiguities,”
4 “[c]ourts do”).

5 21. Multiple District Courts across the entire United States have recently concluded that
6 the government’s proposed interpretation of the statute (a) disregards the plain meaning of section
7 1225(b)(2)(A); (b) disregards the relationship between sections 1225 and 1226; (c) would render a
8 recent amendment to section 1226(c) superfluous; and (d) is inconsistent with decades of prior
9 statutory interpretation and practice. The following quote is a representative example:

10 “The Court follows other decisions in this Circuit finding that “seeking admission
11 requires an affirmative act such as entering the United States or applying for status,
12 and that it does not apply to individuals who, like [Petitioner], have been residing in
13 the United States and did not apply for admission or a change of status.” *Mosqueda*
14 *v. Noem*, No. 25-CV-2304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8,
15 2025); *see, e.g., Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL
16 2676082, at *11–16 (D. Nev. Sept. 17, 2025); *Rodriguez*, 2025 WL 2782499, at *1
17 (“Every district court to address this question has concluded that the government’s
18 position belies the statutory text of the INA, canons of statutory interpretation,
19 legislative history, and longstanding agency practice.”); *Guzman v. Andrews*, No. 25-
20 CV-1015-KES-SKO (HC), 2025 WL 2617256, at *4–5 (E.D. Cal. Sept. 9, 2025)
21 (finding that petitioner who was released on bond and rearrested was entitled to a
22 bond hearing under § 1226); *Garcia*, 2025 WL 2549431, at *8 (providing petitioner
23 with an individualized bond hearing under § 1226(a)); *Valdovinos v. Noem*, No. 25-
24 CV-2439 TWR (KSC), slip op. at 9 (S.D. Cal. Sept. 25, 2025) (same).”

25 *Esquivel-Pina v. LaRose*, No. 25-CV-2672, 2025 WL 2998361 at 8 (S.D. Cal. Oct. 24,
26 2025).

27 22. Once released, the noncitizen’s bond is subject to revocation. Under 8 U.S.C. §
28 1226(b), “the DHS has authority to revoke a noncitizen’s bond or parole ‘at any time,’ even if that

1 individual has previously been released.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 968 (N.D. Cal.
2 2019). However, if an immigration judge has determined the noncitizen should be released, the
3 DHS may not re-arrest that noncitizen absent a change in circumstance. *See Panosyan v. Mayorkas*,
4 854 F. App’x 787, 788 (9th Cir. 2021) Where the release decision was made by a DHS officer, not
5 an immigration judge, the Government’s practice has been to require a showing of changed
6 circumstances before re-arrest. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal.
7 2017).

8 23. District Courts have found, once immigration authorities “elect to proceed with full
9 removal proceedings under § 1226, [they] cannot [] reverse course and institute § 1225 expedited
10 removal proceedings.” *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *4
11 (N.D. Cal. Aug. 21, 2025).

12 24. “The Fifth Amendment guarantees that “[n]o person shall be ... deprived of life,
13 liberty, or property, without due process of law.” U.S. Const. amend. V. “[T]he Due Process Clause
14 applies to all ‘persons’ within the United States, including aliens, whether their presence here is
15 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (9th Cir. 2001).
16 “[I]t is well established that the Fifth Amendment entitles aliens to due process of law in
17 deportation proceedings.” *Reno v. Flores*, 507 U.S. 292, 306 (1993). The Due Process Clause
18 generally “requires some kind of a hearing before the State deprives a person of liberty or property.”
19 *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). “Even individuals who face significant constraints on
20 their liberty or over whose liberty the government wields significant discretion retain a protected
21 interest in their liberty.” *Pinchi v. Noem*, No. 25-cv-5632-PCP, 2025 WL 2084921, at *3 (N.D. Cal.
22 July 25, 2025) (citations omitted). Although the initial decision to detain or release an individual
23 may be within the government’s discretion, “the government’s decision to release an individual
24 from custody creates ‘an implicit promise,’ upon which that individual may rely, that their liberty
25 ‘will be revoked only if [they] fail[] to live up to the ... conditions [of release].’ ” *Id.* (quoting
26 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). “Thus, even when ICE has the initial discretion to
27 detain or release a noncitizen pending removal proceedings, after that individual is released from
28 custody [he] has a protected liberty interest in remaining out of custody.” *Pinchi*, 2025 WL


1 2084921, at *3 (citing *Romero v. Kaiser*, No. 22-cv-20508, 2022 WL 1443250, at *2 (N.D. Cal.
2 May 6, 2022)).” *Perez v. LaRose*, No. 25 cv 3409-LL-DDL, 26 WL 92045 (S.D. Cal. Jan. 13,
3 2026).

