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9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 Catalina CHAMA,

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 Catalina Chama (“Ms. Chama”), Agency Number , by and through her undersigned counsel, respectfully submits this petition for a Writ of Habeas Corpus and a

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

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

9 3. By way of background, Ms. Chama has remained in immigration custody since January
10 21, 2026. Ms. Chama first came to the attention of Immigration and Customs Enforcement
11 (“ICE”) on January 21, 2026. On that date, ICE agents, accompanied by agents from the Federal
12 Bureau of Investigation (“FBI”), were conducting an operation to locate a separate individual.
13 Because Ms. Chama resided in close proximity to the target residence, the vehicle wherein she
14 was in was stopped. Ms. Chama was not the subject of the operation, nor was she suspected of or
15 charged with any criminal activity. Rather, she was encountered solely due to her presence in the
16 area at that time. Upon determining that Ms. Chama did not have the proper documents to be in
17 the United States, ICE placed her into detention, and removal proceedings were initiated as a
18 result. She was subsequently transferred to the Washoe County Detention Center, where she is
19 currently being detained.

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

1 bonds to any individual falling under *Matter of Yajure Hurtado* (namely any individual who has
2 not been admitted to the United States). Because this court lacks the delegated authority to
3 consider bond for individuals who have not been admitted to the United States, this Court must
4 find that the respondent is not eligible for release on bond¹.

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

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

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

15 CUSTODY

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

19 JURISDICTION

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

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

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

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

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

7 12. Courts have long recognized the significance of the habeas statute in protecting
8 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
9 important writ known to the constitutional law of England, affording as it does a *swift* and
10 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
11 400 (1963) (emphasis added).

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

18 **VENUE**

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

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

24 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

25 16. In the context of habeas corpus claims, exhaustion of administrative remedies is a
26 *prudential* requirement rather than a *jurisdictional* one, as it is not explicitly required by statute.
27 *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Courts have discretion to waive
28

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. Chama 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. Chama 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**
28

1 20. Ms. Chama is a citizen and national of Mexico who last entered the United
2 States September 1993, 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. Chama.

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. Chama.

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**

1 **Background and Personal History**

2 Ms. Chama is a fifty-nine-year-old native and citizen of Mexico who last entered the
3 United States on September 1993. Since that time, she has continuously resided in this country
4 and has built her life, family ties, and economic stability in the United States. Ms. Chama has
5 lived in the Reno area since entering the United States and has made Reno, Nevada her home
6 where she lived with and supported her family.

7 For the past years, Ms. Chama has maintained stable employment. Through her
8 employment, she has consistently provided financial support for her household and her children,
9 demonstrating reliability, responsibility, and strong community ties. Her work has been her
10 primary means of caring for her family and ensuring their basic needs are met.

11 **Family Relationships and Dependents**

12 Ms. Chama is the mother of three children. Although her children are now adults, she
13 continues to play an important and supportive role in their lives. She is also the grandmother of
14 five grandchildren, all of whom are United States citizens. In addition, Ms. Chama's daughter is
15 a United States citizen, further reflecting Ms. Chama's strong and longstanding family ties in the
16 United States.

17 Ms. Chama's detention has disrupted these close family relationships and has deprived
18 her children and grandchildren of her emotional support, guidance, and presence. Her continued
19 detention has placed strain on her family unit and has caused significant hardship to her U.S.-
20 citizen relatives who rely on her as an active and stabilizing figure in their lives.

21 **Circumstances Leading to Detention**

22 At the time of her detention, Ms. Chama was not engaged in any criminal activity and was
23 not the subject of any law enforcement investigation. On January 21, 2026, ICE agents,
24 accompanied by agents from the FBI, were conducting an operation to locate a separate
25 individual. Because Ms. Chama resided in close proximity to the target location, the vehicle in
26 which she was traveling was stopped.

