


UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Maria Jose Cari Ari)
)
)
)
 Petitioner)
)
 v.)
)
 KRISTI NOEM,)
 U.S. Secretary of Homeland Security;)
 TODD M. LYONS,)
 in his official capacity as Acting Director,)
 U.S Immigration and Customs Enforcement;)
 NIKITA BAKER, in her official capacity as)
 Field Office Director of the ICE Baltimore)
 Field Office;)
 VERNON LIGGINS, in his official)
 capacity as Deputy Field Office Director of)
 the ICE Baltimore Field Office)
)
 Respondents.)
 _____)

Case No. _____

PURSUANT TO 28 U.S.C. § 2241 PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Maria Jose Cari Ari (Mrs. "Cari Ari"), a native and citizen of Peru, challenges her detention in the custody of Immigration and Customs Enforcement ("ICE") to be an unconstitutional and unjustified deprivation of her physical liberty, and seeks immediate relief from this Court.
2. Mrs. Cari Ari was detained Monday, February 2, 2026 after attending her ISAP

appointment in Silver Spring, Maryland and taken immediately to the ICE Baltimore Holding cell which is within the District of Maryland.

3. Mrs. Cari Ari is being unlawfully subjected to mandatory detention by Respondents by virtue of the application of the unconstitutional and unlawful ruling in *Matter of Yajure Hurtado*, *infra*. She entered the United States without inspection in September of 2024. Her case was docketed on September 18, 2024, and she filed for asylum in court pro se on July 22, 2025, within one year of her arrival into the United States. Sometime after her arrival in the United States she was released from custody with an ankle bracelet and kept on intense supervision. About one month later said ankle bracelet was removed and she was given a phone with an application to report to ISAP, the DHS contractor in charge of supervising noncitizens in removal proceedings like the Petitioner. Mrs. Cari Ari presented herself to all of her in person check-ins with ISAP and was allegedly detained yesterday due to Alternatives to Detention ATD violations. After discussing potential violations with her partner and father of her two year old baby, information came to light that she probably had a few minor supervision issues. She is not a flight risk or a danger to the community as evidenced by her having done everything possible to pursue her case diligently and obeying all laws and instructions during her supervision period, filing a meritorious asylum application, having no arrests and showing up to all in person appointments. .

4. This action arises under the Suspension Clause, the Due Process Clause of the Fifth Amendment, and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq.

JURISDICTION AND VENUE

5. The Court has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. § 701 (the Administrative Procedure Act). Venue is proper because Mr. Ayala Banegas was detained within the District.

6. In addition to the habeas protections in the Constitution and Immigration and Nationality Act (“INA”), federal district courts have subject matter jurisdiction under 28 U.S.C. § 1331 (federal questions) to hear claims by individuals challenging the lawfulness of agency action.

7. This Court has subject-matter jurisdiction under U.S. CONST. art. 1, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1346 (civil actions against the United States), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201-02 (declaratory relief), as Ms. Cari Ari is presently held in custody under or by color of the authority of the United States. Her detention by Respondents is a “severe restraint” on her individual liberty “in custody in violation of the... laws ... of the United States.” See *Hensley v. Municipal Court*, San Jose Milpitas Jud. Dist., 411 U.S. 345, 351 (1973).

8. Venue is proper because Mrs. Cari Ari was detained within the District when the Petition was filed. Petitioner Rosmery Arely Salmeron Salmeron is a native and citizen of Peru.

9. Respondent Kristi Noem is the Secretary of Homeland Security, and in that capacity is responsible for the Department of Homeland Security and all sub-cabinet agencies of DHS, including ICE and USCIS. She is sued in her official capacity.

10. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs Enforcement, responsible for ICE’s detention and removal operations among all its other functions. He is sued in his official capacity.

11. Respondent Nikita Baker is the Field Office Director of the ICE Baltimore Field Office, and is responsible for ICE's operations in Maryland. Upon information and belief, she is the immediate custodian of Ms. Cari Ari who is held in the Baltimore Holding Facility. She is sued in her official capacity.

12. Respondent Vernon Liggins is the Deputy Field Office Director of the ICE Baltimore Field Office, and is responsible for ICE's operations in Maryland. He is sued in his official capacity.

STATEMENT OF FACTS

13. Mrs. Cari Ari is a native and citizen of Peru. She entered the United States sometime in September of 2024.. She was detained yesterday, Monday, February 2, 2026. She was taken into ICE custody and transported to the Baltimore ICE Holding Cells. This action was taken against her despite her full compliance with all laws and regulations, having voluntarily presented herself to her ISAP appointment in Silver Spring. Up until her arrest yesterday her non detained docket asylum trial was set for January 28, 2027 at 1PM in the Hyattsville, Maryland Immigration Court.

14. Mrs. Cari Ari will be represented by undersigned counsel before the Immigration Court.

CLAIMS FOR RELIEF COUNT ONE: HABEAS

15. Mrs. Cari Ari's detention and possible removal violates her right to Due Process under the Fifth Amendment. As a person pursuing an asylum application in court present without admission she is entitled to due process of law. U.S. Const. amend. V; *see generally Zadvydas v. Davis*, 533 U.S. 678 (2001).

