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**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

**Heylin Julesmy Cabrera-Lopez**

Petitioner,

-against-

**Donald J. Trump**, in his official capacity as President of the United States; **Patricia Hyde**, in her official capacity as Acting Boston Field Office Director, Immigration and Customs Enforcement, Enforcement and Removal Operations; **David W. Johnston**, Vermont Sub-Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations; **Todd M. Lyons**, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; **Pete R. Flores**, in his official capacity as Acting Commissioner for U.S. Customs and Border Protections; **Kristi Noem**, in her official capacity as Secretary of the United States Department of Homeland Security; **Pamela Bondi**, in her official capacity as U.S. Attorney General; and **Carolyn Riley**, Superintendent, Chittenden Regional Correctional Facility

Respondents.

Case No.: 2:26-cv-00017

District Judge:

PETITION FOR WRIT  
OF HABEAS CORPUS

**PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS**

## **INTRODUCTION**

This is a petition for a writ of habeas corpus filed on behalf of Petitioner, HEYLIN JULESMY CABRERA-LOPEZ, seeking relief to prevent her transfer out Vermont. Respondents are detaining Petitioner pending removal proceedings at the Chelmsford, MA Immigration Court.

## **STATEMENT OF FACTS**

1. Petitioner, HEYLIN JULESMY CABRERA-LOPEZ, is a 22-year-old Nicaragua asylum seeker who has resided in the U.S. since she was paroled into the country in July 2022.
2. Petitioner is presently in the custody of U.S. Immigration Customs and Enforcement (“ICE”) at the Chittenden Regional Correctional Facility, located at 7 Farrell Street, South Burlington, Vermont 05403.
3. ICE detained Petitioner on January 20, 2026 when she was walking to her job at a restaurant in South Portland, Maine. Counsel’s understanding is that at some point after her arrest, she was transported to the Burlington, MA ICE Field Office and then later to the Chittenden facility.
4. Petitioner’s sole arrest was in the summer of 2025 for operating under the influence.
5. Petitioner had a timely-filed asylum application pending before USCIS at the time she was detained. She will be renewing that application for asylum before the Immigration Court.
6. Counsel for Petitioner submitted a request for a bond redetermination hearing with the Chelmsford Immigration Court on January 26, 2026. The Court schedule her for a hearing on February 12, 2026. At that point, Petitioner will have been in Respondents’ custody for roughly 22 days. It is possible that, absent an order from this Court, the Immigration Judge will find she lacks jurisdiction to make a bond determination because of Petitioner’s manner of entry.

7. This matter thus arises from the Government's failure to articulate a clear or lawful basis for Ms. Cabrera-Lopez's detention, sans determination by either the Department or any court relative to perceived danger to the community or flight risk that she might otherwise present. Ms. Cabrera-Lopez's detention without a bond hearing is unlawful, a violation of the pertinent statutory regulations, and a violation of his right to due process under the Fifth Amendment to the United States Constitution.
8. Ms. Cabrera-Lopez's now files this petition for writ of habeas corpus under 28 U.S.C. § 2241 and seeks immediate release.
9. Ms. Cabrera-Lopez also seeks a court order that she not be transferred outside the District of Vermont throughout the pendency of these proceedings. Transferring Petitioner outside of Vermont would infringe on her due process rights by impacting counsel's ability to represent her effectively in bond and removal proceedings before the Chelmsford Immigration Court, where she has a pending application for asylum.

#### **JURISDICTION**

10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
11. Petitioner incorporates the preceding paragraphs as i fully set forth herein.
12. Petitioner is in the physical custody of Respondents and is detained at the Chittenden Regional Correction Facility in South Burlington, Vermont.
13. Habeas relief is available when a person is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Any vindication Ms. Cabrera-Lopez's statutory, constitutional, or regulatory rights can and must come from this Court through writ of habeas corpus.

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

**VENUE**

15. Petitioner incorporates the preceding paragraphs as if fully set forth herein.
16. 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 District of Vermont, the judicial district in which Petitioner currently is detained.
17. 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 District of Vermont.

**REQUIREMENTS OF 28 U.S.C. § 2243**

18. Petitioner incorporates the preceding paragraphs as if fully set forth herein.
19. 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.*
20. 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) (emphasis added). “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 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

**PARTIES**

21. Petitioner is a citizen and national of Nicaragua. Prior to her detention, she resided in Maine. She is now believed to be detained in Vermont.
22. Respondent Donald J. Trump is named in his official capacity as the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of Homeland Security. Respondent Trump's address is the White House, 1600 Pennsylvania Ave. NW, Washington D.C. 20500.
23. Respondent Patricia Hyde is sued in her official capacity as the Acting Director of the Boston Field Office of U.S. Immigration and Customs Enforcement within the United States Department of Homeland Security. Respondent Hyde is a legal custodian of Petitioner and has the Authority to release her.
24. Respondent David W. Johnston is named in his official capacity as the Director of the Vermont Sub-Office of the Boston Field Office for Immigration and Customs Enforcement within the United States Department of Homeland Security. In his capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations within the District of Vermont and is a custodian of Petitioner. Respondent Johnston's address is 64 Gricebrook Road, St. Albans, VT 05478.
25. Respondent Todd M. Lyons is named in his official capacity as the acting director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Vermont, is legally responsible for pursuing efforts to remove Petitioner, and as such is the custodian of Petitioner. Respondent Lyon's address is ICE, Office of the Principal Legal Advisor, 500 12<sup>th</sup> St. SW, Mail Stop 5900, Washington D.C. 20536-5900.

