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9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 Arianna MORALES-HERNANDEZ,

12 Petitioner-Plaintiff,

13 v.

14 Kristi NOEM, in her Official Capacity, Secretary,
15 U.S. Department of Homeland Security;

16 Pam BONDI, in her Official Capacity, Attorney
17 General of the United States;

18 Todd M. LYONS, Acting Director, Immigration and
19 Customs Enforcement, U.S. Department of Homeland
20 Security;

21 Jason KNIGHT, Salt Lake City Field Office Director
22 for Detention and Removal, U.S. Immigration and
23 Customs Enforcement, Department of Homeland
24 Security; and

25 Darin BALAAM, Sherriff, Washoe County Detention
26 Center.

27 Respondents-Defendants.

Agency No.



**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Challenge to Unlawful
Incarceration Under Color of
Immigration Detention Statutes;
Request for Declaratory and
Injunctive Relief

INTRODUCTION

1. Petitioner Arianna Morales-Hernandez (“Ms. Morales-Hernandez”), Agency Number



, by and through her undersigned counsel, respectfully submits this petition for a

1 Writ of Habeas Corpus and a Complaint for Declaratory and Injunctive Relief to stop the U.S.
2 Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE)
3 from unlawfully detaining her in immigration custody while her removal proceedings are
4 pending.

5 2. Petitioner requests her immediate release from custody at the Washoe County Detention
6 Center, where ICE is unlawfully detaining her without providing clear and convincing evidence
7 that she poses a flight risk or danger to the community, as required by the Due Process Clause of
8 the Fifth Amendment. Alternatively, he seeks a constitutionally compliant bond hearing wherein
9 the government bears the burden of justifying his continued detention.

10 3. By way of background, Ms. Morales-Hernandez has remained in immigration custody
11 since January 22, 2026. Immigration and Customs Enforcement (“ICE”) initially encountered her
12 while she was detained at the Lyon County Jail following an arrest and charge for Possession of
13 Drug Paraphernalia. On January 22, 2026, the district attorney dismissed the charge, after which
14 ICE formally assumed custody of Ms. Morales-Hernandez. ICE subsequently processed her
15 through the ERO Salt Lake City–Reno Sub-Office and transferred her to the Washoe County
16 Detention Center, where she is currently being detained.

17 4. The current position of EOIR as it relates to bond for individuals who entered the United
18 States without inspection and admission or parole is as follows: “The official position of EOIR is
19 that *Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or
20 enjoin *Yajure Hurtado*. Therefore, *Yajure Hurtado* remains binding precedent on agency
21 adjudicators. For clarification, declaratory judgments differ from injunctions in that the former
22 clarifies parties’ legal rights and relationships without ordering specific action, while the latter is
23 a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not
24 an equitable remedy and does not, by itself, have the effect of compelling a specific action by a
25 party. Pursuant to official agency policy, immigration courts no longer have the authority to issue
26 bonds to any individual falling under *Matter of Yajure Hurtado* (namely any individual who has
27 not been admitted to the United States). Because this court lacks the delegated authority to
28

1 consider bond for individuals who have not been admitted to the United States, this Court must
2 find that the respondent is not eligible for release on bond¹.

3 5. Accordingly, under this position, Ms. Morales-Hernandez has not sought a bond hearing,
4 as she would not be eligible for one due to her entry without inspection and lack of admission or
5 parole. As a result, any request for a bond hearing would be futile absent intervention by this
6 Court.

7 6. Ms. Morales-Hernandez's prolonged detention violates the Due Process Clause of the
8 Fifth Amendment, as DHS has failed to establish, by clear and convincing evidence, that Ms.
9 Morales-Hernandez is either a danger to the community or a flight risk. Furthermore, Ms.
10 Morales-Hernandez is not subject to mandatory detention and therefore entitled to a bond hearing.

11 7. Ms. Morales-Hernandez respectfully seeks immediate release from detention, or in the
12 alternative, a constitutionally adequate bond hearing at which the government bears the burden to
13 justify detention.

