

ensure a safe return home, including release: (1) in Minnesota, (2) at a safe place/time communicated in advance to counsel given recent adverse weather conditions; (3) with all her personal effects, such as driver's license, passport, immigration documents, keys, and cell phone; and (4) without conditions such as worn GPS tracking devices, telephonic tracking, or use of the SmartLINK app.

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. Aragon Olivera seeks to challenge this 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"). *Denmore 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. Aragon Olivera is detained within the Western District of Texas.

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 Mexico and a resident of Maplewood, Minnesota, who is currently being held at the El Paso Processing Center in El Paso, Texas. Petitioner was transferred to the El Paso Processing Center within 24 hours of being illegally detained. 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. Aragon Olivera.

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 Western District of Texas, supervises the ICE field offices, and is legally responsible for pursuing Ms. Aragon Olivera's detention and removal. As such, Respondent Noem is a legal custodian of Ms. Aragon Olivera.

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 Marisa Flores is being sued in her official capacity as the Field Office Director for the El Paso Field Office for ICE within DHS. In that capacity, Field Office Director Marisa Flores has supervisory authority over the ICE agents responsible for detaining Ms. Aragon Olivera. The address for the El Paso Field Office is 1541 Montana Ave, Suite E, El Paso, Texas, 79936.

12. Respondent Major General Curtis Taylor is being sued in his official capacity as the Commanding General responsible for the ERO El Paso Camp East Montana Detention Center within the U.S. Army Fort Bliss. Because Petitioner is detained in the ERO El Paso Camp East Montana Detention Center, Major General Taylor has immediate day-to-day control over Petitioner.

NEXT FRIEND

13. Next Friend Mr. Moctezuma Aragon brings this habeas corpus action as next friend of Petitioner, Ms. Aragon Olivera, who is currently detained by U.S. Immigration and Customs Enforcement.

14. A next friend does not become a party to the habeas action but instead prosecutes the case on behalf of the detained individual, who remains the real party in interest. *Whitmore v. Arkansas*, 495 U.S. 149, 163 (1990).

15. For a court to have jurisdiction over a habeas petition filed by a next friend, the application for habeas corpus must "set forth an adequate reason or explanation of

the necessity of the ‘next friend’ device.” *Weber v. Garza*, 570 F.2d 511, 514 (5th Cir. 1978).

16. First, the next friend must explain and be able to support with proof “why the real party in interest cannot appear on his own behalf to prosecute the action.” *Soto v. Sowell*, No. CV H-25-1362, 2025 WL 2822000, at *3 (S.D. Tex. Oct. 3, 2025) (quoting *Whitmore*, 110 S. Ct. at 1727). Second, that the next friend “is ‘truly dedicated to the best interest of the person on whose behalf he seeks to litigate’” *Id.* Lastly, the next friend must have “some significant relationship with the real party in interest.” *Id.*

17. Here, the detainee is unable to prepare, sign, or file this petition because they are being held in ICE custody at the El Paso Processing Center without reliable access to legal materials or translation services, and they face pending removal. These conditions make meaningful access to the courts impossible absent next-friend intervention.

18. Next friend Mr. Moctezuma Aragon is Ms. Aragon Olivera’s son, has a significant relationship with, and is acting solely in the Petitioner’s best interests, not to assert Next Friend’s own rights or interests. Mr. Moctezuma Aragon therefore satisfies the requirements for next-friend standing under *Whitmore* and *Soto*, and this Court has jurisdiction to consider the petition.

19. In the alternative, if this Court requires additional proof to establish the facts supporting next friend status, Next Friend Mr. Moctezuma Aragon respectfully requests the opportunity to submit additional affidavits attesting to the facts above.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

20. Petitioner is a resident of Maplewood, Minnesota and a citizen of Mexico, and has lived in the United States since October of 2000.

21. Ms. Aragon Olivera entered the United States over 25 years ago and does not have a final order of removal.

22. Ms. Aragon Olivera lives in Maplewood, Minnesota with her 19-year-old son Mr. Moctezuma Aragon and her 15-year-old daughter. She is an active member of her faith community and a loving sibling and aunt to her sister and many nieces and nephews that live in the area. In addition to regularly attending church services, Ms. Aragon Olivera contributes to her community through hosting events and serving food with a local Catholic group.