26. Respondent Pete R. Flores is named in his official capacity as the acting commissioner of Customs and Border Protection (“CBP”). In this capacity, Respondent Flores leads CBP employees who are responsible for the administration of immigration laws and the execution of detention and removal determinations within its area of authority. Respondent Flores’ address is 1300 Pennsylvania Ave. NW, Washington D.C. 20229.
27. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement (“ICE”) the component agency responsible for Petitioner’s detention. Respondent Noem is a legal custodian of Petitioner. Respondent Noem’s address is 2801 Nebraska Avenue N.W., Washington, DC 20528.
28. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner and her address is 950 Pennsylvania Avenue N.W., Washington, DC 20530.
29. Respondent Carolyn Riley, is named in her official capacity as the Superintendent of Chittenden Regional Correction Facility in South Burlington, Vermont. Her address is 7 Farrell Street, South Burlington, Vermont 05403.

**STATEMENT OF FACTS**

30. Petitioner incorporates the preceding paragraphs as if fully set forth herein.
31. Ms. Cabrera-Lopez will renew her application for asylum before the Chelmsford Immigration Court.

32. Ms. Cabrera-Lopez's arrest and subsequent detention by ICE occurred without any legitimate or material change in circumstances that might rationally justify her loss of personal liberty.
33. Ms. Cabrera-Lopez cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), including because Petitioner does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at \*23 (D.D.C. Aug. 29, 2025).
34. Ms. Cabrera-Lopez cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, Petitioner is not currently "seeking admission" to the United States. This Court has found that "seeking admission" applies to "those noncitizens presenting themselves at the border, or who were recently apprehended just after entering." *Piedrahita-Sanchez v. Turek*, No. 2:25-cv-00875-wks, at \*9 (D. Vt. Nov. 14, 2025) (citing *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at \*21 (S.D.N.Y. Aug. 13, 2025); *Gonzalez Lopez v. Trump*, No. 2:25-cv-863, at \*6-7 (D. Vt. Nov. 11, 2025) ("the phrase "seeking admission" refers to the present attempt to lawfully "go in" to the United States."); *see also Reynoso De Luis v. Trump*, No. 2:25-cv-921 (D. Vt. Dec. 30, 2025).
35. Ms. Cabrera-Lopez is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because she has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).
36. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).
37. Ms. Cabrera-Lopez is *prima facie* eligible for a grant of release, as her sole arrest was for an OUI, and she maintains strong community ties in Maine where she has continuously resided since 2022.

38. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon their request, receive a custody redetermination hearing (colloquially called a “bond hearing”) with strong procedural protections. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021).

### **LEGAL FRAMEWORK**

39. Petitioner incorporates the preceding paragraphs as if fully set forth herein.

40. Based solely on the allegation that Ms. Cabrera-Lopez entered the United States without being inspected and admitted, counsel expects the Department will deny her individualized review of her immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) – i.e., those who entered the United States without admission or inspection – to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond

41. Echoing the aforementioned sentiment, on September 5, 2025, the Board of Immigration Appeals issued a precedential decision, 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). This decision requires the Immigration Court to deny a bond hearing to all persons such as Petitioner

42. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing.

43. Petitioner’s detention on this basis violates the plain language of the INA. Section 1225(b)(2)(A) does not apply to individuals, like Petitioner, who previously entered and are now residing within the United States. Instead, such individuals are subject to a different statute, § 1226(a), which allows for the discretionary release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

44. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This Court has held that Section 1226(a), rather than Section 1225(b)(2), governs the civil detention of a noncitizen, who has resided in the United States for years. *Piedrahita-Sanchez v. Turek*, No. 2:25-cv-00875-wks, at \*9 (D. Vt. Nov. 14, 2025) (citing *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588, at \*21 (S.D.N.Y. Aug. 13, 2025); *Gonzalez Lopez v. Trump*, No. 2:25-cv-863, at \*6-7 (D. Vt. Nov. 11, 2025) (“the phrase “seeking admission” refers to the present attempt to lawfully “go in” to the United States.”); *see also Reynoso De Luis v. Trump*, No. 2:25-cv-921 (D. Vt. Dec. 30, 2025)

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Due Process (Failure to Provide an Individualized Hearing for Domestic Civil Detention).**

45. Petitioner incorporates the preceding paragraphs as if fully set forth herein.
46. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).
47. This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due Process Clause, which specifically forbids the Government to “deprive[] any person ... of ... liberty ... without due process of law.” U.S. Const. Amend. V.
48. “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.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
49. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693; *see Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)

("[Noncitizens] who have once passed through our gates, even illegally, may be expelled only after proceedings confirming to traditional standards of fairness encompassed in due process of law"); cf. *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) (holding noncitizens due process rights were limited where the person was not residing in the United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the border, while he was still "on the threshold").