14 **CUSTODY**

15 8. Ms. Morales-Hernandez is currently in custody of ICE at the Washoe County Detention
16 Center in Reno, Nevada. Ms. Morales-Hernandez is therefore in "'custody' of [the DHS] within
17 the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

18 **JURISDICTION**

19 9. This action arises under the Constitution of the United States and the Immigration and
20 Nationality Act (INA), 8 U.S.C. § 1101 et seq.

21 10. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 2241
22 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. §§ 2201 *et seq.*
23 (Declaratory Judgment Act), the All Writs Act, 28 U.S.C. § 1651, Article I, Section 9, Clause 2
24 of the U.S. Constitution (the Suspension Clause), Article III of the U.S. Constitution, and under
25 the common law.

26 **REQUIREMENTS OF 28 U.S.C. § 2243**

27 _____
28 ¹ This is an excerpt taken directly from an immigration judge's bond decision in a different matter.

1 11. The Court must grant the petition for writ of habeas corpus or issue an order to show
2 cause (OSC) to Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C.
3 § 2243. If an order to show cause is issued, the Court must require Respondents to file a return
4 “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.”
5 *Id.* (emphasis added).

6 12. Courts have long recognized the significance of the habeas statute in protecting
7 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
8 important writ known to the constitutional law of England, affording as it does a *swift* and
9 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
10 400 (1963) (emphasis added).

11 13. Habeas Corpus must remain a swift remedy. Importantly, “the statute itself directs
12 courts to give petitions for habeas corpus ‘special, preferential consideration to insure expeditious
13 hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations
14 omitted). The Ninth Circuit warned against any action creating the perception “that courts are
15 more concerned with efficient trial management than with the vindication of constitutional
16 rights.” *Id.*

17 VENUE

18 14. Venue is proper in this Court under 28 U.S.C. § 1391(e) because the Respondents are
19 officers or employees of the United States acting in their official capacities.

20 15. Ms. Morales-Hernandez is currently under the supervision of the ERO Salt Lake City –
21 Reno Sub Office, which falls within the jurisdiction of this District. This action does not involve
22 any real property.

23 EXHAUSTION OF ADMINISTRATIVE REMEDIES

24 16. In the context of habeas corpus claims, exhaustion of administrative remedies is a
25 *prudential* requirement rather than a *jurisdictional* one, as it is not explicitly required by statute.
26 *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Courts have discretion to waive
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1 prudential exhaustion where administrative remedies are inadequate or ineffective, when
2 pursuing them would be futile, when irreparable harm would result, or where the administrative
3 process would be void. *Id.* (citing *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). The
4 burden is on the party seeking waiver of prudential exhaustion to demonstrate that at least one of
5 the *Laing* factors applies. *Aden v. Nielsen*, 2019 WL 5802013, at 2 (W.D. Wash. Nov. 7, 2019).
6

7 17. Although Ms. Morales-Hernandez has not yet requested a bond hearing, a bond hearing
8 request would be futile due to EOIR's current position. The Ninth Circuit has made clear that
9 exhaustion is not required where administrative recourse would be futile—such as when the
10 agency's position on the relevant issue is already established and the outcome of the appeal is
11 certain. *El Rescate Legal Servs., Inc. v. Exec. Off. of Imm. Rev.*, 959 F.2d 742, 747 (9th Cir.
12 1992).
13

14 18. The *Matter of Yajure Hurtado* was issued as a precedential decision by the BIA. Under 8
15 C.F.R. § 1003.1(g)(1), such decisions are binding in all cases involving the same issue(s); see
16 also 8 C.F.R. § 1003.1(d)(1)(i). Because the BIA has already exercised its expertise and reached
17 a conclusive determination in *Yajure Hurtado*, and EOIR has adopted that decision, further
18 exhaustion is unnecessary. The decision establishes that individuals found inadmissible under 8
19 U.S.C. § 1182(a)(6)(A)(i)—that is, those present in the U.S. without being admitted or paroled—
20 are subject to mandatory detention without bond under 8 U.S.C. § 1225(b)(2).
21

22 19. Therefore, Ms. Morales-Hernandez respectfully requests that the Court waive the
23 prudential exhaustion requirement on grounds of futility. As established in *Aden*, 2019 WL
24 5802013, at 2, satisfying just one of the *Laing* factors is sufficient; therefore, analysis of the
25 remaining factors is unnecessary.
26

27 **PARTIES**
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1 20. Ms. Morales-Hernandez is a citizen and national of Mexico who last entered the United
2 States on May 10, 2008, without inspection and without being admitted or paroled. She has
3 continuously resided in the United States since that date and is currently detained under the direct
4 custody and control of the Respondents and their agents.

