

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

YENNY ALVARENGA ALBERTO

Petitioner,

V.

**KRISTI NOEM, IN HER OFFICIAL
CAPACITY AS SECRETARY OF THE
U.S. DEPARTMENT OF HOMELAND
SECURITY,**

**PAMELA BONDI, IN HER OFFICIAL
CAPACITY AS U.S. ATTORNEY
GENERAL,**

**TODD LYONS, IN HIS OFFICIAL
CAPACITY AS ACTING DIRECTOR
OF IMMIGRATION AND CUSTOMS
ENFORCEMENT,**

**MIGUEL VERGARA, IN HIS
OFFICIAL CAPACITY AS DIRECTOR
OF THE ICE SAN ANTONIO FIELD
OFFICE, and**

**WARDEN OF THE DILLEY
IMMIGRATION PROCESSING
CENTER, IN HIS OFFICIAL
CAPACITY.**

Respondents.

Case No. 5:26-cv-544

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW (“Petitioner”), by and through undersigned counsel, and respectfully petitions this Court for a writ of habeas corpus, requesting that the Court order her immediate release from custody, or, in the alternative, order that she be afforded a bond hearing before an Immigration Judge (“IJ”). In support thereof, Petitioner states as follows:

INTRODUCTION

1. Petitioner Yenny Alvarenga Alberto is in the physical custody of Respondents at the Dilley Immigration Processing Center, in Dilley, Texas. She now faces unlawful detention because the Department of Homeland Security (DHS) and the Department of Justice (DOJ) have concluded Petitioner is subject to mandatory detention.
2. Petitioner is charged with, inter alia, having entered the United States without inspection (i.e. without being admitted or paroled). 8 U.S.C. § 1182(a)(6)(A)(i). Based on this allegation, Respondents have concluded that the Immigration Court lacks jurisdiction to provide Petitioner a bond hearing.
3. On July 8, 2025, the DHS, in collaboration with the DOJ, issued a new policy instructing all Immigration and Customs Enforcement (ICE) officers to treat any person inadmissible under § 1182(a)(6)(A)(i)—i.e., that is, anyone who entered the United States without inspection—as an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.
4. Prior to this policy change, the Executive Office for Immigration Review (“EOIR”), which administers the Immigration Courts, acting through the Board of Immigration Appeals (“BIA”), a component of the Department of Justice (“DOJ”), had already begun laying the groundwork for this abrupt shift in detention policy. On May 15, 2025, the BIA issued a decision holding that an individual who enters without inspection, is arrested and detained without a warrant while arriving in the United States, and is subsequently placed in removal proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and is ineligible for any subsequent release on bond.

5. On September 5, 2025, the BIA completed this new mandatory detention framework by issuing an additional decision that effectively converted DHS policy into binding precedent. In that decision, the BIA held that Immigration Judges “do not have the authority” to adjudicate bond hearings for individuals who entered the United States without inspection.
6. In light of these BIA decisions and DHS policy, the Petitioner cannot seek a bond hearing before the Immigration Court of the Executive Office for Immigration Review (“EOIR”) because the Immigration Judge lacks jurisdiction to review her custody status.
7. Respondents have concluded that, notwithstanding Petitioner’s three years of residence in the United States, and the government’s decision to allow her to enter the United States to seek protection, she is nevertheless an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A).
8. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like the Petitioner who have already entered and are now residing in the United States. Instead, such individuals are governed by 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole. That statute expressly applies to individuals who, like the Petitioner, are charged as inadmissible for having entered the United States without inspection.
9. Respondents’ new legal interpretation is plainly inconsistent with the statutory framework and decades of settled agency practice, under which long-term residents charged under 8 U.S.C. § 1182(a)(6)(A)(i) were detained—and eligible for release—pursuant to 8 U.S.C. § 1226(a).

10. Accordingly, the Petitioner seeks a writ of habeas corpus ordering her immediate release from custody or, in the alternative, that she be provided a bond hearing under 8 U.S.C. § 1226(a) within seven days, at which DHS bears the burden of establishing the necessity of the Petitioner's continued detention.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Dilley Immigration Processing Center, Dilley, Texas.
12. This action arises under 28 U.S.C. § 2241, U.S. Const., Art. I, § 9, Cl. 2 (the Suspension Clause), and the Fifth Amendment to the United States Constitution and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Art. 1, § 9, Cl. 2 of the United States Constitution (the Suspension Clause). This Court retains subject matter jurisdiction over Petitioner's claims because she is presently detained in this District. *See Order, Armstrong v. Warden, et al.*, No. 25-cv-203-H (W.D. Tex. Oct. 9, 2025) (ECF No. 4).

