

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

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Maria Magdalena GUAMAN  
PINGUIL,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S.  
Department of Homeland Security,

Todd M. Lyons, Acting Director of  
Immigration and Customs  
Enforcement, and

David Easterwood, Acting Director,  
St. Paul Field Office Immigration  
and Customs Enforcement.

Respondents.

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Case No. \_\_\_\_\_

**PETITION  
FOR WRIT OF  
HABEAS CORPUS**

Expedited Handling Requested

**INTRODUCTION**

1. Petitioner, Ms. Maria Magdalena Guaman Pinguil (DOB 11/03/1985) by and through the undersigned attorney, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement (“ICE”) to release Ms. Guaman Pinguil from ICE detention, or in the alternative to enjoin their transfer to a facility outside of Minnesota and to

provide a bond hearing pending the completion of any immigration proceedings.

### **JURISDICTION AND VENUE**

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

3. Federal question jurisdiction exists because Ms. Guaman Pinguil seeks to challenge her custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Demore v. Kim*, 538 U.S. 510 516-17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961-63 (2019).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Ms. Guaman Pinguil is detained within the District of Minnesota.

6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

### **PARTIES**

7. Petitioner is a citizen of Ecuador and a resident of Minneapolis, MN, who is currently being held by ICE. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Ms. Guaman Pinguil.

9. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the Fort Snelling ICE Field Office, and is legally responsible for pursuing Ms. Guaman Pinguil detention and

removal. As such, Respondent Noem is a legal custodian of Ms. Guaman Pinguil.

10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

11. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Ms. Guaman Pinguil.

#### **FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY**

12. Petitioner is a resident of Minneapolis and a citizen of Ecuador. She has lived in the United States since July of 2021. She is detained by ICE since January 27, 2026.

13. Ms. Guaman Pinguil is in removal proceedings and has an upcoming individual hearing on July 14, 2026, pursuing relief under asylum.

14. Ms. Guaman Pinguil has no criminal history in the United States.

15. Ms. Guaman Pinguil has one child who is the derivative on her asylum claim.

16. ICE arrested Ms. Guaman Pinguil on January 27, 2026, while she had a check-in with ISAP in Bloomington, MN. When Ms. Guaman Pinguil and her daughter showed up at their check-in, they were waiting in line and her daughter was asked her age. Once she informed the employee that she was 21, she was told that she did not have to check in or to wait in the waiting room. However, the employee took Ms. Guaman Pinguil in the back office along with other immigrants there. Later on, several of those immigrants were released but Ms. Guaman Pinguil was nowhere to be found. When Ms. Guaman Pinguil's daughter asked where her mother was, she was told she was in the hands of ICE.

17. This arrest is part of an operation in Hennepin and Ramsey counties called "Operation Metro Surge." This operation has involved hundreds of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See, e.g., Compl., Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. 12/17/2025).

18. Since the operation began on December 1, 2025, the number of immigration officials in the Twin Cities metro area has increased fourfold, and with them these new agents have brought a similarly massive increase in unconstitutional, unlawful, and downright violent behavior towards citizens and non-citizens alike. The people of Minnesota—of all races, nationalities, and citizenship status—are united in their shock and fear at the events of the past six weeks, and are begging for the attacks on their community to stop.

19. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people. Detainees are being held in cramped quarters at the federal building, before being quickly sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas.

20. In Ms. Guaman Pinguil's case, she is undergoing the intake process and has not been placed in a detention facility. However, the ICE ERO office indicated to her attorney that she was still located in Minnesota.

21. Detaining Ms. Guaman Pinguil is an expensive and pointless endeavor. Ms. Guaman Pinguil respectfully seeks the opportunity to return home and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

22. Pending the adjudication of this Petition, Ms. Guaman Pinguil further seeks a preliminary injunction preventing the Respondents from transferring her to a location outside of the State of Minnesota. This is to allow Petitioner to remain accessible to legal counsel and loved ones. In the event she has been transferred to a location outside of the State of Minnesota, Petitioner respectfully requests she be brought back to Minnesota.

### STANDARD OF LAW

23. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts 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). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 22441(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).

24. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion

requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967-68.

25. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant's habeas corpus petition under similar circumstances—to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at \*3 (N.D. Iowa Sept. 23, 2025).

26. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

27. In July of 2025, Respondent DHS began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted, which the Board of Immigration Appeals (“BIA”) articulated in a subsequent ruling. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025). Respondents suddenly claim that individuals who have been residing within the United States for at least two years are considered “seeking admission,” rather than noncitizens present without being admitted or paroled.

28. However, this Court and the majority around the country have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those who have lived within the United States for more than two years, and whose detention is discretionary and governed by 8 U.S.C. § 1226(a). *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

29. Here, Petitioner has been in the United States for well over four years and was apprehended within the United States, not at a border while seeking entry. Respondents wrongly assert 8 U.S.C. 1225(b)(2) as a basis for detaining Ms. Guaman Pinguil without a hearing, when instead any detention could only be pursuant to 8 U.S.C. 1226(a), which here the Respondents are not purporting to invoke.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Fifth Amendment Due Process**

*Respondents Deprive Petitioner of an adequate and meaningful process to challenge Petitioner's ongoing confinement.*

30. Petitioner re-alleges and incorporates by reference the allegations contained above.

31. Ms. Guaman Pinguil has due process rights as a noncitizen of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

32. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

33. Here, all three factors favor the petitioner.

34. First, Ms. Guaman Pinguil has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 ("Freedom from imprisonment—from government custody,

detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”). Ms. Guaman Pinguil is wrongfully confined, a direct attack on Petitioner’s liberty interests.