50. "Freedom from imprisonment—from Government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause.

*Zadvydas*, 533 U.S. at 690.

51. The Supreme Court has thus "repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); see also *Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

52. Ms. Cabrera-Lopez was arrested inside the United States, after living here for years, and is being detained without being provided any individualized detention hearing.

53. Ms. Cabrera-Lopez's continued detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

## **COUNT TWO**

### **Violation of 8 U.S.C. § 1226(a) and Associated Regulations.**

54. Petitioner incorporates the preceding paragraphs as if fully set forth herein.

55. Ms. Cabrera-Lopez may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

56. Under § 1226(a) and its associated regulations, Ms. Cabrera-Lopez is entitled to a bond hearing. *See* 8 C.F.R. § 236.1(d); 8 C.F.R. § 1003.19(a)-(f).

57. Ms. Cabrera-Lopez has not been provided with a bond hearing as required by law. Though a hearing is now scheduled for February 12, that is more than twenty days after she was detained, and counsel expects the court to deny jurisdiction at that hearing.

**COUNT THREE**  
**Violation of Fifth Amendment Right to Due Process**  
**(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a)).**

58. Petitioner incorporates the preceding paragraphs as if fully set forth herein.

59. Because Ms. Cabrera-Lopez is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that he receives a bond hearing with strong procedural protections. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (“the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property”);

60. Ms. Cabrera-Lopez has not been provided with a bond hearing as required by law and will be unable to obtain one due to the Board’s recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

61. Ms. Cabrera-Lopez’s continued detention, sans opportunity for individualized review, is unlawful and violative of his constitutionally protected rights.

**COUNT FOUR**  
**Violation of Fifth Amendment Right to Due Process**  
**(Substantive Due Process)**

62. Petitioner incorporates the preceding paragraphs as if fully set forth herein.

63. Because Ms. Cabrera-Lopez is not being provided a bond hearing, the Government is not taking any steps to effectuate its substantive obligation to ensure that immigration detention bears a “reasonable relation” to the purposes of immigration detention (*i.e.*, the prevention of

flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring).

64. Ms. Cabrera-Lopez's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

**COUNT FIVE**  
**Violation of Fifth Amendment Right to Due Process**  
**(Unlawful Punishment; Freedom From Cruel Treatment and**  
**Conditions of Confinement)**

65. Petitioner incorporates the preceding paragraphs as if fully set forth herein.
66. The Second Circuit has held that “[p]retrial detention constitutes punishment in violation of the Fifth Amendment’s Due Process Clause when it is excessive in relation to non-punitive purposes of detention, such as preventing danger to the community or ensuring a defendant’s presence at trial.” *United States v. Hill*, 462 Fed. Appx. 125, 126 (2d Cir. 2012) (internal quotations and citations omitted). “For such continued pretrial detention not to offend due process, however, trial must be afforded [Petitioner] within a reasonable time.” *Id.* at 127. Where the Government cannot or will not justify civil detention pursuant to legitimate governmental interests, as is the case in the instant matter, such detention is inherently arbitrary and excessive in relation to legitimate and non-punitive purposes of detention.
67. “[I]f pretrial detainees cannot be punished because they have not yet been convicted, then [civil detainees] cannot be subjected to conditions of confinement substantially worse than they would face upon commitment.” *Lynch v. Baxley*, 744 F.2d 1452, 1461 (11th Cir. 1984)). “Or, to put it more colorfully, purgatory cannot be worse than hell.” *Jones v. Blanas*, 393 F.3d 918, 933 (9th Cir. 2004).
68. The Fifth Amendment guarantees that civil detainees, including all immigrant detainees, may not be subject to punishment. The Government violates this substantive due process right

when it subjects civil detainees to treatment and conditions of confinement that amount to punishment or does not ensure the detainees' safety and health.

69. Respondents have violated Petitioner's Fifth Amendment substantive due process rights by subjecting him to conditions of confinement that amount to punishment.

**PRAYER FOR RELIEF**

WHEREFORE, Ms. Cabrera-Lopez respectfully requests that this Court grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Vermont pending resolution of this Petition.
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately on conditions this Court deems just and proper, or in the alternative to exercise its inherent authority to hold its own bail hearing on the question of custody, or in the alternative to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days, and taking into account her ability to pay;
- (5) 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
- (6) Grant any further relief that this Court deems just and proper.

Respectfully submitted this 29<sup>th</sup> day of January 2026,

**PETITIONER HEYLIN JULESMY CABRERA-LOPEZ ,**

By her attorneys,



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\* Motion for *pro hac vice* admission forthcoming