VENUE

14. 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 Texas, the judicial district in which Petitioner currently is detained.
15. 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 the Petitioner is detained at the Dilley Immigration Processing Center, Dilley, Texas and a

substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas.

16. Petitioner has exhausted all administrative remedies to the extent feasible. “[T]his court has concluded that when a petitioner’s due process claim does not assert a procedural error correctable by the BIA, it is not subject to an exhaustion requirement.” *Lopez de Jesus v. INS*, 312 F.3d 155, 162 n.47 (5th Cir. 2002). Exhaustion is also excused when delay means hardship, *Shalala v. Illinois Council*, 529 U.S. 1, 13 (2000), and here delay means months of unlawful detention.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for a writ of habeas corpus or issue an order to show cause (“OSC”) to the Respondents “forthwith,” unless the petition demonstrates that 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.* (emphasis added).
18. Courts have long recognized the critical role of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been described 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

19. Petitioner, Yenny Alvarenga Alberto, is a citizen of Honduras who has been in immigration detention since on or about October 13, 2025. Prior to being detained, she was living in Philadelphia. After arresting Petitioner, ICE did not set a bond. However, because

of Respondents' new policies and case decisions, Petitioner also cannot request a bond hearing before an Immigration Judge.

20. Respondent Warden of Dilley Immigration Processing Center has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Warden is a legal custodian of Petitioner.
21. Respondent Miguel Vergara is sued in his official capacity as the Director of the San Antonio Field Office of the Enforcement and Removal Operations of the U.S. Immigration and Customs Enforcement. Respondent Miguel Vergara is a legal custodian of Petitioner and has authority to release her.
22. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As such, Respondent Lyons is a legal custodian of Petitioner and is responsible for Petitioner's detention, release and/or removal. He is named in his official capacity.
23. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.
24. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for

Immigration Review, which administers the Immigration Courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Petitioner.

LEGAL FRAMEWORK

The Statutory Framework for Immigration Detention

25. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.
26. First, 8 U.S.C. § 1226 governs the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals detained under § 1226(a) are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain enumerated offenses are subject to mandatory detention under 8 U.S.C. § 1226(c).
27. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).
28. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
29. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).
30. Detention authority for those who have not yet been issued final removal orders is divided between two sections of the INA, 8 U.S.C. §§ 1225 and 1226. The Supreme Court recently analyzed the interplay between §§ 1225 and 1226 in *Jennings v. Rodriguez*. The

first sentence of the Court’s decision distinguishes between decisions made at the border and those made internally:

Every day, immigration officials must determine whether to admit or remove the many [non-citizens] who have arrived at an official “port of entry” (e.g., an international airport or border crossing) or who have been apprehended trying to enter the country at an unauthorized location. Immigration officials must also determine on a daily basis whether there are grounds for removing any of the [non-citizens] who are already present inside the country.

583S. at 285

31. The Court subsequently explained: “In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Id.* at 289 (emphasis added). The Court further noted that § 1225(b), the provision at issue in the instant habeas petition, “applies primarily to [noncitizens] seeking entry into the United States.” *Id.* at 297.
32. The Court also explained that § 1226 “applies to [non-citizens] already present in the United States” and “creates a default rule for those [non-citizens] by permitting – but not requiring – the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those [non-citizens] on bond, ‘except as provided in subsection (c) of this section.’” *Id.* at 303.

“Federal regulations provide that [non-citizens] detained under § 1226(a) receive bond hearings at the outset of detention.” *Id.* at 306.

33. Section 1225(a)(1), *inter alia*, defines “applicants for admission” as noncitizens “present in the United States who have not been admitted.” Relevant here, § 1225(b)(2)(A) provides that, “in the case of a [noncitizen] who is an applicant for admission, if the examining immigration officer determines that a [noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). Section 1229a sets forth the procedures governing standard, non-expedited removal proceedings.

34. The detention provisions codified at 8 U.S.C. §§ 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, div. C, §§ 302–303, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

35. Following the enactment of IIRIRA, EOIR promulgated regulations clarifying that, in general, individuals who entered the United States without inspection were not subject to detention under 8 U.S.C. § 1225, but instead were detained pursuant to 8 U.S.C. § 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

36. Thus, in the decades that followed, most individuals who entered the United States without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was

consistent with many decades of prior practice, under which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an immigration judge or other hearing officer. See 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

37. On May 15, 2025, the Board of Immigration Appeals (“BIA”) issued a decision holding that an individual who enters the United States without inspection, is arrested and detained without a warrant while arriving in the United States, and is subsequently placed in removal proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and is ineligible for release on bond. *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025).