23. Respondent ICE arrested Ms. Aragon Olivera on January 14, 2026. Ms. Aragon Olivera and her brother had stopped at a gas station when Respondent ICE stopped her in an unmarked vehicle and took her into custody. Upon information and belief, Respondent ICE did not have a warrant for Ms. Aragon Olivera's arrest.

In Minnesota, the "Largest Immigration Operation Ever" is underway.

24. Petitioner's detention was part of an operation in Hennepin and Ramsey counties called "Operation Metro Surge." ICE referred to Operation Metro Surge as the "largest immigration operation ever." See "2,000 federal agents sent to Minneapolis area to carry out 'largest immigration operation ever,' ICE says, PUBLIC BROADCASTING SERVICE, <https://www.pbs.org/newshour/politics/2000-federal->

agents-sent-to-minneapolis-area-to-carry-out-largest-immigration-operation-ever-ice-says.

25. Operation Metro Surge caused the number of federal agents purporting to enforce immigration laws in the Twin Cities skyrocket to as high as 3,000, which is more than double the total police officers employed by the Cities of Minneapolis and Saint Paul combined. *See* Homeland Security presence in Minnesota dwarfs Twin Cities' largest police forces, THE MINNESOTA STAR TRIBUNE, <https://www.startribune.com/how-ice-numbers-compare-to-twin-cities-largest-police-forces/601562617>.

26. Operation Metro Surge has resulted in two U.S. citizens who reside in Minneapolis—Renee Good and Alex Pretti—being shot and killed by ICE agents. Masked and heavily armed federal agents are patrolling the streets of the Twin Cities to conduct widespread arrests. Agents often use unmarked vehicles, many with illegally covered or mismatched license plates, and even some without plates at all. On other occasions, they drive militarized vehicles such as armored personnel carriers on residential streets. Agents are liberally utilizing physical force and less-than-lethal munitions against observers exercising their First Amendment rights to observe law enforcement agents. *See, e.g., Tincher et. al. v. Noem*, Doc. No. 85, No. 0:25-cv-04669 (D. Minn. Dec. 17, 2025) (entering preliminary injunction against Respondents).

27. Operation Metro Surge has also seen high numbers of people with U.S. Citizenship, legal status, or pending applications to obtain legal status, arrested without warrants and ostensibly based on their race. Respondents are the subject of ongoing

class action lawsuit on these grounds. See *Hussen v. Noem*, Doc. No. 2, 26-cv-00324-PAM-ECW (D. Minn. Jan. 15, 2026).

Systematic Interstate Transfers of Detained Minnesota Residents Impair Their Access to Justice

28. Respondents are transporting detained Minnesotans out of state with shocking speed and frequency, making it difficult or impossible to identify the location of detained individuals, let alone facilitate access to counsel. See, e.g., Ellie Roth, Observer: ICE Detainee Flights Increase at MSP as Enforcement Action Ramps Up, MPR NEWS (Jan. 14, 2026 4:00 A.M.), <https://www.mprnews.org/story/2026/01/14/ice-detainee-flightsleaving-msp-increase-as-surge-continues>. Numerous Minnesota residents are now spread across the nation, including at least Texas, Nebraska, Kentucky, and New Mexico.

29. Upon information and belief, ICE often flies detainees out of Minnesota without completing standard processing procedures. Upon information and belief, this violates ICE's policies and procedures. It also creates a heightened risk of detainees being lost in the system.

30. Upon information and belief, ICE is often prohibiting detainees from visiting with attorneys before boarding a flight out of Minnesota.

31. Upon information and belief, ICE's systematic transfer of most detainees out of Minnesota is motivated, at least in part, by a desire to impair detainees' ability to raise meritorious challenges to the legality of their detention and to forum shop away from the District of Minnesota, where claims for relief that are the same or similar to

those presented in the instant Petition frequently have been granted in whole or in part. Petitioner has been brought to the El Paso Processing Facility in El Paso, Texas.

32. Upon information and belief, ICE's systematic transfer of most detainees out of state is motivated, at least in part, by a desire to demoralize detainees by isolating them from their communities, their loved ones, and their counsel. This may encourage detainees to waive their legal rights and sign voluntary deportation agreements.

33. Detaining Ms. Aragon Olivera is an expensive and pointless endeavor. Ms. Aragon Olivera 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.

STANDARD OF LAW

34. 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. § 2241(c)(3).