5 21. Respondent Darin Balaam is the Sherriff of the Washoe County Detention Center,
6 where Petitioner is currently held. He has immediate physical custody of Petitioner pursuant to
7 the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and,
8 as such, serves as one of Petitioner's legal custodians.

9 22. Respondent Jason KNIGHT is sued in his official capacity as the Acting Director of the
10 Salt Lake City Field Office of U.S. Immigration and Customs Enforcement. Respondent
11 KNIGHT is a legal custodian of Petition and has authority to release her.

12 23. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
13 capacity. Among other things, ICE is responsible for the administration and enforcement of the
14 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
15 he is the legal custodian of Ms. Morales-Hernandez.

16 24. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
17 DHS is the federal agency encompassing ICE, which is responsible for the administration and
18 enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
19 capacity as Secretary, Respondent Noem has responsibility for the administration and
20 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
21 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. §
22 1103(a). Respondent Noem is the ultimate legal custodian of Ms. Morales-Hernandez.

23 25. Respondent Pam BONDI is the Attorney General of the United States and the most senior
24 official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the
25 authority to interpret immigration laws and adjudicate removal cases. The Attorney General
26 delegates this responsibility to the Executive Office for Immigration Review (EOIR), which
27 administers the immigration courts and the BIA.

28 **STATEMENT OF FACTS**

Background and Personal History

Ms. Morales-Hernandez is a forty-year-old native and citizen of Mexico who last entered the United States on May 10, 2008. Since that time, she has continuously resided in this country and has built her life, family ties, and economic stability in the United States. Prior to her detention, Ms. Morales-Hernandez was residing in Oakland, California, where she lived with and supported her family.

For the past two years, Ms. Morales-Hernandez has maintained stable employment at a trucking yard. Through this employment, she has consistently provided financial support for her household and her children, demonstrating reliability, responsibility, and strong community ties. Her work has been her primary means of caring for her family and ensuring their basic needs are met.

Family Relationships and Dependents

Ms. Morales-Hernandez is the mother of four children. Most notably, her youngest daughter, [REDACTED], is a twelve-year-old United States citizen. [REDACTED] has always relied on her mother for daily care, emotional support, stability, and guidance. Prior to Ms. Morales-Hernandez's detention, she was the primary caregiver for her children.

Since Ms. Morales-Hernandez was taken into immigration custody, [REDACTED] has been forced to reside with a family friend, an arrangement that is temporary and deeply destabilizing for a minor child. This separation has caused significant emotional distress to [REDACTED], who is accustomed to her mother's constant presence and care. Ms. Morales-Hernandez's detention has disrupted the family unit and placed her children—particularly her U.S.-citizen daughter—into an uncertain and vulnerable situation.

Circumstances Leading to Detention

At the time of her detention, Ms. Morales-Hernandez was visiting her cousin. Unbeknownst to her, her cousin was in possession of illegal contraband. During a traffic stop, her cousin was pulled over by law enforcement, and both individuals were taken into custody. Ms. Morales-Hernandez had no knowledge of the contraband and was not involved in any criminal conduct.

1 On January 22, 2026, the District Attorney declined to file charges against Ms. Morales-
2 Hernandez, and all charges against her were formally dismissed. The decision not to prosecute
3 confirms that Ms. Morales-Hernandez committed no crime and bears no criminal culpability
4 arising from the incident. Importantly, Ms. Morales-Hernandez has no prior criminal history of
5 any kind.

6 Despite the complete dismissal of charges, Ms. Morales-Hernandez was transferred into
7 the custody of Immigration and Customs Enforcement, where she remains detained.