38. On July 8, 2025, ICE, “in coordination with” the DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” asserts that all individuals who entered the United States without inspection are now deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, whether at the border or in the interior of the United States, and affects individuals who have resided in the United States for months, years, and even decades.

39. On September 5, 2025, the BIA issued a published decision adopting this same position and making it binding on all Immigration Courts. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Matter of Yajure Hurtado*, the BIA expressly held that “Immigration Judges lack authority to hear bond requests or to grant bond to aliens who

are present in the United States without admission.” *Id.* In stark contradiction to decades of precedent, the Board stripped Immigration Judges of jurisdiction to conduct bond hearings for individuals who entered the United States without inspection.

40. ICE and EOIR have adopted this position even though federal courts have rejected this same conclusion. For example, after Immigration Judges in Tacoma, Washington, ceased providing bond hearings to individuals who entered the United States without inspection and who had since resided in the country, the U.S. District Court for the Western District of Washington held that such an interpretation of the INA is likely unlawful and that 8 U.S.C. § 1226(a)—not § 1225(b)—governs the detention of noncitizens who are not apprehended upon arrival in the United States. *Rodriguez Vazquez v. Bostock*, ___ F. Supp. 3d ___, 2025 WL 1193850, at [*pin cite*] (W.D. Wash. Apr. 24, 2025).

41. Since then, federal courts across the United States have agreed with the Western District of Washington and have granted preliminary injunctive relief to petitioners who entered the United States without inspection. *See Padron Covarrubias v. Vergara*, No. 5:25-cv-112 (S.D. Tex. Oct. 8, 2025) (citing an extensive list of federal courts reaching the same conclusion as the Western District of Washington).

42. DHS’s and DOJ’s interpretation is contrary to the INA. The plain text of the statutory scheme demonstrates that 8 U.S.C. § 1226(a)—not § 1225(b)—applies to individuals who entered the United States without inspection and were released into the interior to complete removal proceedings.

43. Section 1226(a) applies by default to all individuals “pending a decision on whether the [noncitizen] is to be removed from the United States.” 8 U.S.C. § 1226(a). Such

removal hearings are conducted pursuant to 8 U.S.C. § 1229a, which governs proceedings to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

44. The text of § 1226 also expressly applies to individuals charged as inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s inclusion of such individuals confirms that, by default, they are eligible for bond consideration under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that, absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, *2025 WL 1193850, at 12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

45. Section 1226 therefore leaves no doubt that it applies to individuals who face charges of inadmissibility to the United States, including those who are present without admission or parole.

46. By contrast, 8 U.S.C. § 1225(b) applies to individuals arriving at U.S. ports of entry or at the U.S. border. The framework of § 1225(b)(2) is premised on border inspections of “applicant[s] for admission” who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

47. Furthermore, the INA defines “admission” as “the lawful entry... into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). As courts have recognized, although an applicant for admission has not

been “admitted” to the United States, that does not mean the individual necessarily continues to be actively seeking entry. *See Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390, at *21 (D.N.H. Sept. 8, 2025). An applicant for admission may already have entered the country and therefore no longer be seeking entry, but instead be seeking “a lawful means to remain here.” *Id.* at *22.

48. Accordingly, § 1225(b)(2)(A) cannot apply to an individual who has already entered the United States and has been residing in the country for a period of time.

49. That an applicant for admission may be permitted to enter the country and no longer be “seeking admission” is further supported by DHS’s longstanding practice of releasing individuals on their own recognizance after detention at the border. DHS Form I-220A, which is used to release an individual on recognizance, expressly provides: “In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance....” Section 236 of the INA corresponds to 8 U.S.C. § 1226, not § 1225.

50. Thus, when DHS releases an individual on recognizance, even if initially detained at the border, DHS necessarily determines that the individual is subject to the detention and release framework of § 1226(a) rather than mandatory detention under § 1225(b). Numerous courts have agreed with this reasoning. *See, e.g., Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025) (holding that a noncitizen originally detained under § 1225(b), later released under § 1226, and subsequently rearrested pursuant to a § 1226 warrant was entitled to a bond hearing under § 1226 and its implementing regulations); *see also Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025).

