

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Marbell A. Sandino Rodriguez,

Petitioner,

v.

Warden, Broward Transitional Center;

Kristi Noem, *in her official capacity as*
Secretary, U.S. Department of Homeland
Security;

Pamela Bondi, *in her official capacity as* U.S.
Attorney General;

Respondents.

Case No. 0:26-cv-60281

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

The Petitioner, Marbell A. Sandino Rodriguez, submits this verified petition for writ of habeas corpus, by and through counsel, and alleges as follows:

INTRODUCTION

1. Petitioner, Marbell A. Sandino Rodriguez, has been in the physical custody of Respondents since January 24, 2026, and is currently detained at the Broward Transitional Center.

2. Petitioner is charged, inter alia, with being present in the United States without being admitted or paroled. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Petitioner is being detained unlawfully by Respondents because the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and the Department of Justice (DOJ), through the Executive Office of Immigration Review (EOIR), have concluded that noncitizens like Petitioner are subject to mandatory detention under 8 U.S.C. §1225(b)(2).

4. Petitioner's detention without the ability to be released on bond violates the plain language of the Immigration and Nationality Act (INA) and is contrary to decades of agency practice. The mandatory detention provisions of Section 1225(b)(2)(A) of the INA do not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond.

5. Petitioner's detention without a bond hearing violates her Fifth Amendment Due Process rights. Petitioner has a significant liberty interest in remaining out of custody; without a bond hearing she faces a significant risk of erroneous deprivation of her liberty;

and the detention without bond of noncitizens like Petitioner, who is not a danger or flight risk, does not serve a legitimate government purpose.

6. Petitioner is a member of the nationwide “Bond Eligible Class” as certified by the U.S. District Court in the Central District of California on November 25, 2025, and is thus eligible for release on bond pursuant to § 1226(a). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners’ Motion for Partial Summary Judgment); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025) (final judgment extending a declaratory judgment to the certified class).

7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION & VENUE

8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the ICE Detention Facility at Broward Transitional Center, located at 3900 N. Powerline Rd, Pompano Beach, Florida. *See* ICE Detainee Locator Search Results from February 1, 2026, attached hereto as **Exhibit 1**. She is therefore in “‘custody’ of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

10. 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.

11. Venue is 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 Petitioner is detained at Broward Transitional Center in Pompano Beach, Florida, within this judicial district.

PARTIES

12. Petitioner Marbell A. Sandino Rodriguez was born in Nicaragua, has been living in the United States since May of 2022, and has been in immigration detention since January 24, 2026.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

14. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

15. Respondent Warden of the Broward Transitional Center has immediate physical custody of Petitioner where she is being detained, and is being sued in their official capacity.

PRUDENTIAL EXHAUSTION

16. “Generally ‘exhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]’” *Puga v. Assistant Field Office Director, Krome North Service Processing Center*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025) (quoting *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982)).

17. It would be futile for Petitioner to seek a custody redetermination hearing before an Immigration Judge (IJ) because a recent BIA decision held that anyone, like Petitioner, who has entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

REQUIREMENTS OF 28 U.S.C. § 2243

18. 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).

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.*

STATEMENT OF FACTS

20. Petitioner entered the United States through the southern border in May of 2022, was paroled in and has lived in South Florida ever since.

21. On February 10, 2023, Petitioner filed a timely application for affirmative Asylum, Withholding of Removal and protection under the Convention Against Torture (“CAT”) with Respondents DHS, through the United States Citizenship and Immigration Service (USCIS). *See* USCIS receipt of Petitioner’s I-589 Application, attached hereto as **Exhibit 2**.

22. Petitioner has a valid Florida Driver’s license and a current employment authorization document issued by DHS. Petitioner works as a supervisor at a retail department store in South Florida.

23. On January 22, 2026 Petitioner was detained by the Palm Beach County Sheriffs following a traffic stop in West Palm Beach, Florida. Petitioner was picked up by ICE several days later and transferred to the Broward Transitional Center, where she is currently detained. **Exhibit 1**.

24. Petitioner is charged with, inter alia, being present in the United States without being admitted or paroled. See 8 U.S.C. § 1182(a)(6)(A)(i).