8 **Immigration Proceedings and Current Custody**

9 Ms. Morales-Hernandez is currently detained under the custody and control of the
10 Department of Homeland Security. Her detention is not based on any criminal conviction, pattern
11 of misconduct, or threat to public safety, but rather solely on her immigration status. Her
12 continued detention has deprived her family—particularly her U.S.-citizen child—of their
13 primary source of care and support.

14 Ms. Morales-Hernandez’s history reflects long-term residence, steady employment,
15 strong family ties, and a complete absence of criminal history. The circumstances of her detention
16 arose from a misunderstanding entirely attributable to another individual, and all criminal
17 allegations against her were conclusively dismissed.

18 **LEGAL BACKGROUND**

19 **A. Habeas Corpus Under 28 U.S.C. § 2241**

20 The Constitution ensures that the writ of habeas corpus is available to any person detained
21 within the United States. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const. art. I,
22 § 9, cl. 2). Habeas corpus permits an individual in custody to challenge the lawfulness of that
23 detention, and its traditional purpose is to obtain release from custody that is not legally
24 authorized. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

25 Federal courts are authorized to grant habeas relief under 28 U.S.C. § 2241(c)(3) where a
26 petitioner establishes that their detention violates the Constitution or federal law. Historically,
27 habeas corpus has been used to review the legality of detention by the Executive Branch, and
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1 courts have recognized that its protections are at their strongest in that context. *INS v. St. Cyr*,
2 533 U.S. 289, 301 (2001).

3 Accordingly, district courts have habeas jurisdiction to consider challenges to
4 immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S.
5 510, 517 (2003).

6 **Right to Liberty and Due Process**

7 The Fifth Amendment of the U.S. Constitution guarantees that “[no] person shall... be
8 deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.
9 Importantly, the supreme court has clarified that this protection extends to noncitizens, stating:
10 “Once an alien enters the country, the legal circumstances changes, for the Due Process clause
11 applies to all ‘persons’ within the United States. *Zadvydas v. Davis*, 533 U.S. 678, 699–701
12 (2001).

13 Civil immigration detention is meant to serve limited regulatory purposes: ensuring
14 appearance at proceedings and protecting the community. The Supreme Court in *Demore v. Kim*,
15 538 U.S. 510 (2003), emphasized that detention may only last for the “brief period necessary
16 for... removal proceedings” and cannot be punitive.

17 Where detention extends beyond those limited purposes or rests on mere allegations, it
18 violates due process. As the Court stressed in *Zadvydas*: “freedom from imprisonment – from
19 government custody, detention, or other forms of physical restraint – lies at the heart of the liberty
20 that the Clause protects.” 533 U.S. at 690.

21 **Civil Nature of Immigration Detention**

22 The Supreme Court has repeatedly held that immigration detention is civil, not punitive. In
23 *Bell v. Wolfish*, 441 U.S. 520, 535 (1979), the Court explained: “If a restriction or condition is not
24 reasonably related to a legitimate governmental objective, it amounts to punishment.”

26 **FIRST CAUSE OF ACTION**

27 **I. Procedural Due Process**

28 Under the Due Process Clause of the Fifth Amendment to the United States Constitution,

1 no person shall be "deprived of life, liberty, or property, without due process of law." U.S. Const.
2 amend. V. That interest is particularly weighty when government detention is at issue. "Freedom
3 from imprisonment—from government custody, detention, or other forms of physical restraint—
4 lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533
5 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

6 These due process rights apply to noncitizens residing in the United States. The Supreme
7 Court has firmly established that "the Due Process Clause applies to all 'persons' within the
8 United States, including aliens, whether their presence here is lawful, unlawful, temporary, or
9 permanent." *Zadvydas*, 533 U.S. at 693; *see also Trump v. J.G.G.*, 604 U.S. 670, 673, 145 S. Ct.
10 1003, 221 L. Ed. 2d 529 (2025) ("It is well established that the Fifth Amendment entitles aliens
11 to due process of law in the context of removal proceedings." (*citation omitted*)). Indeed, once a
12 noncitizen is present in the United States, they have a "weighty" liberty interest in remaining in
13 the United States, as they stand to lose rights to "stay and live and work" in the country and "to
14 rejoin [their] immediate family." *Landon v. Plasencia*, 459 U.S. 21, 34, 103 S. Ct. 321, 74 L. Ed.
15 2d 21 (1982) (*citation omitted*). This is true "regardless of how someone entered the country:
16 '[O]nce passed through our gates, even illegally,' noncitizens 'may be expelled only after
17 proceedings conforming to traditional standards of fairness encompassed in due process of law.'" *Make the Rd.*,
18 2025 WL 2494908, at 10 (*quoting Shaughnessy v. United States ex rel. Mezei*, 345
19 U.S. 206, 212, 73 S. Ct. 625, 97 L. Ed. 956 (1953)).