4 25. Many other District Courts have also held that the DHS may not lawfully re-detain a
5 noncitizen for no good reason. “This Court has granted several habeas petitions filed by similarly
6 situated petitioners who were released from ICE detention on conditional parole and re-detained
7 several years later. In *Faizyan v. Casey*, the Court applied the due process inquiry in *Mathews v.*
8 *Eldridge*, 424 U.S. 319 (1976) and found that Respondents’ summary revocation of the petitioner’s
9 “conditional parole without an opportunity to be heard deprived [him] of his due process rights.”
10 Case No.: 3:25-cv-02884-RBM-JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025); *see also*
11 *Perez v. LaRose*, Case No.: 3:25-cv-02620-RBM-JLB, 2025 WL 3171742, at *2 (S.D. Cal. Nov. 13,
12 2025) (reaching the same conclusion as to the revocation of a petitioner’s humanitarian parole). The
13 Court “conclude[d] that due process require[d] [the petitioner] to be released from custody and
14 receive a bond hearing before an immigration judge before he can be re-detained.” *Faizyan*, 2025
15 WL 3208844, at *7.” *Xie v. LaRose*, No. 25 cv 03649-RBM-MSB, 26 WL 92066 (S.D. Cal. Jan. 13,
16 2026).

17 **FACTUAL ALLEGATIONS**

18 26. Petitioner arrived to the United States in February 1989. She has one departure. She
19 departed in January 1999 for a couple weeks but returned by illegally crossing through the hills
20 around January 15, 1999. She was not apprehended upon her arrival.

21 27. In August 2007, the DHS served petitioner with a Notice to Appear in immigration
22 court commencing a removal proceeding against petitioner. The NTA was apparently prepared by
23 the USCIS Anaheim asylum office after the denial of her NACARA application. The NTA charges
24 petitioner with removability under INA § 212(a)(6)(A)(i) as an alien present in the USA without
25 being admitted or paroled. Petitioner conceded removability, filed a relief application, attended
26 immigration court hearings, and was issued an employment authorization. In January 2013, the
27 immigration judge administratively closed the removal proceeding.

28 28. Petitioner is divorced. Her ex-husband is a citizen of Guatemala  and

1 is fighting an asylum case. Petitioner has three children: (1) Mayra, age 28; (2) Jonathan, age 23;
2 and (3) Jessie, age 20. The children are all United States citizens. Petitioner has no criminal
3 convictions. She is employed in cleaning.

4 29. In 2025, the removal proceeding was re-calendared on the motion of the DHS. The
5 DHS ordered petitioner to report downtown for a "check'-in". When petitioner reported for her
6 "check-in" she was surprised to be detained. ICE agents detained petitioner and without any
7 explanation sent her to the Otay Mesa Detention Facility, where she remains today.

8 30. Petitioner filed a motion for bond redetermination with the Otay Mesa Immigration
9 Court. However, on December 22, 2025, the immigration judge denied the bond motion, concluding
10 that the court did not have jurisdiction to consider a bond according to the BIA case of *Yajure-*
11 *Hurtado*. Moreover, the immigration judges at the Otay Mesa Immigration Court have begun to
12 also conclude that the recent case of *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-
13 BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) does not apply to petitioners
14 who entered the USA without inspection.

15 **CAUSES OF ACTION**

16 **COUNT 1**

17 (Violation of the Immigration and Nationality Act)

18 31. Petitioner incorporates by reference the allegations set forth in paragraphs 1 to 30.

19 32. The DHS detains petitioner pursuant to 8 U.S.C. § 1226, not 8 U.S.C. § 1225;
20 therefore he is entitled to a bond redetermination hearing before an immigration judge.

21 33. Petitioner's continued detention under Section 1226(a) in the absence of a bond
22 hearing and decision on the merits violates the INA.

23 **COUNT 2**

24 (Violation of the Due Process Clause)

25 34. Petitioner incorporates by reference the allegations set forth in paragraphs 1 to 32.

26 35. In 2007, the DHS commenced a removal proceeding but allowed her to remain free
27 upon her own recognizance (OR), conceding that she was neither a flight risk nor a danger to the
28 community.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

3 (1) Assume jurisdiction over this matter;

4 (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition
5 should not be granted within three days;

6 (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
7 Amendment, the INA, and the APA;

8 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;

9 (5) Issue an order prohibiting respondents from re-detaining petitioner without a material
10 change in circumstances and a pre-deprivation hearing where respondents must prove by clear and
11 convincing evidence that petitioner is either a flight risk or danger to the community;

12 (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (28
13 U.S.C. § 2412), and any other applicable statute or regulation; and

14 (7) Grant any further relief this Court deems just and proper.

15 DATED: 26 January 2026

16 Respectfully submitted,

17 */s/ William Baker*

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19 _____
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VERIFICATION

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States that I am the petitioner; I have read the petition or had it read to me in a language I understand, and the information in the petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

VERIFICACIÓN

DECLARACIÓN BAJO PENA DE PERJURIO

Declaro bajo pena de perjurio según las leyes de los Estados Unidos que soy el peticionario; He leído la petición o me la han leído en un idioma que entiendo, y la información de la petición es verdadera y correcta. Entiendo que una declaración falsa de un hecho material puede servir como base para el enjuiciamiento por perjurio.

Olga Lidia Zamora R.
OLGA LIDIA ZAMORA RAMALES
Petitioner/Peticionario