25. DHS’ new policy of mandatory detention and *Matter of Yajure Hurtado* effectively preclude any request for a bond redetermination by an IJ and makes it futile.

26. As a result, Petitioner remains in detention. Without relief from this Court, she faces the prospect of months, or even years, in immigration custody, separated from her partner and her community.

27. Petitioner is not a threat to national security nor a danger to the community, and has maintained a clean record for the nearly 4 years she has lived in the United States.

28. Petitioner is not a flight risk. Petitioner has a pending application for Asylum, Withholding of Removal and Protection under CAT, has a valid Florida Driver's License, employment authorization and has steady employment.

29. Petitioner has not been accused or convicted of any crimes that would render her ineligible for release on bond under 8 U.S.C. § 1226(c).

ARGUMENT

A. Petitioner is detained under Section 1226 of the INA

30. There are two main statutory provisions that govern immigration detention: 8 U.S.C. § 1225, which subjects noncitizens to mandatory detention, and 8 U.S.C. § 1226 which provides that detention is discretionary and, if detained, a noncitizen may request a bond hearing before an immigration judge, where she “may secure [her] release if [she] can convince the officer or immigration judge that [she] poses no flight risk and no danger to the community.” *Nielsen v. Preap*, 586 U.S. 392, 397-98 (2019).

31. The Supreme Court has explained that the mandatory detention scheme of 8 U.S.C. § 1225 applies “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Conversely, “[s]ection 1226 generally governs the process of arresting and detaining that group of aliens [already in the country].” *Id.* at 288.

32. EOIR regulations also provide that, in general, people who entered the country without inspection are not considered detained under § 1225 and that they are instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

33. On July 8, 2025, ICE announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

34. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ (hereinafter, “DHS Policy”) claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months or years.

35. On September 5, 2025, the BIA adopted this same position in a published decision holding that all noncitizens, like Petitioner, who entered the United States without being admitted are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

36. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as the new DHS Policy. *See, e.g., Puga*, 2025 WL 2938369; *Hinojosa Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025); *Cardona-Lozano v. Noem*, No. 1:25-CV-1784-RP, 2025 WL 3218244 (W.D. Tex. Nov. 14, 2025); *Patel v. Almodovar*, No. CV 25-15345 (SDW), 2025 WL 3012323 (D.N.J. Oct. 28, 2025); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025).

¹ A copy of the internal DHS policy is available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>

37. Courts have uniformly rejected DHS' and EOIR's new interpretation because it defies the INA². As the *Puga* Court and others have explained, the plain language of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner who were detained inside the U.S. *Puga*, 2025 WL 2938369, at *6.

B. *Maldonado Bautista* Bond Eligible Class

38. On November 25, 2025, the Central District of California certified a nationwide “Bond Eligible Class” that includes those who, like Petitioner are:

noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista v. Santacruz, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025)

39. On December 18, 2025, the *Bautista* court entered a class-wide declaratory judgment declaring that the Bond Eligible Class members are detained under § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and are therefore “entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.” 2025 WL 3678485, *1 (C.D. Cal.

² The list of District Courts that have rejected Respondents' new interpretation of the INA's detention authorities continues to grow. *See e.g.*, *Torres Huete v. Bondi*, No. 1:25-CV-25099-DPG (S.D. Fla. Jan. 27, 2026); *Munoz Avendano v. Warden*, No.: 2:25-cv-01221-SPC-NPM (M.D. Fla. Jan. 20, 2026); *Suarez-Duarte v. Harper*, 2:25-cv-03142-TLP-tmp (W.D. Tenn. Jan 12, 2026), ECF. No. 8; *Aguilar v. Bondi*, No. 1:25-cv-00996-KWR-KK (D. N.M. Jan 12, 2026), ECF. No. 26; *Flores v. Warden, Fla. Soft Side S.*, U.S., No. 2:25-cv-1162-KCD-NPM (M.D. Fla. Jan 05, 2026), ECF. No. 10; *Vadel v. Lowe*, No. 3:25-CV-02452 (M.D. Pa. Dec 31, 2025), ECF No. 5; *Ramirez-Morales v. Lyons*, No. EP-25-CV-00476-DCG-RFC (W.D. Tex. Dec 30, 2025), ECF. No. 18.