27 Ms. Chama was not suspected of any crime, was not charged with any offense, and was
28 encountered solely due to her presence in the area during the operation. Upon questioning, ICE

1 agents determined that Ms. Chama had entered the United States without inspection and
2 admission or parole and did not possess documentation authorizing her to remain in the United
3 States.

4 Based solely on this immigration determination—and despite the absence of any criminal
5 conduct or criminal history—Ms. Chama was taken into the custody of Immigration and Customs
6 Enforcement, where she remains detained.

7 **Immigration Proceedings and Current Custody**

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

13 Ms. Chama has no criminal history, and her encounter with immigration authorities did
14 not arise from any suspected wrongdoing on her part. She was detained solely as a result of her
15 proximity to a law enforcement operation targeting another individual, and not because of any
16 criminal conduct, allegation, or investigation involving her.

17 **LEGAL BACKGROUND**

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

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

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

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

4 **Right to Liberty and Due Process**

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

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

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

19 **Civil Nature of Immigration Detention**

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

23 **FIRST CAUSE OF ACTION**

24 **I. Procedural Due Process**

25 Under the Due Process Clause of the Fifth Amendment to the United States Constitution,
26 no person shall be "deprived of life, liberty, or property, without due process of law." U.S. Const.
27 amend. V. That interest is particularly weighty when government detention is at issue. "Freedom
28

1 from imprisonment—from government custody, detention, or other forms of physical restraint—
2 lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533
3 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

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

18 **a. Ms. Chama Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225.**

19
20 Respondents contend that Ms. Chama is subject to mandatory detention under 8 U.S.C. §
21 1225 on the theory that she qualifies as an "applicant for admission" because she entered the
22 United States without inspection. That interpretation is inconsistent with the statutory framework
23 and with controlling and persuasive authority interpreting § 1225.
24

25
26 Ms. Chama last entered the United States on September 1993, and has remained
27 continuously present in this country since that time. Her detention did not arise from an attempt
28

1 to enter the United States or from recent arrival at the border, but from a traffic stop occurring
2 many years after her entry. As a result, § 1225 does not govern her detention.

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

11
12
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).
23
24

25
26 Section 1225 applies only to a subset of noncitizens—those who qualify as “applicants
27 for admission.” Courts have consistently held that long-term residents of the United States are
28

1 not applicants for admission within the meaning of the statute. The Ninth Circuit has emphasized
2 that an “application for admission” occurs at a discrete moment in time, and that extending that
3 concept to cover individuals years or decades after entry would exceed the statutory text. *United*
4 *States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir. 2024) (citing *Torres v. Barr*, 976 F.3d
5 918, 922–26 (9th Cir. 2020) (en banc)).

6
7 District courts across the country have reached the same conclusion, holding that
8 individuals who have lived in the United States for many years after entering without inspection
9 are not “applicants for admission” subject to § 1225. *See, e.g., Lopez Benitez v. Francis*, 795 F.
10 Supp. 3d 475, 489 (S.D.N.Y. 2025); *Escobar Salgado v. Mattos*, No. 2:25-CV-01872-RFB-EJY,
11 2025 WL 3205356, at *15 (D. Nev. Nov. 17, 2025); *Maldonado Vazquez*, 2025 WL 2676082, at
12 *13; *Rusu v. Noem*, No. 25 C 13819, 2025 WL 3240911, at *5 (N.D. Ill. Nov. 20, 2025);
13 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *9 (C.D. Cal. Nov.
14 20, 2025).

15
16 Adopting Respondents’ interpretation would improperly collapse § 1226 into § 1225 and
17 render large portions of the statutory detention scheme superfluous, including discretionary
18 detention under § 1226(a). Courts have repeatedly rejected constructions that violate the canon
19 against surplusage. *See Hasan v. Crawford*, 800 F. Supp. 3d 641, 656 (E.D. Va. 2025) (citing
20 *Corley v. United States*, 556 U.S. 303, 314 (2009)); *see also Lopez Benitez*, 795 F. Supp. 3d at
21 490; *Bautista*, 2025 WL 3289861, at *11; *Rusu*, 2025 WL 3240911, at *5; *Helbrum v. Williams*
22 *Olson*, No. 4:25-CV-00349-SHL-SBJ, 2025 WL 2840273, at *4 (S.D. Iowa Sept. 30, 2025).