20 **a. Ms. Morales-Hernandez Is Not Subject to Mandatory Detention Under 8**
21 **U.S.C. § 1225.**

22 Respondents contend that Ms. Morales-Hernandez is subject to mandatory detention
23 under 8 U.S.C. § 1225 on the theory that she qualifies as an "applicant for admission" because
24 she entered the United States without inspection. That interpretation is inconsistent with the
25 statutory framework and with controlling and persuasive authority interpreting § 1225.
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1 Ms. Morales-Hernandez last entered the United States on May 10, 2008, and has
2 remained continuously present in this country since that time. Her detention did not arise from an
3 attempt to enter the United States or from recent arrival at the border, but from a traffic stop
4 occurring many years after her entry. As a result, § 1225 does not govern her detention.

5 The threshold issue is whether § 1225 applies to all noncitizens who entered without
6 inspection, regardless of the length of time they have lived in the United States, or whether its
7 reach is limited to those who are arriving or have recently arrived. The statute's ordinary
8 meaning, its structure when read together with § 1226, and the interpretation of Article III
9 courts—including the Supreme Court and the Ninth Circuit—demonstrate that § 1225 has a
10 limited temporal scope and applies only to individuals at or near the point of entry. *Maldonado*
11 *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *11–16 (D. Nev. Sept.
12 17, 2025).

13 As the Supreme Court explained in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), § 1225
14 governs detention during the inspection and admission process at the border, while § 1226
15 governs detention of noncitizens who are already present in the United States. Section 1225's
16 mandatory detention provisions are part of a statutory scheme that “generally begins at the
17 Nation’s borders and ports of entry,” where the government determines whether a noncitizen
18 seeking entry is admissible. *Id.* at 287, 289. By contrast, § 1226 addresses the “apprehension and
19 detention of aliens” who have already entered the country. 8 U.S.C. § 1226. The Supreme Court
20 has described § 1226(a) as the default detention authority applicable to noncitizens who are
21 “already present in the United States.” *Jennings*, 583 U.S. at 289, 303; *see also Nielsen v. Preap*,
22 586 U.S. 392, 396–97 (2019).
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1 Section 1225 applies only to a subset of noncitizens—those who qualify as “applicants
2 for admission.” Courts have consistently held that long-term residents of the United States are
3 not applicants for admission within the meaning of the statute. The Ninth Circuit has emphasized
4 that an “application for admission” occurs at a discrete moment in time, and that extending that
5 concept to cover individuals years or decades after entry would exceed the statutory text. *United*
6 *States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir. 2024) (citing *Torres v. Barr*, 976 F.3d
7 918, 922–26 (9th Cir. 2020) (en banc)).

9 District courts across the country have reached the same conclusion, holding that
10 individuals who have lived in the United States for many years after entering without inspection
11 are not “applicants for admission” subject to § 1225. *See, e.g., Lopez Benitez v. Francis*, 795 F.
12 Supp. 3d 475, 489 (S.D.N.Y. 2025); *Escobar Salgado v. Mattos*, No. 2:25-CV-01872-RFB-EJY,
13 2025 WL 3205356, at *15 (D. Nev. Nov. 17, 2025); *Maldonado Vazquez*, 2025 WL 2676082, at
14 *13; *Rusu v. Noem*, No. 25 C 13819, 2025 WL 3240911, at *5 (N.D. Ill. Nov. 20, 2025);
15 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *9 (C.D. Cal. Nov.
16 20, 2025).