35. The Court must grant a petition for writ of habeas corpus or issue an order to show cause 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.*

36. Courts have jurisdiction to hear habeas petitions filed by noncitizens who have no final removal order, whose challenges to their arrest and detention are “independent of any future removal order.” *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *3 (W.D. Tex. Sept. 22, 2025). Nor is a petitioner required to first exhaust administrative remedies where, as here, petitioner is not appealing a final order of removal. *Id.* at 6.

37. “[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).

38. Respondents ostensibly premise Petitioner’s detention on an erroneous interpretation of 8 U.S.C. § 1225(b)(2). 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. *In re: 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 more than two years are somehow “seeking admission,” simply because they may have pending claims for asylum or other forms of status.

39. 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).

In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect. See *Lopez-Campos v. Raycraft*, — F. Supp. 3d —, — n.5, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions); see, e.g., *Jimenez v. FCI Berlin, Warden*, — F. Supp. 3d —, — & n.9, 2025 WL 2639390, at *10 & n.9 (D.N.H. Sept. 8, 2025). That includes courts in the Fifth Circuit. *Lopez Santos*, 2025 WL 2642278, at *5; *Kostak v. Trump*, No. 25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025).

Lopez-Arevelo, 2025 WL 2691828, at 8.

40. Here, Petitioner 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. Aragon Olivera without a hearing, when instead the default rule is that detention of noncitizens residing within the U.S. must be pursuant to 8 U.S.C. § 1226(a). See *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026). Here the Respondents are not purporting to invoke § 1226(a) as the basis for Petitioner's detention. The rule that Respondents invoke, 8 U.S.C. § 1225(b)(2), does not support Petitioner's ongoing detention.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Respondents are Confining Petitioner without A Valid Legal Basis or any Semblance of Due Process.

41. Petitioner realleges and incorporates by reference the allegations contained above.

42. Ms. Aragon Olivera has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

43. 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.

44. Here, all three factors favor the petitioner.

45. First, Ms. Aragon Olivera 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. Aragon Olivera is wrongfully confined, a direct attack on Petitioner’s liberty interests.

46. Second, Ms. Aragon Olivera will continue to be deprived of this interest if the current procedure (detaining Ms. Aragon Olivera without a legal basis) is followed. There is no rational explanation for detaining Ms. Aragon Olivera. Respondents’ purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) has been soundly rejected by this court. See, e.g., *Acosta Dominguez v. Noem*, No. EP-25-CV-00741-DB, 2026 WL 67200 (W.D. Tex. Jan. 8, 2026).

47. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Ms. Aragon Olivera 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.

48. The placement of Ms. Aragon Olivera in detention pending the resolution of ongoing immigration proceedings violates Ms. Aragon Olivera's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

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

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

50. 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" as required by the statute.

COUNT THREE

Violation of the Administrative Procedure Act

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

51. Ms. Aragon Olivera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

52. 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).

53. 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).

54. 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.

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

56. 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.

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

REMEDY

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

59. 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)). Detention here serves no statutory purpose, there is no indication that Petitioner’s detention was based on any facts that might indicate that Petitioner should be in custody for some reason.

60. 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 Lopez-Arevelo*, 2025 WL 2691828, at 8 and *Acosta Dominguez*, 2026 WL 67200.

61. 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”).

62. Here, where detention is unlawfully based on 8 U.S.C. § 1225, which does not apply to Petitioner, release is an appropriate remedy.

REQUEST FOR ORDER TO SHOW CAUSE

63. 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.

64. Next Friend Mr. Moctezuma Aragon, on behalf of Petitioner, respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

WHEREFORE, Ms. Aragon Olivera prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;
- (2) Issue an order requiring Petitioner’s transport back to 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 release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- (5) If the Court sees fit to order Petitioner’s release, specified relief to ensure a safe return home, including release:
 - (a) Inside of Minnesota;
 - (b) At a safe time and place communicated in advance to counsel; and
 - (c) With all of Petitioner’s personal effects, such as driver’s license, immigration papers, passport, cell phone, and keys.

- (6) Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application; and
- (7) Grant any other and further relief that this Court may deem just and proper.

Respectfully Submitted,



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**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am a member of Petitioner's legal team. I have discussed the factual assertions in this petition with Petitioner's family and friends, who are also acting on Petitioner's behalf and who I understand to have 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 26, 2026

/s/ Signe Annabel Peteron

Signe Annabel Peterson