23
24
25
26 Respondents’ position—that all noncitizens who entered without inspection are
27 indefinitely subject to § 1225 regardless of how long they have lived in the United States—has
28

1 been overwhelmingly rejected by federal courts as inconsistent with the statutory text. Courts
2 have likewise declined to follow *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025),
3 concluding that it conflicts with the plain language and structure of the INA. See, e.g.,
4 *Hernandez-Luna v. Noem*, No. 2:25-CV-01818-GMN-EJY, 2025 WL 3102039, at *4 (D. Nev.
5 Nov. 6, 2025); *Veletanga v. Noem*, No. 25-CV-9211 (NSR), 2025 WL 3751865, at *3 (S.D.N.Y.
6 Dec. 26, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025); *Patel v.*
7 *Almodovar*, No. 25-CV-15345, 2025 WL 3012323, at *3 (D.N.J. Oct. 28, 2025).

9 Because Ms. Chama has been continuously present in the United States since 1993 and
10 was not apprehended at or near the border, she does not fall within the limited class of
11 individuals subject to mandatory detention under § 1225. Her detention must therefore be
12 governed, if at all, by § 1226.

14 SECOND CAUSE OF ACTION

15 **II. Substantive Due Process**

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

24 Here, Ms. Chama was taken into immigration custody despite not being suspected of, arrested
25 for, or charged with any criminal offense. She was encountered solely because of her proximity
26 to a law enforcement operation targeting another individual. The record reflects no evidence that
27 Ms. Chama poses a danger to the community or a risk of flight. As the Supreme Court explained
28

1 in *Bell v. Wolfish*, 441 U.S. 520, 535 (1979), “if a restriction or condition is not reasonably related
2 to a legitimate governmental objective, it amounts to punishment.” Ms. Chama’s continued
3 detention—unsupported by any individualized findings and grounded in speculation rather than
4 evidence—bears no reasonable relationship to a legitimate governmental purpose and therefore
5 constitutes impermissible and unconstitutional punishment.

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. Chama has a compelling and constitutionally protected interest
17 in avoiding continued detention. The right to be free from government-imposed confinement is
18 among the most fundamental of all liberty interests. As the Supreme Court held in *Hamdi v.*
19 *Rumsfeld*, 542 U.S. 507, 529 (2004), “[l]iberty is the most elemental of liberty interests.”
20 Similarly, in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), the Court reaffirmed that “[f]reedom
21 from imprisonment—from government custody, detention, or other forms of physical restraint—
22 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. Chama is currently confined at the Washoe County Detention Center under conditions
27 that mirror those of penal detention and is unjustly separated from her children. Such confinement,
28

1 absent a lawful and individualized justification, is a grave intrusion on her liberty and runs afoul
2 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. Chama poses a danger to
9 the community or is a flight risk. Without such a showing, the likelihood of an unjustified
10 deprivation of her fundamental liberty interest is unacceptably high. The absence of meaningful
11 procedural safeguards—such as a constitutionally adequate bond hearing—only amplifies the
12 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. Chama’s continued detention violates both procedural and substantive due process.
5 Accordingly, the Constitution requires either Petitioner’s immediate release or, at minimum, a
6 custody redetermination hearing that fully complies with due process.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Ms. Chama prays that this Court grant the following relief:

- 9 (1) Assume jurisdiction over this matter;
- 10 (2) Order ICE to immediately release Ms. Chama 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,

20 *Karen Monrreal*

21 Karen S. Monrreal, Esq.
22 Attorney for Ms. Chama
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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. Chama

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