35. Second, Ms. Guaman Pinguil will continue to be deprived of this interest if the current procedure – detaining Ms. Guaman Pinguil without a legal basis – is followed. There is no rational explanation for detaining Ms. Guaman Pinguil. Respondents’ purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) has been rejected time and time again in this court. *Ahmed A v. Bondi*, Case No. 25-4776 (JWB/DJF) (January 6, 2026); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1142–48, 1150–52 (D. Minn. 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 968–970 (D. Minn. 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819, at \*7–8 (D. Minn. Oct. 20, 2025); *R.E. v. Bondi*, No. 0:25-cv-3946-NEB, 2025 WL 3146312 (D. Minn. Nov. 4, 2025); *Herrera Avila v. Bondi*, No. 0:25-cv-3741 (JRT), 2025 WL 2976539 (D. Minn. Oct. 21, 2025).

36. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Ms. Guaman Pinguil poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.

37. The placement of Ms. Guaman Pinguil in detention pending the resolution of ongoing immigration proceedings violates Ms. Guaman Pinguil constitutional rights to due process guaranteed in the Fifth Amendment.

## COUNT TWO

### **Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)**

*Petitioner's Ongoing Detention Pursuant to 8 U.S.C. § 1225(b)(2) is Unlawful because Petitioner is not Seeking Admission and therefore cannot be held under that Authority*

38. Petitioner realleges and incorporates by reference each and every allegation contained above.

39. Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b)(2), to Petitioner. Petitioner was nowhere near the border and was not “seeking admission”

40. Ms. Guaman Pinguil is detained, notwithstanding her pending proceedings in immigration court, without being afforded an opportunity to advocate for release as the law requires. *Yajure Hurtado* does not allow Petitioner the opportunity to seek bond as an Immigration Judge will not grant the request. 29 I&N Dec. 216.

## COUNT THREE

**Violation of the Administrative Procedure Act, 5 U.S.C. § 706**  
*Detaining Petitioner Pursuant to an Unlawful Interpretation of 8 U.S.C. § 1225(b)(2) violates the Administrative Procedure Act*

41. Ms. Guaman Pinguil re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

42. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

43. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

44. 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 prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens could properly be detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

45. Nonetheless, the Board has adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

46. Respondents through its recent administrative decision failed to articulate any reasoned explanations for new interpretation of the Act. The

Board's decision represents a change in the agencies' policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

47. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

### **REMEDY**

48. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

49. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 687, 690 (2001) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

50. A noncitizen seeking only to challenge the legality of their detention, not the substance of their removal proceedings in immigration court, may properly ask a federal court to find jurisdiction over such a request pursuant to 28 U.S.C. § 2241. See, e.g., *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1154–55 (D. Minn. 2025).

51. Since Section 1225 does not apply to noncitizens who are in Petitioner's situation—who have been detained while residing within the United States for more than two years, as opposed to those who are detained

while in the process of physically entering the United States, the law that Respondents are using to detain Petitioner simply does not apply so as to authorize Petitioner's detention. See *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

52. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

53. Respondents will no doubt argue, as they have in similar cases before this Court, that if the Court rules that Petitioner should have been detained pursuant to § 1226, instead of § 1225, then the remedy is a bond hearing as opposed to outright release. See, e.g., *Ahmed A.* Civ. No. 25-4776, Doc. No. 9. at 9-10. However, this Court rejected this argument, saying that:

[A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory authority as a mere procedural irregularity rather than a substantive defect ... Where the record shows Respondents have

not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.

*Id.* at Doc. No. 10 at 6.

54. Here, where detention is unlawfully based on 8 U.S.C. 1225(b)(2), which does not apply to Petitioner, release is an appropriate remedy.

55. If successful, Ms. Guaman Pinguil intends to seek an award of attorneys fees pursuant to the Equal Access to Justice Act.

### **REQUEST FOR ORDER TO SHOW CAUSE**

56. Within three days, unless good cause for a delay is shown, “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

### **PRAYER FOR RELIEF**

WHEREFORE, Ms. Guaman Pinguil prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner out of the District of Minnesota pending the duration of these proceedings (or returning her if Respondents have removed her from Minnesota);

- (3) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing;
- (4) Alternatively, issue a writ of habeas corpus requiring Respondents to immediately release Petitioner, or in the alternative ordering Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
  - (a) If the Court issues a writ of habeas corpus requiring immediate release, ordering that at the time of release Respondents are to return all personal property including all immigration paperwork that was seized during his arrest.
- (5) Declare that the actions of Respondents as set forth in the Petition and Motion violate the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, the APA, and the INA;
- (6) Enjoin Respondents from denying Petitioner's bond under U.S.C. § 1225(b)(2) by declaring that Petitioner is not subject to mandatory detention;
- (7) Should the Immigration Judge grant a bond, enjoin Respondents from invoking the auto-stay provision found at 8 C.F.R. § 1003.19(i)(2) during the pendency of any bond appeal;

- (8) An award of attorney's fees and costs to the extent permitted by law, including but not limited to the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412; and
- (9) Grant any other and further relief that this Court may deem just and proper.

Dated this 27<sup>th</sup> of January of 2026

*By: /s/ Sherene Mostaghimi*

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Dated this 27<sup>th</sup> of January of 2026

*By: /s/ Joseph D. Kantor*

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

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. My firm has discussed the factual assertions in this petition with Petitioner's partner and daughter, who are acting on Petitioner's behalf and who I understand has personal knowledge of the facts alleged herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: January 27, 2026

/s/ Sherene Mostaghimi

Sherene Mostaghimi