19 Adopting Respondents’ interpretation would improperly collapse § 1226 into § 1225 and
20 render large portions of the statutory detention scheme superfluous, including discretionary
21 detention under § 1226(a). Courts have repeatedly rejected constructions that violate the canon
22 against surplusage. *See Hasan v. Crawford*, 800 F. Supp. 3d 641, 656 (E.D. Va. 2025) (citing
23 *Corley v. United States*, 556 U.S. 303, 314 (2009)); *see also Lopez Benitez*, 795 F. Supp. 3d at
24 490; *Bautista*, 2025 WL 3289861, at *11; *Rusu*, 2025 WL 3240911, at *5; *Helbrum v. Williams*
25 *Olson*, No. 4:25-CV-00349-SHL-SBJ, 2025 WL 2840273, at *4 (S.D. Iowa Sept. 30, 2025).
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1 Respondents' position—that all noncitizens who entered without inspection are
2 indefinitely subject to § 1225 regardless of how long they have lived in the United States—has
3 been overwhelmingly rejected by federal courts as inconsistent with the statutory text. Courts
4 have likewise declined to follow *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025),
5 concluding that it conflicts with the plain language and structure of the INA. See, e.g.,
6 *Hernandez-Luna v. Noem*, No. 2:25-CV-01818-GMN-EJY, 2025 WL 3102039, at *4 (D. Nev.
7 Nov. 6, 2025); *Veletanga v. Noem*, No. 25-CV-9211 (NSR), 2025 WL 3751865, at *3 (S.D.N.Y.
8 Dec. 26, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025); *Patel v.*
9 *Almodovar*, No. 25-CV-15345, 2025 WL 3012323, at *3 (D.N.J. Oct. 28, 2025).

10
11 Because Ms. Morales-Hernandez has been continuously present in the United States since
12 2008 and was not apprehended at or near the border, she does not fall within the limited class of
13 individuals subject to mandatory detention under § 1225. Her detention must therefore be
14 governed, if at all, by § 1226.

15 16 17 **SECOND CAUSE OF ACTION**

18 **II. Substantive Due Process**

19 Substantive due process forbids arbitrary or punitive detention. As the Supreme Court has
20 emphasized, “Freedom from imprisonment—from government custody, detention, or other forms
21 of physical restraint—lies at the heart of the liberty that the Due Process Clause protects.”
22 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). In the context of civil immigration proceedings,
23 the government's authority to detain is limited to two legitimate purposes: (1) protecting the public
24 from danger, and (2) ensuring the individual's appearance at future proceedings. *Demore v. Kim*,
25 538 U.S. 510, 518–19 (2003). Detention that does not serve either purpose amounts to
26 unconstitutional punishment.

27 Here, although Ms. Morales-Hernandez was initially detained following an arrest, the
28 criminal charges were later dismissed. She has presented substantial evidence demonstrating that

1 she poses neither a danger to the community nor a flight risk. As the Supreme Court held in *Bell*
2 *v. Wolfish*, 441 U.S. 520, 535 (1979), “[i]f a restriction or condition is not reasonably related to a
3 legitimate governmental objective, it amounts to punishment.” Petitioner’s continued detention—
4 based on speculation rather than evidence—bears no reasonable relation to a lawful objective and
5 is therefore punitive and unconstitutional.

6
7 **a. Application of the *Mathews v. Eldridge* Balancing Test**

8 To determine whether a civil detention violates a detainee's due process rights, courts apply
9 the three-part balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L.
10 Ed. 2d 18 (1976). The Court must weigh: (1) the private interest that will be affected by the official
11 action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and
12 the probable value, if any, of additional or substitute procedural safeguards; and (3) the United
13 States' interest, including the function involved and the fiscal and administrative burdens that the
14 additional or substitute procedural requirement would entail. *Id.* at 335.