Dec. 18, 2025). The *Bautista* court vacated the July 8, 2025, DHS Policy under the Administrative Procedure Act (“APA”) “as not in accordance with law,” and held that Yajure-Hurtado, 29 I. & N. Dec. 216 “is no longer controlling.” *Id.*

40. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

C. Irrespective of the Applicable Detention Authority, Petitioner’s Detention Without a Custody Hearing Violates Her Due Process Rights

41. “[T]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v Davis*, 533 U.S. 678, 679 (2001).

42. Courts have applied a three-part balancing test to determine whether the process afforded in the civil immigration context was adequate:

- (1) the private interest that will be affected by the official action;
- (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and
- (3) the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Eldridge, 424 U.S. 319, 335 (1976); *see also Sanchez Figueroa v. Bondi*, No. 0:25-cv-62707-WPD (S.D. Fla. Jan. 14, 2026), ECF No. 14 at 11.

43. Courts in this Judicial District have held that all three of the *Mathews* factors weigh heavily in favor of noncitizens like Petitioner, who are being detained without a bond hearing. *Id.* (finding that all three *Mathews* factors weighed in favor of a detained noncitizen

who was already found not to be dangerous or a flight risk); *see also Carmona v. Ripa*, his2:25-cv-1128-SPC-DNF (M.D. Fla. Dec 17, 2025) (finding that a noncitizen who was paroled into the U.S. and later detained by ICE had an interest in his freedom from detention, he faced a strong risk of erroneous deprivation of that interest because he was not a flight risk and had a clean criminal record, and no government interest was served by his detention without bond).

44. Petitioner has a significant private interest in being free from physical detention which is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Perez v. Warden*, No. 2:26-cv-9-SPC-DNF (M.D. Fla. Jan. 19, 2026), ECF No. 5.

45. Courts in other Judicial Districts have also found that noncitizens who received humanitarian parole under 8 U.S.C. § 1182(d)(5) have a significant liberty interest in their continued release, entitling them to due process protections. *See Rocha Chavarria v. Chestnut*, No. 1:25-cv-01755-DAD-AC, 2025 WL 3533606 (E.D. Cal. Dec. 9, 2025); *O.F.B. v. Maldonado*, No. 25-CV-6336, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025).

46. Petitioner has kept a clean criminal record for the nearly 4 years she has lived in the U.S. Thus, without an individualized bond hearing, Petitioner risks the erroneous deprivation of her freedom. Moreover, the government’s interests in preventing danger to the community and ensuring Petitioner’s appearance at future immigration proceedings would be “protected by the individualized determination by an IJ whether [Petitioner] should be granted bond under § 1226.” *Aguilar Merino v. Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Miami Field Office*, No. 1:25-cv-23845-JEM (S.D. Fla. Oct. 15, 2025), ECF No. 28 at 9.

47. Accordingly, regardless of whether Section 1225 or 1226 applies to Petitioner, she is being detained in violation of her Due Process rights under the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA and Request for Relief Pursuant to *Maldonado Bautista*

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

49. The mandatory detention provision in 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 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

50. Moreover, Petitioner is a member of the nationwide Bond Eligible Class certified in *Maldonado Bautista*, and is subject to § 1226(a) and not § 1225(b)(2).

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

COUNT II

Violation of Due Process

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

53. 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).

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

55. The government’s detention of Petitioner without a bond hearing to determine whether she is a flight risk or danger to others violates her due process rights.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Southern District of Florida while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a), within seven days, where the Government bears the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a flight risk;
- e. Declare that Petitioner’s detention is unlawful; and
- f. Grant any other and further relief that this Court deems just and proper.

DATED: February 1, 2026

Respectfully submitted,

/s/Rolando Grillo

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LEAD COUNSEL FOR PETITIONER

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

I am submitting this verification on behalf of Petitioner, because I am Petitioner's attorney. I have discussed with the Petitioner the facts described in this petition. Based on those discussions, I hereby verify that the factual statements in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on February 1, 2026.

/s/Rolando Grillo
Rolando Grillo
Attorney for Petitioner