

**U.S. DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

(1) Alina Elena Sanchez-Gilly,)	
)	
Petitioner,)	
-vs.-)	Case No.
)	
(1) Kristi Noem, Secretary, U.S.)	
Department of Homeland Security,)	
in her official capacity;)	
(2) Pamela Bondi, U.S. Attorney)	
General, in her official capacity;)	
(3) Todd Lyons, Acting Director,)	
Immigration and Customs)	
Enforcement, in his official capacity;)	
(4) Joshua Johnson, Field Office)	
Director of Enforcement and)	
Removal Operations, Dallas Field)	
Office, Immigration and Customs)	
Enforcement, in his official capacity;)	
(5) Daren Margolin, Director of the)	
Executive Office of Immigration)	
Review, in his official capacity;)	
(6) Fred Figueroa, Warden of)	
Diamondback Correctional Facility,)	
in his official capacity)	
)	
Respondents.)	

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Alina Elena Sanchez-Gilly is in the physical custody of Respondents at the Diamondback Correctional Facility in Watonga, Oklahoma. She now faces unlawful detention because the Department of Homeland Security (DHS) and the

Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention. Although Petitioner was previously arrested, processed, and released under 8 U.S.C. § 1226(a), DHS now retroactively reclassifies her as an 'applicant for admission' subject to § 1225(b)(2).

2. Petitioner is charged with having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. The Department of Homeland Security ("DHS") issued a new policy 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. According to one court, DHS "revisited its legal position on detention and release authorities" and "determined that [section 1225]..., rather than [section 1226], is the applicable immigration detention authority for all applicants for admission," meaning all non-citizens who were "present in the United States [without having] been admitted," 8 U.S.C. § 1225(a)(1). *See Diaz Martinez v. Hyde*, 792 F. Supp. 3d 211, 217–18 & n.10 (D. Mass. 2025) (quoting the same internal ICE memorandum issued by Acting Director Todd M. Lyons).

4. Thereafter, on September 5, 2025, the Board of Immigration Appeals ("BIA") 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 BIA determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and are therefore ineligible to be released on bond.

5. Respondents' new legal interpretation is plainly contrary to the statutory framework, contrary to decades of agency practice and violates the Due Process Clause.

6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be released or in the alternative require Respondents to provide a bond hearing within five days.

JURISDICTION

7. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Diamondback Correctional Facility in Watonga, Oklahoma.

8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1), (3) (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause), and U.S. Const. amend. V (the Due Process Clause).

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

VENUE

10. 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 Oklahoma, the judicial district in which Petitioner currently is detained. Respondent Fred Figueroa, Warden of the Diamondback Correctional Facility, the immediate custodian of Petitioner, is in the Western District of Oklahoma.

11. 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 Oklahoma.

REQUIREMENTS OF 28 U.S.C. § 2243

12. 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.*

13. Habeas corpus is "perhaps the most important writ known to the constitutional law... affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four comers of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

14. Petitioner Alina Elena Sanchez-Gilly is a citizen of Venezuela who has been in immigration detention since January 5, 2026. She was taken into custody in Dallas, Texas, at the ICE Field Office. After taking custody of Petitioner, ICE did not set bond. Petitioner did not apply for a bond with the Immigration Court due to the Lyons memo and the binding decision of the BIA in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15. 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 Petitioner's

detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

16. 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.

17. Respondent Todd Lyons is the Acting Director for Immigration and Customs Enforcement. As such, he is responsible for the policies causing Petitioner's unlawful detention. He is named in his official capacity.

18. Respondent Joshua Johnson is the Field Office Director of Enforcement and Removal Operations of the Dallas ICE Field Office. As such, he is responsible for implementing the policies that caused Petitioner's unlawful detention. He is named in his official capacity.

19. Respondent Daren Margolin is the Director of EOIR with the Department of Justice. EOIR (the Executive Office for Immigration Review) includes the immigration court system. He is sued in his official capacity.

20. Respondent Fred Figueroa is employed by the Diamondback Correctional Facility as warden of the facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

FACTS

21. Petitioner entered the United States on August 7, 2021, at or near Eagle Pass, Texas.

22. She was taken into custody and issued a Notice to Appear.

23. ICE charged Petitioner in Immigration Court as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

24. ICE affirmatively exercised discretionary detention authority under § 1226(a) by releasing Petitioner on an Order of Release on Recognizance that expressly cited § 236 of the INA. This constituted an agency determination that § 1226—not § 1225—governed her custody. The Order of Release on Recognizance stated, “You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act..., you are being released on your own recognizance...”

25. She has resided in Bedford, Texas, since that time.

26. Petitioner subsequently filed an asylum application claiming persecution in her home country.

27. Petitioner has resided in the United States continuously for over four years. She has no criminal convictions. In summary, Petitioner is not a flight risk nor a danger to society.

28. Following Petitioner's arrest, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

29. Petitioner could not request an immigration bond given that all immigration judges are subject to the binding precedent that those who entered the country without admission or parole are ineligible for a bond hearing. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

30. Any request for bond would have been futile because immigration judges are bound by *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which strips them of jurisdiction to consider bond for individuals charged under § 1182(a)(6)(A)(i). Exhaustion is therefore excused. *See McCarthy v. Madigan*, 503 U.S. 140, 148 (1992).

31. 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

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

33. 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 released under 8 U.S.C. § 1226 on an Order of Release on Recognizance. Section 1226 governs a separate (non-mandatory) detention scheme applicable when an individual is “already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

34. Nothing in § 1225 authorizes DHS to reassert mandatory detention years after a discretionary release under § 1226(a). Congress’s use of distinct triggers—“arriving” in § 1225 versus “arrested and detained” in § 1226—confirms these are mutually exclusive detention schemes.

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

COUNT II
Violation of Due Process

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

37. 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).

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

39. 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.

40. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the balance of interests favors a bond hearing: (1) Petitioner's liberty interest is fundamental; (2) the risk of erroneous detention is high under a categorical bar; and (3) the government's interest in automatic detention is minimal where Petitioner has lived peacefully for years.

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 Oklahoma while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within five days;
- e. Enter injunctive relief necessary to preserve jurisdiction and prevent irreparable harm, including an order barring transfer, upon the Court's finding that the *Winter* factors are satisfied. *See Winter v. NRDC*, 555 U.S. 7 (2008).
- f. Declare that Petitioner's detention is unlawful;
- g. 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

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

DATED this 27th day of January 2026.

s/Steven F. Langer

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ATTORNEY FOR PETITIONER

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Alina Elena Sanchez-Gilly, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 27th day of January 2026.

s/Steven F. Langer
STEVEN F. LANGER