15 ***Private Interest***

16 It is beyond dispute that Ms. Morales-Hernandez has a compelling and constitutionally
17 protected interest in avoiding continued detention. The right to be free from government-imposed
18 confinement is among the most fundamental of all liberty interests. As the Supreme Court held
19 in *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004), “[I]iberty is the most elemental of liberty
20 interests.” Similarly, in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), the Court reaffirmed that
21 “[f]reedom from imprisonment—from government custody, detention, or other forms of physical
22 restraint—lies at the heart of the liberty the Due Process Clause protects.”

23 In assessing due process violations, courts may also examine the conditions of confinement
24 to determine whether civil detention is effectively indistinguishable from criminal incarceration.
25 *Martinez v. Noem*, 2025 U.S. Dist. LEXIS 174415, 2025 WL 2598379, at 2 (W.D. Tex. Sep. 8,
26 2025). Ms. Morales-Hernandez is currently confined at the Washoe County Detention Center
27 under conditions that mirror those of penal detention and is unjustly separated from her children.
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1 Such confinement, absent a lawful and individualized justification, is a grave intrusion on her
2 liberty and runs afoul of due process protections.

3 ***Risk of Erroneous Deprivation***

4 The second *Mathews* factor considers “the risk of an erroneous deprivation of [Petitioner’s]
5 interest through the procedures used, and the probable value, if any, of additional or substitute
6 procedural safeguards.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). In this case, that risk is
7 substantial.

8 Federal Respondents have failed to provide any evidence that Ms. Morales-Hernandez poses
9 a danger to the community or is a flight risk. Without such a showing, the likelihood of an
10 unjustified deprivation of her fundamental liberty interest is unacceptably high. The absence of
11 meaningful procedural safeguards—such as a constitutionally adequate bond hearing—only
12 amplifies the risk of error and underscores the urgent need for judicial intervention.

13 ***Government’s Interest***

14 The third and final *Mathews* factor examines “the Government’s interest, including the
15 function involved and the fiscal and administrative burdens that the additional or substitute
16 procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

17 While the government’s interests in protecting the public from dangerous noncitizens and
18 ensuring an individual’s eventual removal are undeniably important, *Rodriguez Diaz*, 53 F.4th
19 1189–90, those interests are fully addressed through an individualized bond determination by an
20 Immigration Judge under § 1226. As the Ninth Circuit has made clear, “the government has no
21 legitimate interest in detaining individuals who have been determined not to be a danger to the
22 community and whose appearance at future immigration proceedings can be reasonably ensured
23 by a lesser bond or alternative conditions.” *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir.
24 2017).

25 Where the government cannot articulate any specific justification for continuing to detain a
26 noncitizen who has already prevailed—or would prevail—at a proper bond hearing, the
27 detention ceases to serve a lawful immigration purpose. As Justice Kennedy warned in *Demore*
28 *v. Kim*, such circumstances raise serious constitutional concerns: “[w]hether the detention is not

1 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate
2 for other reasons.” *Demore*, 538 U.S. 510, 532–33 (Kennedy, J., concurring).

3 **Conclusion on Causes of Action**

4 Ms. Morales-Hernandez’s continued detention violates both procedural and substantive due
5 process. Accordingly, the Constitution requires either Petitioner’s immediate release or, at
6 minimum, a custody redetermination hearing that fully complies with due process.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Ms. Morales-Hernandez prays that this Court grant the following relief:

- 9 (1) Assume jurisdiction over this matter;
- 10 (2) Order ICE to immediately release Ms. Morales-Hernandez from her unlawful
11 detention;
- 12 (3) Declare that a hearing may be conducted before a neutral adjudicator
13 to determine whether her continued detention is lawful, based on whether the government can
14 establish, by clear and convincing evidence, that she poses a danger to the community or a risk
15 of flight.;
- 16 (4) Award reasonable costs and attorney fees; and
- 17 (5) Grant such further relief as the Court deems just and proper.

18
19 Dated this 3rd day of February 2026

Respectfully submitted,

Karen Monrreal

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21 Karen S. Monrreal, Esq.
22 Attorney for Ms. Morales-Hernandez
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VERIFICATION PURSUANT TO 28 U.S.C. 2242

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

Executed on this 3rd day of February 2026 in Reno, NV.

Karen Monrreal
Karen S. Monrreal, Esq.
Attorney for Ms. Morales-Hernandez