51. Lastly, the BIA's decision in *Matter of Q. Li* is limited to individuals who are arriving at the border and seeking admission, and therefore cannot apply to a person who has already entered the United States after DHS released them on their own recognizance. Indeed, the BIA's decision in *Q. Li* was premised on the fact that the noncitizen in that case was released on humanitarian parole under INA § 212(d)(5), not on a Form I-220A release on recognizance. This form of parole is a legal fiction in which the noncitizen is physically permitted to enter the country but is "treated," for legal purposes, "as if stopped at the border." See *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139–40 (2020).

52. Because the individual in *Q. Li* was legally still at the border and, for purposes of that decision, still arriving and seeking admission, when her parole was terminated, she was properly returned to the same custody from which she had been paroled, namely detention under 8 U.S.C. § 1225(b)(2). See 8 U.S.C. § 1182(d)(5)(A); *Q. Li*, 29 I. & N. Dec. at 70–71.

53. Accordingly, the mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not apply to individuals like the Petitioner, who have already entered the United States following release by DHS and have been residing in the United States for a period of time.

STATEMENT OF FACTS

54. Petitioner is a 20-year-old native and citizen of Honduras. Petitioner entered the United States on or about October 6, 2022 and has resided in the United States since then.

55. The Petitioner has no criminal convictions that would render her ineligible for relief.

56. On or about October 13, 2025, the Petitioner was arrested by U.S. Immigration and Customs Enforcement ("ICE") when officers came to her residence and apprehended her.

She was subsequently transferred to the Dilley Immigration Processing Center, and she has remained in ICE custody since that time.

57. Petitioner was placed in full removal proceedings and detained pursuant to 8 U.S.C. § 1226 from the outset, as reflected in the Warrant for Arrest. DHS has charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for having entered the United States without inspection. DHS has charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for having entered the United States without inspection. *See Exhibits A and B.*

58. After placing Petitioner in removal proceedings, DHS determined that she is an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

59. Based on this classification, DHS and EOIR have taken the position that Petitioner is categorically ineligible for a bond hearing, and that Immigration Judges lack jurisdiction, under binding BIA precedent, to consider her release on bond under any circumstance.

60. As a result, Petitioner faces indefinite civil detention without any opportunity to seek release. She faces prolonged immigration detention while litigating her claims for asylum and withholding of removal in removal proceedings; without any individualized assessment of danger or flight risk, and without any procedural mechanism to challenge DHS’s mandatory detention theory.

CLAIMS FOR RELIEF

COUNT I

Fifth Amendment Substantive Due Process

28 U.S. § 2241; U.S. Const. Art. I, § 9, cl. 2; amend. V

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

62. 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). (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Detention for non-criminal purposes is only allowed “in narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotations and citations omitted). With respect to immigration detention, the Supreme Court has recognized two special justifications: preventing flight risk and preventing danger to the community. See *id.*

63. Substantive due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest.” *Reno v. Flores*, 507 U.S. 292, 301-02 (1993). “Substantive due process analysis must begin with a careful description of the asserted right.” *Id.* at 302.

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

65. The government’s detention of Petitioner without a bond redetermination hearing to assess whether she poses a flight risk or a danger to the community violates her right to due process.

COUNT II

Violation of the INA

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

67. The mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. As relevant here, it does not apply to individuals who previously entered the country without inspection and have been residing in the United States after being released by Respondents and placed in removal proceedings. Such individuals are instead detained under 8 U.S.C. § 1226(a), unless they are subject to detention under § 1225(b)(1), § 1226(c), or § 1231.
68. Applying 8 U.S.C. § 1225(b)(2) to the Petitioner unlawfully mandates her continued detention and is contrary to the plain text and structure of the INA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Declare that the actions of Respondents as set forth in this Petition violate the Fifth Amendment, of the United States Constitution, 28 U.S.C. § 2241, the APA, and the INA;
- c. Issue a writ of habeas corpus ordering that Respondents immediately release the Petitioner or, in the alternative, provide the Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven (7) days, at which DHS bears the burden of establishing the necessity of the Petitioner's continued detention and the Court considers alternatives to detention that would mitigate any risk of flight;
- d. Declare that Petitioner's detention without bond violates the Fifth Amendment;
- e. Enjoin Respondents from denying Petitioner's bond under U.S.C. § 1225(b)(2);
- f. Enjoin the Respondents from transferring Petitioner to another detention facility;

- 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 29th day of January 2026.

Respectfully submitted,

/s/ Felix L. Galvez

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

I represent Petitioner, Yenny Alvarenga Alberto, 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 29th day of January, 2026.

/s/ Felix L. Galvez
Felix L. Galvez