16. Under the current state of the law a request for a bond hearing before the immigration court will be fruitless as per the recent decision from the Board of Immigration Appeals in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). More significantly on January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: “*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*.” Immigration judges are instructed to follow the BIA’s decision in *Matter of Yajure Hurtado* as binding precedent. The guidance from EOIR states that a “declaratory judgment” is not binding and does not have the authority to compel specific action.

CLAIMS FOR RELIEF COUNT TWO: IMMIGRATION AND NATIONALITY ACT

17. Mrs. Cari Ari was detained in violation of her right to due process.

18. Specifically, upon information and belief, Respondents will not provide Mrs. Cari Ari with the opportunity for a bond hearing due to recent case law from the Board of Immigration Appeals (BIA). See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA in *Matter of Yajure Hurtado* held that any noncitizen present in the country without a lawful admission is inadmissible and not entitled to a bond hearing as an arriving alien pursuant to 8 U.S.C. § 1225. This interpretation of the INA is contrary to over 30 years of precedent, not a reasonable interpretation, and clearly unlawful. For example, 8 U.S.C. § 1226(a)(2)(A) provides that, after arresting and detaining a noncitizen, the Attorney General may “release the alien” pending a removal decision “on bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General.” In addition, the mandatory detention provisions under 8 USC § 1225(b) allow an applicant for admission to be “temporarily released on parole ‘for urgent humanitarian reasons or significant public benefit.’” See *Jennings v. Rodriguez*, 583

U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)).

19.. The Supreme Court recently analyzed the interplay between 8 U.S.C. § 1225 and § 1226 in *Jennings v. Rodriguez*. 583 U.S. at 287 (2018). The Court explained that § 1225 “applies primarily to aliens seeking entry into the United States.” *Id.* at 297. By contrast, § 1226 “applies to aliens already present in the United States.” *Id.* at 303. The Court reflected that “Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings” but likewise “permits the Attorney General to release those aliens on bond[.]” *Id.*; *see also Hernandez Lopez v. Hardin et al.*, No. 2:25-cv-830-KCD-NPM (M.D.F.L. Sept. 25, 2025).

22. Given the recent and severe shift in the application of 8 U.S.C. §§ 1225 & 1226, district courts across the United States have taken up this matter in various capacities. In a recent decision issued by the Eastern District of Virginia, the District Court Judge noted significant flaws in the federal respondents’ view of the rules, writing “Where Petitioner’s detention is discretionary and subject to bond redetermination pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 1236, respectively, and the IJ has exercised his discretion to issue bond pursuant to his authority as an appointee of the Attorney General, the automatic stay of 8 C.F.R. § 1003.19(i)(2) renders both the discretionary nature of Petitioner’s detention and the IJ’s authority a nullity. Therefore, the Government’s application of 8 C.F.R. § 1003.19(i)(2) to continue to detain Petitioner following IJ Bailey’s order that he be “released from custody under bond of \$10,000.00” (ECF No. 16-4) is *ultra vires*.” *Hassan v. Crawford et al.*, No. 2:25-cv-830-KCD-NPM (E.D.V.A. Sept. 19, 2025).

20. At this time it is unclear which authority DHS claims it has to detain the Petitioner without

bond, but they have failed to consider bond in her case. An Immigration Judge would almost assuredly deny bond here due to the unconstitutional precedent decisions issued by the BIA, supra.

21. Upon information and belief the Immigration Courts and specifically Immigration Judges are not holding meaningful bond hearings and finding petitioners in habeas actions to be flight risks and denying them bonds on that basis due to minor ATD violations whereas these petitioners showed up for all scheduled hearings.

22. There is no due process when the judge overseeing the proceedings is not impartial and cannot rule independently and is otherwise directed to make certain findings. See, *In re Murchison*, 349 U.S. 133 (1955). Core holding, "*A fair trial in a fair tribunal is a basic requirement of due process.*"

23. Whereas here the process has been skewed to create bias towards a holding that supports DHS' goal of mass incarcerations and fear there can be no meaningful bond hearing and the burden should be shifted to DHS to demonstrate flight risk.

PRAYER FOR RELIEF

Based on the foregoing, Mrs. Cari Ari requests that this Court:

- a. Assume jurisdiction over the matter;
- b. Issue an emergency order staying Petitioner's transfer outside the District of Maryland and her removal or deportation from the United States;
- c. Declare that the immigration detention of Mrs. Cari Ari violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
- d. Issue an order releasing the Petitioner forthwith and ordering DHS to give her a

reasonable bond and order Respondents to hold a meaningful bond hearing for Mrs. Cari Ari at the appropriate immigration court to determine whether she should remain detained;

e. Order that the burden be put on DHS to prove flight risk at any bond hearing to be held.

f. If the Respondent is granted a bond direct that DHS be enjoined from requesting an automatic stay of said order by appealing the same to the BIA

g. Award Petitioner all costs incurred in maintaining this action, including attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412; and on any other basis justified by law; and

h. Grant any other and further relief this Court deems just and proper.

Respectfully,

/s/ Jaime Winthuysen Aparisi

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